

# **The State and the Reconstruction of Industrial Relations Institutions After Fordism: Britain and France Compared**

**Chris Howell**  
**Oberlin College**

## **1. Introduction**

By the end of the 1970s, the crisis of the dominant Fordist postwar regime of accumulation had become painfully obvious across the advanced capitalist world, even if the severity and symptoms of that crisis varied from country to country. Within the labor market, Fordism came to be associated above all with a range of *rigidities*: in the ability to hire and fire workers; in the deployment of labor; in work organization; in skill sets; in work time; and in pay and benefits. Unsurprisingly, with that diagnosis of the problems facing capitalist economies, the logical prescription was labor market and workplace flexibility, and by the early 1980s a steady drumbeat of employers, their political allies, and even traditionally social democratic parties, were urging a wide ranging post-Fordist restructuring of work. For employers and parties of the Right, this was usually accompanied by a claim that such a restructuring required an expansion of managerial prerogative and the ability of managers to impose unilateral changes in the workplace, while trade unions and their political allies were more likely to urge the collective negotiation of any changes.

Economic growth in capitalist societies is neither a natural nor a spontaneous process. Social conflict and an assortment of crisis tendencies (particularly those resulting from a mismatch of production and consumption, and the uneven development of industrial and financial capital) make periods of stable economic growth unlikely in the absence of non-market regulation. In practice, it is a set of social institutions operating alongside the market that serve to

regulate capitalist growth so as to limit industrial conflict and economic instability. Of particular importance, and the subject of this paper, are industrial relations institutions, which regulate relations between business and labor – both inside and outside the firm. The role of industrial relations institutions is important not only during periods of relative economic stability, but also when one regime of accumulation enters into crisis and pressure for change appears. At this point, industrial relations institutions play a crucial role in the capacity of economies to restructure. To put it crudely, and at this point in a somewhat functionalist formulation, during periods of economic transition, existing industrial relation institutions may act as obstacles to economic restructuring, creating pressures for institutional change.

This paper has two central contentions. First, that industrial relations reform in Britain and France in the period since the early 1980s has been a precondition for post-Fordist economic restructuring and the introduction of flexibility into the labor market and the workplace; change in the institutions of social regulation had to occur before economic restructuring could take place. Second, that the state in these two countries not only played a central role in the process of institutional reform, but that it could not have occurred without the active intervention of the state. This is all the more surprising because the time period during which these transformations took place was one in which it was widely believed that state action was limited and constrained by accelerated international economic integration and resurgent business classes. State action to reconstruct industrial relations took place well after the heyday of statist intervention in France and under an aggressively *laissez-faire* Conservative government in Britain. Yet in both cases, the state led the process of transformation and business followed, in many cases expressing hostility to important aspects of the reform projects.

For a variety of reasons outlined both in the theoretical section of this paper and in the accounts of reform in Britain and France, employers and trade unions are unable to undertake major projects of institutional reform or to create durable industrial relations institutions without state action; indeed, it is often the case that trade unions *and* employers will be hesitant or hostile to industrial relations reform, even where they know that economic restructuring is necessary. In both countries, the state ultimately took on the role of “modernizing” employer practices as part of the reform of industrial relations institutions.

In both the British and French cases, a set of industrial relations institutions had been put in place (again with the state playing a central role, though that is a different story) in the decade or so after the mid-1960s, in response to an earlier perception of economic and industrial crisis. It was these institutions, inherited from the past, that came to be associated by the early 1980s with labor market rigidities, and to be perceived as obstacles to post-Fordist economic restructuring. In part it was the role played by the state in these earlier systems of industrial relations that ensured that the state would have to be a central actor in their reform two decades later.

Nevertheless, while the goal of enabling greater labor market and workplace flexibility was similar in the two countries, there were important differences in both the form and the process of industrial relations reform. This was primarily for two reasons. First, the legacies of the industrial relations systems inherited from the past imposed quite different kinds of rigidities. In the British case, the obstacles to flexibility became associated with the decentralized system of workplace collective bargaining and deeply implanted trade union capacities and resources inside the firm, that had spread widely through the British economy from the late 1950s onwards. Thus the industrial relations reform project of the Thatcher government after 1979 was

fundamentally decollectivist, aimed at weakening unions, narrowing the scope of collective regulation, and individualizing employment relations. The New Labour government elected in 1997 has emphasized greater legal protection for workers, but for the most part, its industrial relations reform project has complemented rather than conflicted with the earlier Thatcherite project.

In France, by contrast, the rigidities of the Fordist period were associated with the state, and its regulation of the labor market. In response to the crisis of May-June 1968, the French state extended its *dirigisme* from the arena of state planning to the labor market and the system of social welfare. Prior to the end of the 1970s, French industrial relations were marked by extremely weak firm level industrial relations institutions, high levels of class conflict, and a deeply interventionist form of regulation of employment relations as the French state, in effect, substituted for fragmented and poorly institutionalized trade unions.

Thus the reform projects of the 1980s and 1990s were aimed not at undermining collective regulation, as in Britain, but rather at enabling deregulation of the labor market by the state. To this end, industrial relations reform sought to create institutions that would permit the negotiation of flexibility through decentralized collective bargaining inside the firm, which would in turn permit the state to withdraw from regulation of the labor market. What has emerged since the mid-1980s is a set of decentralized firm-level institutions and practices that have permitted the negotiation of economic restructuring while limiting industrial conflict in the private sector. Underlying this process has been constant intervention on the part of the state to encourage and underwrite the negotiation of post-Fordist forms of flexibility in the workplace. Different starting points and sources of labor market rigidity, led to different industrial relations

reform projects in France and Britain.

The second explanation for differences in the form and manner of institutional reform in Britain and France is more narrowly political. Different governments, with quite distinct ideologies, led to different understandings of the sources of economic crisis and hence different reform agendas. It is an important theme of this paper that states have a discursive power to offer an authoritative narration of crisis that in turn shapes institutional reform. Furthermore, the discursive element of reform projects created a certain plasticity in the eventual shape of institutional change which often had unintended consequences for reform efforts undertaken in the context of post-Fordist economic restructuring.

The dominant parties of the Right in the two countries were quite different: Gaullism did not share Thatcherism's neo-liberal ideology, nor its hostility to organized labor; it appropriated the language of social solidarity and consensus with the result that France has seen a high degree of consistency in the direction of industrial relations reform over the past two decades, despite frequent changes of government. Similarly, the British Labour Party – both as “Old” Labour and as “New” Labour – bears little resemblance to the French *Parti Socialiste*. The latter has been less statist, more enamored of the virtues of social dialogue in the workplace, and less tied to the fortunes of organized labor. The result was that its industrial relations reform project after 1981 proved quite compatible with the spread of flexibility and the deregulation of the labor market.

This paper argues that, once triggered by economic restructuring, moments of institutional reconstruction require state action because of a set of unique state capacities not enjoyed by private industrial actors. Periods of institutional stability may permit states to retreat from active regulation of the political economy, but during moments of institutional rupture –

even, indeed particularly, in the era of “globalization” – we can anticipate the re-emergence of an active state role in the construction of new sets of political-economic institutions. The rest of this paper is organized as follows. First there is a brief theoretical discussion of the importance of institutional regulation for capitalist economies, and the centrality of state action in institutional change. Second, an equally brief section contrasts the industrial systems created in the 1960s and 1970s in Britain and France, and points to the different implications they had for post-Fordist restructuring and hence industrial relations reform from 1980 onwards. Then the major elements of the reform of industrial relations institutions in the 1980s and 1990s are outlined for Britain and France. In each case, the consequences of state reform projects for both industrial relations institutions, and the spread of flexibility will be examined.

## **2. States and Industrial Relations Institutions**

This paper has two theoretical interests, which it explores through an examination of industrial relations reform in Britain and France. The first interest is in understanding the relationship between economic restructuring and institutional change. The dominant theoretical approaches in contemporary political economy stress institutional durability and continuity in the face of economic change. Whether the emphasis is upon the importance of political culture, the interlocking and self-reinforcing character of sets of institutions, or more conventional notions of path dependence, the expectation is that economic change can be largely treated as an exogenous shock that is mediated and absorbed by national political economic institutions.<sup>1</sup> It becomes difficult, from this perspective, to explain moments of institutional transformation (as occurred in both British and French industrial relations after 1980), and broad processes of economic

restructuring are relegated to the status of background factors, to which existing institutions adapt, rather than the source of institutional change.

In contrast, this paper is primarily concerned with those moments of institutional construction and transition when, to paraphrase Gramsci, one set of institutions is dying while another is struggling to be born. Its focus is on those points at which industrial conflict cannot be contained within existing institutional structures and practices, and thus employers, trade unions and state actors seek alternative arrangements which promise to restore industrial peace, stable accumulation and the legitimacy of capitalist social relations. In fact, sharp ruptures, in which sets of institutions are rapidly replaced or transformed in function, are every bit as important a feature of institutional development as continuity and path dependence. The paper argues that it is changes in the pattern and nature of the economic growth regime which trigger these moments of institutional transformation.

The second theoretical interest of this paper lies in examining the role of the state in institutional change. Again, the main theoretical approaches to understanding institutions anticipate a fairly limited role for the state, one of institutional maintenance rather than institutional construction. In part this follows from a renewed emphasis upon the centrality of business interests and organizations, rather than states or labor organizations, in explaining distinct national patterns of political-economic institutions.<sup>2</sup> It is also the case that contemporary accounts of political economy are more likely to highlight “cross-class alliances” and shared interests among class actors, than conflict.<sup>3</sup> The result is that states are assigned a secondary role in coordinating and maintaining institutions rather than managing class conflict through the construction of alternative institutions. To these factors can be added the more general

expectation that national economic autonomy has shrunk, thus limiting the capacity of states to act and contributing to a “hollowing out” of the state.

In contrast, this account assigns a central role to states in explaining institutional development. States have a set of distinctive capacities when it comes to the construction and “embedding” of industrial relations institutions. The argument here is not one of state autonomy, or the importance of the distinct interests of state actors, but rather that states have unique capacities to: 1) enforce and systematize institutional change; 2) narrate an authoritative interpretation of industrial relations crisis; 3) solve the collective action problems of employers and unions; and 4) anticipate and craft alliances among private industrial actors.

The point, simply put, is that certain forms of economic restructuring require institutional change, and that the construction of new institutions requires an active state role. Far from a limited or shrinking role for the state in an era of rapid economic change, heightened competition, and new global pressures, the role of the state becomes more important because of the institutional transformation that accompanies economic change. This process is of particular importance in the sphere of industrial relations, where institutions inherited from the earlier Fordist period have come under challenge, and struggles over institutional change among industrial actors (employers, workers, and their organizations) have generated high levels of conflict.

In offering an explanation of institutional change, this paper seeks to embed an institutionalist account within the Regulationist tradition of political economy. It is important to recognize that there is no single Regulation theory; there are multiple schools of Regulationist analysis, and there has been a certain dissipation of the original shape of Regulation theory.<sup>4</sup>

Nonetheless, for all the diversity within the family of Regulation theories, one can identify several shared assumptions which make it clear why this approach should be valuable in the task at hand. First, Regulationist accounts understand capitalist growth to be a profoundly contradictory, unstable and crisis-ridden process which will not occur “naturally.” Left to its own devices, subject only to regulation by invisible hands, capitalist economies will exhibit a range of crisis tendencies, and generate high levels of social conflict. Change within capitalist economies is therefore the product not only of exogenous shocks, but more often of a steady accumulation of internal contradictions. It is for this reason that capitalism requires institutions to regulate or stabilize growth. The Regulation approach is, above all, *an institutional account of capitalism*, which recognizes that the very “improbability of capitalist reproduction” ensures its “socially embedded, socially regularized nature.”<sup>5</sup>

Second, Regulation theory goes beyond identifying crisis tendencies to offer an historicization of capitalist development centering on the different growth dynamics (or regimes of accumulation) of different phases of capitalism. While economic restructuring, instability and crisis are permanent features of capitalist economies, distinct patterns of growth lasting longer than a business cycle or two can be identified. This suggests that, while core features of capitalist growth remain, the precise relationship between production and exchange, the role of financial capital, and so on, undergo change.

It should be said that the periodization of growth regimes (and the manner in which they are operationalized) is often pretty crude: extensive and intensive, Fordist and post-Fordist. Conventional Regulationist periodization suggests an overly *stage-ist* interpretation of capitalist growth patterns. Different forms of economic growth do not need, and indeed are unlikely, to

neatly succeed each other. Rather, we can expect them to persist and coexist. One might label a period in which industries are dominated by a large number of small producers competing on the basis of labor costs as a period of extensive growth, but that should not obscure the coexistence of multiple industrial structures. It is useful to think of each growth regime as composed of a bundle of elements, and while we may label the bundle Fordism, for example, as a kind of shorthand, that may obscure more than it illuminates. There is no particular reason to believe that all the elements of the bundle experience crisis at the same time, and therefore, one might expect a certain phasing of changes in the regulatory mechanisms. Jessop has suggested that we think of broad growth regimes as families, composed of several (national) variants, differing in many ways and sharing only a basic underlying growth dynamic. For Fordism that is the link of wages to productivity and the spread of mass consumption, while for post-Fordism it is the emphasis upon supply-side flexibility.<sup>6</sup>

A Regulationist conception of institutional development encourages us to recognize that industrial relations institutions are a congealed form of class power; they reflect a particular moment of class power at the time of their construction. There is nothing necessarily fragile or contingent about class power. What gives institutions in the sphere of industrial relations their stability over time is a rough stability in the balance of class power and the economic interests of workers and employers. That in turn rests upon a stable pattern of economic growth. It is when that form of growth breaks down, and consequently the interests and resources of class actors change, that one would expect the institutions that previously regulated industrial relations to mutate, whether that involves the creation of entirely new institutions or the investing of new functions and meanings in existing institutions. In this sense the utility of the Marxist tradition of

political economy – with its emphasis upon the economic patterning of social relations – is that it points towards a process of institutional construction, deconstruction, and reconstruction which is not historically contingent, fluid, and open-ended, but instead profoundly structured. A crisis of a particular pattern of economic growth does not cause a new set of regulatory mechanisms to come into being, still less can any new regulatory institutions be guaranteed to ensure stable, orderly economic growth. But the transition from one distinct type of economic growth to another will create a set of problems which are not easily resolvable using existing institutions, and that will encourage the search for new regulatory mechanisms.

This paper argues that neither “the economy” nor class actors will spontaneously produce the industrial relations institutions needed for new patterns of economic growth. The state is both a site of experimentation, and it is best positioned to select successful regulatory experiments, institutionalize them, and extend them throughout the economy. That process is both one of concrete institution-building, and a discursive one in which crisis is narrated, and new institutions and practices are discursively constituted and naturalized.<sup>7</sup> State actors play a central role in the construction of industrial relations institutions by virtue of a set of unique public capacities, of which I emphasize the ability to solve collective action problems for employers and unions, and a discursive role in the interpretation of crisis, though it is important not to forget the state’s overt coercive power. Above all, through the legal authority of the state, it alone can create a *system* in place of a set of scattered experiments. The role of the state is most significant in the movement from crisis to the construction of a new set of institutions designed to manage crisis; thus a state role is most visible in the constructive phase of institution-building and may be less necessary or less visible for the maintenance of existing institutions.

States intervene in the restructuring of industrial relations institutions because they cannot afford not to. The industrial relations system is the collective form, and regulatory mechanism, of the basic unit of the capitalist mode of production: the wage relationship. That relationship is inherently conflictual, as Marx and Polanyi (for different reasons) pointed out a long time ago. The social, economic and political consequences of industrial relations failure — in the form of strikes, unemployment, inflation, political crisis — make it implausible that any state can adopt a non-interventionist stance for long. But, states also intervene because business and labor may be unable to construct institutions themselves, even though they may want them and see them as beneficial. States can institutionalize practices, generalize them beyond a few leading sectors of the economy, and, above all, solve collective action problems, by limiting defection, for both business and labor organizations. States may act against the wishes of industrial actors, for their own reasons. But more often, states will act because other actors cannot — because they are timid, divided, concerned with short-term interests, have sunk costs in existing institutions, and are generally unwilling to challenge existing industrial relations institutions — and because states can perform functions and have capacities unavailable to interest groups. State actors may also *anticipate* potential alliances between segments of business and labor interests,<sup>8</sup> and craft policy is such a way was to increase the chances of its eventual acceptance by business interests.

Two other points need to be noted prior to moving to an examination of the reconstruction of industrial relations in Britain and France. The first is that state intervention can take a number of different forms, with legislation being only one. The administrative efforts of agencies of the state, the handling of industrial conflicts, management of the public sector, labor

market policy, judicial action, welfare policy (and its impact on the labor market), along with labor law, all influence the construction and functioning of industrial relations institutions. Examining only legislative packages of industrial relations reform can provide a misleading picture of the extent to which a state can be considered interventionist in this sphere. The second point follows from the first. It would be a mistake to think of the state as a unified actor. The very variety of forms of state intervention creates the potential for conflicting approaches and projects of reform. Of particular importance in this regard is conflict between the judicial branch and executive departments such as labor ministries. To the extent that courts are partially insulated from changes in governmental power, they may place obstacles in the way of the industrial relations projects of newly-elected governments.

### **3. Industrial Relations Prior to 1980**

The shape of industrial relations reform in Britain and France in the last two decades has been shaped not only by the imperatives of post-Fordist economic restructuring, but also by the institutional legacy of the industrial relations systems inherited from the past. In both countries, the 1960s saw an upsurge in industrial conflict as an earlier phase of economic restructuring collided with existing industrial relations institutions. During this period, it was primarily the interests of large, Fordist firms seeking to buy labor peace in return for productivity improvements that drove institutional reconfiguration. Whatever the societal interests in reform, it was the French and British states which played the central role in both narrating crisis and constructing new sets of industrial relations institutions.<sup>9</sup>

### 3.1 Donovan and the Decentralization of Collective Bargaining in Britain

Three distinct systems of industrial relations have been constructed in Britain in the past century. Each one emerged out of a crisis of the last as changing economic conditions rendered existing industrial relations institutions incapable of containing industrial conflict and permitting economic restructuring. In each case heightened levels of strikes triggered a public debate about the source of conflict and the shape of future institutions better suited to emerging patterns of economic growth. And in each case it was the British state that played a central role in the construction, embedding, and legitimization of new industrial relations institutions. This despite the longtime characterization of the British state as abstentionist, and industrial relations as voluntarist, a characterization that has never been adequately reconceptualized even as evidence of state activism mounted from the late 1960s onwards; accounts of state intervention in British industrial relations have tended to emphasize *ad hoc*, incoherent, or narrowly political explanations of state action, and they have rarely pushed the analysis back in time to challenge the voluntarist account of the first half of the 20<sup>th</sup> century.

The first system of industrial relations emerged in the early decades of the 20<sup>th</sup> century as a response to the first major crisis of Britain's staple industries, those same industries which had powered the second industrial revolution, and it sought to use industry-level collective bargaining as a mechanism for limiting both industrial conflict between trade unions and employers, and market competition between firms in highly competitive industries where the industrial structure made self-regulation by employers extremely difficult.

The second system of industrial relations developed in the early postwar decades when the center of economic gravity had shifted from the industrial staples to newer industries for

whom the central problem was how to reorganize work so as to improve the productivity of more capital intensive technology and skilled labor. Industry bargaining had sought to regulate wages and hours across each industry while largely leaving firms without well developed mechanisms for regulating conflict and managing change. But by the 1960s there was a widespread perception that the lack of firm-level industrial relations institutions was both generating industrial conflict and contributing to poor productivity performance.

This culminated in the setting up of a Royal Commission, known colloquially as the Donovan Commission after its chair, in 1965 with a remit of investigating the state of industrial relations. It issued its report in 1968.<sup>10</sup> The report became overshadowed by efforts in 1969 and 1971 to introduce legislation that would limit strikes. Enormous political and social conflict erupted around these legislative projects, both of which were widely judged to have failed because of resistance from the labor movement.<sup>11</sup> But it is important to return to the Donovan Report itself to understand the transformation of British industrial relations that did take place in the course of the 1970s and early 1980s. The fundamental argument of the Report was that Britain lacked firm level institutions of collective regulation: trade union organizations had limited capacities inside the firm, and little control over the actions of unionized workers and lay union officials (shop stewards); trade unions and employers' associations focused their attention and resources on industry level bargaining, despite the fact that it was inside the workplace that economic restructuring was being negotiated; in the absence of both firm-level industrial relations institutions, restructuring tended to generate high levels of industrial conflict. Workplace bargaining was characterized as "largely informal, largely fragmented and largely autonomous."<sup>12</sup> Managers, it was famously argued, had lost control of the workplace, and could

“only regain control by sharing it” with unions.<sup>13</sup>

Starting in 1974 a new Labour government introduced legislation that encouraged the emergence of firm-level industrial relations institutions. Collectively, this legislation has “some title to be regarded as a grand plan for the promotion by legal means of the system of collective bargaining.”<sup>14</sup> There were three elements to this grand plan: first, a statutory right to trade union recognition was created for the first time in the history of British industrial relations; second, workers were granted a set of individual rights designed to encourage and improve collective bargaining, including funding for shop steward training, time off for shop stewards, and rights to information and consultation; third, a new form of extension procedure was created that permitted trade unions to use legislation to drive employers to the bargaining table and grant them recognition. This is the sense in which the general secretary of Britain’s largest union famously described the legislation as a “shop stewards charter.”<sup>15</sup>

The effect of this legislation was to reduce the cost of decentralizing bargaining for unions and to require employers and the state to subsidize firm-level bargaining. Evidence from an assortment of workplace surveys demonstrates that the next decade saw a remarkable spread in workplace bargaining, the diffusion of trade unionism into new sectors of the economy, and an explosion in the number and formalized role of shop stewards (whose numbers grew three and a half times between 1961 and 1980.<sup>16</sup> Accompanying that growth was the spread of a range of other workplace institutions including the closed shop and dues check-off, which had the combined effect of permitting a shift in the role of shop stewards from recruiters and dues collectors to negotiators and grievance officials.

In a fundamental sense, however, this ambitious project of industrial relations reform

failed. It did change the face of British industrial relations, creating a new set of workplace institutions, but it did so without bringing about the labor peace that the Donovan Report had anticipated. The result was that employer resistance grew, especially after it became clear that the legislation was vulnerable to outright non-compliance on the part of employers. Thus when Margaret Thatcher's Conservative Party was elected to power in 1979, following the public sector strike wave known as the "Winter of Discontent," it was plausible to argue that overly strong trade unions, and the system of decentralized bargaining itself, were responsible for economic crisis, and that any industrial relations reform project would have to dismantle or sharply circumscribe that set of institutions.

### 3.2 May 1968 and The Emergence of Statist Labor Regulation in France

France also experienced important efforts to reform the industrial relations system after the massive strike wave of May-June 1968, efforts in which the state took the leading role. Paradoxically, the goal of institutional reform was something similar to the decentralized form of collective bargaining that did take root in Britain during this same period – indeed an influential academic review of the causes of the France's wave of industrial conflict elaborated a diagnosis that was almost identical to the at of the Donovan Report, and a similar prescription<sup>17</sup> – but the outcome was quite different.

Repeatedly in the course of the 1970s, an assortment of different governments sought to encourage regular collective bargaining practices between employers and trade unions at the level of the firm. In 1970, the government of Chaban-Delmas launched the "New Society" which stressed the need for a reformed set of modern industrial relations as a precondition for economic

modernization. It built upon the provision of legal protection for unions, won in the heat of the 1968 strikes, by amending the 1950 framework legislation on collective bargaining to make it easier to sign firm-level agreements.

In 1974, newly-elected President Giscard d'Estaing set up the Sudreau Commission charged with reforming firm level industrial relations. The resulting report recommended a wide range of measures including a rights of worker expression in the firm, new economic powers to works councils, an obligation for firms to present an annual *bilan social*, that managers should recognize unions and treat them as partners, and an experiment with *co-suveillance* (a watered down version of German co-determination). It is worth noting that with the exception of the last element, every one of these recommendations was eventually put in place after 1981 by a Socialist government in the Auroux Laws.<sup>18</sup> Then, in 1978, after the unexpected defeat of the Left in the legislative elections, the new government of Raymond Barre sought to “re-launch” collective bargaining by encouraging employer and union organizations to bargain over a range of issues. The strategy was one that would become familiar after 1981: to promise employers a withdrawal of the state from regulation of the labor market, and hence greater flexibility, in return for agreement to engage in decentralized collective bargaining with trade unions.

The British and French states responded to an acceleration in industrial conflict in the 1960s in similar fashion: they both sought to encourage the expansion and better implantation of firm-level collective bargaining institutions in the hope that grievances linked to large-scale economic restructuring would be channeled into peaceful wage bargaining. Yet while this strategy was *institutionally* successful in Britain (in the sense that decentralized collective bargaining became the norm, even if levels of industrial conflict did not decline), it was an

almost total failure in France. The primary difference was the weakness of French trade unionism. The reforms were predicated upon union organizations that were strong enough to entice employers to the bargaining table, and strong enough to exercise some degree of control over their members so that collective bargaining would indeed limit industrial conflict. French unions were never up to this task, and it is noteworthy that few of the reforms directly strengthened unions themselves (in contrast to the British legislation of the mid-1970s). The result was that outside the public sector (where the state could mandate collective bargaining, and offered quite generous wage contracts in order to keep unions at the table) and a few large Fordist firms, firm-level collective bargaining remained rare.

However, this did not mean a return to the *status quo ante* 1968. As private industrial actors failed to take the strain of regulating industrial relations through collective bargaining, the French state became more and more directly involved in the regulation of the labor market. In effect, the state came to substitute for the weakness of trade unions and collective bargaining through a more aggressive use of the minimum wage, the requirement that large-scale layoffs receive administrative authorization, and generous unemployment benefits and public sector wage contracts. It was the state which partially decommodified the labor market in France, rather than labor organizations. All of this was done by governments of the Right, anxious to avoid another social explosion like May-June 1968, and concerned about the electoral danger posed by parties of the Left.

The result, for the purposes of this paper, was that as post-Fordist restructuring gathered pace, and labor market and workplace flexibility moved to the top of employers' agendas, the obstacle to that flexibility was not perceived to be primarily trade unions and collective

bargaining, as in Britain, but rather the direct regulative efforts of the French state. All projects of industrial relations reform that sought flexibility had to tackle this problem, and to find some route that would permit a withdrawal of the state from industrial relations. In practice this meant trying to encourage firm-level social dialogue – perhaps with independent trade unions, but perhaps with alternative institutions representing workers – a strategy that had failed miserably in the 1970s.

## **4. Reconstructing British Industrial Relations**

### **4.1 British Post-Fordism**

This section is concerned with the construction of a third system of industrial relations in Britain in the period since 1979. By the 1980s, under conditions of heightened international competition, and as the weight of manufacturing employment shrunk to less than a quarter of the total, employers came to place much greater emphasis upon *flexibility* in all its myriad forms, and in increasingly individualized relationships between employers and employees, as the manner in which productivity gains could be made; just as different national variants of Fordism appeared in the thirty years after the Second World War, so a particular “hyperflexibility” came to mark British post-Fordism in the absence of many of the political-economic institutions characteristic of “Coordinated Market Economies,” and with the arrival in power of a government that aggressively sought to dismantle those co-ordinating institutions which did exist. Moreover, employers had become disillusioned with joint regulation of economic change, and were more prepared to take unilateral action in the firm. The result was the wholesale collapse of institutions of collective regulation at both the industry and the firm level, and the

emergence of institutions suited to ensuring employers the maximum flexibility in the deployment of labor.

In retrospect, British Fordism was not only flawed, but short-lived, lasting two scant decades before succumbing to crisis in the mid-1970s. A combination of social factors (the organization and practices of managers and workers) and economic ones (the size and form of the domestic market, the level of technological sophistication, the interests of financial capital, and the external vulnerability of the British economy), ensured that the effort to construct a durable form of British Fordism quickly collapsed. Under these circumstances, it is no surprise that supply-side flexibility was eventually achieved in Britain through unilateral managerial control, decollectivisation of social relations, and labor market deregulation. What has been termed “hyperflexibility” in the British case, was a natural, though certainly not inevitable, variant of post-Fordism.<sup>19</sup> In the absence of a commitment to a difficult and much more thorough reshaping of the regulatory institutions of the British economy, accentuating the operation of market-oriented institutions was a more straightforward route. There was no such commitment from the ruling Conservative party or the main employer organizations after 1979. Without alternative financial institutions, or legislation underpinning alternative structures of corporate governance, employers were faced with the choice of continuing with the industrial relations institutions they had (often only recently) constructed in agreement with trade unions, or seeking a return to unilateral control of the firm.

The main elements of economic restructuring in Britain will be familiar to comparative political economists, involving a deepening and acceleration in the processes of internationalization, deindustrialization and flexibilization. Of course, these processes affected all

advanced capitalist economies, yet as noted above, when faced with the resultant economic pressures, different countries responded in different ways. It was the interaction of international and domestic economic developments, played out on a field of national institutions, that generated the kinds of strategies pursued by the state and private industrial actors. Many of the distinctive institutional features of British capitalism – the absence of employer coordination, the absence of long-term relationships between industrial and financial capital, and the absence of the capacity for co-ordinated wage bargaining – had the effect of encouraging a response to any intensification of international competitive pressure through cost reduction, and low wage/low skill strategies.<sup>20</sup> This has obvious implications for industrial relations. As Heery has pointed out, a social partnership model of industrial relations needs large firms, dominant in their markets, able to pursue high quality, high value-added strategies, to thrive.<sup>21</sup> The British economy, characterized by smaller firms in competitive markets, pursuing cost-reduction strategies, was more likely to produce social conflict than social partnership. The role and value of trade unions and collective regulation are less clear under these circumstances.

The significance of the economic shifts noted above, has primarily been their effect of the interests of employers. As the internationalization of the British economy, and demands for flexibility, increased so employers have sought different relationships with their employees.<sup>22</sup> The ability to respond rapidly to international competition strengthened the existing firm-centric focus of the second industrial relations system. But the greater importance attached to flexibility in this period undermined the collective basis of that system of industrial relations because employers increasingly wanted to differentiate the terms and conditions of their employees. This made collective bargaining for large groups less attractive to employers, and they were more

likely to seek an individualization of their relationship with their employees, rendering collective representation problematic.

Yet, despite the shifting interests and practices of employers, the transformation of the institutions of industrial relations required a central role for the state. That was both because employers were unable to change their relations with their employees without the aid of the state (whether through changes in labor law, the demonstration effect of enduring strikes, changes in macroeconomic policy, or the less tangible transformation of the industrial relations “climate”), and because employers were, for the most part, significantly more timid and unwilling to challenge established industrial relations institutions and practices than the state. King and Wood have noted the ambivalent relationship between employers and post-1979 Conservative governments,<sup>23</sup> which extended to many areas of economic and social policy. As the Conservatives piled up legislative packages of industrial relations reform in the 1980s and early 1990s, it is striking that the response of employers’ organizations to each new consultative document was to be less radical than the government, more willing to take a pause in the reform process, and more cautious about the consequences of further reform.<sup>24</sup> And yet, once legislated, employers rapidly came around to support legislation about which they had previously demonstrated concern. Employers were won over to the reform project of the state, but they did not instigate or direct it.

#### 4.2 The Strong State and Industrial Relations Reform

After 1979 the British state encouraged a sharp break with, and a reversal of, an established set of industrial relations institutions and practices. It sought, at a time of historically

unrivaled labor movement strength and influence, and the deep implantation of collective forms of regulation, to weaken trade unionism and encourage unilateral managerial regulation of the workplace, and the individualization of industrial relations. For this reason, the role of the state was more significant, more direct, and more coercive than in earlier periods. Labor law took on a more central role than the administrative measures of previous periods. Despite the much more explicit use of legislation to shape industrial relations practice, it is still necessary to take an expansive view of state action in order to understand the scope of government policy and influence during the period between 1979 and 1997. The state played an important role in both the narration of crisis, which itself permitted the mobilization of state power to restructure industrial relations, and in influencing the manner in which post-Fordist economic pressures were transmitted to the British economy; higher unemployment, accelerated deindustrialization, and closer international economic integration were encouraged by state macroeconomic policy. In a similar fashion, microeconomic policy which deregulated the labor market reduced the insulation from the market enjoyed by workers, in turn encouraging different behavior on the part of employers, managers and workers themselves.

The restructuring of the public sector in Britain after 1979, and the collapse of corporatist institutions (and with it the direct influence of trade unions upon public policy) were also crucial parts of the project of industrial relations reform which were achieved either through administrative action alone, or legislation whose impact on industrial relations was indirect. Nowhere is this more true than in the privatization of the nationalized industries and the decentralization, and creation of market surrogates, in what remained of the public sector. There was little legislation which sought to directly alter the institutions of public sector industrial

relations, but the wider restructuring of the public sector dramatically changed industrial relations practice.

Less tangible, but still important, were such factors as the handling of major strikes, and impact of policing during those strikes. Certainly a case can be made that the government's victory over the mineworkers' union in the 1984-85 coal strike, in which the Coal Board was prevented from reaching a compromise settlement by the government, and policing prevented aggressive picketing from spreading the strike, had an important demonstration effect for both trade unions and private sector employers.<sup>25</sup> In the same vein, it is difficult to measure the impact of the industrial relations "climate," to which state policy surely contributed, upon the behavior of employers, unions and workers. Conservative governments made it clear that collective bargaining was no longer considered a public policy good, and that it would support employers who sought new relationships with their employees; in some cases (the replacement of collective bargaining with personal contracts, for example) legislation legalized employer practice after courts had ruled against that practice. In short, it seems certain that the climate of industrial relations fostered by the state gave employers the confidence to experiment with new industrial relations institutions and practices of their own. As the authors of one of the most comprehensive studies of Conservative industrial relations legislation put it: "Employers were thus given the encouragement and the power to execute a similar policy in the workplace and, when appropriate and necessary, sufficient confidence to use the anti-union legislation."<sup>26</sup>

A distinctive feature of this period of industrial relations reform was the extent to which successive packages of legislation sought to directly restructure industrial relations. When a piece of legislation did not appear to achieve the goals set for it, the response was further

legislation, to “add another layer of cement” rather than to seek non-legislative solutions, or to change the goals themselves.<sup>27</sup> Conservative governments after 1979 had learned a key lesson from the failure of the 1971 Industrial Relations Act, which was to make the legislation facilitative. While Conservative hostility towards trade unions was clear, the main aim of government policy was not to prescribe a particular model or form of industrial relations, but to remove restrictions (either in the form of legislative obstacles or in the capacity of trade unions to resist) upon the right of employers to choose the industrial relations arrangements that they deemed most appropriate. Whereas the 1971 Industrial Relations Act created a set of criminal liabilities for non-compliance – thus focusing attention upon the role of the state in the enforcement of the legislation – the legislation of the 1980s and 1990s created only civil liabilities. It was up to employers to choose whether to use the new legislation, thereby minimizing employer resistance to the legislation.

That said, by the end of the 1980s Conservative policy had become increasingly concerned not so much with eliminating abuses of collective bargaining and the collective representation of workers, and permitting employers to deal with their employees as they wished, as with encouraging an individualization of industrial relations in which trade unions and collective bargaining had a limited role. Conservative ministers urged unions to get out of the business of collective bargaining and instead offer individual services to their members, and government White Papers called upon employers to reconsider their industrial relations practices and stressed the merits of individual contracts, promising to support “the aspirations of individual employees to deal directly with their employer, rather than through the medium of trade union representation or collective bargaining.”<sup>28</sup> Thus the permissive nature of industrial

relations legislation should not detract from the fact that decollectivization was an explicit state strategy between 1979 and 1997.

The role of legislation after 1979, and the willingness of the police and the judicial branch of the state to enforce that legislation, does mark a ratcheting up of the level and nature of state intervention compared to previous efforts to act as midwife to a new set of industrial relations institutions. That should be no surprise given the strength of the labor movement and the deep implantation of collective regulation. As Gamble so aptly noted, a strong state was indeed a prerequisite for the construction of a “free economy” in this regard.<sup>29</sup>

There were six major pieces of Conservative industrial relations legislation, each one comprising several parts and addressing multiple themes, along with sundry other pieces of legislation which impinged on industrial relations. The main legislative packages came at regular intervals between 1980 and 1993 and were: the 1980 Employment Act; the 1982 Employment Act; the 1984 Trade Union Act; the 1988 Employment Act; the 1990 Employment Act; and the 1993 Trade Union Reform and Employment Rights Act. Making sense of this mass of legislation requires an intellectual roadmap. The logic of this mass of legislation has been nicely captured by Dunn and Metcalf:

If the first preference [of Conservative legislation] is to legislate collective bargaining out of existence, diminishing unions to harmless friendly societies and workers’ advice bureaux, then, should that prove too difficult, the fallback position is to cordon off union enclaves and prevent them contaminating the existing non-union sector and new-born enterprises...if legislation stops the spread of collectivism among market rivals, individual unionised companies and their employees have to face up to the costs of trade unionism in an increasingly non-union world.<sup>30</sup>

#### 4.3 The Transformation of British Industrial Relations After 1979

The period since 1979 has seen the most far-reaching change in British industrial relations since the spread of industry bargaining at the beginning of the twentieth century. Purcell has powerfully described the outcome of this period of change as the “end of institutional industrial relations,”<sup>31</sup> referring to the collapse of the institutions of collective regulation. It is clear that those institutions, the core elements of the first and second systems of industrial relations, are in tatters; what is less clear is what, if anything, has been put in their place. More profound, though, than institutional restructuring, has been the impact of change on the labor movement. There has been a quite fundamental, and potentially irreversible, shift in the balance of class power in Britain, with the shrinking, weakening, and hollowing out of trade unionism. Flanders famously argued that “the tradition of voluntarism cannot be legislated against,” yet the experience of the recent past suggests that indeed it can.<sup>32</sup> The apparently autonomous strength of British trade unionism has been overcome by a combination of the scale and scope of state activism, the willingness of governments to endure industrial conflict, and a raft of industrial relations legislation, alongside a withdrawal of support for collective regulation on the part of many employers, and a period of profound economic restructuring.

It seems plausible that the deep recessions at the start of the 1980s and then the 1990s played an important role in weakening trade unions and permitting employers and the state to engage in a restructuring of industrial relations, but it is hard to explain both the continued decline of trade unionism and the continuation, and indeed the acceleration, of change in the *institutions and practices* of industrial relations, without reference to the state. Certainly, in their evidence the House of Commons investigation into the future of trade unions, employers “were unanimous in the belief in the efficacy of the ‘step-by-step’ developments since the changes have

significantly increased the power of managers,”<sup>33</sup> and the Institute of Directors argued that the “reform of trade union law since 1980 has been outstandingly successful in ushering a new age of good industrial relations and it has proved popular.”<sup>34</sup>

Since 1979 British trade unions have lost almost six million, or 40%, of their members, bringing union density to below 30%. The decline in membership briefly stabilized between 1998 and 2000 before continuing its decline, and even the small increases in membership at the end of the millennium were not enough to reverse the decline in union density.<sup>35</sup> Turning to evidence from the Workplace Industrial Relations Surveys,<sup>36</sup> a study of the period from 1980 to 1998 detected declines in every measure of union strength, and concluded that “falls in union membership were themselves widespread, rather than confined to particular industries or types of workforce or of employer.”<sup>37</sup> Trade union recognition fell even faster than union membership, so that recognition in the private sector halved during this period to 25%.

This period also saw dramatic changes in the scope and form of collective bargaining. The net result of these changes was that the coverage of institutions of collective pay-setting fell to levels unseen since the 1920s. Overall, the coverage of collective bargaining fell from 70% of employees in 1984 to 40% in 1998.<sup>38</sup> Once again the decline in coverage was especially precipitous in the private sector, and here collective bargaining was replaced with unilateral management determination of pay. Another significant change in collective bargaining has been the dramatic decline of two-tier and industry, or multi-employer bargaining. The collapse in trade union recognition in engineering was a direct result of the ending of multi-employer bargaining in that industry, as employers picked off poorly-implanted unions which had depended upon the industry agreement for their survival.

While the coverage of collective bargaining has shrunk, and industry-level bargaining has largely disappeared outside the public sector, the form of bargaining even where it remains within the firm has also changed in important ways. The 1960s and 1970s saw an expansion of the scope of collective bargaining beyond basic conditions of work to include a range of substantive issues of work organization. This followed from the effort to enlist unions in improving productivity. By the end of 1990s it was “evident that there has been a very substantial decline in union representative involvement in the regulation of employee obligations and work organization” as the scope of bargaining once again shrunk leaving the organization of the workplace as a matter for unilateral managerial prerogative.<sup>39</sup> Furthermore, collective bargaining itself often took on a less formal character, resembling consultation rather than negotiation. Even where institutions of collective regulation of industrial relations remain, their character has changed.

Overall, the core institutions of collective regulation were systematically dismantled in the two decades after 1979. Decollectivization manifested itself in the decline in trade unionism, in both the decentralization of collective bargaining to the firm and workplace, and its replacement by unilateral managerial determination of terms and conditions,<sup>40</sup> in the weakening of collective decision-making structures within trade unions, and in the decline in collective action and its replacement with individual legal cases or complaints directed towards state agencies rather than trade unions.<sup>41</sup>

What industrial relations institutions have replaced regularized collective bargaining between trade unions and employers, or employer associations? The best picture we have of the development of new industrial relations institutions comes from the Workplace Industrial

Relations Surveys. The 1998 survey identified a significant rise in the spread of new industrial relations. This suggests that, while the main industrial relations development of the 1980s was the destruction of the old mechanisms of collective representation, in the 1990s, that process continued but was accompanied by the partial construction of new mechanisms. Two clear conclusions concerning “employee voice” can be drawn from the 1998 survey.<sup>42</sup> The first is that the last two decades have seen a sharp decrease in mechanisms of *union-only voice*, and an increase in *non-union only voice*, where the latter includes the forms of direct communication between management and employees listed above. The second, and related, conclusion is that there was a steep decline in the presence of any form of *collective* representation – union, consultative committee, works council – but an increase in mechanisms of direct participation, through institutions created and controlled by management. These industrial relations institutions are likely to be much more fragile, less likely to survive an economic downturn or other crisis, than those based either upon a strong trade union presence in the workplace, or legal requirements, such as continental European works councils.<sup>43</sup>

What then should one conclude about the restructuring of industrial relations institutions in Britain in the past two decades? The impact of the decline in trade union membership is particularly important for British industrial relations because of the absence of mechanisms for the extension of collective agreements beyond the workplaces where they are negotiated. Without legal extension, or extension by coordinated employer organizations, the decline in trade union coverage leads directly to a decline in collective bargaining coverage, as the exceptionally narrow gap between these two levels at the end of the 1990s demonstrates. As Brown et al. have put it: “although the decline of trade union membership may not have been exceptional in

international terms, the implications of it are.’<sup>44</sup>

The result is that a quite new system of industrial relations is emerging in Britain. What is being created is an economy in which a large majority of workers do not belong to unions and are not covered by any form of collective bargaining. There has been a massive *individualization* of the regulatory mechanisms governing industrial relations. The individualization of representation goes along with an employer preference for individualized terms and conditions as merit pay, flexible working time, and so on have spread.<sup>45</sup> Overwhelmingly, employers have chosen not to replace collective representation by unions with alternative forms of collective representation, such as works councils, or employee boards. In what remains of the union sector, the hands of unions are tightly tied by legislation, and unions have become more dependent upon employers.

Thus the period since the Conservative election victory in 1979 has been marked by a sharp break with the past. For all their differences, governments from 1894 until 1979 shared an emphasis upon the public policy good of trade unions and collective bargaining. This has now changed. What began in 1979 as an effort to fence in unions, reduce their capacity to damage the economy, and narrow their strategic options, while freeing the hands of employers, has become the embryo of an individualized system of industrial relations, based upon the absence of collective representation for workers in the majority of the economy, and the collapse of linkages between unions and collective bargaining *inside* the firm, and unions and collective bargaining *outside* the firm in what remain of the unionized sector. In the latter case, what is emerging is something close to a *de facto* enterprise unionism. The result is that even on those scattered islands of collective regulation, overwhelmingly located in older firms, in an ocean of

individualized industrial relations, trade unions lack effective sanctions, existing largely at the sufferance of employers. It is an open question as to whether developments in Britain are the harbinger of an industrial relations system appropriate to the 21<sup>st</sup> century, or of “a free, unregulated labour market of the sort that predated the birth of collective bargaining 100 years ago.”<sup>46</sup>

#### 4.4 New Labour’s Industrial Relations Policy

In 1997 a Labour government returned to power after 18 years of Conservative rule, and was subsequently re-elected in 2001. The Labour Party had been transformed during its years of opposition, having embraced the market and price stability as the central macroeconomic goal, distanced itself from the trade union movement (both institutionally and in terms of policy),<sup>47</sup> rejected nationalization as a planning strategy, and rebranded itself as “New Labour,” pursuing what its leader, Tony Blair, called “the Third Way.” Despite this transformation, New Labour came to power with a different industrial relations agenda from that of the Conservatives, and one might have anticipated reforms that would challenge the trajectory of British industrial relations institutions described in the last section. In fact, while the industrial relations institutions currently being created differ in some respects from those of the government’s Conservative predecessor, they are fundamentally convergent with the decollectivist thrust of the third system of industrial relations. The distinctiveness of New Labour’s industrial relations reforms lies in their emphasis upon the creation of individual rights at work, rather than support (legislative or otherwise) for the collective regulation of class relations.

It is worth noting that New Labour is far more explicit than its Thatcherite predecessor in

recognizing the importance of the state in the regulation of social relations, arguing that law can operate to deepen, widen, and embed cultural practices. As Tony Blair put it:

My ambition... is nothing less than to change the culture of relations in and at work – and to reflect a new relationship between work and family life. It is often said that a change of culture cannot be brought about by a change in the framework of law. But a change in law can reflect a new culture, can enhance its understanding and support its development.<sup>48</sup>

New Labour argues that the state cannot evacuate the terrain of work, leaving social regulation to employers and employees alone because it is possible for employers to organize social relations within their firms in a manner that is not even in their own interests, let alone that of the economy as a whole.

The central elements of New Labour industrial relations reform have been as follows. First, a national statutory minimum wage has been introduced for the first time in British history. Prior to 1993, when they were abolished, Wages Councils set minimum terms and conditions in a set of traditionally low-wage industries as a form of embryonic collective bargaining. Second, Britain signed up to the Social Chapter of the European Union, something its predecessor in government had rejected. This has had an accelerating impact on domestic labor law as European directives have multiplied particularly in the areas of “family friendly” policy (maternity and paternity leaves) and the regulation of atypical work. It should be said that the British government has always chosen to interpret these directives in the narrowest possible manner to minimize regulation of the labor market, and it has sought to prevent or limit the impact of directives related to worker consultation. The third element of industrial relations reform was the 1999 Employment Relations Act (ERA). This legislation has a number of features, including a new set of individual rights at work: more protection from unfair dismissal; a legal right for

individuals to be accompanied by a fellow employee or union official in grievance hearings; protection from blacklisting for union membership; and protection from unfair dismissal during the first eight weeks of a strike. The ERA did contain one major collective right: a right to union recognition if a ballot showed majority support for a union. This right was hedged in important ways, in that it did not apply to small firms and required a turnout threshold on the ballot, but it is nonetheless a significant innovation in British labor law (a somewhat different form of union recognition legislation existed for half of the 1970s). The fourth and final part of the reform agenda appeared in Labour's second term, and involved an overhaul of the employment tribunal system to reduce the number of cases being handled. One part of this reform, which was contained in the 2002 Employment Act, created minimum statutory internal procedures covering dismissal and grievances inside firms.

The central elements of the current industrial relations system then are as follows. The overwhelming bulk of Conservative industrial relations legislation remains in force, and has been endorsed by New Labour. To this basic framework of labor law has been added limited regulation of the labor market. This regulation has taken the form of a set of minimum rights at work, including a minimum wage, limits on working hours, expanded rights of unfair dismissal, expanded rights for working women and parents, and some regulation of precarious, "atypical" forms of labor contract. It is important to emphasize, however, that labor market regulation in Britain remained limited, and that the Blair government sought legislation that was compatible with a high degree of labor market flexibility.

Regulation of the labor market has taken the form of individual legal rights, enforceable through labor courts and state agencies, not, for the most part, collective rights designed to

strengthen trade unions which could then take on the role of regulating social relations through collective bargaining. With a few exceptions, any benefits likely to accrue to unions will come indirectly, by virtue of a more regulated labor market, or a new role as enforcers of legal rights.<sup>49</sup> In several areas legislation further substitutes for collective regulation, such as in the minimum wage and statutory internal procedures. Thus, of the two parallel tracks along which social relations have been regulated in Britain, as elsewhere in the advanced capitalist world – collective regulation by unions and legal regulation by the state – it is the latter that has become the focus of New Labour attention. This continues and accelerates the trend since the 1960s in Britain of a shift from voluntarism towards individual rights at work. But it is very important to recognize that even legal regulation of the labor market remains extremely limited because of concern that employment rights encroach as little as possible on labor market flexibility.

Thus in terms of industrial relations, the current Labour government is best understood as a consolidation, rather than a radical departure, from Thatcherism. They share a broad acceptance of the current balance of social power in the workplace, a largely unitarist view of industrial relations, and, most fundamentally, an emphasis upon individual rather than collective regulation of social relations. It is hard to disagree with Crouch's assessment that, "in the industrial relations field New Labour represents a continuation of the neo-liberalism of the Conservative government, but one required to make more concessions than its predecessor with trade unions and social-democratic policy preferences."<sup>50</sup> The distinction between the two approaches then, lies in the degree of labor market regulation undertaken by the state, not the agent of that regulation. Both largely reject collective regulation. The institutions for the collective regulation of industrial relations, which were central to both public policy and

industrial relations practice in Britain for a century after 1890, are now almost certainly in terminal decline.

## **5. Reconstructing French Industrial Relations**

### 5.1 The State and Social Actors in France

Like its British counterpart, the system of French industrial relations has been transformed in the last two decades. Changes that took place between 1968 and 1981 did create a more state-centered set of industrial relations institutions, but efforts to encourage autonomous collective bargaining institutions largely failed. That period was dominated by crisis: the regime crisis engendered by the events of May-June 1968; the economic crisis accompanying the oil shock of 1973-74; and the political crisis of heightened electoral competition between the *Union de la Gauche* and the Right. In this context, industrial relations reform was driven more by the desire bring social peace, demonstrate social progress, and manage inflationary pressures than to construct institutions appropriate to an emerging regime of accumulation, the contours of which were, in any case, murky. Already in the efforts of the Barre government after 1978, flexibility had appeared as a goal of industrial relations reform, but it was still a minor theme.

After 1981, the compatibility between the industrial relations system and post-Fordist restructuring of the French economy became of central importance. For reasons discussed in some detail elsewhere, the initial Socialist economic project was quickly abandoned in the face of domestic and international economic pressure,<sup>51</sup> and after the adoption of *rigueur* in 1982-83, the Socialist government underwent what Singer has appropriately termed a “conversion” to the market.<sup>52</sup> From then on there was little political disagreement about the goals of monetary

stability, labor market flexibility, and privatization of state-owned industries. Rather the question became how industrial relations institutions could contribute to this form of economic restructuring, and what precise balance between social protection and flexibility was appropriate.

During this period, “the state remains at the heart of the organisation of relations between capital and labour.”<sup>53</sup> The emergence of labor market and workplace flexibility could not take place without the active role of the French state, and a state-led restructuring of industrial relations institutions. In the first place, state regulation and state industrial relations institutions were the primary obstacles to flexibility. And in the second place, private industrial actors, particularly trade unions, were simply too weak to take on the burden of negotiating flexibility. Nevertheless, the role of the French state in industrial relations reform after 1981 cannot be understood within the familiar category of *dirigisme* (which itself was rarely an accurate description of the relationship between the French state and society). As Vail has pointed out, state action has increasingly involved delicate and careful negotiation with business and labor organizations as the state has *both* tried to encourage class actors to take on more of the regulatory burden of industrial relations, *and* sought “to shore up societal support behind unpopular and often painful reforms.”<sup>54</sup> The central problem facing the French state in its efforts to reconstruct industrial relations institutions in a manner appropriate to post-Fordist economic restructuring, was how to withdraw from direct regulation of the labor market in the absence of labor actors at the firm level capable of ensuring that the introduction of flexibility was genuinely negotiated rather than imposed unilaterally by employers. The core of the state’s strategy, under both governments of the Left and the Right was to create legal obligations inside the firm, that would have the effect of generating *autonomous and self-sustaining* social dialogue

that would in turn permit deregulation of the labor market.

## 5.2 The Auroux Laws and the Reform of Firm Level Industrial Relations

This section begins with a brief account of the Auroux laws, brief because this is a well-known part of the story of French industrial relations reform, and then moves onto reforms in the 1990s. The common theme throughout this period has been the creation of workplace industrial relations institutions, the dominance of firm-specific institutions to represent workers, and the shift in competence and mandate away from legislation and higher level collective bargaining towards these decentralized institutions for the regulation of social relations.

The Auroux Laws rewrote fully one-third of the French labor code, and represented the most thorough-going state industrial relations reform project since 1936. There were diverse inspirations for the reforms, and one of the interesting features of the package as a whole is that so many of its elements had been proposed in one form or another in the past. As mentioned above, the report of the Sudreau Commission proposed a right of worker expression in the firm, greater economic powers for the works council, and an annual *bilan social*, all of which found their way into the Auroux laws. Similarly, in 1978 at the point at which the Barre government was proposing to re-launch collective bargaining, Jacques Delors set out a reform agenda that involved strengthening trade unions and extending and regularizing collective bargaining inside the firm. It should also be recalled that Delors, the first economics and finance minister of the 1981 Socialist government, had also in an earlier incarnation been the architect of Chaban-Delmas' New Society project of industrial relations reform. So the Auroux Laws combined some fairly conventional (though nonetheless radical in scope) measures aimed at encouraging

decentralized collective bargaining, with a series of elements that I have elsewhere characterized as micro-corporatist: strengthening firm-specific industrial relations institutions that are largely autonomous from, and unarticulated with, industry or national institutions of labor regulation.

The central elements introduced by the Auroux Laws were as follows. First, a right of self-expression for workers inside the firm, in the form of regular meetings to discuss social relations within the firm. This provision was experimental in the Auroux legislation and limited to firms employing 200 or more workers. Legislation in 1986 made the right of expression permanent and extended it to firms with 50 or more workers. Second, works councils received new rights of mandatory consultation over a wide range of economic issues, greater resources including the right to hire outside experts, and, in very large firms, a special economic delegation was created. Third, an annual *bilan social* was made mandatory. Fourth, trade union delegates received legal protection in all firms, not simply those employing 50 or more workers as had been the situation since 1968. Unions also gained greater resources (office space, time off for union duties) in firms employing 50 or more workers. Fifth, an obligation to bargain annually (though not to conclude an agreement) at both the firm and branch level was created in firms employing 50 or more workers and having a union delegate. Firm level agreements could derogate from legislation and higher-level agreements as long as a union or unions receiving a majority of the votes in the last works council election did not veto the agreement. And the process of state extension of collective agreements was made easier. Sixth, a series of reforms of public sector industrial relations decentralized works councils, provided a right of self-expression, and extended a limited form of worker representation on the boards of public companies to such firms employing 200 or more workers.

Two main points need to be emphasized about this package of legislation. The first is that it did very little to directly strengthen trade unions. Union delegates received legal protection in small firms, and some additional resources in larger firms (resources were not provided in small firms because of the fear of burdening small firms), but for the most part the legislation created the obligation to bargain with unions where they were present without encouraging the spread and implantation of unions. The hope was that unions would be indirectly strengthened by their increased powers given to workers councils and the right of worker expression. This was a vain hope at a time when employers were at best ambivalent, and often deeply hostile to trade unionism.<sup>55</sup>

Second, the Auroux Laws contained within them a whole series of micro-corporatist elements, whose logic pointed away from articulated collective bargaining between independent trade unions and employers, and instead encouraged an assortment of forms of social dialogue inside the firm with firm-specific institutions of worker representation, unconnected to either outside trade unions or higher levels of collective bargaining. These elements included the right of firm level agreements to derogate from legislation and branch agreements, the increased powers of consultation for works councils (which had the effect of blurring the line between consultation and negotiation), and the right of expression inside the firm. In the case of the latter, the expression groups were made mandatory at a time when managerial practices which emphasized direct communication with the workforce, unmediated by trade unions, were spreading within French firms, and an assortment of institutions such as quality circles and worker-management groups were appearing.<sup>56</sup> Thus the legislation had the effect of a *forced modernization* of managerial practices extending their reach beyond the leading edge of French

firms to the rest of the economy.

The results of the Auroux reforms on the industrial relations institutions of France were made clear by an exhaustive study ten years after their implementation.<sup>57</sup> While branch level collective bargaining had stagnated, there had been a substantial increase in the scale of firm-level bargaining such that “La négociation régulière s’est affirmée comme le mode de régulation sociale privilégié.”<sup>58</sup> But at the same time, the weakness of trade unionism had not been reversed, and indeed appeared to have accelerated, though the study was ambivalent about the degree of responsibility of the Auroux legislation for trade union decline. The number of union delegates had fallen, especially in smaller firms, and employee representation of all types was limited in these firms. Indeed the Belier report had found that half of all workers were employed in firms with no employee representation of any kind.<sup>59</sup>

So how to explain the paradox of a dramatic expansion of collective bargaining at a time of growing trade union weakness? In practice, employers were signing agreements with union delegates who represented very few actual members in order to gain dispensation from legislation or branch agreements. At the same time, a blurring of the lines of employee representation was taking place. The distinction between union delegates negotiating collective agreements and works councils or worker expression groups consulting over work reorganization or layoffs collapsed in the context of an acceleration in the process of economic restructuring. There was instead confusion and competition among forms of employee representation.<sup>60</sup>

### 5.3 Workplace Industrial Relations Reform in the 1990s

Thus a decade after the Auroux Laws were put in place, they had indeed encouraged an

assortment of forms of social dialogue inside the firm and a significant expansion in firm-level collective bargaining. But in the absence of strong, independent trade unions, that dialogue and bargaining were of the micro-corporatist variety. In the 1990s the role and form of employee representation inside French firms underwent significant change that had the effect of deepening and broadening the construction of a set of firm-level institutions that regularized social dialogue with largely non-union employee representatives.

The 1990 Belier report on employee representation in small and medium-sized firms, that had identified the paucity of such representation, even in firms where employee delegates or works councils were legally required, recommended a simplification of employee representation to permit a merging of function. The Five-Year Employment Law (which also had important provisions relating to work time reduction and flexibility, see below) permitted the merging of the employee delegate and works council function in firms employing fewer than 200 workers, and simplified the information employers were required to provide to works councils.

In October 1995 employers and several of the trade union confederations (but not the CGT or FO) issued a general statement about collective bargaining and signed two interprofessional agreements (the other one concerned work time reduction and flexibility, indicating the linkage between workplace industrial relations institutions and the introduction of flexibility). The general statement called for the autonomy of bargaining and decried “social interventionism” on the part of the state.<sup>61</sup> The agreement relating to collective bargaining launched a three year experiment during which time firm-level agreements on single issues could be signed by either mandated or authorized delegates in firms employing less than 50 workers in which there was no union delegate. This permitted either an elected employee representative, or

an employee mandated by a national trade union, to sign collective agreements. Arguing that levels of collective bargaining should be complementary rather than hierarchical, it also permitted firm-level agreements to be signed that contained clauses less favorable than branch or interprofessional agreements, thus breaching the cornerstone of French collective bargaining law since 1950. This agreement was sanctioned by legislation in 1996, and then extended for another five years in 1999 when the initial experiment expired. As will be discussed below, the Aubry legislation formally incorporated the principle of agreements signed by non-union employee representatives into the process by which work time reduction could take place.

Faced with the weakness of French trade unionism but the need to use collective agreements in order to introduce flexibility, governments of both the Left and the Right, employers and some of the trade union confederations chose to permit a delegation of trade union responsibilities onto employees who had no necessary connection to a trade union, in firms that had no union representative nor any necessary union membership. For the unions that did support this practice (and all the union confederations participated in the mandating process even if they did not sign the original interprofessional agreement), the hope was that the mandating process would help unions get access to smaller firms and eventually create union delegates out of mandated employees. For employers and the state, these representatives provided an employee interlocutor with whom to negotiate flexibility, and it is no coincidence that legislation and interprofessional agreements on employee representation always went hand-in-hand with measures encouraging flexibility.

Elsewhere, I have argued that French trade unionism can be usefully characterized as virtual unionism,<sup>62</sup> in which the influence of organized labor rests not upon class power (in the

sense of control over labor's collective capacities), or any of the conventional measures of labor strength, but rather upon dual functions: as a vehicle representing labor interests to the state (deployed by workers, who are rarely union members, to bargain with the state during moments of social crisis); and as institutions that the state uses to legitimize economic policies that cause social dislocation. In this latter function, French governments have tended to seek out trade unions during moments of industrial conflict and social crisis to negotiate the terms of change. That French unions do not represent actual members matters less than that the state be seen to be bargaining with the "labor interest." It is worth noting that in both cases, the importance of trade unions is a function of their relationship with the state rather than with employers, something that emphasizes the centrality of the French state in labor regulation. With the development of the mandating process, virtual trade unionism is taken to its logical conclusion and endpoint: national trade union confederations without any necessary presence or power in the workplace are called upon to bestow legitimacy upon firm level flexibility agreements.

A second industrial relations development worth mentioning here is related to the management of layoffs which accompany economic restructuring. In 1986 the requirement that mass layoffs for economic reasons receive administrative authorization, introduced in the 1970s and a symbol for employers of rigid bureaucratic obstruction to economic restructuring, was abolished. But what emerged in its place was a greater emphasis upon the obligation of employers to provide alternatives to layoffs in a social plan presented to the works council. Again, there was little difference between governments of the Left and the Right, with a Socialist government giving the Labor Inspectorate a greater role in regulating social plans in 1993, and the new conservative government which replaced it also emphasizing that firms had an

“obligation of means” to avoid layoffs wherever possible. In 1995 a court of appeal decision required that social plans contain “real and serious” redeployment measures,<sup>63</sup> a decision that led employers to argue that administrative authorization for layoffs had been replaced with judicial authorization. This concern was given credence after the passage of the Robien Law in 1995, when it appeared that social plans that did not include work time reduction as one option for avoiding layoffs would not be approved. Thus the social plan became a tool for state influence over economic restructuring at the firm level, and for obligating employers to engage in some dialogue with their employees over the process of restructuring. In Jenkins words, state action fostered “a more proactive HR” [human resources] approach.<sup>64</sup> In practice, this obligation was likely to encourage the negotiation of flexibility in order to minimize job loss.

#### 5.4 The Debate over Work Time

The industrial relations developments noted in the last section were a precondition for the introduction of greater workplace and labor market flexibility in France. In the last two decades discussion of flexibility has come to dominate industrial relations, with changes in the institutions of industrial relations justified on the grounds that they facilitate greater flexibility. Two forms of flexibility have been the focus of attention: flexibility in the form of work contracts, with the issue being the extent to which temporary, fixed term and part-time contracts were permissible; and flexibility of work time, where debate centered upon the relationship between more flexible work time and reduced work time. In both cases, the obstacle to more flexible deployment of labor was state regulation rather than collective agreement. Thus the central question facing governments of the Right and Left was under what circumstances they

would permit a deregulation of the labor market. They sought to permit flexibility so long as it was negotiated, which in turn depended upon the creation and legitimacy of firm level institutions for bargaining and dialogue discussed in the last section. Given the weakness of trade unions, this was always a delicate balancing act as the state could never fully withdraw from regulation of the labor market in the absence of strong, independent institutions of worker counter-veiling power inside the firm. The result was a tentative, crabwise process of introducing flexibility.

This section focuses upon work time because it came to dominate discussions of flexibility in the 1990s, and because it demonstrates most clearly the relationship between state intervention, industrial relations reform, and flexibility. Despite the derision that greeted the 35 hour work week legislation of Lionel Jospin's 1997 Socialist government outside of France, work time reduction was a bipartisan strategy, though operationalized in different ways. Faced with high levels of unemployment and having handed over control of monetary policy and exchange rate policy to European Union institutions, and with severe external constraints upon fiscal policy, creating employment through work time reduction was one of the few policy options available to French governments.<sup>65</sup> For two decades after 1981, the recipe for modifying work time remained remarkably consistent: greater flexibility in the use of work time was offered to employers in return for a reduction in overall work time and a requirement that collective bargaining be the privileged mode of implementing changes in work time. While governments of the Right emphasized voluntary work time reduction and widened opportunities for work time reduction to be combined with great flexibility of work time, governments of the Left made work time reduction mandatory and tried to regulate the forms of flexibility that it

accompanied. But what all legislation on work time in the 1990s shared was a requirement that a precondition for flexibility was collective bargaining or some alternative form of social dialogue at the level of the firm. Thus widespread changes in work time required an expansion of the decentralized industrial relations institutions that had begun to emerge in the 1980s in response to the Aurox Laws. Every government initiative in the area of work time was accompanied by an increase in the quantity of firm-level bargaining.

The Socialist government elected in 1981 had promised a reduction in the work week to 39 hours, and bargaining took place between employers and unions on the implementation of that pledge. That bargaining was short-circuited, however, by legislation in 1982 that reduced the work week, provided a fifth week of vacation time and required full compensation to workers for reduced working time. It did provide, however, an additional 130 hours over the legal limit to be worked without administrative authorization so long as the outcome was collectively negotiated. After this experience, employers shifted their focus from national bargaining with unions to firm level bargaining where unions were weaker (and agreements could be signed with minority unions), and where the 1982 work time reduction legislation (presaging the later Aurox Law in this regard) permitted derogation from legislation and branch agreements. The effects were two-fold: first a spike in the amount of firm level bargaining; and second, agreements that provided far more flexibility to employers than reduced work time or alternative forms of compensation for workers.<sup>66</sup>

Work time reduction re-appeared on the legislative agenda at the beginning of the 1990s. In fact, as early as 1992 the Socialist government proposed offering reduced social security charges to employers in return for work sharing in the form of part time work and reduced hours,

to be based upon a model agreement. But the real impetus came from two pieces of conservative legislation. In 1993, the Five-Year Employment Law of the Balladur government permitted much greater flexibility in work-time, with particular emphasis upon encouraging part-time work and the annualization of hours, in return for minimal work time reduction. Agreements had to be signed at the firm level, and offered reduced social security charges. The Robien Law of 1996 went further, making it easier to reach agreements on flexible and reduced work time, and offering a more generous reduction in social security charges in return for agreements that promised either to create new jobs or save existing jobs. This legislation had a particularly large impact on part-time employment because reductions in social security charges were available for the creation of part-time jobs, or the transformation of a full-time job into a part-time job if that lead to the creation of a new job. Jenkins has argued that the Robien Law had a “dynamic role in workplace experimentation and negotiation” and “catalyzed a search for *broader organizational flexibilities*.”<sup>67</sup> As with the Auroux Laws, state action amounted to a forced modernization of employer practices in a manner that promoted post-Fordist restructuring.

This was the backdrop to the more radical proposals of the Socialist government elected in 1997 on a pledge to reduce the work week to 35 hours. What emerged was a three-stage process: first a law (Aubry I) in 1998 setting out the terms under which voluntary work time agreements could be reached; then a 2000 law (Aubry II) that made work time reduction mandatory, where agreements had not already been reached, for firms employing 20 or more workers; the third stage, to be implemented in 2002, would apply the legislation to smaller firms.

Aubry I permitted a large assortment of ways in which work time reduction could be introduced – including annualized hours, a shorter work week or work day, longer vacation

periods or additional days off – and enormous flexibility in the use of work time as long as the result was the product of collective bargaining.<sup>68</sup> The experience of the voluntary agreements reached under Aubry I also demonstrated that employers were less interested in the reduction in social security charges than in flexibility in the implementation of work time reduction. As a result, Aubry II permitted greater innovation in the forms of flexibility permissible, so long as the outcome was subject to a collective agreement. Indeed, Aubry II provided very strong incentives for reducing work time through collective bargaining.<sup>69</sup>

The legislation also sanctioned the use of the mandating procedure and other alternatives to traditional collective bargaining. In smaller firms where there was no union delegate, firm-level agreements could be signed on behalf of employees by a worker who was either mandated to sign by one of the five national trade union confederations or, if not mandated, the resulting agreement had to be approved by a majority vote of employees and approved by a local labor-business commission.

What have been the results of the legislation? First, it should be noted that when the Right swept to power in 2002, it did not repeal or suspend the work time reduction legislation, despite a great deal of criticism from employers in general, and employers in small firms in particular. Some provisions of the Aubry legislation relating to compensation for overtime work, the calculation of working time for managers, and the application of annualized working time were relaxed,<sup>70</sup> permitting a wider scope and greater flexibility for employers and unions to negotiate the terms of work time reduction agreements. But the limited changes implemented by the Right suggest that the Aubry Laws had a less deleterious impact upon firms than anticipated.

Second, the impact upon firm-level collective bargaining has been undeniable. The

number of firm-level agreements signed each year remained stable from 1987 until 1993 (after rapidly rising in the aftermath of the Auroux Laws), then increased steadily between 1993 and 1998, roughly doubling during that period. The number of agreements then accelerated sharply after 1998, increasing from a little under 15,000 a year to 35,000 a year between 1999 and 2002.<sup>71</sup> Work time was reduced in two phases: prior to 2000, firm level agreements led to reduction, while in 2000 and 2001, the changeover to 35 hours was much more likely to result from the direct application of a branch agreement in the absence of firm-level bargaining.<sup>72</sup>

Third, it is difficult to know who exactly was signing agreements, and how representative of employees they were. The mandating procedure was widely used for firm-level work time agreements; fully 70% of such agreements were reached using this procedure in 2001, and unsurprisingly, the smaller the firm, the more likely it was to reach agreement without the signature of a union delegate. The promise that mandating would open non-union firms to unionization does not appear to have been fulfilled.<sup>73</sup> Even in 2002, when only a third of agreements dealt with work time reduction, less than half of firm-level agreements were signed by a union delegate, the rest being the result of mandating, ratification by employees, or signature from a firm-specific body.<sup>74</sup> At the branch level, a large number of agreements were signed – 112 of 180 bargaining sectors had work time reduction agreements by October 1999 – but they tended to be signed by a small number of unions. By mid-1999, only 22% of branch agreements had been signed by either all five confederations or by four of the five. 33% had been signed by only one or two national unions.<sup>75</sup>

Finally, work time reduction has been accompanied by work time flexibility, and with it, work reorganization. Firms have taken advantage of the wide range of options for how to

introduce reduced work time, and how to calculate work time, so as to experiment with different kinds of shift work, and scheduling that corresponds better to demand. In this respect, the widespread introduction of annualized hours – more than a third of employees saw their work time reduced in this way<sup>76</sup> – offers tremendous flexibility to firms. By creating a greater financial disincentive to use overtime, the 35 hour week legislation forced employers to contemplate a more fundamental reorganization of work.

### 5.5 Reforming the Welfare State

Developments in the reform of the welfare state are important in their own right with respect to a post-Fordist restructuring of the French economy; impacting greater flexibility to the labor market both required structural reform of elements of the particular mix of Bismarckian and Beveridgian (sic?) welfare states in France to permit greater flexibility, and it also created the need for an expansion of the social safety net to manage the greater social dislocation resulting from a more flexible labor market. At the same time, the reform of the industrial relations system had important implications for the welfare state. For that reason, it is impossible to separate out social policy from projects of industrial relations reform. Here, I will simply draw attention to some of the linkages between the restructuring of industrial relations institutions, the encouragement of flexibility in the labor market, and welfare reform. These are more in the form of paragraph headings than developed arguments.

First, welfare policy emerged as a central element of economic restructuring. Policies covering early retirement, access to job (re)training, unemployment benefit, and the social control of youth unemployment controlled entry and exit from the labor market, and as

restructuring accelerated in the second half of the 1980s, a bewildering alphabet soup of new programs emerged to manage the labor market.<sup>77</sup> At the same time, increasing flexibility in the labor market, particularly the expansion of “precarious” or “atypical” jobs, created new burdens for the state because these new kinds of employment relationship were rarely covered by the existing joint employer-labor run social security schemes. Thus the state stepped in with new programs and new forms of financing to cover these groups. In this respect, post-Fordist economic restructuring created new needs and strains which only the state was capable of shouldering.

Second, welfare reform was implicated in the reconstruction of industrial relations institutions because the state could hold out welfare reform as bait to encourage employers and trade unions to engage in the kinds of social dialogue that the state was seeking. Thus, as we shall see below, every state initiative in the realm of reducing work time involved offering a reduction in social security contributions to employers in return for reaching collective agreements. However, it is interesting to note that the experience of the 1990s suggests that, despite vociferous complaints about the burden of these contributions, employers were far more likely to respond to the opportunity to introduce flexible forms of work time than to reduce their social security contributions. The French state could only rarely force employers and unions to bargain; but its central position in the organization of the welfare state permitted successive governments to offer welfare reform as an inducement to reform in the sphere of industrial relations.

Thirdly, employers were also capable of using welfare reform to encourage the emergence of forms of industrial relations that they favored. The principle of *paritarisme* was

enshrined in much of the French social security system. Beginning in the late 1990s, MEDEF sought to tie negotiations over the reform of these welfare institutions to industrial relations developments. Trade unions could be brought to the bargaining table on this issue because of their heavy reliance upon the institutional and financial resources that derived from jointly-managed welfare institutions. To a large degree, French unions subsidized their industrial relations activities with resources from welfare institutions, making them uniquely vulnerable to employer threats to unilaterally quit such institutions.

### 5.6 The Transformation of French Industrial Relations

The last two decades have seen two intimately related developments in French industrial relations: the evolution of a system of decentralized, firm-level micro-corporatist bargaining; and the replacement of labor market and workplace rigidities with a high degree of flexibility, accompanying and making possible a post-Fordist restructuring of the French economy. These developments are connected in two ways. First, the former made possible the latter, as the shift in the locus of labor regulation away from direct legislative and administrative rule-making and high-level collective bargaining permitted the spread of flexibility. Second, both developments were dependent upon a continuing, activist role for the state.

This has not been a simple story of state withdrawal from industrial relations, with private industrial actors taking over responsibility for regulating the relations between business and labor. Rather, institutional developments have been driven by state actors, and to the extent that firm-level bargaining takes place, it is largely underwritten and guaranteed by the state. Despite its best efforts, the French state has been unable to withdraw from its central role in

regulating industrial relations. Autonomous and self-sustaining collective bargaining has never occurred; each instance of its invigoration depended upon an active role by the state in promoting social dialogue. It is important to emphasize “the roles that French elites have played in stimulating and promoting innovation during the last thirty years,”<sup>78</sup> and to recognize the “extremely important catalytic effect of the law.”<sup>79</sup> Paradoxical as it may sound, creating the institutional conditions for post-Fordist economic restructuring has been a state-led process in France.

Again and again, state actors have created legal obligations in the sphere of industrial relations which have the effect of forcing private actors to construct firm-level institutions that permit social dialogue: the Auroux Laws created an obligation to bargain and to enhance communication within the firm through expressions groups and consultation with works councils; social plans required discussion between employers and worker representatives on alternative forms of economic restructuring; the reduction of the work week “was held out as bait” in the process of “state modernization of industrial relations.”<sup>80</sup> It is not that employers have not been important actors in this process – indeed employer organizations have become progressively more politicized and radical in their efforts to re-shape industrial relations – but institutional reconstruction could not have taken place without the state, and employers were often hostile and resistant to state initiatives that had the effect of forcing them to modernize their industrial relations practices.

Shrinking trade union membership, union dependence upon employers, and the process whereby firm level agreements can be signed by non-union employees and representatives of firm-specific employee institutions, contribute to the emergence of micro-corporatism in which,

without access to resources and capacities beyond the walls of the firm, workers are likely to engage in “wildcat cooperation” with their employers.<sup>81</sup> Set alongside the expansion of firm-level bargaining and the ability of local agreements to derogate from legislation and branch agreements, this has been an institutional environment conducive to the negotiation of flexibility.

In the 1970s, even as the much-vaunted planning process began to deteriorate,<sup>82</sup> France remained the archetypal *dirigiste*, heavily regulated economy, and nowhere more so than in the sphere of the labor market. The organization of work, the deployment of labor, wage levels, and exit and entry into the labor market were all subject to administrative regulation. The last twenty years have seen a remarkable “acceleration of changes” in work organization and the labor market,<sup>83</sup> the net effect of which has been to introduce high levels of flexibility. This has been apparent across a range of areas: the diffusion of individualized payment arrangements; the spread of total quality programs of various types; dramatic increases in contractual flexibility that have led to a large expansion in the number of workers on part-time, temporary or fixed-term contracts; and, of course, the opportunities for reorganizing work made possible by flexible work time.<sup>84</sup> In all these areas, state intervention has under-written change, either by creating the institutional preconditions for negotiating flexibility, or by providing strong incentives for firms to introduce flexibility. The common theme to all these developments has been state-led modernization of industrial relations practices.

The response of the main French employers’ organization has been to call for more radical decentralization and flexibility than is currently permitted under French law, and at the same time to try to insulate industrial relations developments from state regulation. MEDEF’s “refondation sociale” emphasized giving priority to the firm, generalizing and decentralizing

collective bargaining, and ensuring the autonomy of bargaining from the state.<sup>85</sup> It has proposed new forms of limited-time employment contracts, exempt from current restrictions, a further relaxation of the principle that firm-level agreements can only improve on branch agreements, and the primacy of collective bargaining over legislation.<sup>86</sup> But however radical the employer projects of industrial relations reform, the fundamental problem remains the weakness of worker organization in the workplace. The result is that, in the absence of a state role as guarantor of change, decentralization and deregulation would amount to little more than the creation of space for unilateral employer imposition of post-Fordist restructuring.

## **6. Conclusion**

By the end of the 1990s the political economies of Britain and France had been transformed, in part as a result of radical projects of state institutional reconstruction that began in the early 1980s. This transformation took place along several dimensions but none was more important than in the realm of the labor market and institutions of industrial relations. In both countries labor markets inherited from the past has exhibited high levels of rigidity, either because of the workplace power of decentralized trade unionism or the regulatory role of the state. Yet within two decades, remarkable degrees of labor market and workplace flexibility had appeared.

This paper has argued that the introduction of flexibility was only possible because of the reconstruction of the institutional architecture of industrial relations in the two countries. Broad shifts in the growth regime put a premium upon greater flexibility and made the existing institutions of industrial relations, formed during an earlier period, and designed to manage

Fordist growth, increasingly dysfunctional. Even as employers in both countries became aware of emerging growth conditions, their ability to introduce flexibility of various kinds into the workplace depended upon a fundamental reform of the institutions of industrial relations. Post-Fordist economic restructuring was hostage to institutional reconstruction.

By virtue of a set of capacities not enjoyed by private industrial actors, transforming the institutions of industrial relations required a central role for the state in these two countries. The reform projects were different in the two countries, primarily by virtue of the legacy of different sets of inherited industrial relations institutions: in the British case, the logic of institutional change was decollectivist while it was microcorporatist in France. But the British and French states performed a number of analogous tasks in the process of institutional reconstruction. First, they helped to dismantle existing industrial relations institutions by both removing the legislative supports that underpinned them and seeing off challenges from trade unions when they sought to defend existing institutions and practices. This was most marked in the British case where a powerful labor movement was cowed by restrictions put upon its ability to strike, mechanisms to extend the impact of collective bargaining were limited or removed, and major challenges to the state in the form of strikes were defeated, most notably in the case of the 1984-85 mineworkers strike. In France, where inherited forms of labor market rigidity were largely the product of state regulation, dismantling regulation awaited the construction of new workplace industrial relations.

The second task performed by both states was to create the space and the institutional conditions for the emergence of new industrial relations practices favored by employers. In Britain this followed naturally from the decollectivist thrust of Conservative policies in the 1980s, and for the most part legislation was facilitative only, permitting employers to choose

how to organize social relations inside the firm. The New Labour government was more proactive in this area, encouraging the emergence of “partnership” in the firm through a combination of persuasion, incentives, and legislation. The strategy was to provide workers with a set of minimum rights and protections at work that would encourage the exercise of voice, though this strategy was often at odds with the priority given to labor market flexibility. In France, the state played a much more central role in the construction and embedding of new industrial relations institutions and practices. The Auroux legislation and the subsequent linkage between flexibility and decentralized negotiation had an explicitly microcorporatist logic, emphasizing the emergence of institutions within the workplace, and bestowing legitimacy upon new forms of employee representation, that encouraged firm-specific negotiation. The effect was a forced modernization of employer industrial relations practices.

The third task involved the provision of incentives to employers and unions to take advantage of the new institutional architecture in order to permit the emergence of greater workplace and labor market flexibility, or at least to minimize resistance to it. In the British case, successive Conservative governments offered little by the way of compensation or incentives to trade unions but New Labour did seek to compensate unions and workers for increasing labor market flexibility and insecurity with a set of legal protections and new rights for union activity. These were linked rhetorically to the emergence of a modernized, more partnership-oriented labor movement. In France, it was not only workers and unions, but also employers who were dubious about industrial relations reform, and here the role of the state in encouraging compliance was more central. Throughout the 1980s and 1990s the welfare state was used in this manner as governments of both the Left and the Right offered incentives and compensation in

the form of reduced social security charges for employers and a panoply of new forms of social protection for workers. Employers were promised exemption from labor market regulation while unions were guaranteed a role in negotiating flexibility, and workers were offered reduced work time.

A fourth task has been only alluded to in this paper, but it was no less important. It was to narrate economic and social crisis in such a way as to build public support for the reform of industrial relations. This task was quite straightforward in Britain because of the experience of the Social Contract and the Winter of Discontent that brought the Conservative Party to power. The perception of over-mighty trade unions, abusing their political and industrial power, smoothed the way for a decollectivist reform of industrial relations that directly targeted the collective strength of labor. In France, the legacy of May 1968, the weakness of the union confederations, the rivalry between the Socialist and Communist Parties, and the longstanding hostility of employers to sharing power inside the firm, made the crafting of industrial relations reform enormously complicated for the Socialists after 1981. The discursive and institutional plasticity of the Auroux legislation, with its ability to point simultaneously towards radical *autogestion*, conventional collective bargaining, and modern managerial personnel practices, created political space for a microcorporatist reconstruction of French industrial relations.

There are obvious dangers in emphasizing the centrality of the state in this process of institutional reconstruction. In neither country did states act alone, nor was the motivation behind reform projects always narrowly economic in the sense of being driven by the imperatives of bringing industrial relations in line with the imperatives of post-Fordist restructuring. States are rarely unitary actors such that competing projects may exist in different state agencies, nor are

they omniscient, able to discern economic imperatives that are opaque to private actors. And state autonomy is implausible in capitalist economies.

In both Britain and France, industrial relations reform was driven in part by political and electoral considerations. The French Socialists, while intellectually committed to labor market flexibility from the late 1980s onwards, were forced to maintain both a rhetorical and substantive commitment to protecting workers from the social consequences of flexibility. The 35 hour work time reduction was at least as much a product of a search for a political response to unemployment that was acceptable to its supporters as a desire to encourage post-Fordist restructuring. Similarly, the British Conservatives were prevented from seeking an accommodation with the labor movement that might lead to an alternative form of economic restructuring by the centrality of hostility to unions in the political lexicon of Thatcherism. These political and electoral calculations help to explain why the French state was less successful than its British counterpart in distancing itself from the outcomes of industrial relations reform, why it found itself heavily involved in managing industrial relations throughout the period under review, and why French workers appear to have received more protection, in the form of compensating social programs or continued legislative regulation of the labor market, than British workers.<sup>87</sup>

Nonetheless, the fact that governments are motivated by political considerations should not distract attention from the manner in which industrial relations reforms can develop an economic coherence and point in the direction of a particular economic logic. The manner in which the Auroux reforms had a series of unintended consequences that had the effect of encouraging the emergence of microcorporatist elements while limiting the development of

articulated collective bargaining illustrates the manner in which political projects are shaped by the institutional and class context within which they are attempted. In a similar way, the more distinctive “Third Way” components of New Labour’s industrial relations reforms always lost out when they came into conflict with the imperatives of labor market flexibility. One of the things that is striking in the two country comparison contained in this paper, is that differences in the reconstruction of industrial relations between Britain and France are consistently greater than the difference between the industrial relations projects of different governments in the same country. Thatcherite and Blairite industrial relations are both fundamentally decollectivist, while Socialist and Gaullist industrial relations are both fundamentally microcorporatist. As the Regulation approach would suggest, institutional legacies and the imperatives of post-Fordist restructuring shaped the reform projects of governments in ways that often overwhelmed political motivations.

In both Britain and France, changing employer interests, and the political mobilization of employers helped to shape the reform projects of governments. Employer mobilization was most marked in France, primarily in response to Socialist initiatives in the realm of industrial relations, and governments found themselves crafting legislation that provided enough incentives for employers to participate, hence the importance of the compensating elements noted above. In both the early 1980s (in response to the Auroux laws) and the late 1990s (in response to the 35 hour week legislation) the national employers’ organization mobilized aggressively on behalf of flexibility. It has been radicalized in the course of the past two decades, though it is unclear to what extent it represents the views of employers, and has sought a more active political role in an effort to reduce state intervention on the part of both governments of the Left and the Right.

Indeed, at times it became a kind of *de facto* liberal opposition party. British employers have had fewer differences with governments in the past two decades, in part because of Conservative electoral dominance and in part because the British Conservative Party is more neo-liberal than its Gaullist counterpart. Nonetheless, governments were in part responding to a shift in employer interests and a growing dissatisfaction with collective bargaining when they designed industrial relations reform in the 1980s, and the New Labour government has certainly been highly responsive to its *perception* of employer interests in maintaining labor market flexibility.

However, while employer pressure played some part in shaping state action, the state was the central actor in reconstructing industrial relations institutions for two reasons. First, employers were by no means united in a recognition of the need to reform industrial relations. In both Britain and France, employers were hesitant and often hostile to the reform process, concerned about disrupting established relationships with unions (in the British case) or creating opportunities for the development of independent worker-controlled institutions (in the French case). In both countries, the state led, introducing industrial relations reforms, often over the objections of employers, and only later did employers come to endorse those reforms. The state, in other words, anticipated employer acquiescence. That was the case for the Auroux legislation, for the six major packages of industrial relations legislation between 1980 and 1993 in Britain, for New Labour's introduction of a minimum wage and statutory recognition procedure, and even the 35 hour legislation: vociferous initial opposition from French employers gave way to wary acceptance after implementation. Vail has noted a "discrepancy between Medef's public reaction to the law and its private support for its provisions."<sup>88</sup> This helps to explain why the Aubry laws were not repealed after the 2002 electoral victory of the Right.

The state was also central to the reconstruction of industrial relations in both countries simply because these were not changes that employers could bring about without the aid of the state, even had they been aware of their interest in reform. In the British case, union opposition would have made institutional change highly conflictual, and in the French case, few employers were willing to see the creation of microcorporatist institutions inside their firms, both because of the challenge such institutions might pose to managerial authority, and because of the potential collective action problems had some but not all firms experimented with new social relations inside the firm. In neither Britain nor France would existing systems of industrial relations have been transformed had not the state taken the lead; and in the absence of these state projects of institutional reconstruction, post-Fordist restructuring would have been considerably more difficult and more socially conflictual.

## Notes

This paper has enormously benefitted from comments on earlier formulations with numerous people. I would like to particularly thank Colin Hay, Dave Marsh, Jonah Levy, Mark Vail, David Coates, Kathy Thelen, Peter Swenson, Peter Gourevitch, John Kelly, Bruno Palier, and Joel Krieger.

- 
1. Examples here include Frank Dobbin, *Forging Industrial Policy* (New York: Cambridge University Press, 1994), Sven Steinmo, Kathleen Thelen and Frank Longstreth, eds., *Structuring Politics: Historical Institutionalism in Comparative Analysis* (New York: Cambridge University Press, 1992), and contributions to the so-called “Varieties of Capitalism” approach. For the latter, see three collections of edited essays: Herbert Kitschelt, Peter Lange, Gary Marks and John D. Stephens, eds., *Continuity and Change in Contemporary Capitalism* (New York: Cambridge University Press, 1999); Iversen, Pontusson and Soskice, *Unions, Employers, and Central Banks*; and Peter Hall and David Soskice, eds., *Varieties of Capitalism* (New York: Oxford University Press, 2001).
  2. See the introductory chapter of Hall and Soskice, *Varieties of Capitalism*, p. 5.
  3. Peter Swenson, *Capitalists Against Markets: The Making of Labor Markets and Welfare States in the United States and Sweden* (New York: Oxford University Press, 2002).
  4. For a survey of the Regulation field, see Robert Boyer and Yves Saillard, eds., *Régulation Theory: The State of the Art* (New York: Routledge, 1995). I am heavily indebted, for the account of the development of Regulation Theory that follows, to Bob Jessop’s paper, “Twenty Years of the Regulation Approach: Has It Been Worth It?” presented at the Twelfth Conference of Europeanists, Chicago, IL. March 2000.
  5. Jessop, “Twenty Years of the Regulation Approach,” no page numbers.
  6. Bob Jessop, “Fordism and post-Fordism: A Critical Reformulation,” Lancaster Regionalism Group working Paper, number 4 (March 1991).
  7. Jane Jenson’s early work pointed in the direction of incorporating a discursive element into the Regulation approach, but scholars have largely ignored that promising direction of research. See Jenson, “Representations in Crisis: The Roots of Canada’s Permeable Fordism,” *Canadian Journal of Political Science* 24: 3 (1990).
  8. Peter Swenson, “Arranged Alliance: Business Interests in the New Deal,” *Politics & Society* 25:1 (March 1997).
  9. For detailed accounts of these episodes, see Chris Howell, *Regulating Labor: The State and Industrial Relations Reform in Postwar France* (Princeton: Princeton University Press, 1992),

---

chapters 4 & 5, and Chris Howell, *Constructing Industrial relations: States, Markets and Institution Building in Britain, 1890-2000* (manuscript under review), chapter 4.

10. *Royal Commission on Trade Unions and Employers' Associations 1965-1968: Report* (London: HMSO, 1968).

11. See the accounts in Peter Jenkins, *The Battle of Downing Street* (London: Charles Knight & Co Ltd, 1970), and Paul Davies and Mark Freedland, *Labour Legislation and Public Policy* (Oxford: Clarendon Press, 1993).

12. *Royal Commission on Trade Unions and Employers' Associations*, para 65.

13. This comes from Flanders' essay presented to the Royal Commission ("Collective Bargaining: A Prescription for Change" reprinted in Allan Flanders, *Management and Unions* (London: Faber & Faber, 1970). The phrase is quoted in Sid Kessler and Fred Bayliss, *Contemporary British Industrial Relations*, third edition (London: McMillan Press, 1998), p.36.

14. Davies and Freedland, *Labour Legislation and Public Policy*, p. 386.

15. Jack Jones, *Union Man: The Autobiography of Jack Jones* (London: Collins, 1986), p.285.

16. The benchmark for evidence of these developments comes from the 1980 and 1984 Workplace Industrial Relations Survey: Neil Millward and Mark Stevens, *British Workplace Industrial Relations 1980-1984: The DE/ESRC/PSI/ACAS Surveys* (Aldershot, UK: Gower, 1986). The figures on shop steward development comes from Michael Terry, "Shop Steward Development and Managerial Strategies," in Bain, ed., *Industrial Relations in Britain*, p.67 for the 1961 estimate, and Millward and Stevens, *British Workplace Industrial Relations 1980-1984*, p.85 for the 1980 estimate. The latter also estimate a small rise to 335,000 by 1984.

17. See the Jean-Daniel Reynaud, Sami Dossa, Josette Dossa and Oierre Maclouf, "Les événements de mai et juin 1968 et le système français de relations professionnelles," *Sociologie du Travail* no. 1 (January-March 1971).

18. Actually, even this element did appear in the public sector industrial relations reforms of the Auroux Laws.

19. Louise Amoore, *Globalisation Contested: An International Political Economy of Work* (New York: Manchester University Press, 2002), see especially chapter 3.

20. These features are nicely characterized by Stewart Wood, "Business, Government, and Patterns of Labor Market Policy in Britain and the Federal Republic of Germany," in Hall and Soskice, eds., *Varieties of Capitalism*.

- 
21. Edmund Heery, "Partnership Versus Organising: Alternative Futures for British Trade Unionism," *Industrial Relations Journal* 33:1 (2002).
22. For a discussion of shifts in employer strategy, see Jonathan Boswell and James Peters, *Capitalism in Contention: Business Leaders and Political Economy in Modern Britain* (New York: Cambridge University Press, 1997), chapters 7 and 8.
23. King and Wood, "The Political Economy of Neoliberalism," p. 395.
24. This is best illustrated by examining the employer responses to government Green Papers that preceded legislation after the first (1980) package of industrial relations reform (the first legislation was widely supported by employers). See also Jonathan Boswell and James Peters, *Capitalism in Contention: Business Leaders and Political Economy in Modern Britain* (New York: Cambridge University Press, 1997), especially chapters 8 and 9.
25. There is a mass of literature on the coal strike. See Martin Adeney and John Lloyd, *The Miners' Strike 1984-5: Loss Without Limit* (London: Routledge and Kegan Paul, 1986), John Saville, "An Open Conspiracy: Conservative Politics and the Miners' Strike 1984-5," in Ralph Miliband, John Saville, Marcel Liebman and Leo Panitch, eds., *Socialist Register 1985/86* (London: Merlin Press, 1986), and Peggy Kahn, "Union Politics and the Restructuring of the British Coal Industry," in Miriam Golden and Jonas Pontusson, eds., *Bargaining for Change: Union Politics in North America and Europe* (Ithaca: Cornell University Press, 1992).
26. Roger Undy, Patricia Fosh, Huw Morris, Paul Smith and Roderick Martin, *Managing the Unions: The Impact of Legislation on Trade Union Behaviour* (Oxford: Clarendon Press, 1996), p. 29.
27. *Ibid.*, p. 74.
28. See the Conservative White Paper *People Jobs Opportunity* (London, UK: HMSO, 1992), p.15.
29. Andrew Gamble, *The Free Economy and the Strong State* (London: Macmillan, 1990).
30. Stephen Dunn and David Metcalf, "Trade Union Law since 1979: Ideology, Intent, Impact," Centre for Economic Performance Working Paper (October 1994), p. 8.
31. John Purcell, "The End of Institutional Industrial Relations," *Political Quarterly* 64:1 (January-March 1993).
32. Flanders, "The Tradition of Voluntarism," p. 365.
33. House of Commons Employment Committee, Third Report, *The Future of Trade Unions*,

---

volume III, para 63, p. xvi.

34. *Ibid.*, para 11, p. 280.

35. Keith Brook, "Trade Union Membership: An Analysis of Data from the Autumn 2001 LFS," *Labour Market Trends* (July 2002), p. 343.

36. The Workplace Industrial Relations Surveys, which have already been referred to in this paper, are particularly good for capturing the extent of institutional change in industrial relations. There have been four thus far, the first in 1980, before the impact of Conservative industrial relations legislation had made itself felt, and the most recent in 1998, just before the impact of New Labour's Employment Relations Act became law. Hence the surveys provide a series of snapshots to which help to show the impact of the Conservative reform program. It is important to note, though, that only firms employing twenty five or more people are covered by the surveys, which tends to overstate the strength of trade unions and collective bargaining because the institutions of collective regulation are much weaker in small firms.

37. Neil Millward, Alex Bryson and John Forth, *All Change at Work? British Employment Relations 1980-1998, as Portrayed by the Workplace Industrial Relations Survey Series* (New York: Routledge, 2000), p. 89.

38. *Ibid.*, p. 221.

39. William Brown, Simon Deakin, David Nash, and Sarah Oxenbridge, "The Employment Contract: From Collective Procedures to Individual Rights," *British Journal of Industrial Relations* 38:4 (December 2000), p. 617.

40. Undy, Fosh, Morris, Smith and Martin, *Managing the Unions*.

41. Jackie Davies, "Labour Disputes in 1998," *Labour Market Trends* 107:6 (June 1999).

42. This section is drawn from the chapter, "Have Employees lost their voice" in Millward, Bryson and Forth, *All Change at Work?* My conclusions, even based on the evidence of the survey itself, are less sanguine than those of the authors.

43. See the study by Michael Terry, "Systems of Collective Employee Representation in Non-union Firms in the UK," *Industrial Relations Journal* 30:1 (March 1999), which confirms this conclusion based on case study evidence.

44. William Brown, Simon Deakin and Paul Ryan, "The Effects of British Industrial Relations Legislation 1979-97," *National Institute Economic Review* 161 (July 1997), p. 75.

45. For evidence of flexibility, see Peter Ingram, "Changes in Working Practices in British

---

Manufacturing Industry in the 1980s,” *British Journal of Industrial Relations* 29:1 (March 1991), David Marsden and Marc Thompson, “Flexibility Agreements and their Significance in the Increase in Productivity in British Manufacturing Since 1980,” *Work Employment and Society* 4:1 (March 1990), and Mark Beatson, *Labour Market Flexibility*, Employment Department Research Series No. 48 (April 1995).

46. Purcell, “The End of Institutional Industrial Relations,” p. 23.

47. For discussions of this process, see Eric Shaw, *The Labour Party Since 1979: Crisis and Transformation* (New York: Routledge, 1994), and Chris Howell, “From New Labour to No Labour? The Industrial Relations Project of the Blair Government in Britain,” *New Political Science*, 22:2 (June 2000).

48. From Blair’s foreword to the government White Paper, *Fairness at Work*, which laid out proposals for what became the 1999 Employment Relations Act. Department of Trade and Industry (DTI), *Fairness at Work Cm 3968* (London: HMSO, 1998). It can be found at: <http://www.dti.gov.uk/er/fairness/index.htm>

49. Tony Blair’s Fabian pamphlet, “The Third Way: New Politics for a New Century,” Fabian Pamphlet 588 (September 1998), does not appear to mention trade unions, instead reserving for the state, the role of protecting the weak through minimum standards at work (p. 11).

50. Colin Crouch, “A Third Way in Industrial Relations?” in Stuart White, ed., *New Labour: The Progressive Future?* (New York: Palgrave, 2001), p.104.

51. David Cameron, “Colors of the Rose: On the Ambiguous Record of French Socialism,” *Center for European Studies Working Paper Series* (1988), and Peter Hall, *Governing the Economy*, chapter 8.

52. Daniel Singer, *Is Socialism Doomed? The Meaning of Mitterrand* (New York: Oxford University Press, 1988), p. 189.

53. Steve Jefferys, *Liberté, Égalité and Fraternité at Work: Changing French Employment Relations and Management* (New York: Palgrave MacMillan, 2003), p. 128.

54. Mark Vail, “The Delicate Politics of Negotiated Political Change: The State and Social Partners in Contemporary French Social-Protection Reform,” paper presented at the Southwest Political Science Association’s annual meeting, San Antonio, Texas, 16-19 April 2003, p. 3.

55. One indication of this employer ambivalence came from a SOFRES survey conducted as part of the review of the Auroux Laws. See Michel Coffineau, *Les Lois Auroux, Dix Ans Après* Paris: La Documentation Française, 1993), annex XI.

- 
56. Alan Jenkins, *Employment Relations in France: Evolution and Innovation* (New York: Kluwer Academic/Plenum Publishers, 2000), chapter 3.
57. Coffineau, *Les Lois Auroux, Dix Ans Après*.
58. Ibid., p. 93.
59. The findings of the Belier report were summarized in Coffineau, *Les Lois Auroux, Dix Ans Après*, p. 77.
60. Coffineau, *Les Lois Auroux, Dix Ans Après*, p. 78.
61. "Joint employer/union declaration," *European Industrial Relations Review*, 255 (April 1995), p. 6.
62. Chris Howell, "Virtual Unionism in France," in Harrick Chapman, Mark Kesselman and Martin A. Schain, eds., *A Century of Organized Labor in France* (New York: St Martin's Press, 1998).
63. *European Industrial Relations Review*, 258 (July 1995), p. 6.
64. Jenkins, *Employment Relations in France*, p. 140.
65. This argument is made by Gunnar Trumbull, "Policy Activism in a Globalized Economy: France's 35 Hour Work Week," *French Politics, Culture & Society*, 20:3 (Fall 2002).
66. Howell, *Regulating Labor*, p. 194.
67. Jenkins, *Employment Relations in France*, pp. 165-66, emphasis in the original.
68. Supiot, *Beyond Employment*, p. 82.
69. Without a collective agreement, the reduction in work time had to be on a monthly or weekly basis, but with an agreement there were a range of other options, including annualization, a wage increase offset against overtime, additional days off, and so on. The existence of a collective agreement also permitted a simplified layoff procedure. The reduction in social security charges was also only available if a collective agreement was reached, and signed by one or more unions that had received a majority of the votes in the last works council election; agreements signed by minority unions were valid but could not benefit from the reduced charges.
70. "New Law Relaxes Implementation of 35-Hour Week," *European Industrial Relations Review*, 346 (November 2002).

- 
71. “Bilan 2001 de la Négociation Collective,” *Ministère des affaires sociales, du travail et de la solidarité*, p. 2, but note that there was a change in methodology in 2002 that makes comparison with earlier years difficult.
72. “Government Issues Assessment of 35-Hour Week Legislation,” EIROOnline, at [www.eiro.eurofound.ie](http://www.eiro.eurofound.ie) October 24, 2002.
73. Trumbull, “Policy Activism in a Globalized Economy,” p. 31 (of Brookings version).
74. “Collective Bargaining in 2002 Examined,” EIROOnline, at [www.eiro.eurofound.ie](http://www.eiro.eurofound.ie) September 25, 2003.
75. Steve Jefferys, “A ‘Copernican Revolution’ in French Industrial relations: Are the times a’ Changing?” *British Journal of Industrial Relations* 38:2 (June 2000), p. 50.
76. “Government Issues Assessment of 35-Hour Week Legislation,” EIROOnline, at [www.eiro.eurofound.ie](http://www.eiro.eurofound.ie) October 24, 2002.
77. Jefferys, *Liberté, Égalité and Fraternité at Work*, has two useful tables (tables 5.5 and 5.6) on pages 146 and 148, that list both the different functions of French welfare programs, and the main innovations after 1981.
78. Jenkins, *Employment Relations in France*, p. 206.
79. *Ibid.*, p. 165.
80. Jefferys, *Liberté, Égalité and Fraternité at Work*, p. 142.
81. This is Wolfgang Streeck’s famous formulation, “Neo-Corporatist Industrial Relations and the Economic Crisis in West Germany,” in John H. Goldthorpe, ed., *Order and Conflict in Contemporary Capitalism* (Oxford: Clarendon Press, 1984).
82. Hall, *Governing the Economy*, chapter 7.
83. Jenkins, *Employment Relations in France*, p. 63.
84. The best source for the spread of various forms of flexibility in France is Jenkins, *Employment Relations in France*, chapters 4-6. Page 115 has a table showing the individualization of wages, and pp. 174-176 have tables showing the rise in number of “precarious” jobs.
85. Michel Lallement, “Public Action and Industrial Relations in France: About Some Recent Changes,” paper presented at the conference on “Transforming the Democratic Balance among

---

State, Market and Society,” Harvard University, May 17-18, 2002, p. 7.

86. “Government Plans Collective Bargaining Reform,” EIROOnline, at [www.eiro.eurofound.ie](http://www.eiro.eurofound.ie) April 14, 2003.

87. Note also that increased labor market flexibility does not appear to have been accompanied by markedly greater levels of income inequality, in contrast to the British case. See Mark Vail, page 30 of chapter 5 of doctoral dissertation.

88. Vail, page 22 of chapter 5 of doctoral dissertation.