

The London School of Economics and Political Science



# The hidden damages of labour market deregulation and the underrated merits of trade unions

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## Declaration

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## Abstract

Labour market deregulation has been one of the core policies recommended by international institutions to countries struggling with their employment levels. However, lowering employment protection and disempowering or decentralising collective bargaining mechanisms can have unintended consequences. This thesis examines three related levels of labour market deregulation, considering both its consequences and evaluating different approaches to protecting workers in the labour market, with a focus on the most vulnerable.

The first study deals with employment protection rules, and analyses the effects of labour market deregulation on dimensions relate to the risk of poverty, comparing the labour market performance of three countries with different levels of employment protection legislation: Italy, France and the UK.

The second focuses on the level of collective bargaining, and analyses the different outcomes of Spanish and Italian reforms on derogations to collective agreements, showing how social actors responded differently depending on union strength and the employers' approach to industrial relations as shaped by the levels of precarious employment of each labour market.

The third analyses the critical case of a local campaign by vulnerable workers that led a British university to bring its cleaning services back in-house after years of outsourcing, showing the successful strategy of an independent union in organising precarious and migrant workers.

Each of the three studies explores one of three means of improving workers conditions; variations in employment protection legislation, traditional collective bargaining institutions and disruptive action of independent unions. Findings show that deregulation of employment protection is not the best route to improving the economic chances of the most vulnerable workers, whereas unions' action can secure better conditions for the workers, both in the formal setting of collective bargaining institutions and in the more confrontational context of local collective action.

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# Chapter 1

## Introduction

## 1.1 The origins of this project

I was drawn to this project by the public debate around the merits of labour market deregulation in Italy. In recent years, workers have complained that after recurring waves of labour market deregulation in Italy, they were no longer able to get good permanent contracts and they were living precarious lives even before the 2008 crisis, faced with policy makers' comments along the lines of 'better precarious than unemployed'. When the young complained that people entering the labour market before the reforms were treated disproportionately better, they were told that it was true, that this disparity was wrong, and that prior privileges should be removed.

I was not convinced and felt that there was a misplacement of causes of the problems and their solutions. The link between labour market deregulation and rise in employment rates is unclear, or at best, has been shown to have a honeymoon effect that soon fades (Boeri and Garibaldi, 2007); indeed, in Italy the increase in the number of employed people after key liberalising reforms at the beginning of 2000 was not linked to labour market flexibilisation but to the regularisation of a large number of migrants (Centro Studi Confindustria, 2006). And what about the removal of rights and protections from some workers as a solution to the precarity of others? Was further labour market deregulation the solution to the problems of precarious workers? What were the labour market institutions that could help the precariat? This was the real-life puzzle that pushed me to seek answers via academic inquiry.

Indeed, precarity increasingly became a central issue in the debate about work, both in the political arena and academic literature. The idea of a new precarious class was

born with reference to southern European countries' labour markets where new types of employment relationships were introduced in addition to standard permanent contracts as a solution to high levels of unemployment. The army of predominantly young people working intermittently, and in fear of losing their jobs, has been portrayed as the great failure of those labour markets in recent decades. The divide between the protected workers with standard contracts, and those holding temporary non-standard positions, has often replaced the issue of unemployment in the debates about the problems to solve in European labour markets.

However, the focus on this type of precarity increased after the introduction of flexibility at the margins of the labour market in some European countries, and shaped the focus of pundits and policy makers on reducing the differences between the precarious and stable workers, instead of reducing precarity itself. The literature discusses the merits of employment protection legislation (EPL) and unions to unravel the causes and propose solutions to labour market malfunction; depending on the points of view, EPL and unions can be seen either as causes or solutions, and labour market regulation or deregulation are recommended either to reinforce or weaken them.

The aim of this thesis is to analyse the merits of employment protection legislation and unions in improving workers' conditions from different angles. Three different studies look at employment protection legislation and unions, their changes and their potential from three perspectives. The first study discusses *employment protection legislation* and in-work poverty in the UK, Italy and France. The second study analyses the different reaction of social partners to changes in *collective bargaining* regulation in



Italy and Spain. The third study investigates a critical case of *union action* for improving marginal workers' conditions at workplace level in the British cleaning sector.

This introductory chapter begins by discussing the context in which the debate on labour market deregulation evolved. First, it analyses the discourse on flexicurity showing how different perspectives on its partial implementation shape the debate on labour market deregulation and its merits. Second, it presents an overview of three different standpoints to the identification of the people at the bottom of the labour market, and the related approaches to deregulation of EPL and disempowerment of unions as the causes or the solutions to their precarious conditions. The structure of the thesis and its two-fold contribution is then discussed.

## 1.2 Flexicurity: a partial implementation on two sides

This section briefly outlines the origins of the debate on flexicurity and discusses the focus of the literature on two shortcomings in the actual implementation of the policy; lack of security on one side, and not enough flexibility on the other. Finally, it introduces the debate on dualism to contextualise the discussion on the definition of precarious workers.

### 1.2.1 - The origins of flexicurity

For a long time, the literature and public debate has focussed on so-called 'Eurosclerosis' (Giersch, 1985), high unemployment and low growth, low labour mobility and productivity, and disappointing overall economic performance across western European economies. Rigidities of all types and constraints to the free functioning of markets were blamed for such sluggish performances, and reforms to the financial, product and labour markets were proposed as the default solution. The idea of a flexible labour market

conquered international institutions (Klau and Mittelstadt, 1986) and many European countries were encouraged to follow the path of labour market flexibilisation including wage setting mechanisms, reduction of employment protection, and easing hiring and firing procedures (OECD, 1994).

The adoption of the flexibilisation paradigm took the shape of ‘flexicurity’ in some northern European countries, like the Netherlands and Denmark, through the reduction of employment protection and the parallel introduction of social security measures to balance the rise in job insecurity (Wilthagen, 1998). However, the indications to deregulate labour markets and the enthusiasm of European institutions for flexicurity were received unevenly across Europe, with great variations in the implementation of reforms, depending on the political and economic circumstances at national level (Meardi, 2011). Among the different directions taken by the reforms enacted in the name of flexicurity, two main shortcomings are identified; a lack of security and insufficient flexibility.

### 1.2.2 - Lack of security or flexibility?

First, the lack of implementation of the ‘security’ side of the formula led countries like Italy to a situation that has been defined as ‘flex-insecurity’ (Berton et al. 2009) with rising uncertainty for workers and no improvements in the welfare state safety net. After years of legislative changes, and especially after the outcomes of the 2008 crisis, a general trend of flexibilisation of labour markets and liberalisation of European economies, without the empowerment of safety nets for workers, has become more apparent with detrimental effects on labour standards for all workers (Baccaro and Howell, 2017).

Authors that recognise the poor implementation of the security element in the reforms criticise the idea of flexicurity at its roots (Burroni and Keune, 2011).

The second problem is the partial implementation of the ‘flexibility’ element in the equation; countries like Germany focused on introducing flexibility, but only at the margins of the labour market, by allowing new types of contracts with reduced employment security, leaving the conditions of standard workers almost untouched. Thus, while the security of standard workers has not suffered an apparent deterioration, the people that must deal with the new insecure contracts can find themselves in dire conditions. Of these two problems generated by the attempts to implement flexicurity in Europe, the latter is responsible for revamping the debate on labour market dualism.

### 1.2.3 - Dualism and precarity

The concept of dualism, which was popularised by Doeringer and Piore in 1971 with reference to the segmentation of the US labour market, made a strong comeback to describe the divide between protected workers and the precariat in southern and continental Europe. Dualism’s first conceptualisation in the 1970s focused on the presence, or lack thereof, internal labour markets, or career ladders, within industries to qualify primary or secondary types of jobs. According to Doeringer and Piore (1971) unions, together with the ‘insiders’ they represented, had an interest in maintaining and reinforcing the functioning of exclusionary internal labour markets to keep the competition of ‘outsiders’ at bay. Conversely, the focus of the most recent literature on dualism is not on the access to internal labour markets, but rather on the different

contractual typologies and the differences in protection granted to each type of contract; thus, non-standard contracts are now the distinctive characteristic of outsiders.

However, the blame for the existence of this divide, despite the different characteristics, landed again on the institutions affording better protection to insiders. Palier and Thelen (2010) provide a clear theorisation of this new framework for dualism; here, dualism is ‘institutionalised’ by the State, with the help of unions representing insiders. From this perspective, only limiting flexibilisation to a specific group of workers pleases both employers and unions, allowing the former to take advantage of easier dismissals and more flexible contracts, while leaving the core stable workforce, whose interests are represented by unions, untouched. The non-standard workers are considered outsiders, a precarious class with intermittent, low paid, insecure jobs.

The dualism literature portrays precarity as a plague of a specific group of workers, and from here, the attempts to clearly define who the outsiders are, have engaged many literature traditions. In the next section I discuss how different definitions of who the people at the bottom of the labour market are, determines the evaluation of policies and institutions.

### 1.3 Who sits at the bottom of the labour market?

The first step in discussing the causes and possible solutions to a malfunctioning labour market for people at the lower end, is to define who these people are for scholars and policy makers. First, I discuss how the concept of ‘outsiderness’ has been used to identify disadvantaged people in the labour market and how this choice determined the identification of the causes and the solutions to that divide. ‘Outsiderness’ assumes a

domain from which a specific group of people is cut out, excluded, often with the consent of the insiders that benefit from their privileged position to the detriment of the ‘left-outs’. Its use has evolved overtime together with changes in labour market structure.

### 1.3.1 - The unemployed

The first clear-cut distinction in the labour market is between the employed and the unemployed; economic theories used the outsiders-insiders framework to explain wage dynamics and employers’ choices (Blanchard and Summers, 1986). According to Lindbeck and Snower (1989), high labour turnover cost is at the root of the preference of employers for insiders, as opposed to outsiders; if replacing the incumbent workers with new hiring is more costly, then employers will choose the optimal solution and retain their current employees. Labour turnover cost was identified as a source of insiders’ power, and its origins could be of various types: lack of cooperation and harassment of insiders towards unemployed and new entrants, unions’ action (Lindbeck and Snower, 1988; Lindbeck and Snower, 1987); technical costs linked to training (Solow, 1985); and costs imposed by state regulations for hiring and firing, such as long notice periods, high severance pay, or risk of long and expensive litigation.

From this perspective, the causes of high turnover costs are responsible for the struggle of the unemployed outsiders, and the focus of the literature used to be on two of these causes; first, the share of ‘labor market power into the hands of the employees’ (Lindbeck and Snower, 1986, p. 235), and second, state regulation restraining employers’ choices in hiring and firing (Ball, 1990). The removal of these impediments to the smooth movement of labour would allow more competition between insiders and outsiders, hence

the recommended policies used to focus on two strategies: the disempowerment of insiders and their unions, and labour market deregulation. Examples of the first strategy can be found in the policies of the British government during the 1980s, which undertook bold reforms that drastically reduced the influence of unions in wage bargaining, as well as the power of the employed. Similarly, labour market deregulation has been increasingly embraced by a growing number of European countries, allowing employers to dispose of the labour force more freely.

### 1.3.2 - Non-standard workers

With the introduction of forms of employment that depart from the traditional ‘standard employment contract’, a new group of workers emerged in the European labour market; the non-standard worker populations grew many countries. On the one hand, employers needed to rely on a core group of workers with firm-specific skills and a long-term commitment to the company; on the other hand, they also needed flexibility to adjust the amount of labour depending on fluctuations in demand levels. A wave of reforms, encouraged by a widespread consensus on the benefits of labour market deregulation, took place in Europe across the decades between 1980s and 2000s, changing the structure of labour markets involved, while introducing new issues in the debate about insiders and outsiders.

The divide between the employed and the unemployed was no longer enough to describe the workforce structure. With an increase in temporary contracts, a certain share of workers found themselves in the group of the employed, but with the perspective of joining the unemployed group as soon as their contract expired. The literature on

comparative political economy began including people with atypical jobs in the group of outsiders, together with the unemployed (Rueda, 2005). The decision on whom to include in the outsiders' group prompted a debate of its own (Schwander and Häusermann, 2013), but apart from a few variations, the inclusion among the outsiders of non-standard workers seemed the sanctioned choice. The category of 'insiders' became restricted to the employees with standard contracts, as opposed to all the other workers and the unemployed alike. King and Rueda (2008), in discussing the issue of low paid jobs and national policies, distinguish between 'standard cheap labour' and 'non-standard cheap labour'; in underlining this distinction between standard and non-standard workers in otherwise very similar cheap job positions, they highlight how the distinction between contract typologies was pivotal in their analysis of labour market policies.

In a framework where non-standard workers are considered outsiders by default, and vice-versa, all permanent contracts are assimilated to insiders' positions; indeed, the share of temporary workers is often used as a proxy for the level of dualism in the labour market. The choice of the dualism literature to use contractual typology as a discriminant to identify the precariat, determines its focus on policies influencing the quantity of non-standard contracts.

The diagnosis of the causes of the insiders/outsiders divide, even when non-standard workers are included in the outsiders' group, remained focused on the elements empowering insiders. However, the debate moved away from a strictly economic analysis of the dynamics, towards a discussion of political mechanisms (Iversen and Soskice, 2009). For example, Rueda (2005) argues that social democratic governments have a political interest in meeting insiders' requests for high levels of employment protection,

while allow non-standard workers to be used as a buffer to accommodate business cycles. Palier and Thelen (2010) talk about cross-class coalitions and the pressures that pushed unions to accept increasing flexibility for non-standard workers in France and Germany, while they were busy maintaining high levels of protection for the core workforce. The interest of the insiders represented by unions is again opposed to the interest of the outsiders. Moreover, the incompleteness of labour market deregulation is considered a cause of the intense use of non-standard contracts in countries where flexibility has been introduced at the margins of the workforce (Polavieja, 2003). As a solution to labour market dualism, international institutions recommend introducing further flexibility for the core workforce. Authors in different countries have proposed replacing all existing contract typologies with a single open-ended contract with increasing protections with tenure (Cahuc and Kramarz, 2004; Boeri and Garibaldi, 2008; Bentolila, 2010).

Schwander and Häusermann (2013) suggest a continuous measurement of outsidersness to allow a more nuanced understanding of the levels of vulnerability in the labour market. This is an interesting attempt to reconcile the complexity of the workforce structure and huge variations in economic and working conditions. However, at the root of the insiders/outside framework since its inception is the idea of exclusion or inclusion from a defined domain, as well as neat opposing interests of the two groups. In accepting the framework used by Lindbeck and Snower (1989) and Rueda (2005), the sharpness of the divide and irreconcilability of the interests of the two groups cannot be sidestepped. Conversely, it is necessary to recognise the nuanced structure of the labour market and the different faces that vulnerability can show; here, I argue that we must abandon the



insiders/outsiders rigid framework in order to subscribe to a more encompassing approach to labour market precarity.

### 1.3.3 - The Precariat

The concept of precarity in the labour market has been intensely used in European countries to describe people working with non-standard contracts, since its first occurrence in 1980s France. In 2004 a new Saint, San Precario, was invented by an Italian anarcho-syndacalistic group to draw attention to the issue of the increase in vulnerable workers (Linden, 2014). Later on, Standing (2011) popularised the concept of the 'precariat' in the Anglo-Saxon world, granting it a class-status with characteristics that go beyond unemployment or non-standard employment. If 'temporary labouring status' is still considered a central characteristic of the precariat, Standing suggests seven broader dimensions of insecurity that are distinctive of that class, including employment-related dimensions, but also income, representation and skill reproduction.

The debate on the concept of precarity have flourished in many streams of literature. Sociologists discuss the individual and collective experience of precarity (Murgia, 2014) and the social context that frames and legitimises its propagation (Vallas, 2015), increasingly taking into consideration the points of view of workers themselves (Kalleberg, 2009). With reference to early dualism and labour market segmentation theories (Doeringer & Piore, 1971; Reich et al., 1973), which looked into the personal attributes of workers in the secondary labour market, studies analyse the ethnic and gender characteristics of precarious workers (Vasey, 2017; Vosko, et al. 2009). This body of research highlights the personal dimensions of people dealing with precarious lives and

working conditions, broadening the understanding of the aspects of precarity that go beyond purely economic and institutional analysis.

In their collection of studies on precarious work, Doellgast et al. (2018: p.12) define precarious work as ‘employment characterized by a high degree of insecurity and instability, encompassing variability of income, job security, social status, and career progression’. This approach can be criticised for giving too little attention to the issue of unemployment, but the very focus of the field in general explains that approach; indeed, the attention of the Industrial Relations literature is pointed, not at society at large, but at the specific domain of employment and at the relationships within it, especially between workers, unions and employers. The analysis of these dynamics at micro level by this literature shows the behaviour of these actors in real life scenarios.

For example, unions’ attitudes towards migrants, agency workers, and more generally, precarious workers is depicted in a circumstantial and nuanced fashion that challenges the assumption of unions’ responsibility for the critical conditions of the precariat (Alberti et al., 2013; Benassi & Dorigatti, 2018; Pulignano, et al., 2015). Focussing on social actors’ behaviour, authors argue that employers’ willingness to take advantage of the competition between workers leads to an increase in the use of precarious forms of work and to more disorganised employment relations (Greer and Doellgast, 2017). From this perspective, divisions among workers and in the labour movement are exploited or fostered by employers and further enabled by the flexibilisation of labour markets (Benassi et al., 2018) to the point of weakening the core workforce’s bargaining position (Doellgast et al., 2016; Greer & Hauptmeier, 2016). Solutions are often sought

in the collective representation of workers through specific action or collective bargaining.

#### 1.3.4 - The three groups of outsiders summarised

In the previous sections I discussed three different approaches of the literature to the analysis of the characteristics of the people at the bottom end of the labour market. The first two approaches tend to divide the workforce into two discrete categories of insiders and outsiders. The first distinction is between the employed insiders and the unemployed outsiders (section 1.3.3), while the second is between people with permanent contracts and all others (section 1.3.4). These studies tend to identify a clear divide of interests between insiders and outsiders and criticise the institutions empowering insiders at the expenses of outsiders; both unions and employment protection legislation are scrutinised and discussed as instruments that perpetuate the divide and keep outsiders from competing for jobs with insiders.

The last approach (section 1.3.5), conversely, proposes a more nuanced understanding of who the people are, who are suffering from the malfunctioning of the labour market. They use the category of precarity to encompass various types of insecurity and lack of resources; the division between the precariat and the stable workforce is more blurred than in previous accounts, and the interests of the two groups are portrayed, not as adversarial but as complementary. In this perspective, institutions are seen as resources that can help in tackling precarity, instead of the root of the divide in the workforce.

Hence, depending on the chosen approach, institutions like employment protection legislation and unions, are seen to either be the cause or encompass the

solutions to inequality and precariousness in the labour market. The same applies to labour market deregulation, which has been portrayed either as the main cause of the growth in precarity, or the solution in obtaining a smoother labour market. The general debate on these opposite representations of institutional rigidities and deregulation strategies will be summarised and discussed in the next section.

## 1.4 Friends or foes

More generally, the debate on the positive or negative influence of strict regulation on labour markets and the workforce has been central to many fields of the social sciences. As seen before, in the Economics literature, institutions and ‘rigidities’ have been often considered bad for workers, and blamed especially for contributing to maintaining high unemployment levels (Siebert, 1997; Scarpetta, 1996; Nickell et al., 2005).

However, the enthusiasm showed by some academics, governments and international institutions (OECD, 1994) for deregulation as a solution to unemployment is not unanimous. Many authors have contested the alleged causal relationship between regulation and unemployment, claiming that the link between the two is actually very weak or non-existent (Howell, 2005; Baccaro and Rei, 2007; Avdagic and Salardi, 2013), hence making the deregulatory strategy potentially ill-suited to solve the unemployment issue (Avdagic, 2014).

Indeed, Esping-Andersen and Regini (2000) maintain that there is little evidence that labour market rigidities can determine higher unemployment, allowing that at best some regulatory practices can steer the chances of being unemployed toward certain categories (e.g. young, women or less skilled workers). While arguing that introducing

some flexibility can be helpful in correcting some of those biases, they also caution that weakening institutions like trade unions could conversely be damaging for the good functioning of the labour market. The ability of social partners to cooperate through a strong institutional framework is regarded as a greater good to be preserved and saved from aggressive deregulation. Regini (2000) points out that deregulating labour markets could be counterproductive even if the aim is to achieve more flexibility, questioning the assumption of direct positive association between deregulation and more dynamic and smooth labour markets.

The importance of labour market institutions in securing better conditions for workers is highlighted also by Kalleberg (2013) who argues that deregulation and declining union power are among the reasons for the overall decline in job quality and polarization of the employment system in the United States.

From a comparative perspective, the debate around deregulation and its effect on the workforce and the labour market, often focuses on the possible convergence or divergence of labour market structures across countries, and it can be represented by three different approaches. First, the Variety of Capitalism literature (Hall and Soskice, 2001) argues that deregulating and letting market mechanisms at the core of labour market organisation is central to Liberal Market Economies strategies allowing it to work efficiently, while it could be upsetting in different institutional settings of Coordinated Market Economies; hence the resilience of collective bargaining institutions in CMEs. On this premises, the VoC literature explains the interest of employers in CMEs to keep labour market coordinating institutions alive to foster cooperation at workplace level,

while employers in LMEs are keen to push deregulation to reassert managerial prerogatives (Thelen, 2001).

The second position in this debate argues that the reforms in the last few decades in different countries, both in the form of institutional deregulation and institutional conversion, which is ‘a transformation in the role played by formally unchanged institutions’ (Baccaro and Howell, 2011, p. 7), are a clear sign of a general trend of liberalisation of labour markets. This convergence towards more market dominated systems originated from a globalised neoliberal consent and results in empowering employers over employees (Baccaro and Howell, 2017). From this perspective, institutions in their original set-up are seen as empowering tools for workers, but under a global threat of being erased or emptied of their purpose.

The main difference between this position and the VoC approach lays in the divergence/convergence disagreement, and in the evaluation of employers’ attitude in Coordinated or State-led economies; however, there is agreement on the positive role played by original labour market institutions in those contexts in terms of their ability to balance power between employees and employers, and to achieve a more redistributive and egalitarian system.

Thelen (2014) expresses a third approach, with the aim of challenging both positions; she argues that models of capitalism are indeed changing, but through a variety of liberalisation trends, modifying institutions with different results. In particular, she maintains that labour market institutions do not necessarily have solidarity-enhancing effects, and similarly not all liberalising reforms should be seen as less egalitarian or undermining workers’ rights and control.

This overview was meant to represent the wealth of positions on the role of institutions in improving or damaging labour market performance and workers' conditions. The negative effect of labour market institutions on employment levels is questioned by many studies; plenty of others acknowledge the ability of these institutions to empower workers and promote equality in the workforce.

I established the context of the academic debate on the issues of the divide between workers in the labour market, and deregulation as a solution or cause of precarity (Section 1.3), as well as the more general debate on the role of institutions in improving or worsening labour market functioning and workers' rights (Section 1.4). The next section outlines the structure of the thesis and its contribution to the debate.

## 1.5 Structure of the thesis

The aim of this thesis is to tackle a real-life puzzle I encountered when labour market deregulation kept being proposed as a solution to precarity. Is that really the case? Would precarious people in the labour market be better off if 'insiders' were less protected by unions or employment protection legislation? The thesis is comprised of three studies that look into labour market deregulation, considering its consequences and then evaluating different approaches of protecting workers in the labour market, with a particular focus on the most vulnerable.

To fully understand the various implications of labour market deregulation and evaluate the different instruments for improving workers' conditions, a multi-level approach is necessary. The literature largely focuses on one of these dimensions at a time, but labour market deregulation is intertwined with other institutions acting in the labour

market, such as wage setting, or workplace representation arrangements; hence the necessity to analyse data at different levels to obtain a broader picture and discuss interactions.

I propose a three-pronged analysis of the strategies for improving workers' conditions, focussing on three domains: employment protection legislation, collective bargaining and unions' direct action in the workplace. The level of the analysis mirrors the level of action of the institutions considered; the first study examines macro-action through EPL and macro-agreements, by comparing macro-data related to the risk of poverty and related dimensions at the national level. The second study investigates meso-action through collective bargaining, and discusses the use of derogations to collective agreements at company or local level. Finally, the third is a case-study that analyses micro-action by focussing on an independent union's campaign at workplace level. The mixed methodology employed is tailored to the specific research question of each chapter, and is discussed within each.

*Table 1 Thesis structure*

	Focus of analysis	Level of action and analysis	Countries analysed
Study no. 1	EPL	Macro	France, Italy, UK
Study no. 2	Collective bargaining	Meso	Spain, Italy
Study no. 3	Unions' action	Micro	UK



The different perspectives offered by each chapter allow the three studies to contribute to different debates. While specific contributions are discussed within each chapter with reference to the relevant literature, in the next sections I present the argument made by the thesis as a whole, and the contribution of each study to this bigger picture. First, I discuss how the project answers the question of strategies aiming to improve workers' conditions, focussing on employment protection legislation levels and different types of union action. Second, I suggest that the narrative of the thesis challenges the approach of the dualism literature to the representation of marginalised workers and its understanding of the effects of deregulation at the margins of the labour market.

#### 1.5.1 - EPL, collective bargaining and union action.

Employment protection legislation is discussed in the first comparative study of France, Italy and the UK (Chapter 2). The chapter offers an overview of labour market regulation and its interaction with the share of non-standard contracts and low-paid jobs in the three countries. It then analyses their performance in terms of risk of poverty for the population at large and specifically for employed people, and analyses the mechanisms influencing it: work intensity, quality of earnings and labour market insecurity. The study shows how lower levels of protection for workers in the labour market do not trigger mechanisms protecting them from the risk of poverty. Conversely, protection for unions and support of collective bargaining and collective agreement extensions, help in reducing wage dispersion and increasing the quality of earnings for all workers.

The second comparative study (Chapter 3) discusses the levels of coordination of industrial relations in Italy and Spain. The chapter presents an overview of the main labour

market reforms in both countries to illustrate how Spain has a more deregulated labour market and fragmented workforce than Italy. It then analyses the reactions of social partners to the newly introduced legislation on derogations allowing opt-outs or regressive changes to national agreements. Findings show that Italy managed to maintain a more coordinated system of industrial relations, where social partners agreed on a cooperative approach to derogations aimed at reorganising businesses at a time of crisis; conversely, Spanish employers utilised derogations more decisively to save costs, and unions did not manage to maintain control. The chapter argues that lower EPL and a highly flexible workforce contribute in weakening the whole national system of collective bargaining, weakening union power, and fostering employers' lack of interest in long term relationships with workers and unions.

Finally, the third study (Chapter 4) shows the effectiveness of unions' disruptive action at the workplace level in protecting the rights of marginal workers in the highly deregulated British labour market. The chapter presents a critical case of a campaign led by an independent Union to organise outsourced migrant cleaners at a British university. From a position of minimal power resources, the independent union was able to build enough associational power to organise a campaign that led the University to bring cleaning services in-house and substantially improve wages and conditions. The study articulates a three-phase strategy to engage and mobilise workers and finally win the dispute.

The picture emerging from the combination of these three studies suggests the answer to the research question about labour market deregulation and its merits on improving the conditions of people at the bottom of the labour market. Findings indicate

that more widespread labour market deregulation is not the solution to economic precarity of people at risk of poverty (Chapter 2); conversely, more deregulation has an adverse effect on the level of coordination of industrial relations (Chapter 3) and hinders unions' activities, whose empowerment and action can significantly help marginal workers in improving their conditions (Chapter 4).

### 1.5.2 - Against dualism

The thesis also offers a narrative that challenges dualism theory and its depiction of insiders/outsiders dynamics (Rueda, 2005; Palier and Thelen, 2012). This first chapter introduces the issue of the measurement of precarity and the definition of the group at the bottom end of the labour market; it shows that the choice to identify it with one category or another shapes the literature's approach to investigate causes and solutions to precarity.

The second chapter transcends the concept of an insider/outsider divide by focusing on the risk of poverty in countries with different levels of EPL. It shows how the focus of the literature on the insiders/outsiders dichotomy, based on contractual typology, is not useful when discussing how people fare at the lower end of the labour market. Conversely, looking specifically at economic precarity and including people with all types of employment status, allows a simpler data comparison from countries with different labour market structures. Once the contractual typology is removed as the objective discriminant to define workers' situations, a more nuanced picture emerges. The investigation on a better approach to help people out of the poverty risk shows that labour market deregulation blurs the divide between categories of workers, but it does not reduce

the overall risk of poverty in general for the population and specifically for employed people.

The third chapter argues that labour market deregulation, even when predominantly concentrating at the margins of the labour market like in Spain, contributes in weakening unions' ability to preserve good conditions for the whole workforce. The share of temporary workers in Spain has expanded over the years, and as a result, employers became more used to a short-term approach to employment relations, and unions did not have the strength to challenge the use of derogations used to lower costs. This outcome disrupts the level of coordination of the whole industrial relations system, also affecting standard workers. The vicious circle that began with deregulation at the margin of the Spanish labour market has not only affected the unemployed or temporary workers; indeed, the case of the derogations illustrates how the resulting lower degree of coordination impacts working conditions for everyone.

Finally, the fourth chapter investigates the case of a campaign in the cleaning sector in the UK. The dualism literature that focuses its analysis on southern or continental European countries is concerned about the marginalisation of workers with non-standard contracts. The group of workers I decided to interview in this study did not complain about the standard or non-standard nature of their contracts, because the marginalisation and exploitation they suffered was not centred on that distinction, but on the poor conditions offered by their contractor. The chapter illustrates the story of these workers and their empowerment thanks to the engagement of unions representing their grievances.

Overall this thesis adopts an approach in discussing labour market precarity and institutions that challenges the assumptions of the dualism theory of a sharp divide in the

workforce between insiders and outsiders, reinforced by high levels of EPL for standard workers and union activity. Focussing on the boundaries between precarious and standard workers and their differences in protection levels, distracts from fully appreciating the effects of labour market deregulation on the whole workforce. For this reason, this multi-layered project, addresses the issue of labour market deregulation and its consequences on the workforce as a whole.

## 1.6 Conclusion

This introductory chapter explained the origins of the thesis project, and the puzzle in real life that motivated my academic interests. I have discussed how the partial implementation of the flexicurity model in many European countries has determined imbalances and precarity in the labour market, leading scholars and policy makers to worry about the increasing number of people that end up being precarious. The identification of the group of people that are classified as ‘outsiders’ in the literature shapes its approach to an analysis of the causes and the possible solutions to their precarity. In particular, employment protection legislation and union activity on one side, and deregulation on the other, can be seen either as sources of precarity or instruments to overcome precarity.

I then outlined the thesis structure, clarifying its two contributions; first to the debate on the merits of deregulation, EPL and union activity; and second, to the critique to the approach of dualism literature. After this introductory chapter, the thesis proceeds with the three studies outlined above, each contained in a separate chapter. The final chapter sums up the contribution to the literature, the limitations of the project, and its practical implications.



## Chapter 2

# Labour Market Deregulation and Economic Precarity

## 2.1 Abstract

*This chapter discusses economic precarity in three countries with different levels of employment protection legislation: Italy, France and the UK. It offers a critical reading of the data on the risk of poverty and related dimensions, and the background mechanisms in light of labour market regulation; the emerging picture shows that weak employment protection legislation for all workers is correlated to low shares of temporary workers, but not to low economic precarity. Conversely, protection for unions and support of collective bargaining contributes in reducing wage dispersion, limiting the share of low paid jobs and increasing the quality of earnings for all workers. The chapter contributes to the debate on precarity, arguing in favour of economic precarity (including the risk of poverty for the population at large and workers in particular), as a good measure for cross-national comparisons of labour markets.*



## 2.2 Introduction

Strict labour market regulation has been accused to be at the root of some European countries' chronic unemployment problem; international organisations and pundits have suggested that deregulating labour markets would encourage hiring and promote a smooth functioning of demand and supply dynamics. However, the partial implementation of labour market flexibilisation that took place across some European countries in recent decades has meant an increase in flexibility for a group of workers that have been identified as labour market 'outsiders' together with the unemployed. Extending the same levels of flexibility to the remaining portions of the workforce is often advocated as the best solution to wipe out the divide between the two groups, and to remove precarity and exclusion from the labour market.

However, if the effects of labour market deregulation on employment rates are ambiguous, its impact on issues affecting people at the bottom end of the labour market is even less clear. Focussing on eliminating the divide marked by differences in the contractual typology within the workforce can be distracting from the goal of improving conditions for all people struggling; unemployed, non-standard and low paid standard workers alike. Hence, this chapter discusses the relationship between labour market deregulation and economic precarity, with a focus on the risk of poverty for workers and the whole population, arguing that this is a better angle to evaluate the dynamics prompted by different levels of regulation.

Most research on these issues is based on a strictly quantitative approach to measuring and evaluating trends of poverty and employment protection; conversely, this

chapter aims to analyse their relationship with a qualitative lens towards the mechanisms underpinning the labour market functioning in the UK, Italy and France. I rely on the analytical reading of indicators available from the major institutes of statistics, and the analysis of labour market legislation in the countries observed. I first discuss the literature and the methodology here adopted, and then offer an overview of labour market regulation in each of the three countries, followed by an empirical analysis of the data on risk of poverty and related dimensions. I argue that deregulation of employment protection is not the best route to help marginalised segments of the population, as it does not help in reducing the economic precarity; conversely, the most influential factors shaping the outcomes related to poverty in the countries analysed are collective bargaining coverage that helps in maintaining a compressed wage structure on one side, and the generosity and good coverage of social transfers on the other.

## 2.3 Literature review

### 2.3.1 - The insider/outsider debate

When suggesting labour market deregulation as a solution for inefficient labour markets, international institutions have focused on unemployment and labour market participation (OECD, 1999). Despite the ambiguous results produced by the literature on the link between labour market rigidities and unemployment (Boeri and Jimeno, 2005; Howell et al., 2007; Nickell et al., 2005) the consensus around the virtues of deregulated labour markets maintain momentum even in post-crisis recommendations to struggling countries (Corriere della Sera, 2011; European Central Bank, 2011).

The literature addressing precariousness in the comparative political economy tradition tends to revolve around the concept of national models of capitalism and their reaction to pressures to insert flexibilities within their labour markets. Two main positions can be recognised; first, the literature that identifies a common trend of liberalisation affecting all European countries (Baccaro and Howell, 2017), which argues that rising precarity is a common feature of all countries going through reforming processes in recent decades. In their analysis, precarity is a condition that affects, to a greater or lesser extent, different groups in the labour market, not only non-standard workers in ‘dualised’ labour markets.

Conversely, a second group of authors upholds the resilience of distinctive national models of employment relations; they focus on the issue of labour market dualisation following the reforms of EPL in continental and southern European countries (Emmenegger et al., 2012; Rueda, 2007). They discuss the marginalisation of a specific group of workers focusing on those with non-standard contracts, and blame this sharp division on institutional actors and the necessity for unions to concede flexibility at the margins of labour markets while protecting the core workforce (Palier and Thelen, 2010; Hassel, 2014). However, by identifying the marginal workforce with non-standard workers, and highlighting the clustering of negative job characteristics around a formal contract typology, dualism scholars overlook other patterns of marginalisation and more complex definitions of precariousness, as discussed in Doellgast et al. (2018).

### 2.3.2 - What kind of precarity

Conversely, this chapter considers in general the category of economic precarious people as the marginal group around which to discuss the effects of labour market reforms (definitions and indexes used for this purpose will be discussed later in this chapter); they will be regarded as the marginalised people whose economic situation and risk of poverty need to be considered if we intend to discuss the best way to solve the problems of the most precarious segment of the population. The reason for this focus is two-fold; first, considering economic precarity across countries guarantees a more accurate measure for comparison. As illustrated by Häusermann and Schwander (2009) the insider/outsider divide takes different forms depending on the labour market and welfare structure of each country; conversely, being at risk of poverty is a more objective and comparable measure across countries. Second, the focus on the contractual typology risks overlooking a large group of people struggling to stay above the poverty line even when they are in a standard employment relationship.

Of particular interest for this purpose is the situation of *people in-work at risk of poverty*; while the risk of poverty for the population in general includes also the unemployed, the in-work risk of poverty regards only employed people. This is particularly useful when considering the effects of work-related and labour market policies. Even though the literature to date has not been able to establish a direct link between labour market deregulation and risk of poverty for workers (McKnight et al., 2016), variations in employment protection legislation have been associated by multiple studies to a range of effects on dimensions closely associated to poverty outcomes (Ray et al., 2014).

For example, Crettaz and Bonoli (2010), analyse the risk of poverty for people in work, and conclude that it is linked to three mechanisms: the first is the contingent fact of high needs of the household, linked to the number of dependent children or the living arrangements of the family (Gardiner and Millar, 2006), on which work-family policies, like benefits for care-givers or state-provided childcare, have a significant impact (Christopher et al. 2002; Misra et al., 2007). The second is working on jobs with *low remuneration rate*, because low paid people face a much higher risk of poverty (Maitre et al., 2012). The third mechanism is *low work-intensity* - or ‘weak labour force attachment’ (Crettaz & Bonoli, 2010, p.10); being on spells of intermittent work is more likely to lead to income poverty, and being in a temporary job increases the chances of being trapped in a low-pay/no-pay cycle (Ray et al., 2014; Shildrick, et al., 2012).

Because the quantitative evidence of the relationship between the reduction of EPL and in-work poverty is quite weak (McKnight et al., 2016; Andreß and Lohmann, 2008), this chapter focuses on a comparison of the mechanisms underlying economic precarity in each country from the point of view of labour market dynamics. Moreover, the literature on in-work poverty and labour market institutions tends to favour one of two approaches; either a macro comparison of large sets of countries (e.g. Cantillon, 2011; Hallerod et al., 2015; Maitre et al., 2012) or a deeper analysis of the dynamics within a single country (e.g. Allègre, 2011; Biolcati-Rinaldi & Podestà, 2008; Connolly, 2008). This study analyses the mechanisms underlying various dimensions of poverty risk at country level and compares the results across three countries chosen for their different levels of EPL.

The chapter focuses on the specific dynamics involving economic precarity and labour market institutions, but there are many other institutional arrangements and policies capable of influencing the risk of poverty for households (Lohmann, 2009; Lohmann and Marx, 2008); different welfare systems are likely to produce different results in the levels and structures of economic precarity and poverty risk (Barbieri and Bozzon, 2016; Esping-Andersen, 2002). For example, in this chapter social transfers are considered only as a single dimension able to provide relief and pull families out of the risk of poverty; however, there are many different welfare provisions that have been discussed in the literature and linked to different outcomes in terms of poverty risk. This is especially apparent for family and child-related policies that have a particular strong effect on household with children and on women in particular (Misra et al., 2007; Christopher et al., 2002; Backman and Ferrarini, 2009).

The gender dimension is of great importance in the debate about the link between labour market institutions and economic precarity. First, because women are on average more likely to hold non-standard and flexible jobs (Rubery et al., 1999), to be affected by rising inequality levels (Antonczyk et al., 2010) economic precarity (Bárcena-Martín and Moro-Egido, 2013) and old-age poverty (Haitz, 2015). Second, because the participation of women in the labour market can be influenced by welfare and labour market policies (Cipollone et al., 2014; Thévenon, 2013) affecting in turn the provision of care in society (Pfau-Effinger, 2005). As discussed by Rubery (2002) the choice of policies available to countries when tackling issues related to women in the labour market spans from accepting the role of women as main carers, like in the Netherlands with the ‘one and a

half earner' model, or in the UK with its high share of flexible/part-time arrangements among women (Rubery et al., 2001).

To unravel the issue of gender gap in economic precarity, the mechanisms that need to be analysed are more than those addressed in this chapter. The huge variation across countries in the gap between men and women's economic precarity cannot be explained only by looking at the dimensions considered here. In the conclusion I will address the further research developments that are needed to pursue a more complete analysis of economic precarity, taking into account also the gender dimension.

### 2.3.3 - Contribution and position within the broader debate

The contribution of this chapter to the literature is two-fold. First, it will contribute to the debate on labour market dualisation by showing that the focus on the division between insiders and outsiders, defined through different contractual typologies, underestimates other dimensions of precariousness. Second, it will contribute to the literature debating labour market deregulation in different European countries; the chapter will discuss how low levels of regulation tend to have an aggravating effect on the mechanisms contributing to a rising economic precarity; conversely, high collective bargaining coverage, together with generosity and good coverage of social transfers, are correlated with the ability of countries to keep a higher number of households above the risk of poverty threshold.

First let us consider the first debate. It must be noted that the scholarly conversation on the insider/outsider division in the labour market has often focused on finding the culprits of this dualism; unions have been identified as the gatekeepers of the

primary labour market since the first formulation of the dualism theory (Doeringer and Piore, 1971). Similarly Rueda (2005; 2006; 2007) has established a debate around the power of coalitions between unions and social democratic parties, both responsible of choosing to favour insiders over outsiders in their concerted policies. Also Palier and Thelen (2010) focus on the dynamics that led an employers' strategies aimed at dividing the workforce, to become State policy, regardless of the political party in power. According to the authors, disempowered unions ended up being able to resist a general deregulation of the labour market, but quietly yielding to pressures to allow the growth of a peripheral, insecure workforce. Adding nuances to the analysis of causes and responsibilities, Crouch (2015) blames managerial strategies, and interactions between management and unions for the increase in precariousness and outsiders.

In this chapter, I question the centrality of the dualism problem as the main focus in the debate about precariousness and exclusion, suggesting a shift of attention towards the more general measure of economic precarity. Moreover, in discussing the influence of national labour market institutions on economic precarity, I intend to point the attention at the mechanisms behind this dynamic, providing the background for the analysis of different national institutional contexts. I do not discuss the choices and responsibilities of the various social actors, as done extensively in the dualism literature; regardless the reasons behind the strategies of unions, employers and States, this chapter focuses on the objective data related to economic precarity and the implemented labour market legislation, in order to analyse the relationship between the two, and provide an overall picture of each national system. Hence, unions are not considered in relation to their



behaviour or preferences, but only as actors within the institutional settings that is here discussed.

Regarding the second debate, the argument that disempowering labour market institutions is not the most advisable measure to improve labour markets' performance and social outcomes is not a new one. Esping-Andersen and Regini (2000b) in their work on labour market deregulation, criticise the trend of deregulation that was getting momentum at the beginning of 2000s without actually achieving the desired results, arguing that despite approving of the liberalisation and deregulation rhetoric, many countries ended up implementing a 'partial and piecemeal flexibilization' (p2) that disrupted the labour market functioning without improving flexibility. Moreover, they highlight how weakening labour market institutions can hinder workers' and unions' willingness to cooperate with employers, engender a low-skill equilibrium and promote the growth of low-end sectors. The authors emphasize the productive role that labour market institutions have in most European countries, by providing support for implementing forms of regulated flexibility that are necessary to companies (as in Marsden, 1985). However, they concede that some flexibility can be useful to readjust the biases resulting from regulatory practices that systematically penalise some workers over others (p4).

The idea of balancing flexibility and security in the labour market is at the core of the flexicurity concept, born in the Dutch context in the mid-90s (Wilthagen, 1998) and enthusiastically welcomed at the core of the European Employment Strategy in the following years (Pedersini, 2008). However, especially after the 2008 social crisis, the flexicurity approach showed its shortcomings (Auer, 2010; Heyes, 2013). As discussed

by Burroni and Keune (2011) flexicurity can be seen as an ambiguous concept, that is prone to different interpretations and implementations to the point of leading to very different policies. This is apparent first by looking at the different views on the concept that unions and employers hold about it (Burroni and Keune, 2011:p80), and second, by observing the variety of reforms implemented by European countries under the same flexicurity flag, but actually varying according to national traditions and politics (Meardi, 2011; Zartaloudis and Kornelakis, 2017).

Flexicurity enthusiasts highlight the importance of a holistic approach to labour market reforms, ensuring that the job protection lost by workers in the implementation of the flexibility part of the model is re-gained through appropriate employment and income security measures. This should be ideally obtained through the implementation of well-balanced systems, as outlined by Madsen (2005) in his Danish ‘golden triangle’ example. However, it has been argued that in general, national reforms have often failed to build complementarities between institutions (Burroni and Keune, 2011); for example in the Italian case, leading scholars to talk about a model of ‘flex-insecurity’ (Berton et al., 2012).

In this chapter I agree with the scepticism of scholars criticising the flexicurity model for two reasons. First because the effectiveness of various flexicurity-branded policies in improving labour market outcomes is still uncertain (Auer, 2010), while the damages inflicted in some countries under that flag are quite well documented (Berton et al., 2009). Even in the best case scenarios, workers’ perception of precariousness has not been significantly reduced thanks to the flexicurity system (Burchell, 2009); Madsen (2002) talks about a ‘paradise with some snakes’, highlighting how the Danish system,

usually associated with the ideal implementation of flexicurity, nonetheless presents some drawbacks and tensions, such as marginalisation of large groups of workers. Secondly, I argue that the disempowerment of labour market institutions even if targeted at obtaining a more dynamic and accessible labour markets coupled with social transfers, still has a damaging effect on the mechanisms behind economic precarity, which, I argue, cannot be dismissed as a mere casualty in an otherwise winning policy.

## 2.4 Methodology and case selection

This chapter offers a critical reading of the data regarding poverty risk and related dimensions in three European countries in light of their levels and changes in labour market regulation. The countries analysed are the UK, France and Italy. They have been chosen, not following one of the traditional classifications based on welfare systems (Esping-Andersen, 1990) or types of economic coordination (Hall and Soskice, 2001), but more specifically by looking at the different levels and trends of employment protection legislation (EPL). France is one of the few cases among European countries where EPL has remained constant at a quite high level in recent decades. Conversely, the UK represents quite the opposite case, with EPL at extremely low levels, both for regular and temporary workers, without seeing any major changes in the last thirty years. Finally, Italy while retaining a high level of EPL for permanent workers, drastically reduced its regulation for temporary contracts between 1997 and 2003 (Figure 1).

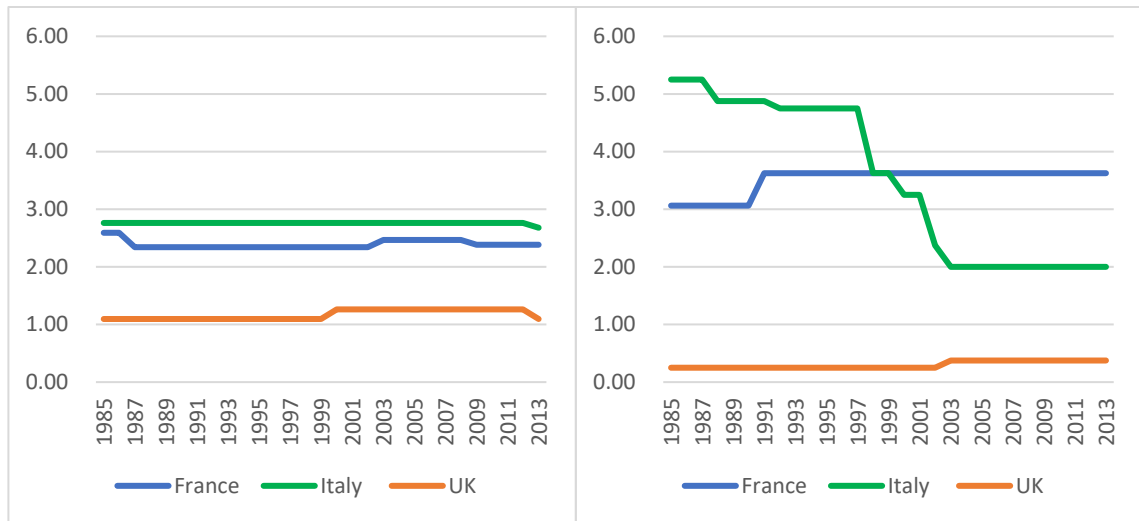


Figure 1. Left chart: EPL for regular workers (EPRC) – Right chart: EPL for temporary workers (EPT). Data Source: stats.OECD.org

Using the OECD EPL index to define and compare levels of labour protection in different countries is not free from controversy. Not only the choice of values and weights can be seen as arbitrary, but also, the degree of enforcement or enforceability of the rules is not captured by the index, as well as the variance in application of protection to different groups of workers (Myant and Brandhuber, 2017). However, alternative indexes have not been able to provide a convincing substitute yet; for example, the promising endeavour of Adams et al. (2017) in employing leximetric data coding techniques to develop a new Labour Regulation Index has the merit of considering broader dimensions, like industrial action and collective representation; however, its focus on the ‘law in the books’ as opposed to ‘law in action’ does not contribute in solving the problem of capturing the reality of how labour markets are regulated. From this point of view, with its mix of text analysis and standardised questionnaires, the OECD EPL index is able to concisely represent the dimension of labour protection in a comparative perspective (Venn, 2009).

However, to obtain a more accurate portrait of legislation aimed at protecting labour, in this chapter the use of the EPL index in graphs and classifications is integrated with qualitative analysis of the main aspects of labour market regulation in each country; for this, primary sources of legislation are utilised, together with secondary sources from the literature.

Table 2 shows a summary of the levels of employment protection for each of the three countries chosen, classifying the level of protection on a three-level scale (high/medium/low) for the most relevant aspects of labour market regulation in each country. The UK has low levels of protection on average; Italy has high levels of protection for dismissals, but medium levels of regulation for non-standard work and some aspects of collective bargaining; France has high levels of protection in all dimensions (for more details, see Table 7 in the Annexes). The section on the case studies will discuss labour market regulation and the labour market structure with reference to the share of low paid jobs, which refers to the share of workers earning less than two-thirds of median earnings, and temporary contracts.

*Table 2 Employment protection levels in the UK, Italy and France up to 2013.*

	UK	ITALY	FRANCE
<b>A. Regulation of dismissals</b>			
A1. Notification of dismissal	Low	High	High
A2. Fair/Unfair dismissal	Low	High	High
A3. Remedies to unfair dismissals	Compensation: Low Reinstatement: Low	Compensation: High Reinstatement: Medium	Compensation: High Reinstatement: High.
<b>B. Non-standard work</b>			

B1. Definition of employment status	Low	Medium	High
B2. Fixed term contracts: valid cases, duration.	Low	Medium	High
B3. Temporary Agency Work	Low	Medium	High
B4. Equal treatment as regular workers	Agency workers: Low Temp. workers: High	Agency workers: High Temp. workers: High	Agency workers: High Temp. workers: High
<b>C. Collective rights to bargaining and action</b>			
C1. Right to unionise	Low	High	High
C2. Right and duty to bargaining collectively	Low	Medium	High
C3. Extension of collective agreements	Low	Medium	High
C4. Right to industrial action	Low	High	High

To analyse economic precarity in the three countries, three main key aspects are discussed: first, the chapter compares the levels of *risk of poverty and social exclusion* for all people and of *in-work poverty* for the employed, across the three countries. Then, three mechanisms behind the in-work poverty risk are analysed; namely, *low work intensity*, *quality of earnings* and *labour market insecurity*. Finally, the effect of social transfers on poverty levels are evaluated. The source of these data are common social indicators collected through the EU statistics on income and living conditions (EU-SILC) dataset, and from the OECD, and they are all defined and discussed in section 2.2. The timeframe of the analysis depends on the availability of data; for example, in-work poverty has been measured only recently, while other dimensions, like the share of low paid jobs, are not consistently measured across the countries analysed over time and OECD EPL index last update dates back to 2013. Overall, the broad analysis will cover the years between 1985

and 2017, but shorter periods of time will be considered to discuss specific phenomena related to data of more recent collections.

## 2.5 Case studies

The following sections offer an overview of labour market regulation and its interaction with the *share of non-standard contracts* and *low-paid jobs* in the UK, Italy and France. Mapping out the development of such labour market features over time and in correspondence to variations in employment protection legislation in the three countries aims to provide a tool to contextualise the comparison of poverty dimensions that follow.

### 2.5.1 - The United Kingdom

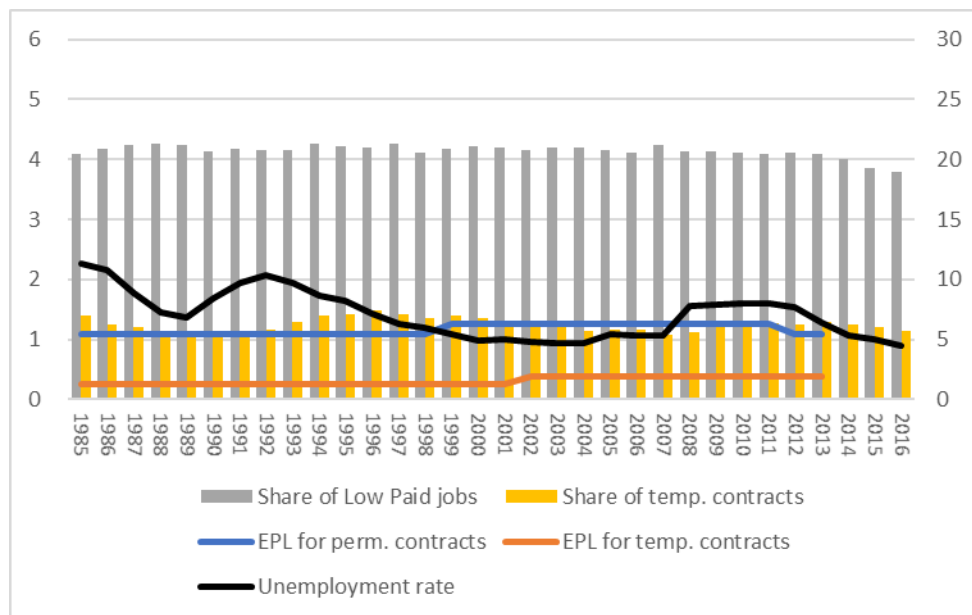


Figure 2 United Kingdom: EPL for temporary and regular workers (left axis). Share of temporary work, share of low paid jobs, unemployment rate % (right axis). Source stats.OECD.org. Author's own elaboration.

The United Kingdom is considered a European country that above all has transformed its economy and approach to the labour market to fit a liberal model of labour relations; the reforms introduced by the Conservative governments after 1979 had largely a deregulatory nature and have been pivotal in shaping the current system of industrial relations. Indeed, the action on statutory rights during the 1980s chiefly targeted the removal of protection for workers; however, more than the removal of individual rights, the real game changer in the British labour market has been the disempowerment of collective bargaining and action (Dickens, 1994). In a system based on voluntarism, curbing the influence of non-market institutions, like unions, means to weaken one of the main sources of protection for workers. The result is a low overall level of employment protection legislation, both for regular and temporary workers, in terms of protection from unfair or sudden dismissal, flexibility of employment, contract content, and in terms of collective rights.

A picture of the data representing the British labour market (Figure 2) shows that the UK has a very low share of temporary workers that have remained constant during recent decades, with minor fluctuations between 5% and 7% of the workforce. Indeed, low levels of employment protection for regular workers are usually correlated with a low share of temporary contracts, because employers can wield numerical flexibility even when dealing with standard contracts. On the other hand, the Office for National Statistics at the beginning of 2014 reported an estimated number of 1.4 million contracts that do not guarantee a minimum number of hours (zero-hours contracts). Even if this high amount of contracts does not correspond to the same number of workers (because they are likely to hold more than one contract each) the Labour Force Survey estimated at least 583,000



people with zero-hours contracts, while CIPD reported an estimated 1 million people, or 3% of the workforce (Office for National Statistics, 2014). These figures show how difficult it is to obtain a clear picture of the spread of these extremely flexible contracts, given that even the workers involved are not always aware of their contract's formal typology (Office for National Statistics, 2017). For this reason, zero-hours contracts are likely to be excluded from the share of temporary contracts, but they remain a significant and overlooked portion of all contracts.

The share of low paid jobs in the UK is at the highest levels in the OCED and remains fairly consistent at around 20% across the years, raising concerns on the significant portion of workers that have to deal with low wages (LLoyd et al., 2008). The extent of low pay work has been linked to wage-setting mechanisms, such as the minimum wage, collective bargaining, and more generally, to the level of coordination and centralisation of the system (Lucifora et al., 2005). Indeed, the UK features very weak support for collective bargaining, and only in 1998 was a national minimum wage introduced, causing a slight decrease in the share of low paid jobs.

The effect of minimum wage on the labour market varies across countries, depending on their welfare systems and industrial relations structure (Kohl and Platzer, 2007; Bazen, 2000; Garnero et al., 2014). As pointed out by Grimshaw (2008; p476) the effect of minimum wage on the pay structure in the British system is heavily influenced by its poor collective bargaining coverage; the introduction and rise of the minimum wage had the effect of compressing the bottom end of the wage distribution, lowering the number of low paid jobs and slowing down the rampant increase in inequality of the 1980s and 1990s (Metcalf, 2008; Schmitt, 2013). However, as discussed by Costa and Machin

(2017) the gains in wages enjoyed by low paid workers, had not been evenly distributed and young workers suffered loss in their wages because of a fall in the hours worked and the rising share of self-employment; moreover, in the 2007-2016 period, UK real wages have fallen significantly compared to other OECD countries, including Italy and France.

The introduction of the National Living Wage (NLW) in 2016 further increased the wage floor for workers above 25 years old and, subject to ‘sustained economic growth’, it is planned to reach 60% of median wages in 2020 (Low Pay Commission. UK Government, 2017); this would lead to a faster rate of growth for people on the NLW than for wages in general; and to a threefold increase in the number of people above 25 years old subject to the minimum, from 4% in 2015 to 12% in 2020, according to Cribb et al. (2018). There is debate on the effects that this rise in the National Living Wage will have on employment rates, inequality and poverty after the last planned increase (Costa and Machin, 2017; Fitzpatrick et al., 2018; Joyce and Xu, 2019; Cribb et al., 2018; Hood and Waters, 2017; D’Arcy et al., 2015). As reported by the Low Pay Commission (2017 and 2018) unions have expressed their satisfaction on the positive effect of NLW on low earnings, but also exposed their concern about employers’ strategies to offset the rising labour cost, in terms of hours worked, rise in self-employment, work reorganisation and exploitation of lower youth rates. The overall effect of the planned increase of NLW will have to be monitored and discussed after the upcoming significant rise in 2020.

Parallel to those developments, UK productivity cannot keep up with the average productivity levels of the other OECD economies, despite its comparably low level of unemployment; this gap closed significantly during the Labour government at the end of the 1990s and early 2000s (University of Cambridge, 2018), however, since the 2008

crisis, the gap has been growing. Even if the causes underpinning the so called ‘UK productivity puzzle’ are difficult to disentangle (Barnett et al., 2014), low productivity and low wage work reinforce one another, pushing employers to choose labour intensive and low quality strategies, and discouraging employees from pursuing higher skills (Solow, 2008).

### 2.5.2 - France

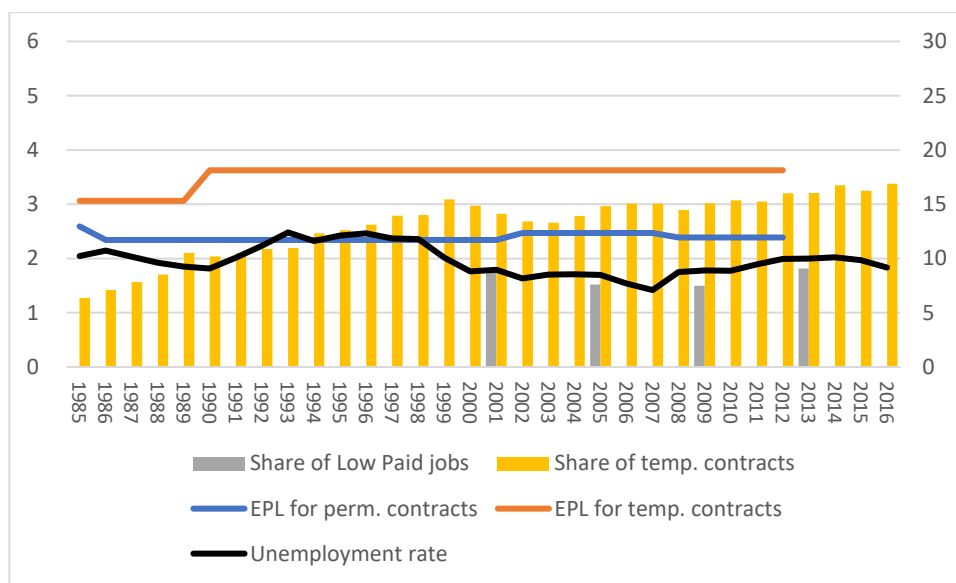


Figure 3 France: EPL for temporary and regular workers (left axis). Share of temporary work, share of low paid jobs, unemployment rate % (right axis). Source stats.OECD.org. Author's own elaboration.

Regarding employment protection, France represents quite the opposite case to the UK in all the three domains considered. At the beginning of the 1980s when the UK was in the midst of its deregulatory wave, mainly aimed at weakening unions, France implemented the Auroux Laws, strengthening the rights of worker representatives in the workplace and encouraging collective bargaining. Also, the laws enacted by the right-wing government

in the next period to introduce more flexibility in the labour market using temporary and part-time contracts, were not enough to change the basic dynamics of the labour market. Indeed, while introducing new possibilities for the employers, the French approach remained focused on a heavy structure of regulation; according to Moreau (2005: p.9), the employment contract became both a tool for greater flexibility for the employer, but also ‘an instrument of resistance’ for employees. The direction of reforms in the 1980s and 1990s fluctuated (Lyon-Caen, 1993); for example, in 1986 the requirement of previous authorisation for collective dismissals on economic grounds was abolished,<sup>1</sup> while in 1989 preventive measures to protect workers from dismissals were introduced.<sup>2</sup> A similar swinging scenario took place in the 2000s when restrictions in the use of non-standard contracts were increased,<sup>3</sup> while new contract typologies were introduced.<sup>4</sup>

The overall picture of the French labour market remains that of a strictly regulated system, which has only marginally increased flexibility for non-standard workers during a period of more turbulent reforms in other countries (Le Barbanchon and Malherbet, 2013). The share of temporary work tends to be high, as it is expected with high levels of protection for permanent contracts and oscillating protection for non-standard workers. However, the fluctuations in the use of temporary work between 13% and 15% of the workforce, coincide with reforms on the regulation of non-standard workers that are not necessarily apparent in the EPL index. For example, the sharp rise of the share of non-standard jobs that began in 1986<sup>5</sup> with the removal of some limitations to the use of

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<sup>1</sup> (FR) Law 86-797

<sup>2</sup> (FR) Law 89-549

<sup>3</sup> (FR) Law 2005-843 and 2002-73

<sup>4</sup> (FR) Law 2005-893 and 2006-1070

<sup>5</sup> (FR) Ordinance 86-948

temporary contracts, slowed down and decreased significantly following an increase in restrictions in 2002<sup>6</sup> and went on the rise again with the new contract typologies introduced after 2005.<sup>7</sup>

On the other hand, the available data on low-paid jobs does not cover enough time to draw a correlation with labour market reforms over the years. However, the available data points show a percentage of low paid job between 7% and 9%, which is nearly half of the OECD average (oscillating around 16% in the same period) and much lower than UK figures, which are consistently around 20%. This can be explained by a combination of factors (Allègre, 2011) including the 35-hours reform<sup>8</sup> that reduced the weekly amount of hours worked (Hayden, 2006); however, the high level of minimum wage relative to median earnings (62% in 2016) compared with other countries, including the UK (49% in 2016), is possibly the most convincing explanation (Askenazy et al., 2009). At the same time, the collective bargaining coverage in France is at the highest level in the OECD owing to extension mechanisms implemented since the beginning of the 1980s, which contributed in achieving a rather compressed wage structure and excluded extremely low paid jobs. Also, the level of labour productivity is quite high compared to other OECD countries, and much higher than the UK; the economic reorganisation that led to the increase in productivity in France dates back to the beginning of the 1980s (Hancké, 2001), and workforce upskilling has played a crucial role, which is consistent with the picture of low shares of low skilled workers and of badly paid jobs.

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<sup>6</sup> (FR) Law 2002-73

<sup>7</sup> (FR) Law 2005-893, 2006-1070, 2008-596

<sup>8</sup> (FR) Law 98-461

### 2.5.3 - Italy

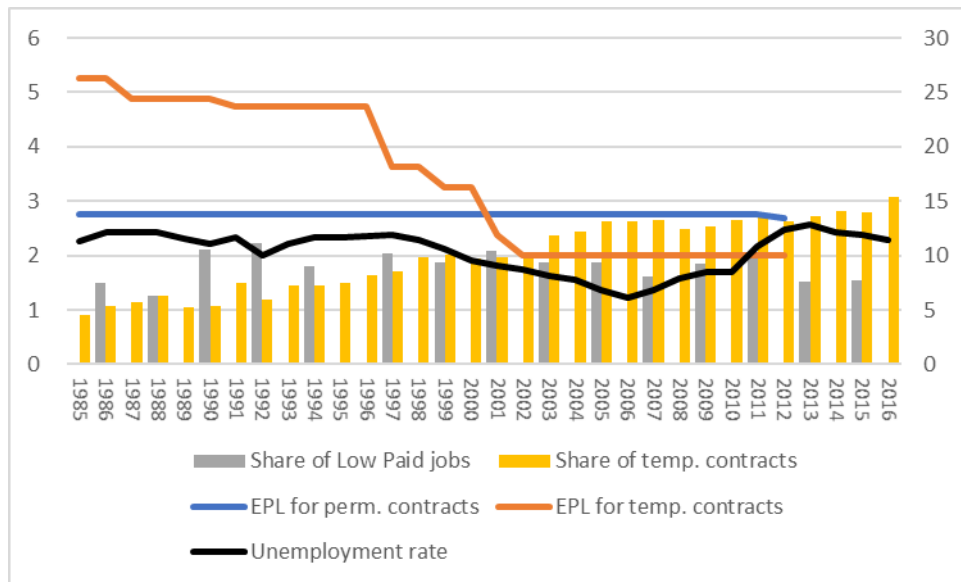


Figure 4 Italy: EPL for temporary and regular workers (left axis). Share of temporary work, share of low paid jobs, unemployment rate % (right axis). Source stats.OECD.org. Author's own elaboration.

The level of employment protection for non-standard workers in Italy used to be among the highest in the OECD. The use of temporary contracts was restricted to particular cases and the ‘interposition’ of agencies between employees and companies using their work, was prohibited. However, after an initial period of slow relaxation of regulations at the end of the 1980s and beginning of the 1990s, a major deregulation took place between 1997 and 2003;<sup>9</sup> but while employment protection levels for permanent workers have not changed significantly, they have plummeted for non-standard workers. From an even stricter regulation than France, Italy has moved to a dual system that still guarantees a quite high level of protection for standard workers but allows more flexibility for non-standard arrangements. While the UK is an example of a fully deregulated labour market

<sup>9</sup> (IT) Law 196/1997, Decree Law 368/2001, Law 30/2003

in all three dimensions considered, and France demonstrates a consistent medium-high level of regulation, Italy retains a quite strict approach to dismissals and supports collective bargaining but has vastly enlarged the opportunity to use non-standard contracts. With this hybrid position, Italy fits better than France the model of a dualised labour market (Barbieri and Scherer, 2009); the remnants of protection for standard workers are blamed for the rising precariousness in the workforce (Hijzen et al., 2013).

The share of temporary workers has seen a steady increase since the relaxation of rules on their use, but it stabilised at around 13% after 2006. To tackle the issue of outsiders – mainly new entrants to the labour market, young people and women – authors suggest closing the gap between the levels of protection of the two groups of workers with the creation of a new open-ended ‘single contract’ where protection increases with tenure (Boeri and Garibaldi, 2008); similar proposals have been put forward for countries facing similar issues of high shares of temporary employment like France and Spain (Bentolila, 2010; Cahuc and Kramarz, 2004).

The level of low-paid jobs has remained under 10% in recent decades, with rates similar to the French. Italy does not have a national minimum wage, nonetheless the widespread application of collective agreements negotiated at sectoral level means that a significant portion of the workforce is covered by a minimum standard of pay, collectively negotiated for their sector or industry. Even though there are areas of non-compliance to collective agreements, on the whole, the system guarantees that workers receiving the sectoral minimum wage agreed through collective agreements for their industry or sector, are paid a fairly high rate compared to the median income. Not having a legal minimum wage, a way of calculating the ratio of minimum to median wages for Italy is implemented

by Garnero (2017: p9) who takes into consideration the ratio between the average of the minimum wage across sectors and the median wage, finding that in 2015 the ratio was 79.95%. Even though this data are not directly comparable to the national minimum/median wage ratio in the UK and France, they still provide useful information; first, on the high minimum wages negotiated in collective agreements, due to the quite strong Italian collective bargaining system; second on the relatively compressed Italian wage distribution.

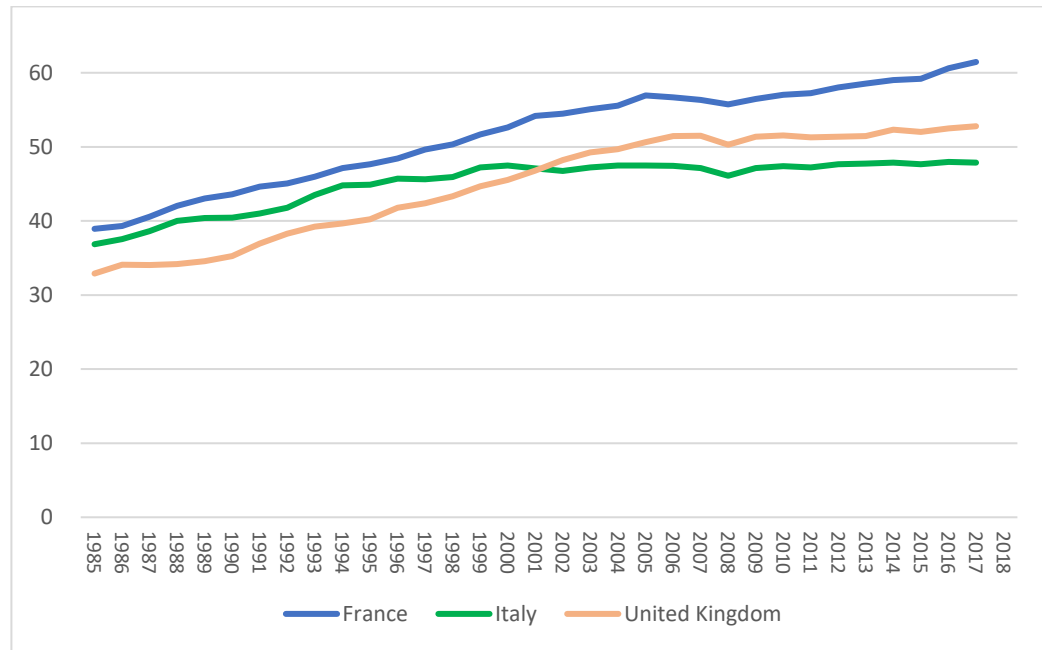
Italy and France have a lower than OECD average ratio of gross earnings between median and first decile, which means a lower disparity between the median earners and the bottom 10% of the earnings distribution; conversely, the UK has a higher ratio than OECD average, hence higher disparity (Table 3). In terms of the productivity of labour, Italy used to be at a close level to France, but at the end of the 1990s its growth slowed down, and it is now even lower than British productivity, according to changes in indicators implemented in 2019 (Figure 5). Despite the good performance in terms of the share of low paid jobs, Italy has not been able to invest in the creation of high-skilled positions and new technologies, nor improve its workers' educational level (Faini and Sapir, 2005).

*Table 3 Interdecile ratio of gross earnings (P50/P10).*

	2002	2006	2010	2014
France	1.48	1.45	1.45	1.48
Italy	1.56	1.45	1.44	1.50
UK	1.83	1.82	1.81	1.80
OECD	1.69	1.71	1.68	1.68

*Source stats.OECD.org*





*Figure 5 Productivity: GDP per hours worked (USD, constant prices, 2010 PPPs). Source stats.OECD.org*

#### 2.5.4 - Shares of non-standard and low paid jobs

The literature shows how non-standard (Heyes and Lewis, 2014; Gießelmann, 2015), temporary (Van Lancker, 2012) and low paid jobs (Maitre et al., 2012) are important channels of in-work poverty within households.

The previous analysis confirms that higher shares of non-standard and temporary contracts are linked to high levels of EPL for regular workers, because they provide the escape route to achieve numerical flexibility for employers. In countries like Italy and France imposing strict regulations for dismissals of regular workers, non-standard contracts are indeed seen as providing the flexibility that standard contracts do not have. Conversely, in countries with lower levels of EPL for standard contracts, employers do

not need to intensely use temporary contracts, because they can easily exit also from standard employment relationships.

Conversely, as discussed in the previous sections and especially for the UK case, the high shares of low paid jobs are linked to lower levels of collective bargaining coverage; in contexts with low collective bargaining coverage, large portions of the workforce are left alone in negotiating their salaries, which enlarges the share of people with salaries at minimum level. Conversely, a more centralised wage setting system like in Italy and France, warrants a more compressed wage structure, keeping inequality levels under control and assuring that the majority of workers are covered by agreements negotiated at national level with decent levels of pay.

## 2.6 Economic precarity

This section deals with the dimensions I use to discuss economic precarity as the concept to define outsiders and marginalised people in the labour market and society at large. I first compare the data on the risk of poverty, both in general, taking into considerations various dimensions of deprivation and exclusion (*risk of poverty and social exclusion*) and specifically for employed people (*in-work at risk of poverty*).

I choose to address the risk of poverty (with specific reference to the risk of poverty and social exclusion, and in-work risk of poverty) instead of other wealth or poverty indicators for two main reasons. First, the risk of poverty is a particularly good indicator for discussing precarity, because it does not only capture the most despairing deprivation, but also a certain degree of income uncertainty, instability or inadequacy; I maintain that it is well suited to characterise the kind of precarity that most matters when

evaluating work related policies. The second reason is because this approach has been favoured by the European Council in its meeting in Laeken in 2001 when establishing the most relevant indicators to fight poverty in Europe (Dennis and Guio, 2003) and it has consistently being used by institutions and scholars to discuss the issue of economic precarity (Barbieri and Bozzon, 2016; Horemans, 2016; Clegg and Bennett, 2014) .

Second, I analyses three mechanisms – *household work intensity*, *quality of earnings* and *job insecurity* – that have been found to influence the risk of poverty for employed people (Crettaz and Bonoli, 2010).

Third, the *influence of social transfers* for the whole population is discussed. The analysis of the performance of the three countries across these dimensions related economic precarity suggests that the French system, despite the lamented labour market rigidities and relative high share of non-standard contracts, provides better quality earnings and overall higher protection from poverty than Italy and the UK. Reflections on the policy choices to tackle the risk of poverty will follow.

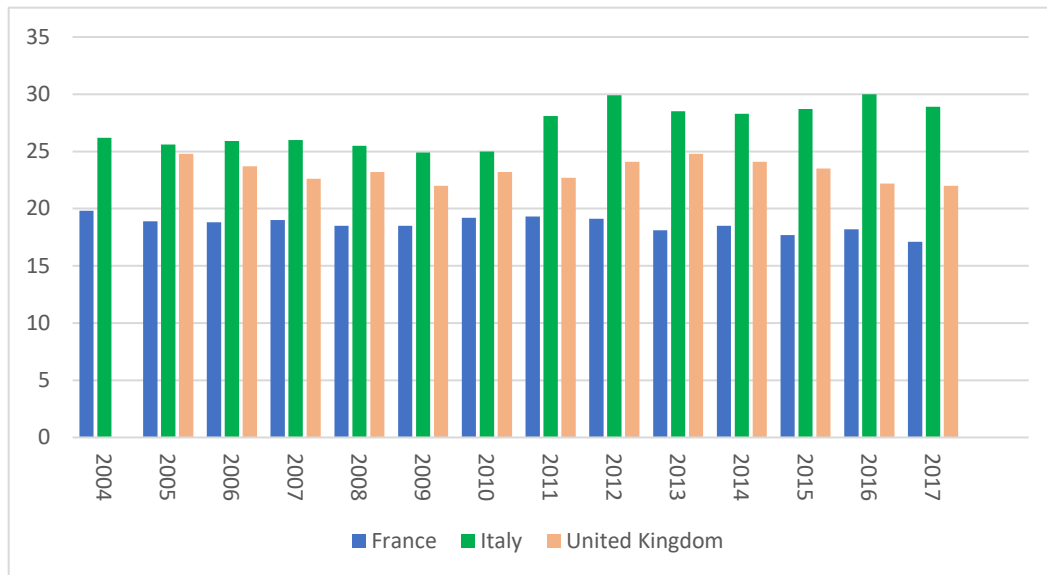
### 2.6.1 - Risk of poverty and social exclusion and in-work poverty

The first dimension to consider is the *risk of poverty or social exclusion* which also represents the main indicator to monitor the target on poverty of the EU 2020 Strategy (Eurostat, 2014). This encompassing index captures the overall situation of poverty within a country, with reference to the many dimensions of deprivation and exclusion; it encompasses the risk of poverty itself (when income is less than 60% of the national median equivalised disposable income), severe material deprivation (inability to afford desirable or necessary items) and living in a household with a very low work intensity

(less than 20% of the adult members' full time potential). This index presents a few challenges, mostly related to the fact that variations in the national median household income can shift the position of the poverty threshold, causing movements inside and outside the risk of poverty area for households whose income and composition has remained the same (EUROSTAT, 2016).

This dimension is of interest in this chapter because it includes the whole population and allows cross-country comparisons that take into consideration both people in- and outside-work. Indeed, when discussing the segmentation between labour market insiders and outsiders, for some authors the deepest cleavage is between the employed and the unemployed (Lindbeck and Snower, 1986; Blanchard and Summers, 1986). Using a general index that includes the whole population helps reinforcing the case that when evaluating the health of a labour market the economic situation of all people needs to be considered to obtain a clearer picture.

The risk of poverty or social exclusion is consistently lower in France than in Italy and the UK; also, after the 2008 crisis, France has been able to maintain the same levels than previous years, which can be partly ascribed to the strong protection accorded to workers, despite that effect being more relevant to permanent than temporary workers, according to Vlandas (2017).



*Figure 6 Percentage of people at risk of poverty or social exclusion (all genders and ages). Data source: EU-SILC survey [ilc\_peps01]*

The second dimension considered is the *in-work at risk of poverty rate*; this regards people who declare to be at work (reporting data on their activity status for a minimum of seven months, having spent at least half of the current year in work), and are at-risk-of-poverty, i.e. their income is below 60% of the median national income (EUROSTAT, 2018). The strength of information that we can gather from the in-work poverty index must be considered with caution, because of the way the index is constructed; it combines an individual measure of work, with a household measure of (relative) income. Thus, variations in the household income can occur independently from the work status of the individual due to variations in household composition (Eurofund, 2017). Moreover, the index suffers from the same problem discussed for the general index of poverty and social exclusion, given by the fluctuations of the median household income within each country that can move the poverty threshold, and push borderline households

inside or outside the risk group. However, it is the best index at hand to represent the situation of people that are employed but live in a household at risk of poverty.

This dimension allows to discuss workers' economic precarity while taking into consideration the differences between contractual typologies. In this chapter I challenge the focus on contractual typology when discussing the insider/outsider divide in the labour market (Rueda, 2005; Häusermann and Schwander, 2012); however it is important to be able to observe different levels of economic precarity for different types of workers, precisely in order to challenge the assumptions that the dichotomy between standard and non-standard contracts is all that matters in influencing levels of precariousness. The following analysis illustrates this point.

Among the three countries analysed, France registers the lowest overall levels of workers at risk of poverty; conversely, Italy presents the worst scenario for all workers, regardless of the nature of their contracts. The most interesting detail, however, comes from the breakdown of the data for France and the UK, which reveals a more nuanced situation; the UK consistently has the lowest share of temporary workers at risk of poverty, but permanent workers are better off in France (Figure 7).

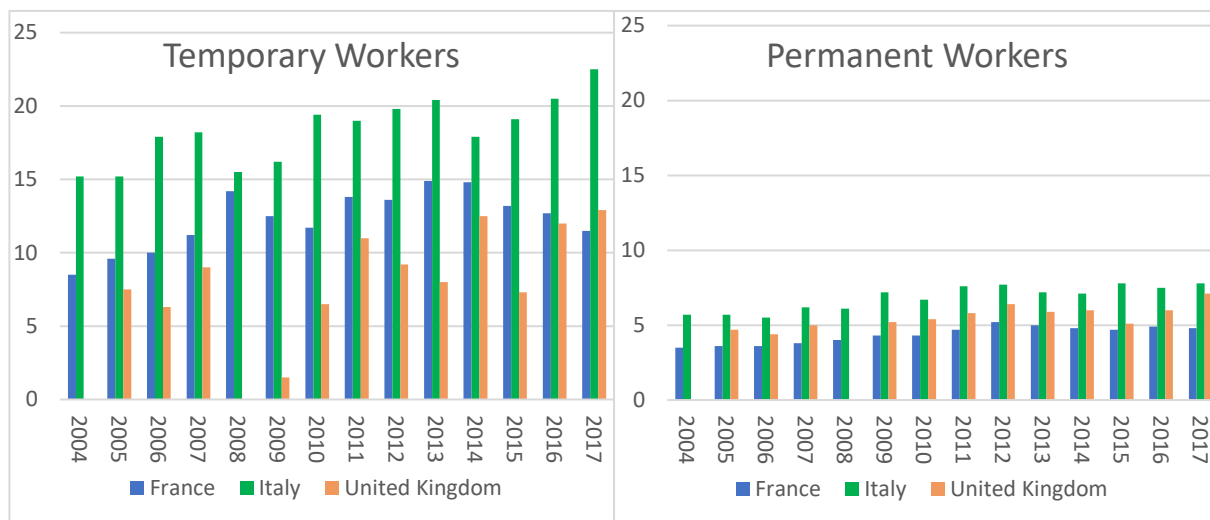
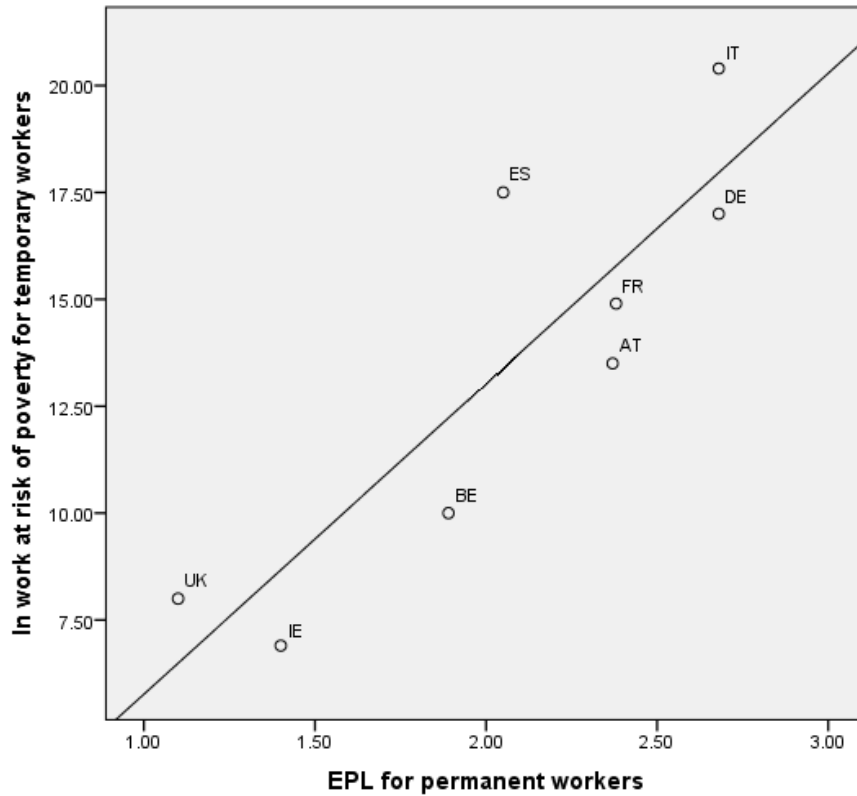


Figure 7 In-work at-risk-of-poverty rate by type of contract. Data Source: EU-SILC survey [ilc\_iw05]

On the one hand, these figures conform to the hypothesis that in countries with high EPL levels for regular workers, people with non-standard contracts tend to be stuck in worse situations. Figure 8 shows the correlation between in-work poverty rates for temporary workers and EPL levels for regular contracts in eight European countries; countries where standard workers are more protected tend to have higher levels of in-work poverty among temporary workers. Indeed, having a temporary job in France is perceived as undesirable by the majority of temporary workers; in 2013, in the EU-LFS survey, 55% of people in France declared that they accepted a temporary job, only because they could not find a permanent position. The figure is even higher in Italy (73%), but lower in the UK (37.9%).<sup>10</sup> This is consistent with the idea of poor quality jobs clustering

<sup>10</sup> Eurostat database: Temporary employees by sex, age and main reason [lfsa\_etgar]

together, where insecure jobs tend to be paid lower, offer fewer career advancement options and lower autonomy for workers (Doeringer and Piore, 1971).

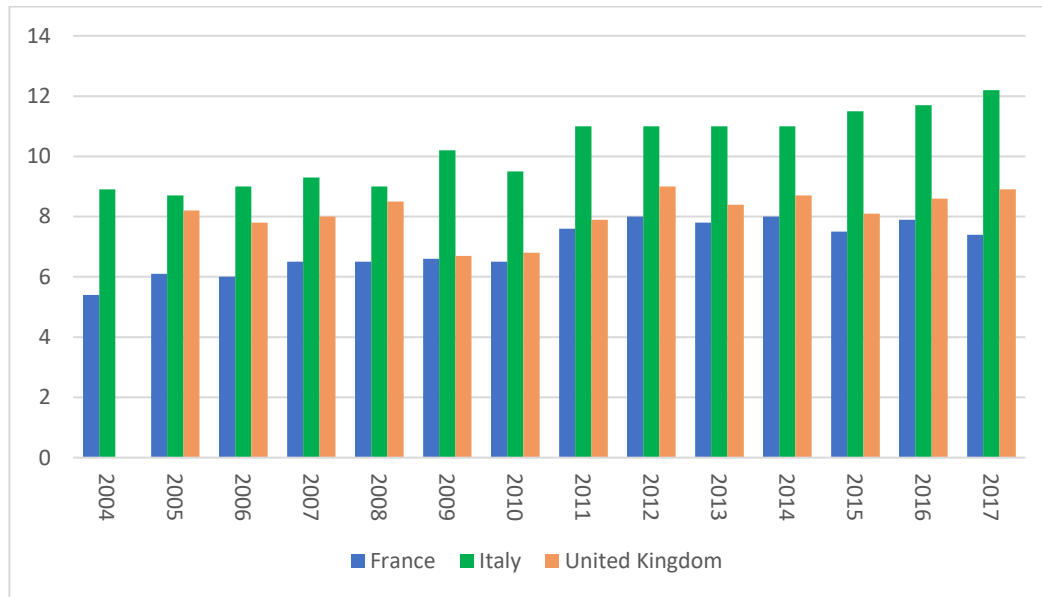


*Figure 8 Relation between in-work poverty rate for temporary workers and EPL for regular contracts. Data from stats.OECD.org and EU-SILC survey [ilc\_iw05] year 2013.*

On the other hand, the overall figure of in-work poverty among all workers offers a perspective of the functioning of the entire system; even if strained by the financial crisis and subsequent years of austerity between 2010 and 2013, France has maintained a higher share of workers out of the risk of poverty than both the UK and Italy. Indeed, if it is true that the risk of poverty for a French temporary worker is higher than in the UK, the opposite is true for an employee with a permanent contract. With a low level of EPL for all workers, in the UK the issues of precariousness and in-work poverty are more evenly



spread between the various categories of workers, but the end result in terms of risk of poverty among all employed people is worse than in France (Figure 9).



*Figure 9 In-work at risk of poverty rate among all employed people - Data from EU-SILC survey [ilc\_iw01]*

## 2.6.2 - Mechanisms behind the risk of poverty for workers

Work intensity and pay levels play a crucial role in determining the specific levels of in-work poverty (Crettaz and Bonoli, 2010) and in this section I discuss three elements that contribute to the clarification of mechanisms behind the levels of in-work poverty risk discussed above; namely, work intensity, quality of earnings and labour market insecurity.

*Household work intensity*, which is also one of the components of the index of general risk of poverty and social exclusion, refers to the ratio between the months worked in the household during the reference year, and the total number of months that could theoretically have been worked (Eurostat, 2014). Being part of a household with low work

intensity enhances the risk of poverty; this seems to be a problem particularly for the UK, which has not only a higher share of people living in low-work intensity households than Italy and France, but also displays a higher risk of poverty for that group of people. According to Marx and Nolan (2012), low work intensity is a key element of in-work poverty. It does not simply equate with unemployment of some members of a household, but includes scattered patterns of work, short duration of jobs, part-time and temporary contracts.

Despite the lower share of temporary workers and lower unemployment rates than France and Italy, the UK presents a comparable or even worse problem of low work intensity. The share of part-time workers in the UK, especially among women, is higher than Italy and France and this contributes to the low work intensity level of many households (see table 4). This different structure in the share of part-time work can be ascribed partly to the different regulation of part-time work, but also to the different choices and opportunities related to family policies and childcare provision (Rubery et al., 2001); indeed data from the OECD (2002) show how the share of part-time work among women with no children is quite similar among the three countries (France, 20%, Italy 20%, UK, 23.7%) while the presence of children strongly modifies these patterns (with one child, France 23.7%, Italy 27.2%, UK 46.6%; with 2 or more children, France 31.8%, Italy 34.4% and UK 62.8% )

*Table 4 Share of part time work year 2017*

	Share of PT work year 2017

	Women	Man	Total
<b>France</b>	22.1	7.0	14.3
<b>Italy</b>	32.4	8.3	18.5
<b>UK</b>	36.9	11.5	23.5

*(Source stats.OECD.org.)*

However, Bradshaw and colleagues (2010) blame low-work intensity in the UK on ‘precariousness’, which is a concept usually associated to other types of labour markets, such as in Italy and France, because of their high shares of temporary contracts and difficulties in finding jobs. However, the concept of precariousness is increasingly used to describe the British labour market (Standing, 2011; Tapia and Holgate, 2018). On one hand, the low levels of protection for all workers in the UK blur the distinction between standard and temporary workers, which makes precarity less apparent than in Italy or France, where temporary workers’ worse conditions compared to standard workers stand out. On the other hand, the precariousness or vulnerability of workers in the UK is more widespread and likely to affect all types of workers regardless of their contract typology.

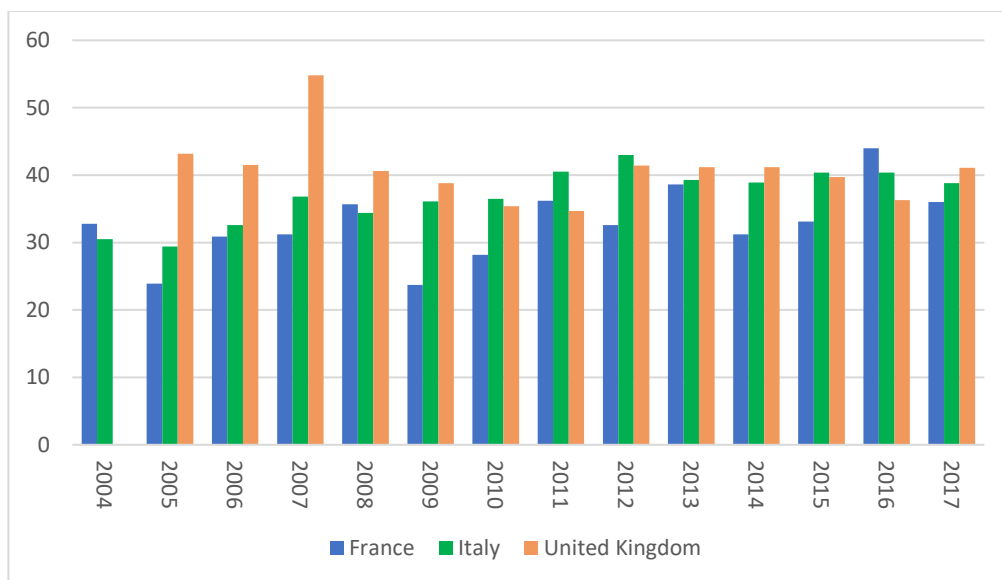


Figure 10 In-work at-risk-of-poverty rate for people living in household with low work intensity - EU-SILC [ilc\_iw03]

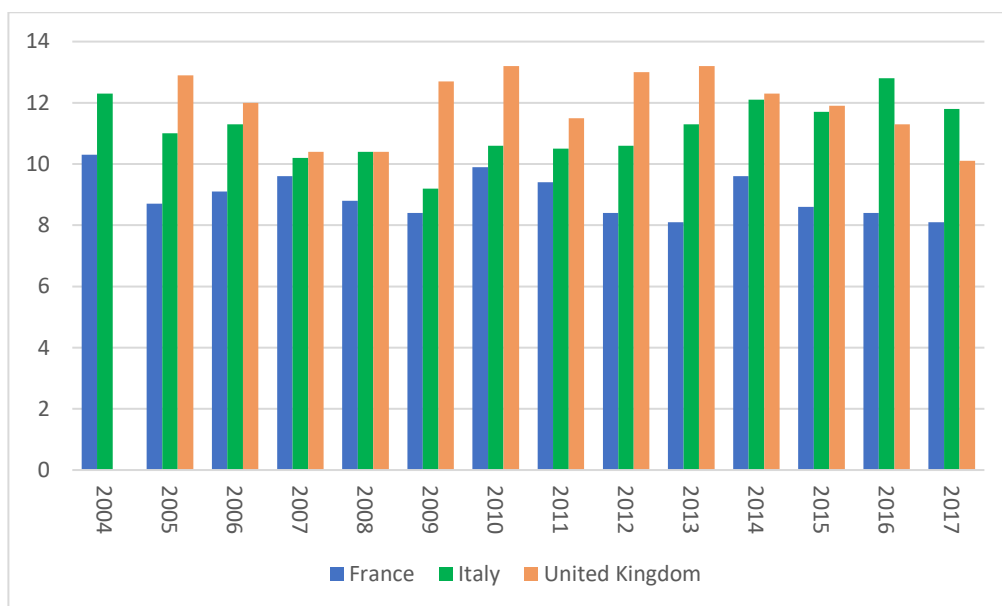


Figure 11 Share of people living in households with very low work intensity. EU-SILC [ilc\_lvhl11]

The other two dimensions are grouped by the OECD under the concept of ‘job quality’ and relate to the issue of economic vulnerability of workers with precarious jobs. First, *labour market insecurity* is defined by the OECD in terms of ‘the expected earnings

loss associated with unemployment’ (OECD, 2018a); not only the risk and the expected duration of unemployment are considered, but also the benefits received by the unemployed. The worst case is in Italy, mainly because of a rather ungenerous unemployment insurance and the exclusion of many categories of workers from the scheme. France and the UK are close in the overall level of insecurity, but the breakdown of the index shows that in France, a higher risk of lengthy unemployment corresponds to a higher level of unemployment insurance than in the UK (Table 5). Second, *earnings quality* takes into account both the average earnings and their distribution, weighted assuming a high inequality aversion in the population (OECD, 2018a). All considered, France has a significantly higher earnings quality than Italy and the UK; moreover, even if the UK tends to have higher average earnings than Italy, its higher wage dispersion results in an overall poorer quality of earnings (Table 6).

*Table 5 Labour market insecurity index and its components, year 2015.*

	<b>Labour market insecurity index</b>	<b>Unemployment risk component</b>	<b>Unemployment insurance component</b>
<b>France</b>	<b>3.42</b>	11.45	60.09
<b>Italy</b>	<b>8.23</b>	12.42	20.53
<b>UK</b>	<b>3.74</b>	5.38	44.78

*Source stats.OECD.org*

*Table 6 Earnings quality in constant prices, year 2014 (at constant PPPs).*

	<b>Total</b>	<b>Women</b>	<b>Men</b>
<b>France</b>	<b>21.88</b>	20.59	23.07

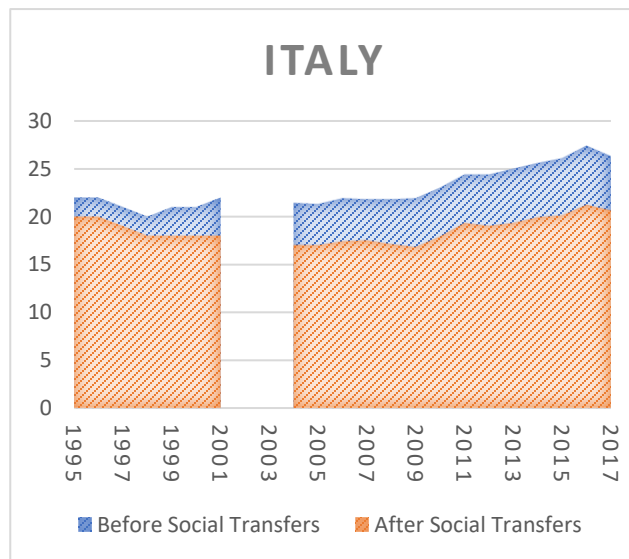
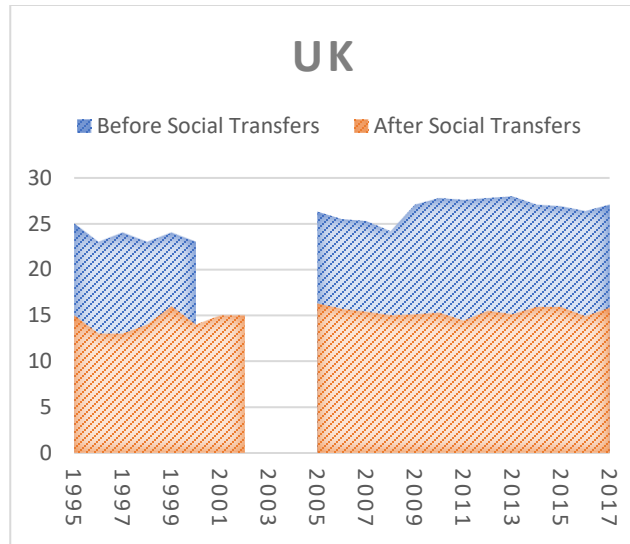
<b>Italy</b>	<b>18.85</b>	17.75	19.63
<b>UK</b>	<b>18.17</b>	16.77	19.47

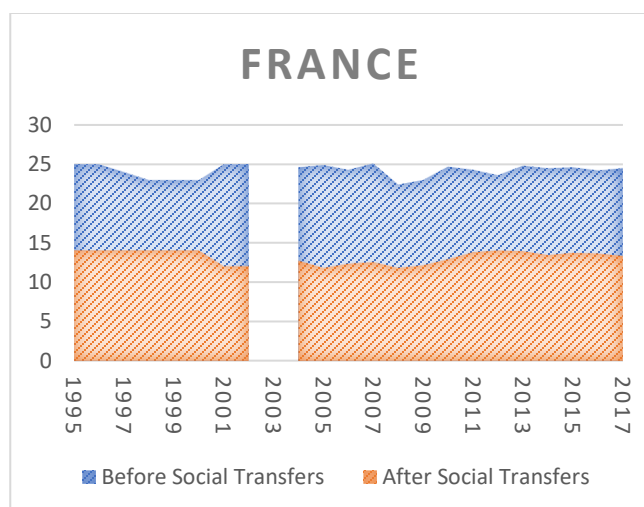
*Source stats.OECD.org*

### 2.6.3 - The effect of social transfers on economic precarity

The household income used to calculate the indexes related to the risk of poverty, encompasses all the sources of money in the household, not only wages, but also investments and social transfers. The social transfers include old-age and survivors' pensions, benefits related to unemployment, family, sickness and invalidity, education, housing allowances, social assistance and other benefits. When data are broken down to make the impact of social transfers visible, the picture of the three countries drawn so far acquires more detail (Figure 12).

The United Kingdom has the highest level of general risk of poverty before transfers (excluding pensions from the social transfers), reaching nearly a 30% risk of poverty rate in the years directly after the financial crisis. However, with its fairly high level of benefits, the UK manages to reach a rate of risk of poverty after transfers that is comparable, if still higher, to the French. On the other hand, Italy has a risk of poverty before transfers constantly under 25%, but the very poor level of transfers fails to help a significant proportion of people out of the risk of poverty, which is consistent with the data on job insecurity, where the lack of an adequate unemployment insurance makes the risk of economic loss for people losing their jobs much higher than in the other two countries.





*Figure 12 At risk of poverty rate before and after social transfers (pensions excluded from social transfers) population 16-64 years. Data source: EU-SILC survey, [ilc\_li10] and [ilc\_li02]*

Overall, in the UK, the high levels of poverty, the low work intensity and poor quality of earnings are balanced by a strong intervention of the welfare system to support households at risk of poverty, both for employed and unemployed people; low levels of protection in the labour market need to be counterbalanced by higher public expenditure to tackle widespread low wages and risk of poverty. The burden of paying workers enough to keep families out of poverty is shifted from the employers to the welfare system, which needs to substantially integrate household incomes with social transfers. On the other hand, French public expenditure on alleviating the risk of poverty is also quite high; however, as shown by the OECD indicators on public expenses, while the UK in recent years substantially increased the share of GDP spent on family benefits (OECD, 2018b), France sees a higher level of expenditure for unemployment related payments (OECD, 2018c).



Both in France and the UK social transfers pull a high share of people above the 60% median income rate and out of the risk of poverty. Despite the two very different systems of employment relations and positions on the scale of EPL levels, in both countries there is a significant need for social transfers to correct labour market inefficiencies in relation to households at the bottom end of the earnings scale. Conversely, Italy fails to substantially intervene with economic relief towards people at risk of poverty. The level of social transfers employed to reduce the share of households at risk of poverty seems to be the most relevant factor in determining the final levels of poverty risk in the three countries.

*Table 7 Summary - economic precarity dimensions last available year*

Compared dimensions		UK	Italy	France
Labour market structure	Non-standard contracts - % (2018)	5.7	15.4	16.9
	Low paid work - % (2014)	20.40	7.63	9.09
Risk of poverty	Risk of poverty or social exclusion - % (2017)	22.0	28.9	17.1
	In work at risk of poverty - % (2017)	8.9	12.2	7.4
Mechanisms behind in-work risk of poverty	People in households with low work intensity - % (2017)	10.1	11.8	8.1

	Quality of earnings – USD (2014)	18.17	18.85	21.88
	Labour market insecurity - (expected earnings loss %) (2016)	3.30	8.63	3.07
Effect of social transfers	Risk of poverty before social transfers - % (2017)	27.1	26.3	24.5
	Risk of poverty after social transfers - % (2017)	15.8	20.6	13.3

*Data from EU-SILC and OECD.*

## 2.7 Discussion and conclusions

The aim of this chapter is to analyse the economic precarity in the UK, France and Italy in the light of each country's labour market regulation and employment protection levels. The first part discusses the influence of labour market regulation in the UK, Italy and France on the shares of temporary and low-paid jobs, as well as on their wage structure. All dimensions analysed are relevant to the issue of in-work poverty, because they are associated with wage dispersion, intermittent work and low remunerations, which are among the main factors putting workers at risk of poverty (Crettaz and Bonoli, 2010). While the UK has a comparatively high share of low paid jobs, both Italy and France present higher levels of non-standard employment contracts. This last aspect is usually the focus of dualism literature equating marginalisation with non-standard contracts (Rueda, 2005); however, I argue that economic precarity and the risk of poverty, both for

the general population and for workers, are more objective and comparable measures of the struggles of people at the bottom end of the labour market. For this reason, the second part of the chapter focuses on these aspects, highlighting how a lower share of temporary workers does not necessarily correspond in a country to a lower risk of economic precarity.

The second part of this study compares aspects of economic precarity in the three countries, providing an insight on dimensions often overlooked by the literature discussing labour market reforms. The UK is affected by high rates of poverty and social exclusion, and despite the low share of temporary contracts, British households are likely to suffer from low work intensity; finally, there is a high level of precarity linked to high risk of economic loss in case of unemployment and low quality of earnings. These issues are not confined to the group of workers with temporary contracts, but more widespread across the whole workforce. On the other hand, France manages to perform better than the UK in all dimensions considered, apart from the share of temporary workers and their higher risk of poverty.

Taking into consideration France and the UK, it is apparent how the dualism debate focusing on the sharp division between the core and the marginal workforce defined through different contractual typologies (Davidsson and Emmenegger, 2012), risks underestimating other dimensions of precarity. Indeed, poverty levels for workers in the UK reveal a labour market that, despite its contractual homogeneity, produces a large marginal workforce at risk of poverty that, regardless of the nature of its contracts, is plagued by low work intensity at household level, and low-quality earnings. Italy is the third in-between case in terms of EPL levels; the Italian case shows the effects of a high

collective bargaining coverage that allows the maintenance of a certain wage compression, thus reducing the levels of wage inequality and limiting the amount of low paid jobs compared to the UK. On the other hand, the extremely low levels of social transfers cannot substantially reduce the risk of poverty; workers and the unemployed alike are penalised by the uneven coverage and very low levels of unemployment insurance and social benefits.

The outcomes of this comparison contribute to the literature on the links between EPL reduction and the risk of poverty for workers in particular. Research suggesting a positive correlation between strict employment protection and unemployment has influenced policy recommendations at the transnational level for decades, even though the evidence of the correlation has proven less strong than initially thought (Howell et al., 2007). The literature discussing labour market deregulation in European countries has often focused on the dualisation process linked to reforms at the margins of the labour markets, neglecting other more encompassing dimensions in the definition of precarity in the labour market (Palier and Thelen, 2010).

This chapter offers a comparative analysis of the mechanisms underpinning the risk of poverty in the three countries, each with different levels of employment protection. Its critical reading of the data suggests that labour market deregulation is not the best route in reducing the risk of poverty and in controlling the background mechanisms; conversely, even though they are not the only ones, high collective bargaining coverage and social transfers are key elements associated with the reduction of the share of people in general and workers in particular, living at risk of poverty in the countries observed.

In particular, collective bargaining is just one of the wage setting mechanisms that contribute to lowering the levels of low paid jobs (Lucifora et al., 2005); as discussed within each country's section, the minimum wage has an important role in rising lower wages. This is apparent both for France that has one of the highest minimum wages in the OECD and also for the UK, where the minimum wage has been increasing in recent years and is set to reach the French levels by 2020. However, I would argue that a well-functioning collective bargaining system with widespread coverage, remains a fundamental instrument to compress the whole wage structure, providing better control for wages at both ends of the distribution, which is indeed the case for both France and Italy. Moreover, collective bargaining tends to reduce the number of people earning the lowest possible pay, providing a more nuanced scale for workers at the bottom end of the labour market. Even though the minimum wage can be a powerful tool in addressing economic precarity as in the French case (Askenazy et al., 2009), the combination with strong collective bargaining is crucial.

The chapter has two sets of limitations; first, a stronger approach to evaluate the links between labour market deregulation and the risk of poverty and associated dimensions would require a longitudinal observation to track changes and analyse their effects; the data on the risk of poverty and related indexes are relatively recent, while the major changes in employment protection legislation occurred before the data collection began. Secondly, this chapter does not claim to establish a causal relationship between labour market deregulation and the risk of poverty. The quantitative approach proposed by other authors has been inconclusive; for this reason, this chapter only intends to uncover and discuss the mechanisms underlying the interaction between labour market

regulation and the risk of poverty. The aim of tracking causal dynamics is worth pursuing, and further research on this topic would be advantageous to the field.

Moreover, it must be taken into consideration that economic precarity is multidimensional. Not only this chapter specifically chose to analyse just a few dimensions linked to the risk of poverty, while also other rich indicators are available to measure degrees of economic precarity; but also, the variables influencing these dimensions are more than those tackled in this chapter. I focused here on the mechanisms linked to employment protection legislation and briefly mentioned the strong impact of social transfers; however, welfare, income, and family policies must be considered and thoroughly analysed in the context of a broader analysis behind the mechanisms influencing economic precarity.

In particular, exploring the gender and age dimensions of economic precarity would enrich the understanding of overall living conditions in different countries. As discussed within the literature review, labour market and welfare policies targeting women have a strong effect not only on their specific risk of poverty but on other dynamics involving care provision for the whole society. Moreover, the analysis of specific data related to child and old-age poverty would add layers to the evaluation of the functioning of each different system.

Hence, a more extensive investigation on the dimensions related to the risk of poverty, their causes and the most effective instruments to address economic precarity would indeed have very important practical implications. Having made the case for considering the risk of poverty and related dimensions as useful measures of marginalisation in the labour market, this chapter contributes in moving the debate away

from artificial distinctions based on contractual typologies and focuses instead on a more objective measure of precarity. This is important, not only for academic debate, but above all, for informing the targets of labour market and welfare policies addressing the needs of precarious workers at the bottom of the labour market. If policy makers' concerns are about marginalised people, the reflection contained in this chapter should help in understanding the consequences of simply addressing formal distinctions in their contracts, or rather, their actual economic precarity.

## 2.8 Summary of contributions to the thesis

This chapter focused on EPL levels, offering an analysis at macro-level of the strategies for improving workers' conditions. It offered a discussion of how lower levels of protection for workers do not correspond to a more effective protection from the risk of poverty in general and for employed people in particular. Conversely, it suggests that protection for unions and support of collective bargaining, as well as the instruments to extend collective agreements coverage, can reduce wage dispersion, limiting the share of low paid jobs and increasing earnings quality. This contributes to the debate on the merits of labour markets deregulation and the role of institutions to tackle the issue of economic precarity.

In doing so, the chapter goes beyond the dualism literature approach to labour market precarity based on contractual typology, by focusing instead on economic precarity. It shows how the focus of the literature on the insiders/outside dichotomy based on contractual typology is not the most effective way to represent the situation of people at the bottom end of the labour market. The focus on economic precarity

contributes to the literature in two ways by proposing a more objective measure of disadvantage, applicable regardless of employment status; first, it allows an easier comparison of data across countries with different labour market structures; second, it compels scholars and policy makers to focus on the actual economic difficulties of households instead of more artificial divisions within the workforce.



## 2.9 Annexes

*Table 8 Labour market regulation in the UK, Italy and France.*

	UK	ITALY	FRANCE
<b>A. Regulation of dismissals</b>			
<b>A1. Notification of dismissal</b>	No notice for individual dismissal, written reasons if requested. Redundancies: 1 week notice if employed for less than 2 years; 1 week notice for each additional year, up to 12 weeks (Employment rights act 1996).	Written notice to employee, and to territorial employment office in some cases. Notice length from collective agreements; short medium tenure: 10-75 days. Longer tenure: 30-180 days.	Strict procedure for the dismissal of an employee on personal or economic grounds, with preliminary meetings and notification to territorial employment office. Notice for short tenure: 1 month. Medium long tenure: 2 months (Code du Travail).
<b>A2. Fair/Unfair dismissal</b>	Fair dismissal should adhere to procedural and substantial standards; however, a residual category allows a wide range of acceptable reasons. Only discrimination, maternity etc. excluded (Employment rights act 1996).	Reasons for dismissal need to be 'just cause' or 'legitimate motive'. It can be either of 'subjective' or 'objective reason' (Law 604/66).	Reason for dismissal must be 'real and serious' (Code Du Travail 1235-3). Economic reasons are not allowed if only designed to boost profitability.
<b>A3. Remedies to unfair dismissals</b>	Compensation: decided by the tribunal. OECD estimates ordinary severance pay 5.5 months, up to 8 months. Reinstatement: tribunal can order reinstatement, but employers are not obliged (Employment rights act 1996).	Compensation: in companies with 15+ employees it is 6-36 months depending on reasons, and a worker's tenure and characteristics (halved for companies with <15 employees). Reinstatement: is the normal remedy only in cases of discriminatory or verbally communicated dismissal; to employers not complying a 15 months' salary compensation is required (Workers' Statute modified by Jobs	Compensation: to workers with at least 2 years tenure in companies with +11 employees, compensation is 12-24 months. Under 2 years or 11 employees no minimum by law. Reinstatement: can be awarded by a tribunal according to L1235-10 Code du Travail. Employers must oblige.

		Act 2015 and following amendments).	
<b>B. Non-standard work</b>			
<b>B1. Definition of employment status</b>	Employment tribunals look at how the employment relationship between the person and the business works in practice to determine the worker/employee/self-employee's status. The parties have plenty of flexibility in determining the contract's content.	The Civil Code and Labour Law define the content of the employment contract and set out a series of criteria to identify the existence of a relationship of subordination.	The Law defines the content of the employment contract (Titre II Code du Travail). Also, Cour de Cassation, 07-44.759 the existence of an employment relationship does not depend on the will expressed by the parties [...], but on the factual conditions.
<b>B2. Fixed term contracts: valid cases, duration.</b>	No limits or restrictions to cases and number of renewals. Maximum cumulative duration, 4 years.	Reasons not required for the first 12 months appointment. Then FTC only allowed for extraordinary production or organisational needs. Maximum duration 24 months, renewable 4 times. Maximum amount for each employer 20% of permanent contracts (D.L. 87/2018)	Valid only for a specified and temporary assignment. Renewable only in very strictly determined cases. Maximum duration on average 18 months (Titre IV Code du Travail).
<b>B3. Temporary Agency Work</b>	No limits or restrictions. No authorisation for the Agencies	TAW employment can be used for technical, production and organisational reasons. Reasons not required for the first appointment. Maximum duration 24 months, renewable 4 times. (D.L. 87/2018 extending fixed term contracts discipline). Agencies need authorisation.	Use of TAW only for 'objective' cases, strict limits to renewals. Agencies need authorisation (Code du Travail).
<b>B4. Equal treatment as regular workers</b>	Agency workers: same conditions after 12 days, but only covering the basics (introduced by SI 2010/93)	Agency workers: same treatment D.Lgs. 276/2003.  Temp. workers: same treatment (implementation of the	Agency workers: same treatment L.1251.18 Code du Travail.  Temp. workers: same treatment (L.1242.14 Code du Travail)

	Temp. workers: same treatment (implementation of the 99/70/EC in the SI 2002/2034).	99/70/EC in the D.lgs.368/2001).	
<b>C. Collective rights to bargaining and action</b>			
<b>C1. Right to unionise</b>	No codified right to unionise, beside UK's ratification of international conventions on freedom of association. Former public policies <i>encouraging</i> unionisation ceased in the period after 1979.	Yes, recognised at constitutional level.	Yes, from the 1946 preamble to the Constitution.
<b>C2. Right and duty to bargaining collectively</b>	No constitutional right to collective bargaining. Duty to union recognition for employers, subject to a set of strict conditions.	Right to bargaining for recognised Unions in the Constitution; even if recognition never implemented, the right is considered protected. No general duty to bargain for employers, but failure to do so could be considered anti-union practice.	Constitutional right to representation in collective determination of their conditions of work. Duty to bargain for employers from the Auroux Laws. But complex rules on who has the right to negotiate.
<b>C3. Extension of collective agreements</b>	No extension of collective agreements after 1983. Wage Councils' power reduced in 1986, abolished in 1993.	Guaranteed in practice by the combined provision of law in the Constitution and the Civil Code.	Strong system of the extension of collective agreement through the Auroux Laws 1982.
<b>C4. Right to industrial action</b>	No codified right to industrial action. Possibility to strike following strict procedures of ballots regulated by ordinary law.	Right to strike guaranteed in the 1949 Constitution.	Right to strike guaranteed in the 1946 preamble to the Constitution.

*Sources: OECD Indicators of Employment Protection; Adams et al. (2016); legislation from national archives. Author's own elaboration.*



## Chapter 3

# Labour Market Deregulation and Collective Bargaining in Spain and Italy

### 3.1 Abstract

*The most recent labour market reforms in Europe have been portrayed as part of a global trend of liberalisation. However, the responses of the social partners, to even similar pieces of legislation, can vary substantially depending on the context in which they operate. This chapter analyses the different outcomes of Spanish and Italian reforms on derogations to collective agreements, illustrating how social actors respond differently to largely similar reforms, determining different outcomes in the levels of coordination of collective bargaining systems. These variations are analysed in the light of union strength and employers' approaches to industrial relations as shaped by the levels of precarious employment of each labour market.*

## 3.2 Introduction

Labour market reforms implemented in recent decades have many points in common across southern European countries and seem to reflect a consensus of European and international institutions in favour of a general flexibilisation of employment relations and decline of coordination in a neo-liberal trend of reforms (Baccaro and Howell, 2017). More specifically, southern European countries are usually grouped together as similar models of capitalism (Hall and Soskice, 2001; Esping-Andersen, 1990; Schmidt, 2007) and the problems associated with their labour markets are often considered analogous. Even more so, following the 2008 economic crisis, southern European countries have been discussed together as a group struggling to react to the crisis and burdened by the necessity to adopt austerity measures.

However, even in very similar national contexts and with the homogenous pressure to reform labour markets, the reaction of social partners to such reforms have proven to be of crucial importance in determining their final outcomes. For example, Spain and Italy came out of the post-crisis rounds of reforms with different levels of coordination in their industrial relations systems; this is apparent by analysing the responses of Italian and Spanish social partners to the attempts to decentralise their collective bargaining systems. In Spain, employers have been extensively willing to take advantage of the possibility of lowering wages and other working conditions through newly introduced derogation clauses allowing them to opt-out or make regressive changes to national agreements; conversely, in Italy they agreed to a shared strategy with unions to reduce the impact of new legislation on derogations.

What is the reason behind the different approach of social partners to reforms of derogations, and the resulting outcomes in the level of coordination of their employment relations? This chapter hypothesises that the overall precarity of the labour force contributes to weakening union power, and in fostering employers' lack of interest in long term relationships with workers and unions; this hypothesis is discussed with reference to the Spanish and Italian cases regarding the introduction and use of derogations. The following literature review examines academic views; then, after introducing the methodology and the main concepts, the two case studies are discussed with an overview of the main labour market reforms and the reactions of social partners to the legislation on derogations. A discussion and conclusion close this chapter.

### 3.3 Literature review and contribution

#### 3.3.1 - Collective bargaining structure

The tendency of countries towards higher or lower levels of coordination in their economies is considered by the Variety of Capitalism literature the crucial element to understand their structure (Hall and Soskice, 2001); the level of centralisation of collective bargaining contributes in determining the employment relations systems' levels of coordination and more broadly, the national models. Part of the literature agrees on the persistence of divergent models with defined features that allow to classify them into categories, retaining their distinctiveness in spite of changes in economic and political trends (Thelen, 2014). Others suggest a more general trend of liberalisation that unites all countries in reforming their institutions towards more deregulated systems (Baccaro and Howell, 2017).



However, by looking into the details of recent reforms in particular, both approaches are not fit to explain the variations in outcomes that took place in some instances; for example, in Spain and Italy, in very similar circumstances and under the same levels of pressure from international institutions, the different reactions of social partners to post-crisis reforms determined a significant change in their former collective bargaining structure.

Research that compares collective bargaining in Italy and Spain prior to the crisis, focused on identifying common patterns or variations that would help in classifying their industrial relations systems in the debate about divergence or convergence of capitalism models (Streeck and Thelen, 2005; Schmidt, 2007). For example, Thelen (2001: p75) argued that the persistence of centralised collective bargaining and tripartite agreements in Italy and Spain refuted the convergence of the two countries towards a liberal market economy model, and confirmed the persistence of a common model of industrial relations. Similarly, Molina and Rhodes (2007) maintained that both countries remained faithful to their levels of collective bargaining coordination and centralisation, conceding only a few differences related to union power and success in achieving negotiated reforms. In the context of this debate, Hancké and Hermann (2007) offered a more nuanced analysis when comparing the Italian and Spanish wage-setting systems; they defined them respectively as ‘centrally coordinated’ and ‘decentrally coordinated’ systems, determining highly homogeneous or highly heterogeneous wage levels. Overall, the balance in the level of coordination of employment relations in Spain and Italy have changed back and forth during recent decades as also highlighted by the swinging fortunes of social pacts in both

countries (Molina and Rhodes, 2011; Regini and Colombo, 2011); however, things have changed more significantly since the crisis.

Pedersini and Leonardi (2018) recognise that a general trend of decentralisation in Europe predates the crisis, but the most significant movements appear to take place after 2008. The post-crisis literature emphasises a general trend of decentralisation and a decrease in coordination across European countries (Cruces et al., 2015; Carrieri et al., 2018). Marginson (2015) talks of a general corrosion of multi-employer bargaining systems in northern Europe, and of a more dramatic ‘frontal assault’ in southern European countries, including Italy and Spain. Indeed, reforms of collective bargaining in Spain and Italy went in the same direction in terms of introducing instruments to decentralise collective bargaining and allowing more autonomy at local or company level in setting wages and other working conditions.

However, accounts of Italian reforms after the crisis (Picot and Tassinari, 2017), even the most critical of the whole apparatus (Fana et al., 2015; Leonardi, 2016), do not consider the introduction of regulated derogations as a game-changing element in the Italian industrial relations arena; indeed, they regard its impact as limited. Conversely, researchers examining Spain tend to regard opt-out and derogation clauses as one of the most high-impact provisions of the post-crisis reforms for the whole collective bargaining system (Cruz Villalón, 2013; Casas Baamonde, 2014); this is also apparent in the discussion of the status of collective bargaining in the chemical and metal sectors in Italy and Spain by Colombo and Regalia (2014) and Rodríguez et al. (2014). This contrasting reading of the impact of similar reforms suggests that derogation clauses are a most

interesting measure for the analysis of the different degrees of decline in coordination between Spain and Italy.

Crouch and Traxler (1995) criticised the ‘disorganisation thesis’ about an inevitable business-driven trend of corporatism decline and disempowering of labour market institutions pushing all countries towards a converging model. They supported instead a ‘divergence’ theory (Traxler, 1995) maintaining that different trajectories of bargaining and coordination could be identified across countries. In drawing a distinction between different aspects of changing industrial relations structures and arrangements, Traxler distinguishes two types of decentralisation; *organised* – when negotiations and agreements are orderly delegated to lower level associations, and *disorganised* – where employers disorderly abandon higher levels of negotiations.

In his overview, Traxler classified Spain as a ‘stable country’ and put Italy in an undefinable limbo because of oscillations between opposed trends in its level of organisation. In general, he argues that employers’ preferences regarding organised or disorganised labour relations take shape in response to external circumstances (p.15); Crouch (1995) rejects the idea that employers will always favour disorganisation and vice versa unions prefer organisation. Indeed, Italy and Spain provide good examples of why employers need to carefully choose their strategies in terms of coordination of bargaining levels for various reasons; first, the relative underdevelopment of company level bargaining, due to the prevalence of small and medium size enterprises increasing the transaction cost of signing company-level agreements (Coase, 1937); second, specific national industrial configurations like Italian industrial districts (Lazerson and Lorenzoni, 1999; Piore and Sabel, 1984) that take advantage of economies of scale and rely on

sectoral level agreements, would not benefit from company level bargaining introducing competition on wages and disrupting inter-firm cooperation. These factors, indeed, are likely to encourage companies to rely on, and support, negotiations at higher level for their own benefit.

In their edited volume, Crouch and Traxler (1995) focus on labour and employers' associations choosing the most convenient level of organisation (or disorganisation) of their relationships. Relations between capital and labour are eventually brought back to different organisational capacities of the relevant associations; the variables determining their organisational power relate to their internal cohesion, representativeness and capacity to direct members' behaviour (Van Waarden, 1995); this would also influence State policies and States' availability to support organisations' strength.

In this chapter I argue that both Spain and Italy recently saw a rising degree of decentralisation of their bargaining levels, prompted by legislative reforms encouraged by the European Union especially after the 2008 crisis. This observation aligns with some of the premises of the 'disorganisation thesis' criticised by Traxler and Crouch; however, I also agree that their insight on different types of decentralisation – organised or disorganised – is valuable in the comparison of the most recent events. Indeed, while recognising a common trend of reforms, I argue that social partners and their association reacted differently to these changes, in a way that can be considered 'organised' for the Italian case and 'disorganised' in Spain. To explain this difference, however, I turn to the analysis of labour power resources.

### 3.3.2 - Power resources

What are the determinants behind the different directions taken by the two countries in their level of coordination - or type of decentralisation, as in Crouch and Traxler (1995)? In the general trend towards decentralisation, as noted by Pedersini and Regini (2013; p4), the balance between centralisation and decentralisation of collective bargaining is deeply influenced by power relations between the social partners and the State. Many studies have shown the relationship between labour precarisation and collective bargaining, discussing these effects at sectoral or firm level, such as: Benassi et al. (2016) for the telecommunication sector; Marginson and Galetto (2016) in the metal work sector; and, Shire et al. (2009) in call centres. Here, I analyse this relationship at national level, showing that the presence of high shares of temporary workers across the whole workforce weakens union power at a wider level, contributing to further labour market deregulation and also to a general decrease in the coordination of employment relations.

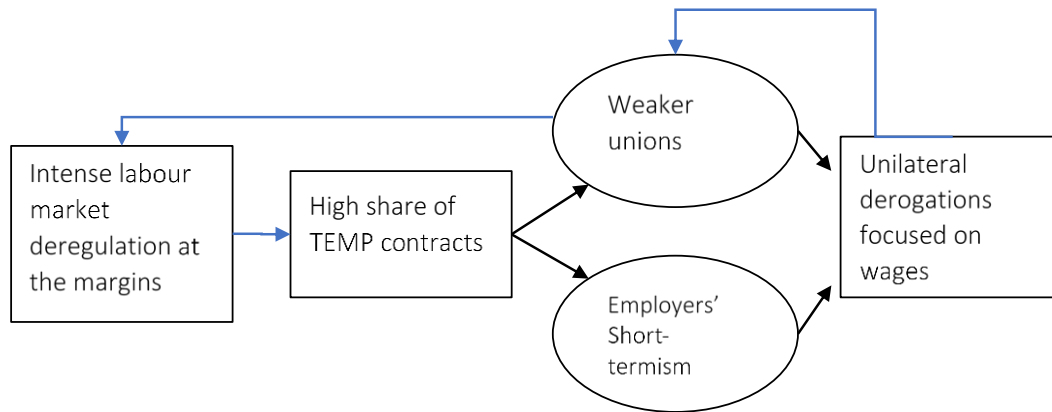
In this chapter, I argue that the use social partners have made of the newly regulated possibility to derogate to collective agreements, depends on union power and employers' strategies, both shaped by workforce structure and overall precarity. The below model (Figure 13) illustrates the different reactions of social partners to similar reforms and suggests that, over time the system that presents a more fragmented and precarious labour force is expected to suffer a stronger decrease in coordination. This is consistent with the findings of Pedersini and Regini (2013) and Koukiadaki et al. (2014) in terms of the general tendencies of collective bargaining *vis à vis* the most recent reforms. Also, in discussing these crucial differences between the two countries, this chapter argues - if it is true that a general trend of liberalisation (Baccaro and Howell,

2011) has deeply influenced the most recent reforms affecting levels of coordination across similar countries (Marginson, 2015), the different reactions of social partners shaped by their power resources and strategies can significantly affect their outcomes.

In this respect, this chapter contributes with the model below (Fig.13) to the rich debate in the power resources tradition (Korpi, 1983). In particular, it argues that the intense labour market deregulation that took place in Spain earlier than in Italy, as shown by the Spanish higher share of temporary contracts, reduced the *institutional power resources* of unions. The context of labour market regulation in which trade unions operate is of great importance for empowering their action in terms of bargaining and organisational strength (Frege and Kelly, 2004; Dörre et al., 2009); and also in terms of their potential influence on the political and legislative processes related to labour market reforms, as shown by Benassi et al. (2018) regarding the ability of German and Italian unions to influence the regulation of agency work.

Moreover, the political and social contexts of the early 1980s in Spain and Italy provided both the framework that influenced the different approaches of governments to labour market deregulation, and the strength of unions to react to it. Italian unions emerged from the events of 1968 and the 1970s empowered by the establishment of bargaining and representation rights in the Workers' Statute (Ebbinghaus and Visser, 1999); conversely Spanish unions had to deal with the Francoist legacy characterised by a general subordination of labour, as argued by Sola (2014) who discusses the weak power resources available to Spanish Unions coming out from the dictatorship. This picture is coherent with both the power resources approach, and the model below; the relevance of institutional power resources for the explanation of the ultimate different outcomes in the

use of derogations, is confirmed when taking into consideration that they can explain the differences in the legislators' approach to labour market deregulation in the first place.



*Figure 13 Model of the relationship between employment flexibilisation and derogations*

### 3.4 Choice of cases, methodology and concepts

Spain and Italy are similar countries in many respects (Meardi, 2012), and they can be considered two ‘most similar systems’(Mill, 1882). They have comparably large economies; their GDP per person is similar if compared with other OECD countries, reaching 36,332 USD in Spain and 38,380 USD in Italy in 2016; also, they both have significant informal economies, with plenty of grey areas of undeclared work that are not captured by official statistics. Both countries present similar structures of sector contributions to the GDP and a ration of exports to GDP - in 2017 reached 34.1% for Spain, and 31.3% for Italy (World Bank, 2018). Both countries suffer high levels of

unemployment, especially among young adults (Figure 14) and high levels of labour market segmentation (Barbieri and Scherer, 2009; Polavieja, 2003). Scholars have been grouping the two countries together when discussing institutional settings, regardless of the criteria adopted (Schmidt, 2007; Molina and Rhodes, 2007).

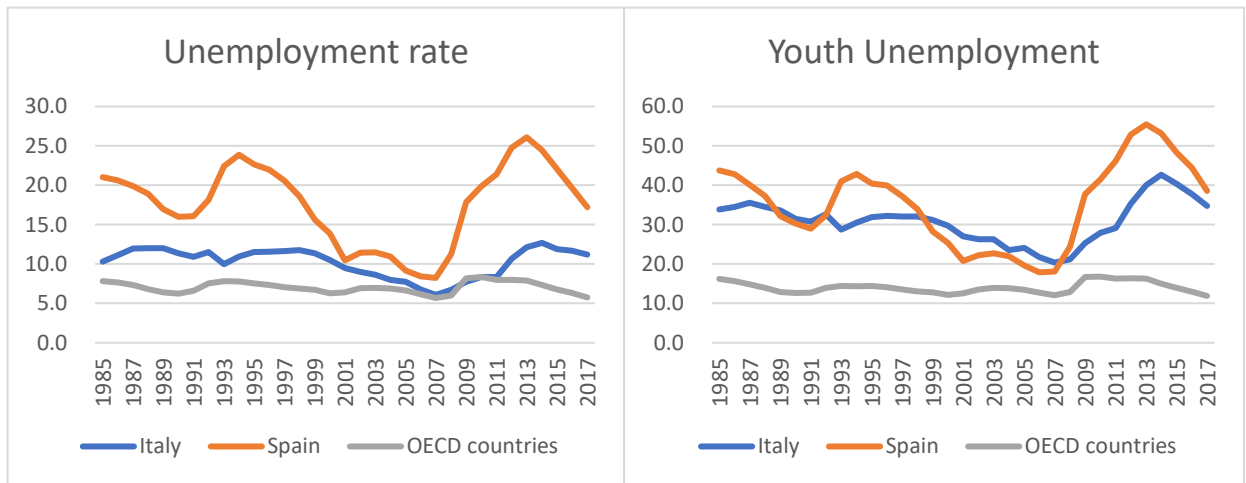


Figure 14 Unemployment and youth unemployment. Source: stats.OECD.org

Not only do the two countries face similar issues in their labour markets, but the pressures from the EU and other international institutions regarding reforms after the crisis, have been extremely similar (Petmesidou and Guillén, 2014; Barnard, 2014). A clear example of this is represented by the analogous letters sent to the Italian and Spanish Prime Ministers in 2011 by the European Central Bank (ECB) (European Central Bank, 2011; Corriere della Sera, 2011), calling for specific reforms of their institutions and labour market regulation in exchange for the ECB's ongoing support of their national bonds. For these reasons, Italy and Spain offer the optimal context for comparing the



reactions of social actors to reforms affecting the collective bargaining system; all the above-mentioned similarities between the two countries help in isolating variables of concern when evaluating the reasons behind the different reform outcomes.

The study is based on a first level analysis of the legislation of both countries, secondary literature and documents from international institutions, unions and governments, together with data from international and national statistical institutes. The concept of ‘derogation instruments’ is used with reference to all practices allowing modifications to pre-existing contracts or giving priority to lower level agreements (proximity contracts, opt-outs, derogations, disapplication of contracts). Also, ‘derogations’ is used in reference to the actual use of those instruments. In terms of measures used to qualify the use of derogations, it is not the intensity of their use that is considered; instead, it is their qualities that provide a more meaningful insight. For this reason, the prevalent object of the derogations, and the method in which they are agreed with – or imposed upon – workers will be considered, highlighting the main differences between the two countries.

### 3.5 Case studies

In recent decades, the labour market reforms that unfolded in Spain and Italy following a general trend of liberalisation can be divided in two main groups. The first is the flexibilisation of employment contracts, including the introduction of non-standard forms of employment, the relaxation of employment protection legislation (EPL) levels, the fragmentation of the production processes through outsourcing mechanisms, and the breakdown of the employment relationship through the introduction of work agencies as

intermediaries between employers and employees. The second group is related to collective bargaining, with reforms pointing to decentralisation by disempowering national and sectoral agreements in favour of local and company levels.

In the following sections, the reforms within these two domains will be discussed (details in Table 11 in the Annexes), highlighting both the similarities in terms of a general trend of liberalisation, and the crucial differences in the reforms that are at the root of the different outcomes in terms of social partners' responses. Regarding the first group of reforms, it will become clear how the earlier and stronger flexibilisation at the margins of the labour market in Spain determined a higher share of temporary workers than in Italy (Figure 15). Similarly, regarding collective bargaining, the tripartite dynamics between the legislator, employers and unions rolled out differently in the two countries, leading to reforms and outcomes that pushed the Spanish system towards a more decentralised and disorganised model. Pedersini and Leonardi (2018) argue that while both the Italian and Spanish systems entered the crisis adhering to a model of coordinated bargaining, they ended up in different situations; while Italy remains a 'coordinated bargaining system' with 'some elements of both decentralised and segmented bargaining models', Spain is now characterised by 'decentralised bargaining, potentially prone to a shift to disorganised bargaining' (pp.12-13).

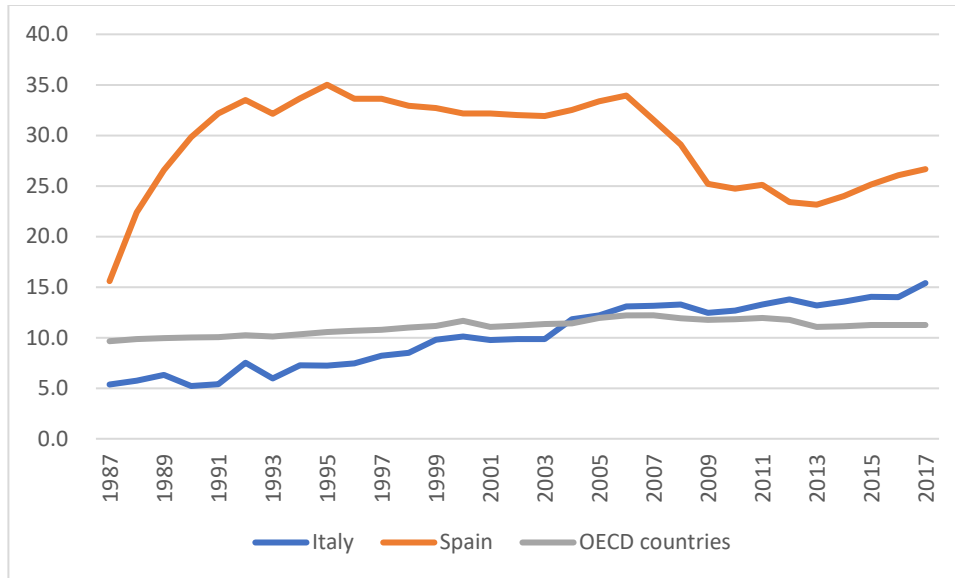


Figure 15 Incidence of temporary employment among all employed persons. Source: stats.OECD.org

### 3.5.1 - Italy

#### 3.5.1.1 - Flexibilisation of employment contracts

In Italy, the process of labour market flexibilisation began in 1997, with the so-called Treu Package; this reform set the beginning of ‘a new era of flexibility’ (Liso, 1999, p.13), by introducing new forms of temporary contracts, encouraging the use of part-time workers, and above all, legalising Agency Work.<sup>11</sup> Before then, any type of ‘interposition’ between employers and employees used to be deemed illegal; a form of unlawful labour brokerage. However, at this first stage, the law imposed many restraints on the use of agency work, limiting the cases in which it could be applied. After this first intervention, the major change to the labour market was introduced in 2003,<sup>12</sup> with the aim of providing freedom

<sup>11</sup> (IT) Law 196/1997

<sup>12</sup> (IT) Law 30/2003 and Legislative Decree 276/2003

of choice to employers between a wider range of possible work arrangements. For example, the so called '*lavoro a progetto*', project work, has been crucial in the Italian system of temporary work; originally meant to allow employers to commission a specific project or part of it to an autonomous worker - it ended up being the favoured tool in disguising a subordinate employment relationship. The reform pushed forward the freedom of Temporary Work Agencies, allowing them to sign open-ended contracts with their customers and to fill permanent positions with agency workers (staff-leasing); it also offered new options for subcontracting and the creation of ad-hoc subsidiaries.

After the 2008 crisis, the governments pursued reforms to meet the demands from European Institutions for less rigidity in the labour market; for example, by lowering protection from unfair dismissals, reducing the right to reinstatement to a residual category<sup>13</sup> (Carinci and Cester, 2015). A number of contract typologies have since been abolished to simplify the system, but many have been left untouched or just rebranded, and new instruments, such as 'vouchers' for casual jobs, have been introduced.<sup>14</sup> The share of temporary contracts in the Italian labour market began to rise steadily since the first introduction of flexible forms of work, especially among the youngest, but because of the more gradual easing of the levels of protection over the years, it has not reached Spanish levels.

#### *3.5.1.2 - Collective bargaining decentralisation*

The Italian system of collective bargaining rests on a multi-level structure, with agreements at national and regional levels, as well as industry, company and plant levels;

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<sup>13</sup> (IT) Law 92/2012 and Law Decree 23/2015

<sup>14</sup> (IT) Law Decree 81/2015

the relevance of each level of negotiation kept changing until the 1993 Accord, which helped in clarifying the scope of each agreement. There is no provision in the law that automatically extends the conditions set in collective agreements to all workers, but the combined reading of the Constitution and the Civil Code allows for the extension to become practice. One of the most important principles of the system was the prohibition for each negotiation level to introduce regressive derogations to higher agreements or the law, known as the principle of favourability - '*inderogabilità in pejus*'. This principle used to be of fundamental importance also in other jurisdictions, as France (Vigneau, 2003) and Germany, where is known as *Günstigkeitsprinzip* (Buschmann, 1993). It dictates a hierarchy between different levels of regulation of employment contracts, commanding both the relationship between statutory legislation and collective bargaining, and between different levels of collective agreements. The principle entails that collective agreements may only derogate from legislation and other agreements negotiated at higher level, for the benefit of employees.

However, this principle has started suffering many exceptions in the countries where it used to be at the roots of all relationships between different levels of regulations of employment relationships (Baccaro and Howell, 2017). In Italy, after the crisis, in 2009 the social partners reached an agreement<sup>15</sup> aimed at readjusting the structure and functioning of collective bargaining and introducing the possibility of derogations to collective agreements. The agreement was not signed by the largest Italian Union

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<sup>15</sup> (IT) Interconfederal Agreement 22<sup>nd</sup> January 2009

Confederation (CGIL), marking an important fracture in the cohesiveness of the labour movement.

In this context, one of the most notable Italian companies, FIAT, in 2010 signed agreements with unions in one of its plants derogating from the sectoral level contract; the metal union FIOM, affiliated to CGIL, did not sign the agreement and was eventually excluded from the representative bodies in the company. This was a major blow to the bargaining system since the 1993 agreement. Following international pressures to reform the labour market and aiming to please the employers, in 2011 the government launched ‘proximity contracts’,<sup>16</sup> which are company level agreements between employers and workers’ representatives that allow them to opt-out, not only from higher level agreements, but also to derogate from some national laws that protect employment rights.

Unions, however, found unity again in June 2011 when they reached a new accord<sup>17</sup> with Confindustria – one of the main employer associations – that introduced new criteria of representativeness at company level, and allowed for the decentralisation of collective bargaining within limits stricter than those that law 148/2011 would impose in the coming month of August. The agreement signalled the intention of unions and employers to cooperate to overcome the crisis and make use of derogations in a coordinated manner to improve work organisation; the agreement was then re-affirmed by a new agreement signed on the 21<sup>st</sup> of September 2011<sup>18</sup>, that also re-emphasised that company level negotiations can be admitted only on matters explicitly allowed by national

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<sup>16</sup> (IT) Art.8 Law 148/2011

<sup>17</sup> (IT) Interconfederal Agreement 28<sup>th</sup> June 2011.

<sup>18</sup> (IT) Pact of Implementation of the Interconfederal Agreement 28<sup>th</sup> June 2011 (21<sup>st</sup> September 2011).

level agreements. However, after this, it was the turn of employers to suffer a fracture; after the final signature of the September 2011 pact, FIAT decided to leave Confindustria, due to a disagreement with the content of the new accord (Malan, 2011). Lai (2011) questions the degree of freedom in determining employment conditions gained by FIAT in leaving the employers' association; this decision is nonetheless consistent with the historical adversarial relationship that FIAT had with unions, CGIL, and its metal union FIOM, in particular. Moreover, the most recent strategy led the company to merge with the American Chrysler Group and to offshore growing parts of the production chain, thus further severing the links between the company and local institutions.

However, it quickly became apparent that the agreement between Confindustria and the Unions Confederations would hold, even without the support of one of the major Italian companies. It is notable that the accord and the legislative action around the collective bargaining structure occurred at the same time, but the social partners agreed to take the matter in their own hands. The next agreement between Unions and Confindustria in 2014<sup>19</sup> followed the path established with the 2011 accord; company or local level agreements can derogate to sectoral agreements, but not to laws, and only within conditions established at national level. Similar agreements have been reached by Unions with other employers' associations, such as Confcommercio (2016).

#### *3.5.1.3 - The use of derogations*

In Italy, there is no official database recording all derogations. Moreover, according to Imberti (2013), derogations are occasionally used quietly to save the appearance of a

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<sup>19</sup> (IT) *Testo unico sulla Rappresentanza e Contrattazione Collettiva* (Agreement on Representation and Collective Bargaining) 10<sup>th</sup> January 2014.

compact front of unions opposing their use. The available data comes from the observatory on collective bargaining supported by CISL, the Italian union confederation that has shown the greatest propensity among the three main confederations to make use of the decentralisation opportunities included in the 2011 and 2014 accords. In terms of the intensity of the use of derogations, since their introduction only 4-5% of all signed agreements included derogations according to the estimate of the OCSEL CISL observatory (2012, 2015, 2017), set up by the Italian Union Confederation CISL to monitor collective bargaining at company and local level. The incidence of derogations on all signed agreements is not significantly different from the Spanish case, but the characteristics that aid an understanding of the differences between them, are their object, and their form.

First, derogations in Italy are mostly used to adjust work organisation at company level and to solve specific problems linked to company structural vicissitudes (Imberti, 2013). Data from OCSEL (2012, 2015, 2017), show that even though the majority of the derogations include changes to wages, a higher share is directed to adjust work organisation and working time (Table 9). Work organisation, according to OCSEL classification is mainly focused on innovation both in terms of human resource management practices (team-work, work-from-home schemes, ‘smart-working’ programmes) and technological change in the firm; while the ‘others’ category mainly includes roles definition, functional flexibility and related procedures. An inquiry of the OCSEL archives (not published in the reports) shows that derogations are predominantly used in the manufacturing sector, and evenly distributed between small, medium and large companies.



*Table 9 Italy. Object of derogations*

<b>Period</b>	<b>Work organisation</b>	<b>Working time</b>	<b>Wages</b>	<b>Others</b>
<b>2012</b>	64%	63%	55%	12%
<b>2013-2014</b>	48%	42%	38%	12%
<b>2015-2016</b>	62%	59%	56%	21%

*Percentages of agreements including derogations on each specific area. (Source: OCSEL CISL, 2012, 2015, 2017)*

Imberti (2013) provides a series of cases of derogations that took place ‘off the record’ to the satisfaction of both employers and unions. There are numerous accords related to working time that are meant to adjust arrangements decided at a higher level, and tailor them to the needs of the workers and the production in a specific plant. Other agreements are aimed at adjusting contracts during transition periods to guarantee business continuity and a smooth adoption of new contractual forms. Also, derogations related to the reduction of working time and wages have been agreed aiming to make room for hiring new workers in a period of crisis with the so called ‘expanding solidarity contracts’. This picture offered by Imberti (2013) confirms that the social partners overwhelmingly chose to use derogations to tackle issues relevant to the organisation of the workforce or the company, rather than to simply save on wages.

Secondly, Italian legislation still encourages coordination between unions and employers on derogations, but also the attitude of the social partners has been crucial in determining the way in which derogations are enacted. Indeed, they are likely to be agreed and managed by employers together with workers’ representatives. The agreements

reached in 2011 and 2014 by unions and employers ruled out the most disruptive part of the 2011 reform of collective bargaining, requiring derogations to stay within the limits purposely defined by national agreements; these agreements purported a shared willingness to use derogations in a joint approach to overcome difficulties and tailor strategies to local needs.

Imberti (2013) shows that some agreements actually took advantage of the larger framework provided by ‘proximity contracts’, beyond the provisions of sectoral agreements; however, the parts involved refused to classify such agreements as ‘proximity contracts’, preferring instead to focus on the exceptional circumstances that made a ‘special agreement’ necessary for the firm and the workers alike. This attitude confirms the aversion that the social partners have shown towards the interference of the legislator on matters related to collective bargaining and the willingness to demonstrate that they prefer to take such matters in their own hands. A union officer interviewed by Imberti (2013) points at how derogations have been agreed at plant level since the 1970s petrol crisis, well before the most recent reforms. Examples of company level agreements departing from national level contracts can also be found throughout the 1980s and 1990s (Fuso et al., 2011).

These examples confirm that the attitude of Italian social partners towards derogations has not been a passive acceptance of the regulations introduced by law; rather, they have been ‘appropriated’ by social partners and even used to forge new alliances to solve organisational problems. In order for derogations to be employed parsimoniously as useful instruments of autonomy, unions and workers must have enough power to be heard and employers must be committed to cooperate. The Italian case shows how

relatively stronger unions and employers, who are willing to keep working in the framework of sectoral agreements, results in a higher level of coordination in terms of employment relations, of which the nature of derogations offers a telling example. Despite the rising precarisation of the Italian workforce and the difficulties of unions facing common challenges of the crisis and the changing dynamics in the labour market, the Italian context remains comparatively more favourable than in Spain in terms of cooperative solutions between workers and employers at all levels of bargaining.

### 3.5.2 - Spain

#### 3.5.2.1 - *Flexibilisation of employment contracts*

In Spain, the process of labour market flexibilisation began to unfold 10 years earlier than in Italy (Malo de Molina, 1983). In 1982, with the desire to modernise the Spanish labour market, a new form of contract was introduced, and its scope was further expanded in 1984:<sup>20</sup> the *Contrato Temporal de Fomento del Empleo* (Temporary Contract for the Promotion of Employment), which was fixed-term, subject to low severance pay, and applicable to any kind of job without requiring employers to justify a short duration. The law, however, maintained the high level of employment protection legislation for permanent contracts. Thereafter, the incidence of employees on temporary contracts on the entire workforce started rising, becoming central in the organisation of the Spanish labour market. The abrupt introduction of the possibility for employers to rely on a very flexible workforce, easily hired and easily dismissed, influenced the production choices of firms and their approach to skills formation and workforce management. Multinational

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<sup>20</sup> (ES) Law 32/1984

corporations were keen on investing in the country, as well as major providers of Temporary Agency Work after they were allowed to operate in 1994<sup>21</sup> (Koene and Ansari, 2013). Since 1997, however, to tackle the impressively swift spread of temporary work, a new special contract for the promotion of permanent employment (*Contrato de Fomento de la Contratación Indefinida*) was introduced for targeted groups of workers, then extended to new categories.<sup>22</sup> The introduction of equal pay requirements for agency workers<sup>23</sup> in 1999 had the same purpose - to slow down the increase in the use of temporary agency work. Nonetheless, the share of non-standard contracts in the workforce remained stable at the highest levels in the OECD, and did not diminish.

When the 2008 economic crisis hit, many jobs, compared to Italy and other European countries, were destroyed. The explanation of this stronger effect is not controversial, and can be located in the exceptional bubble of real estate and construction sectors; its inflation was the drive of a particularly vigorous employment growth in the 2000s (Meardi, 2012), and the following burst, coupled with the ease of dismissing non-standard workers, which led to the demolition of thousands of jobs (Horwitz and Myant, 2015; Myant and Piasna, 2014). In this context, the Zapatero government was compelled to undertake structural reforms under the pressure of European Institutions.

The first main labour market reform in 2010 aimed to encourage the use of permanent contracts, but also to lower dismissals costs.<sup>24</sup> However, in 2011 the new

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<sup>21</sup> (ES) Law 14/1994

<sup>22</sup> (ES) Law 63/1997, Law 12/2001 and Decree 5/2006. See Bentolila et al. (2008), and Wölfl & Mora-sanguinetti (2011) for a concise account of the reforms between 1980 and 2006.

<sup>23</sup> (ES) Law 29/1999

<sup>24</sup> (ES) Royal Decree-Law 10/2010 then passed into Law 35/2010 with a few modifications.

centre-right government took indications of the European Union<sup>25</sup> even further than expected (Clauwaert and Schomann, 2013), allowing temporary work agencies to operate in sectors forbidden up to that point, such as construction and public administration, and even in sectors ‘at special risk’ in case of union agreement. Then, in 2012<sup>26</sup> the so called *Contrato de Apoyo a los Emprendadores* (Entrepreneurial Support Contract) was introduced for firms with less than 50 employees, featuring very low levels of employment security. All these reforms were undertaken without any consultation or negotiation with the social partners. The picture of the Spanish labour market emerging from these series of reforms shows that, even if in some instances the legislator tried to correct the imbalance of the system towards precarious forms of employment, the overall tendency was to keep introducing measures encouraging flexibility. Hence, the resulting situation was a labour market that heavily relied on the use of non-standard contracts, where unions hardly had a say on the reform process.

#### *3.5.2.2 - Collective bargaining decentralisation*

Spain used to be characterised by an ‘intermediate degree’ of *collective bargaining* centralisation (Wölfl and Mora-Sanguinetti, 2011) with a significant portion of the negotiations taking place at sectoral or provincial level. Opt-out clauses were already admitted in the system before the crisis in the *Estatuto de los Trabajadores* (Workers’ Statute) but they were quite difficult to activate, subject to consent by union committees and in general, strictly regulated. However, after the crisis, facing significant pressure from external actors, the government intervened on the collective bargaining regulation,

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<sup>25</sup> (EU) Directive 2008/104/EC

<sup>26</sup> (ES) Law 3/2012

first in 2010,<sup>27</sup> to ease the use of opt-out clauses, and then again in 2011,<sup>28</sup> introducing a priority of company agreements over sectoral, on a series of issues, including wages. Still retaining many levels of collective agreements, the new legislation changed mutual priorities, and introduced more internal flexibility for employers and mediation as a tool for solving conflicts in case of disagreement with unions. However, at this stage, bargaining units at provincial or higher level were still able to intervene on the collective bargaining structure and on competition between agreements.

In 2012, social partners signed a triennial agreement<sup>29</sup> already conceding some room to secondary level negotiation. However, the subsequent legislative interventions disregarded the agreement and went a few steps further. *Law 3/2012* gave priority to company-level agreements over all other contractual levels, empowering new local bargaining units and allowing regressive derogations by default. It also introduced the possibility for individual companies to ‘opt-out’ from multi-employer agreements, also in relation to wages.

The last blow to the collective bargaining system was a change to the ‘*ultraactividad*’ of collective contracts; this clause allows workers to be covered by the same level of wages and working conditions, even after the ‘expiry date’ of a collective agreement; however, the reform reduced it from indefinite to a maximum of one year. After that term, all acquired rights and conditions are repealed until a new agreement is signed, to the detriment of unions’ power and ability to negotiate in the long term. This is

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<sup>27</sup> Royal Decree 10/2010

<sup>28</sup> Royal Decree Law 7/2011

<sup>29</sup> (ES) II AENC - *II Acuerdo para el Empleo y la Negociación Colectiva* 2012, 2013, 2014 (Second Agreement for Employment and Collective Bargaining)

likely the reason of the 58% increase in the number of collective agreements signed in the year following the implementation of the reform; unions were pressed to sign agreements to avoid the terms of employment to plummet at minimum levels after the expiration of the collective agreement (Rocha, 2018). However, despite the protests that these reforms, together with general austerity measures, fuelled in the population (BBC News, 2012), in the 2015 new triennial agreement<sup>30</sup> between unions and employers, there has been no rejection of such practices or commitment to a different approach.

#### *3.5.2.3 - The use of derogations*

In Spain, the use of derogations and opt-out clauses has risen since 2012, especially among small-medium enterprises, and in the service sector to a great extent. The percentage of agreements, including derogations, is not very different from the Italian date – at around the 5% mark. But in addition to that, the possibility to disapply collective contracts has been used during periods of negotiation, thus taking advantage of the pressures exerted on unions by the recent limitations of the *‘ultraactividad’* of expired contracts. Finally, even more so than derogations and opt-out clauses, unions lament the intensive use by employers of the practice of unilaterally changing working conditions on the basis of the new Art.41 of the Workers’ Statute (Llorente and Pinto Hernández, 2014).

First, the focus of derogations in Spain is the economic treatment of workers. The available data show that, on average, more than 80% of contracts that disapply some

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<sup>30</sup> III AENC – III Acuerdo para el empleo y la negociación colectiva 2015, 2016 y 2017 (Third Agreement for Employment and Collective Bargaining)

norms from the collective agreements include derogations on wage levels, with a peak of 91.9% in 2014 (Table 10).

*Table 10 Spain. Object of derogations*

<b>Period</b>	<b>Wages</b>	<b>Wages structure</b>	<b>Working time</b>	<b>Others</b>
<b>2013</b>	86.5%	15.7%	7.9%	12.2%
<b>2014</b>	91.9%	23.2%	6.8%	10.9%
<b>2015</b>	82.8%	20.8%	5.8%	13.7%
<b>2016*</b>	80.8%	20.5%	7.4%	12.1%

*Percentages of agreements, including the disapplication of norms on each specific area. (Data analysed by author from the Ministerio del Empleo, 2013-2016)*

*\*provisional data*

Wage setting bargaining at company and provincial-sectoral level was already prevalent in Spain before the crisis (Hancké and Herrmann, 2007), and the possibility to derogate to wage levels already existed. However, the latest reforms made it much easier to activate regressive derogations, removing the limitations that were in place to keep the higher-level bargaining units in general control of the wage levels. First, the 2010-2012 series of reforms gave priority to company-level agreements over all other levels, and eased employers' access to opt out clauses, allowing individual employers to lower wages without needing unions' consent; second, the reduction of the *ultraactividad* period for collective agreements gives power to employers by pushing unions to accept lower terms to avoid being left in an even worse position. Overall, as maintained by Vivero et al. (2016), the new regulation of collective bargaining formally allows employers to reduce wages through various methods, like the disapplication of sectoral agreements and



contracts signed by new bargaining units at company level. The elements of the compensation on which derogations can intervene are numerous - from the base salary to overtime and bonuses.

In terms of the consequences of derogations on wages, Vivero et al. (2016) show how enterprise level agreements can be used as a tool to lower the base salary, especially in sectors with a low skilled workforce. Also, these agreements are fertile ground for unlawful practices; even if violations are not widespread, this adds a soft spot, especially in low wage sectors. Furthermore, Rocha (2018) suggests that the decline in real wages in Spain following the crisis can be linked to the increase in use of derogations at company level, to the blooming of new bargaining units keen to reach regressive agreements on wages, and above all - to the fresh possibility for employers to unilaterally modify working conditions.

Secondly, Spanish unions and commentators are concerned about the intense use of unilateral derogations, feared also for their potential to disempower unions by excluding them from crucial decisions regarding changes to previously agreed employment contracts (Cruz Villalón, 2013). National statistics show that the disapplication of collective agreements happens in more than 90% of cases through an agreement reached during a specific consultation period. However, unions at national level cast doubt on the legality of agreements reached in some of the smallest companies (Confederación Sindical de CCOO, 2014) that can be pressed to accept poorer terms, especially during crisis periods. The possibility for employers to unilaterally change working conditions under the modified Art. 41 of the workers' statute means that, even if consultation periods are observed, the power to intervene on employment conditions

ultimately lies with the employer, who could push unions to agree to sub-optimal conditions in fear of ending up with even worse conditions after the consultation period expires.

### 3.6 Discussion

As suggested by Pedersini and Leonardi (2018), the Spanish bargaining system has suffered a stronger shift towards decentralisation than in Italy. The complexity of the economic circumstances, labour market structures, reform details and social partners' behaviours influencing the extent of such a shift, is difficult to capture. However, the similarities between Italy and Spain via key characterising variables simplify the task of singling out the elements that account for the variations discussed.

#### 3.6.1 - Economic and political contexts: similarities and differences

Spain and Italy have comparable economic structures in terms of their dimensions (including significant informal areas); the relative weight of their economic sectors and share of exports are similar as well as discussed in section 3.4. However, it must be acknowledged that even if the sectoral contribution to GDP of Spain and Italy is extremely similar, the product market strategies in the two countries show relevant variations. Herrmann (2005) discusses how the manufacturing sectors in Italy and Spain differ in terms of competitive advantage; while Italy chose a path of high value-added production, the Spanish economy specialised in low-cost manufacturing. According to Hancké and Hermann (2007) these strategies are reinforced by the wage-setting systems adopted in each country; they argue that Italian employers' support for centralized bargaining is mirrored by their willingness to provide high-level training to workers, aimed at

producing high value-added products. Conversely, Spanish employers prefer decentralised bargaining, with higher inequality and on average lower wages; but they also accept to rely on a less skilled workforce in pursuit of a low-cost, low-value-added strategy. These authors focus on employers' choices as the determinants of these structural differences among the two countries.

However, these differences particularly apparent in the complexity of manufacturing production, can also be explained within the model I propose in this chapter, having as a starting point the earlier Spanish labour market deregulation that happened right after the transition from Franco's regime to democracy as discussed below. In order to encourage job creation, economic growth and innovation, the Spanish labour market in the 1980s was already set on a path of flexibilisation that encouraged employers to direct their investments towards lower value-added productions. This is apparent also in the early development of the staffing industry in Spain (Koene and Ansari, 2013). Conversely, in Italy, despite the presence of firms competing over costs reduction, the manufacturing sector was boosted by firms competing over quality, design, diversification and flexibility of production not fuelled by ease of dismissals but by highly adaptable and specialised workforce (Regini, 1997).

The second relevant similarity regards the almost identical pressures from international institutions that the two countries face, especially during the crisis; the two letters sent by the ECB in 2011 recommending structural reforms are similar in every respect, including straightforward indications to empower firm level agreements within the collective wage bargaining system (European Central Bank, 2011; Corriere della Sera, 2011); this excludes external influences as possible explanations for diverging trajectories

of the two national bargaining systems. Furthermore, the stronger effect of the crisis on Spanish employment levels can be reconducted to the ease of dismissing non-standard workers in the context of the burst of the construction bubble (Horwitz and Myant, 2015; Myant and Piasna, 2014).

### 3.6.2 - Spanish and Italian labour markets

The main difference in the labour market structure of the two countries relates to the fact that Spain underwent an earlier and more intense process of deregulation of employment contracts. It began the process of flexibilisation of its labour market 10 years before Italy. At the beginning of the 1980s, the country had just emerged from Franco's dictatorship and the necessity to innovate the economy and the labour market led to the creation of temporary contracts aimed at encouraging job creation (Toharia, 1999). At the same time, the reforms left a high level of employment protection for the core workforce; this led to the creation of a very insecure workforce, struggling to move up from temporary entry positions (Amuedo-Dorantes, 2000), and to the qualification of the Spanish labour market as extremely dualised and difficult to reform by some authors (Bentolila et al., 2011). The Spanish share of temporary contracts before the crisis was by far the highest in the OECD group of countries; at its peak in 2006, the share of temporary workers in Spain was 33.95% of all dependent workers, compared with 13.10% in Italy in the same year.

The share of temporary workers is not the best measure of precarity in the labour market, but in this context, it serves as an indication of the reliance of the system on easy hiring and dismissals. In general, high levels of precarity in the workforce has been shown

to be detrimental in terms of unions' ability to recruit and organise its members, gain leverage in collective bargaining and other negotiations, and to influence legislative action (Doellgast et al., 2018b). For example, Benassi et al. (2018) show the effects of the liberalisation of agency work on the ability of employers to exploit labour divides to prevent unions to negotiate effectively. This relationship between precarious workers and collective bargaining has been shown by studies at industry level in different sectors (Benassi et al., 2016; Shire et al., 2009; Marginson and Galetto, 2016), confirming the detrimental effect of workforce precarity on unions' power and collective bargaining coordination.

The Spanish labour market, following the early reforms in the 1980s, was extremely fragmented and this posed a challenge to unions' ability to successfully represent the whole workforce through to the 1990s (Richards and Polavieja, 1997; Toharia and Malo, 2000). Pulignano et al. (2016) emphasise the choice of Spanish unions to focus on macro-level dialogue and pressure to improve precarious workers' conditions, instead of trying to reinforce their power at micro-level by encouraging membership. However, the most recent developments show that unions in Spain have failed to claim their place at the negotiation table at national level, which has resulted in regressive reforms, not only for precarious workers, but for the whole workforce, further weakening unions' power in collective bargaining. During and after the economic crisis, both the government and employers did not refrain from taking crucial decisions without listening to unions' requests and proposals.

Beside the effect of the workforce's flexibilisation on union strength and their ability to intervene in the regulation process, a system that relies heavily on the use of

temporary contracts can affect employers' behaviour and preferences. The intense use of temporary or precarious employment generates higher turnover in the workforce (Bertola et al., 2000), which is linked to short-term strategies in labour relations, typical of liberal market economies (Hall and Soskice, 2001). This attitude has an effect on a wide range of choices made by employers in domains like skills formation (Estevez-Abe et al., 2001) and product-market strategies (Hancké and Herrmann, 2007). Above all, in the context of a highly deregulated labour market, employers are enabled to pursue strategies that allow an easy exit from commitment to their workforce, through the use of agency work, outsourcing or quick lay-offs. Finally, a more intense use of flexible contracts has been associated to more labour conflict (Alemán, 2009). Thus, in the context of a deregulated labour market and a large share of temporary workers we can expect employers to opt for a style of industrial relations that does not favour coordination with unions and long-term investments in workers.

When the 2008 crisis struck, even if both Italy and Spain yielded to similar pressures to reform their economies and labour markets, the Spanish social partners were less keen to find coordinated solutions to these changes. In the 2012 agreement between the social partners,<sup>31</sup> (Confederación Sindical de CCOO, 2012) derogations were seen as opportunities for internal flexibility that could replace the heavy use of external flexibility made by the employers to adjust the workforce to production needs. However, both their methods and prevalent objects suggest that rather than being used for organisational purposes to avoid dismissals and short-term hiring, derogations in Spain were mostly used

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<sup>31</sup> (ES) II AENC - *II Acuerdo para el Empleo y la Negociación Colectiva* 2012, 2013, 2014. (Third Agreement for Employment and Collective Bargaining)

to control costs. Conversely, Italian employers facing more limits in their use of external flexibility and being more used to a certain degree of coordination with labour, were keener to settle for a more constructive use of derogations within the limits agreed with unions; the fact that Confindustria was ready to let FIAT leave the organisation instead of changing the terms of the 2011 accord with the unions, represents an important signal of the resolution of the Italian employers to find shared solutions to tackle the aftermath of the crisis.

The two distinctive characteristics of derogations in each country, their object and method, are not independent. In the Italian case, as suggested by Imberti (2013), the participation of unions to the decisional process regarding derogations in many instances is perceived as necessary in supporting agreements that need to be implemented with the participation of workers and their representatives. Also, changes in the organisation of work can also be initiated by unions to improve working conditions. On the other hand, regressive wage adjustments, prevalent in the Spanish case, can be achieved with unions' consensus in the form of concessions, but are also more likely to occur under the threat of unilateral opt-outs after the expiration of consultation periods following contracts' expiration.

*Table 11 Nature of derogations in Spain and Italy*

	Object of derogations	Method of derogations
Italy	Work Organisation	Negotiated
Spain	Wages	Unilateral

This explains the mechanisms behind the different trajectories of the Italian and Spanish systems of collective bargaining, and considers the way derogations are used as a measure of the level of coordination across the two countries. An early and more intense labour market deregulation fuels the use of temporary contracts, leading to weaker unions and short-term oriented employers - these explain the approach of both parties to the new regulation of derogations after the economic crisis. Then, derogations dominated by employers' willpower and focused on wages are likely to further weaken unions, both in their collective bargaining position and their influence on government policies and legislation. This mechanism highlights a feedback-effect that sheds light on the avalanche effect of deregulation at the margins of the labour market on the whole system of industrial relations.

### 3.7 Conclusion

This chapter examines the different aspects of deregulation of labour markets and employment relations in Spain and Italy, with a special focus on reforms implemented after the 2008 crisis in terms of employment flexibilisation and collective bargaining decentralisation. Some authors stress how the trend of neo-liberal reforms (Baccaro and Howell, 2017) and the decline in coordination (Marginson, 2015) are common features of European Countries in recent years; indeed, these tendencies have shown striking similarities in Spain and Italy. However, this chapter shows that social partners responded differently to those reforms, specifically, in the way they used the possibility to derogate to collective agreements, and determine a sharper decline in coordination in Spain than in Italy. The data on the use of derogations show how the Italian and Spanish approach to derogations differed in two main ways; first, wages are the prevalent object of derogations



in Spain, while in Italy they focus more on organisational aspects. Second, the method through which derogations were introduced was more cooperative in Italy than in Spain.

This chapter explains such differences by looking at the main characteristics and reforms of both labour markets; the extremely high share of temporary workers originated from the 1982-84 reform introducing non-standard contracts had the effect of weakening unions and fostering a short-term approach to industrial relations among employers. In this context, the employers are arguably keener to exploit derogations as a tool to lower labour costs, as opposed to the Italian case where a certain degree of coordination between unions and employers survives in the compromises around derogations.

This chapter's contribution to the literature is two-fold. First, to the debate on convergence and divergence of models of capitalism in Europe; many authors focus on the common trend of liberalisation (Baccaro and Howell, 2017) and decline in coordination (Marginson, 2015) taking place in European countries; or vice versa, maintain that countries with the same type of economies retain their similarities (Molina and Rhodes, 2007). I have shown that different responses of the social partners can make a significant difference in the outcomes of similar reforms in similar contexts. The second contribution relates to discussions in the levels of coordination in European countries (Leonardi and Pedersini, 2018; Koukiadaki et al., 2014); here, I discuss the interaction between the flexibilisation of employment contracts and the attitude of social partners towards instruments of derogations to collective agreements, explaining why Italy and Spain had such different outcomes. I have proposed a model that highlights a vicious circle that starts with intense labour market deregulation that fosters precarity in the labour force, stimulating a short-term approach to employment relations for employers, and in

turn, weakening unions. This is at the root of a less coordinated system of bargaining where derogations are welcomed by employers alone, and largely used to control wages.

This study has a major limitation related to the incomplete nature of the Italian data. Despite the commendable work of the CISL-OCSEL observatory that offers an interesting sample of contracts, the availability of a more complete database would address the selection bias that could affect the current voluntaristic Italian archive. However, in 2016 the Italian Ministry of Labour established a register for recording secondary levels contracts and their terms. Future research could be able to access that database to confirm the tendencies I have discussed in this study. Moreover, further inquiry will be necessary to confirm that the higher coordination level of the Italian system is not just a ‘honeymoon effect’ after the 2011 and 2014 accords.

### 3.8 Summary of contributions to the thesis

This chapter focused on collective bargaining institutions, offering an analysis at meso-level of the strategies for improving workers’ conditions. It found that Italy managed to retain a more coordinated system of industrial relations, and social partners were keen on a more cooperative approach to derogations than Spain. The explanation offered is that a lower EPL and a highly flexible workforce contribute to weakening union power, and fostering employers’ lack of interest in long term relationships with workers and unions. This contributes to the argument of the thesis about the merits of labour market deregulation in improving working conditions of marginal workers, by showing that it weakens the whole system of collective bargaining, with detrimental effect for the whole workforce.

Furthermore, it is worth noting that the hypothesis discussed in this study is compatible with the measures of precarity and background mechanisms already discussed in Chapter 2. Indeed, the data related to the risk of poverty and related dimensions in Spain confirm the increase in economic precarity in recent years and poor compared to other OECD countries and Italy as well. The analysis of economic precarity is beyond the scope of this chapter, hence I did not discuss it at length; a summary comparison of the relevant indexes between Spain and Italy can be seen in Table 12 in the Annexes.

Finally, by showing the detrimental effects of deregulation at the margins of the labour market for the whole workforce, the chapter engages with the dualism literature. The disruption brought in the level of coordination of the industrial relations system by the Spanish comparatively stronger deregulation, negatively affected temporary and standard workers alike; the vicious circle that starts with deregulation at the margin of the Spanish labour market does not only affect the outsiders. This contributed to the wider argument of the thesis about the need to evaluate labour market reforms without opposing the interests of regular and temporary workers; reforms weakening collective bargaining institutions are indeed harmful for the ability of labour as a whole to positively impact contractual conditions.

## 3.9 Annexes

*Table 12 Summary of Labour Market reforms in Spain and Italy, up to 2015*

	<b>Spain</b>	<b>Italy</b>
<b>Flexibilisation of employment contracts</b>	<p>1984 – Law 32/1984: Contrato Temporal de Fomento del Empleo: introducing temporary contracts.</p> <p>1994 – Law 14/1994: Temporary Work Agencies are authorised and regulated for the first time.</p> <p>2010 – Royal Decree Law 10/2010: easing dismissals by widening the meaning of ‘reasonableness’ concept and Temporary Work Agency allowed to operate in new sectors.</p> <p>2012 – Law 3/2012: Contrato de Apoyo a los Emprendedores: allows the hiring of workers with long probation periods without any security.</p>	<p>1997 – Treu Package: introduction of new forms of non-standard contracts. Temporary Work Agencies are authorised and regulated for the first time.</p> <p>2003 – Law 30/2003: new series of atypical contracts; among them ‘lavoro a progetto’, project work. Increase in the range of activities and sectors where Temporary Agency Workers can operate; increase in subcontracting options and creation of ad hoc subsidiaries.</p> <p>2012- Law 92/2012: weakening protection from unfair dismissals: choice between reinstatement and compensation.</p> <p>2014 – Law 78/2014: removal of the justification requirement for the use of temporary agency work.</p> <p>2015 - Law Decree 23/2015: new regulation for collective and individual dismissals. Further weakening of reinstatement protection.</p> <p>L. Decree 81/2015: removal of the restrictions to specific cases for long-term agency work contracts.</p>
<b>Decentralisation of collective bargaining</b>	<p>2011 – Royal Decree Law 7/2011: possibility for collective agreements to rule over the higher level cases.</p> <p>2012 – Law 3/2012: priority given to company level agreements; reduction of ultra-actividad of collective agreements; employers allowed to unilaterally change some conditions (reform of art. 41 Estatuto Trabajadores)</p>	<p>2011 – 148/2011: proximity contracts: company level agreements can derogate to higher levels of collective contracts and to some national laws.</p>

Table 13 Economic precarity dimensions (year 2014)

Compared dimensions		Spain	Italy
Labour market structure	Non-standard contracts - %	24.0	13.6
	Low paid work - %	14.59	7.63
Risk of poverty	Risk of poverty or social exclusion - %	29.2	28.3
	In work at risk of poverty permanent workers - %	5.9	7.1
	In work at risk of poverty temporary workers - %	22.9	17.9
Mechanisms behind the risk of poverty	Households with low work intensity - %	17.1	12.1
	Quality of earnings <sup>1</sup> - USD	16.7	18.01
	Labour market insecurity - (expected earnings loss %)	19.58	11.68
Effect of social transfers	Risk of poverty before social transfers - %	31.1	24.7
	Risk of poverty after social transfers - %	22.2	19.4

Data from EU-SILC and OECD. <sup>1</sup> year 2012

## Chapter 4

### Winning a Battle Against the Odds: A Cleaners' Campaign

## 4.1 Abstract

*This chapter analyses the critical case of a campaign that led a British university to re-establish in-house cleaning services after years of outsourcing. The study is based on interviews with various actors, participant observation of the union's activities and document analysis. The small independent union leading the campaign began from an extremely low level of power resources and managed to build associational power by increasing its membership and gaining public support. I find that this highly successful strategy can be broken down into three phases: first, an approaching phase with a focus on the collectivisation of action to solve individual issues; second, a mobilisation phase including seminars on employment law and workers' rights in a politicised framework; and finally, the phase of the major dispute characterised by a broad approach to the idea of disruption, targeting the reputation of the University as the most important element of its core business.*

## 4.2 Introduction

Changes in the world of work, in terms of workforce composition, the evolution of major sectors, and changes in labour market regulation are among the many reasons for the long-standing crisis of unions. The most vulnerable workers, often migrant, precarious and low paid, are considered extremely difficult to organise and represent; however, because the share of precarious workers is rapidly rising, it thus becomes increasingly important for unions to be able to organise this growing share of the workforce (Frege and Kelly, 2003; Murray, 2017).

During 2016 and 2017, a campaign took place at a British university, led by a group of cleaners organised around a small independent union, which ended with the University bringing the workers back in-house from the previous outsourced arrangements with an external contractor. The peculiarities of this case are of academic interest for various reasons. The workforce involved was almost entirely composed of migrants with scattered job arrangements, shifts and high turnaround, which meant that organising and mobilising them was particularly difficult; but also, the independent union was not recognised by the employers and could count on very few resources. Indeed, larger unions with more resources and strength had previously failed to achieve comparable victories for the university cleaners. What strategies led the smaller and seemingly weak union to succeed in mobilising workers and winning the dispute? What lessons can be drawn from this case to understand, under what conditions in general, unions are able to organise and represent precarious workers?



To answer this question, this chapter examines this critical case by analysing the three key phases and relative strategies of the campaign that led the union to overcome the seemingly impossible lack of power resources. Findings are based on interviews with workers, union representatives, both at the independent and national unions, activists involved in the campaign, and, researchers and journalists covering the unfolding events. I also integrate data from the interviews with material provided by the independent union for the workers and the media via their social media accounts, and with participant observation of the union's organisation and activities at their office during regular working hours and general meetings.

This chapter first presents past research on unions' strategies in organising precarious and migrant workers and introduces its position, within and contribution to, the literature; second, it outlines the research methods and context of the project; third, the story of the university cleaners' campaign is summarised; fourth, the chapter analyses the union's key strategies, first in approaching and mobilising workers, and then in winning their dispute. The three distinct strategies analysed are the approach to individual grievances with collective action; the ideologically framed teaching of employment law for all union members; and the strategy of disrupting the university's status as the main target. Lastly, I discuss these findings and draw conclusions on conditions that can improve the ability to represent vulnerable and precarious workers' instances, both for small independent and also national unions.

## 4.3 Literature review

The industrial relations literature recognises the importance of unions' ability to organise or include marginalised workers within their structures. More specifically, there is a growing body of literature on union deals with migrants, who face a particularly high risk of being employed in precarious jobs (Meardi et al., 2012) and are also likely to get trapped in a web of 'institutionalised uncertainty' (Anderson, 2010), which increases their insecurity and can lower their ability to react to worsening working conditions. The difficulties encountered by unions aiming to organise migrant and precarious workers are apparent; research shows that structural changes are often needed to succeed, for example an increase in internal democracy (Marino, 2015). However, the structural and organisational changes requested can be so radical (Jiang and Korczynski, 2016) that new, small unions can be better suited at organising marginalised labour than the biggest, oldest unions, which need to adapt (Gumbrell-McCormick, 2011).

### 4.3.1 - Power resources

The literature addressing union revitalisation explores strategies available to unions to reinforce their position (Frege and Kelly, 2003) and to renew their approach in light of new challenges (Murray, 2017); however, the strategies suggested centre on the assumption of the previous existence of some power resources (Korpi, 1983) to then build upon. Studies that look at the conditions under which unions can successfully organise precarious workers, usually analyse cases whereby they were equipped with power resources – either associational, structural or institutional (Silver, 2003; Dörre et al., 2009) – as a starting point. First, the Justice for Janitors campaign in the 1980s in the U.S.

(Savage, 2006) could count on a high level of *associational* power, given by the relevance of the union organising the campaign, which had a large membership – and held a leading position in the American Unions Confederation and alliances with other civil rights and environmental movements. Also, shared commitments and goals, together with common underlying values between trade unions, can be sources of associational power, as shown by Hibbs' study on the Swedish labour movement (1991), and vice versa (Fletcher and Gapasin, 2008). Second, Wagner and Refslund (2016) show that the Danish institutional setting has been crucial for unions' ability to organise workers in the slaughterhouse sector, providing them with *institutional* power as a starting point for a cohesive labour movement.

Third, Benassi and Dorigatti (2015) provide an example of a successful campaign for agency workers in the metal sector; in terms of the 'location of workers within the economic system' (Wright, 2000, p. 962), the relevant German metal sector provides a favourable setting for unions, and a certain degree of *structural* power. As shown by Benassi et al. (2018), different types of power resources can interact to determine the success of specific campaigns; conversely, it is most unlikely that unions that are completely devoid of any form of power resource could successfully organise and win a campaign for precarious migrant workers in a short period of time. The campaign analysed in this chapter is indeed a critical case of success, even though the above-mentioned power resources were at a minimum level at onset.

This pristine starting point for the campaign, with the union's power resources at near zero, offers a rare opportunity to observe a union's activity in building up its strengths from the very beginning and conceptualise the whole strategy as a process. Moreover, the

literature overlooks the idea of a holistic strategy characterised by different phases and appropriate approaches to each phase that can be conceptualised as a process. In this study, I argue that it is necessary to introduce a longitudinal perspective on union strategies that goes from the very beginning of organisational efforts to the end of a campaign; for this reason, I discuss the combination of three strategies centred on the specific aims of each different stage leading to a build-up of associational power resources and eventually to a successful epilogue. Each strategy is already tangentially discussed in the literature, but I argue that through contextualising a three-phase process we can gain a deeper understanding of the elements that are conducive to a successful campaign from the first approach to the end of the dispute.

#### 4.3.2 - Three phases conceptualisation

The first phase deals with the collectivisation of solutions to individual problems. Heery and Abbott (2000) discuss the different responses of unions to the insecure workforce and analyse the approach to recruitment through ‘servicing’, aimed at attracting workers through *individual representation*. However, the idea of representation of individual grievances is usually associated with the offer of services, such as financial assistance, training and so forth (Waddington and Whitston, 1997). This perspective leads to contrast individual and collective reasons for joining a union, and to a polarisation - as if individual and collective representation needs an exclusive focus to define their nature (Ackers and Payne, 1998; Heery and Adler, 2004; Peetz, 2010). On the contrary, I argue that individual representation should be seen, not only as a service to offer to attract members, or even to a lesser extent the main vocation of the union, but as a starting point, leading to collective mobilisation by showing vulnerable workers that there is space for

action in protecting their rights and improving their working conditions, both individually and collectively. The strategy of identifying a ‘winnable issue’ to focus on in order to show people their power, has already been employed and theorised by the community activist and Industrial Areas Foundation, director Ed Chambers (2018). However, in the cleaners’ campaign case, there is an additional step to be considered, which is the effort to move from the individual issue to the collective problem.

The second phase is centred on enabling education on workers’ rights. When discussing unions’ activities oriented to education and training, the literature focuses on a few specific areas of *learning*. Studies look at language courses (Heyes, 2009), learning initiatives targeted at increasing employability, personal or work-related development (Warhurst, et al. 2007) or vocational training and state-funded initiatives (McIlroy, 2008; Lee and Cassell, 2011). Also, specific attention is paid to training aimed at union representatives (Murray et al., 2014; Rainbird & Stuart, 2011). Mustchin (2012) mentions the importance of initiatives for learning employment rights during the Justice for Cleaners campaign in the UK. However, there is a lack of an in-depth analysis of the relevance and meaning of teaching employment rights to all union members, not only to delegates. In this chapter, I examine employment rights teaching for all union members during the campaign, and its key role in the following mobilisation.

Finally, the use of *name-and-shame practices* as a tool for pushing employers to make concessions is discussed in the literature, especially when analysing strategies within individual campaigns. Benassi and Dorigatti (2015) show the relevance of the name-and-shame strategy in a campaign by IG Metal in Germany, while Doellgast et al. (2015) talk about media attention on France Telecom during a union campaign following

a crisis in the company. However, I frame this strategy with reference to the idea of a disruption of the employer's core activity as the central tool of the campaign, which according to both the organisers and union members, was key in winning the dispute.

#### 4.3.3 - Mobilisation theory

This three-phase process at the centre of this chapter, shares some of the underlying mechanisms with Tilly's (1978) mobilisation theory; Tilly maintains that collective action must be analysed taking into consideration five components; interests, organisation, mobilisation, opportunity and collective action itself (p.7). Kelly (1998) explored the relevance of mobilization theory in the industrial relations field, particularly stressing the role played by the perception of injustice as the origin of workers' collective definition of their interest. Indeed, in the present case study the move from workers' dissatisfaction to a shared sense of injustice (McAdam, 1988; Kelly, 1998) has been achieved within the second phase of the process centred around the concept of education. However, while mobilisation theorists analyse the definition of interests as the starting point of the process leading to collective action, in this case study I show union's ability to trigger collective action on individual grievances, even before starting the education phase in which the injustice mechanism has been activated.

This aspect of the mobilisation process makes this case study of particular relevance in light of the debate on unions' decline. In the UK and other Anglo-Saxon countries the shift from collectivism to individualism has been intensely discussed, but the trend of acceptance of neo-liberal, individualistic consensus seems to be a common pattern almost everywhere (Baccaro and Howell, 2017; Rasmussen and Torben, 2006),

leading to a dramatic weakening of the labour movement. For this reason, the ability of unions to mobilise collective action to protect individual interests before the identification of shared ones, is a critical case that represents a step forward from the more traditional ways of organising.

There are two other major considerations regarding the 3-phase process presented here, and the 5 components of collective action discussed by Tilly (1978) and Kelly (1998). First, the components of *organisation* and *opportunity* are seen as necessary to go from mobilization to collective action; however, the concept of organisation as presented in the original theory has been discussed in the literature, questioning its value as a distinct concept from mobilisation itself (Kaufman, 2018; Holgate et al., 2018). Here, I conceptualise ‘organisation’ and ‘opportunity’, among structural and associational power resources; in the premises of this case study I identified those resources for the Independent Union close to zero. For this reason, the process discussed here do not follow the structure of the original mobilisation theory, but rather analyses the key elements of a successful campaign in absence of enabling opportunities and structural and organisational strengths.

Second, mobilisation theory highlights the role of union leaders in mobilising workers (Kelly, 1998; Fantasia, 1988; Simms and Dean, 2015; Darlington, 2018), framing their interests and promoting action. In this case study the Independent Union Secretary was clearly a charismatic leader that had the ability to encourage workers, build a community and push toward action. However, he decided to resign from his role, asking to be classified just as one of the many activists; the union transformed its structure trying to keep it extremely flat in order to diffuse leadership and increase visibility of regular

union members instead of that of union officers. Even the analysis of their social media presence shows a gradual shift of attention from union organisers to regular members; those who could be identified as leaders, would speak less often during demonstrations and appear less regularly on pictures. Furthermore, they decided not to show up in new workplaces even when invited by workers; instead they would entrust them with recruitment of new members and organising activities. For these reasons, this chapter does not analyse the role of leadership in workers' mobilisation in this specific case, but suggests instead that the Independent Union and similar organisations would provide an interesting context for observing new approaches to leadership and their meaning in workers' mobilisation.

In recent times, mobilisation theory approach has been used in the analysis of unions' attempts to organise workers with 'inherently weak position in the labour market' (Simms and Dean, 2015), like contingent and migrant workers (Tapia and Holgate, 2018; Martinez Lucio et al., 2017). First, studying the process that brings workers to collective action is of particular interest if the starting point of the relevant power resources is at its lower; second, organising vulnerable workers poses greater challenges to unions that have to deal with additional issues linked to the diversity e particular needs of those workers (Alberti et al., 2013; Martinez Lucio and Perrett, 2009). This chapter contributes to the tradition of critical case studies analysing campaigns targeting low paid precarious workers, who are often migrants or belong to ethnic minorities (Connolly et al., 2017; Rogalewski, 2018; Jiang and Korczynski, 2016) by analysing a 3-steps strategy aimed at building power resources, mobilising workers and finally winning the dispute; however these specific characteristics of the workers involved in this case is not discussed per se,



but only as one element explaining the extremely low power resources available at the beginning of the campaign.

#### 4.4 Methodology and context

The investigation for this chapter took place after the end of the successful campaign here studied, and soon after the workers were effectively brought in-house by the university. In order to protect the identity of those involved, as well as the organisation's reputation, quotations are anonymised as well as the names of the unions, companies and institutions. The union successfully leading the protest will be called 'the Independent Union', while the larger union already present on campus will be identified as 'the National Union'. 'The University' will not be named, and the provider of the cleaning services will be referred to as 'the Contractor'. Details of specific cases are omitted.

The chapter relies on information gathered from the people involved in the campaign, observation of the Independent Union's activities and material they openly shared on social media. I conducted 15 semi-structured interviews with workers, union representatives at the independent union, activists involved in the campaign, and a researcher and a journalist covering the events. I also interviewed a National Union representative which helped in triangulating the information obtained from the Independent Union. Some interviews have been recorded and transcribed, while others could not be recorded for privacy reasons; some workers interviewed shared personal and sensitive information and asked to remain off the record. I interrupted formal interviews when I reached information saturation; I double checked dates and events with a second

round of interviews with the two leading activists at the Independent Union. I also integrated the interviews with material provided by the Independent Union on its very active social media accounts, which offer a good picture of their strategy, especially regarding the last phase of the dispute. I also took part in some of the Independent Union's activities, observing their day-to-day work at their head-quarters, sitting in on their Annual General Assembly and employment law seminars, and talking with activists and members involved in similar campaigns.

Campaigning for the rights of cleaners are far from being a new or exceptional event. In the UK in the 1970s, various campaign for cleaners were organised around the grievances of women employed in the cleaning sector under extremely poor conditions; the campaigns achieved some successes and some defeats (Rowbotham, 2006; Marriott, 2009). Also, the Justice for Janitors campaign (J4J) in the US during the 1980s and 1990s (Meyerson, 2000) was a trailblazer for unions aiming to organise workers in the cleaning sector. There are plenty of similarities between these campaigns, especially in their ability to mobilise cleaners, and in the disruptive strategy adopted to make visible the struggle of workers that are often invisible. In all these cases, being outsourced was a major component of the problems of cleaners, and the precarious conditions of their jobs, low pay, ill treatment and antisocial hours, were the main reasons for subsequent unrest. However, these campaigns have major differences, especially in the amount of power resources that they could count on in the beginning.

First, the J4J campaign was organised by the Service Employees International Union (SEIU), a major union with 1.9 million members, and its leader at the time was also the president of AFL–CIO unions confederation, with extensive financial resources

and expertise (Milkman, 2000). On the other hand, the Independent Union observed in this chapter is very small, having achieved recognition only in 2012. When it began representing cleaners at the University, it did not even have an office. Secondly, the difference in proportions of the unions involved is reflected in their strategy; while in the US the proportion of picketing and demonstrations escalated to national level, bringing thousands of workers from across various States and targeting big contractors in all their enterprises, the focus of the British campaign was narrow and highly specific. Recently, other similar campaigns targeting employers and contractors have been mushrooming, but every dispute remains separate. Finally, the J4J movement sought the help of other communities, joining forces with groups fighting for related issues, like the increase of commercial property tax in the context of an urban crisis in Washington DC (Williams, 1999). Conversely, the UK cleaners' campaign remained extremely focused on the problems faced by the workers at the University under a specific Contractor. If the J4J campaign was weak in terms of structural and institutional power resources, its main leverage came from its large membership and ability to mobilise support within the union movement and more broadly; it is this kind of associational power that the Independent Union in the presented case has been able to build during a brief campaign.

## 4.5 The University Cleaners' Campaign

Campaigns for cleaners have been going on in British Universities for many years; one campaign was led by the university cleaners' branch of a major union (UNISON) in 2011 to obtain the London Living Wage at the University of London (Stopes, 2013) and since

2012, further aiming towards ‘tres cosas’, i.e. sick pay, holidays and pensions (3 Cosas Campaign, 2014). However, during this last mobilisation, the cleaners’ branch decided to leave Unison in disagreement over the funding of the campaign. Since then, a small galaxy of independent unions (e.g. UVW, IWGB, CAIWU) has emerged from the rank and files of larger unions, like UNISON or UNITE, and led campaigns involving cleaners and other workers in the most marginalised sectors. They are all effectively bilingual unions, with activists and staff speaking both English and Spanish; indeed, the first groups of workers organised in the cleaning sector were of Latin-American origin and this language fluency within the unions has proven to be a priceless instrument in recruiting and integrating migrant workers from South America.

The British institutional context is not favourable to unions since the reforms of the Thatcher era, and small unions encounter even more obstacles, both in negotiations and throughout industrial action phases. The law does not force employers to negotiate with any unions, they choose to, or the union is strong enough in terms of membership or support in the workforce to apply for recognition to the Central Arbitration Committee (CAC).<sup>32</sup> Also, according to the law, a union cannot ask for recognition through the CAC if another union is already recognised by the employer for that specific bargaining unit. Universities often have recognition agreements with large unions, which are members of the Trade Unions Confederation (TUC) and represent a large share of the workforce across different departments, making it *de facto* impossible for smaller unions to be officially included at the bargaining table if the employer disagrees. Moreover, the regulation of industrial action links to the possibility of going on strike to strictly regulated

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<sup>32</sup> Trade Union and Labour Relations (Consolidation) Act 1992

ballots among the workforce with majorities often hard to achieve. This context provides a textbook case of the lack of institutional power resources for unions, especially for smallest or independent unions.

The following sections look at how one of the small Independent Unions managed to organise workers and win a significant improvement in working conditions for cleaners at a British university. The analysis is divided into three phases looking at the way the Union first approached the workers, started mobilising them and eventually took action against the University (Table 14).

*Table 14 Structure of the process and strategies*

Phases of the campaign	Strategies
Approaching phase	Collectivisation
Mobilisation phase	Education
Action phase	Disruption

#### 4.5.1 - Phase 1 – Collectivisation

The first contact of the Independent Union with the cleaners at the University occurred in 2012 over a small dispute, a 30-minute cuts to shifts. At the time, the cleaning workforce was made up mostly by Latin-Americans and they decided to seek help from the Independent Union who had Spanish-speaking staff. After this first contact, however, the Union did not carry out any recruitment or mobilisation attempts. Two years later, a few workers had been suspended by the contractor for allegedly leaving their job before the

end of their shifts; not knowing what to do, some sought help from the National Union already active on campus, and from other organisations such as Citizens Advice. However, the remedies proposed and the bureaucratic approach to the problem left the workers hopeless about the possibility of winning the dispute:

‘Everything was so complicated, I didn’t know what to do. They [The National Union and Citizens Advice] couldn’t help; they have been supportive, but they couldn’t help.’ (Formerly suspended worker, Interview 2018)

Eventually, one of the workers who had been there at the time of the Independent Union’s intervention two years earlier, suggested contacting them again. The cleaning workforce’s ethnic and national composition had changed over time, with the Latin-American component significantly reduced in favour of Afro-Caribbean and African migrants. Even though the language skills of the Union were less relevant at this point, they were nonetheless seen as more approachable and with a more straightforward strategy. Also, the scarcity of resources that forced them to hold meetings in cafes and use personal resources of the activists for the collective good, led the cleaners to perceive them closer to their own situation and more able to understand their struggles. The Union wrote to the Contractor asking to waive the suspension for the three workers who intended to fight against the decision; however, soon after receiving the letter, the Contractor dismissed the workers. The Union decided not to start legal proceedings because:

‘[...] remedies available are terrible and the process is a lengthy one and potentially costly since the last Coalition Government introduced tribunal fees. Also, even if we win our case of unfair dismissal the court has no power to enforce an order of reinstatement’ (Independent Union Officer on Social Media, 2016)

They decided instead to ‘collectivise’ the issue, mobilising workers and organising demonstrations on campus, engaging both with the Contractor and the University. They managed to obtain solidarity and support from National Union representatives, students, and some members of staff through their own Union. Following talks with the Contractor’s management, the three workers were eventually reinstated. Seeing their colleagues back in work thanks to collective action organised by the Independent Union, encouraged more workers to become members and to start fighting for better conditions. All the interviewees involved in the campaign since this first dispute, agreed on marking the reinstatement of the three workers as the beginning of the successful mobilisation strategy, that led other workers to join the union and seek its help on individual cases.

I started to represent, like, more and more entities on an individual basis. They were coming to me with harsh disciplinary hearings they were subjected to or invited to. [...] When I see these issues, I am always looking for ways to connect with them. And so, ultimately a lot of people coming with different issues and problems. And then, that was when we started to discuss how we could take these demands to management, collectively.’ (Independent Union Officer, Interview 2018)

On the other hand, the National Union has been present, and tried to help the cleaners on multiple occasions before the Independent Union came. Some of the workers did indeed talk about their ‘support and kindness’. However, they had not been able to give any breadth to the dispute following individual interactions. This is also acknowledged by representatives of the National Union who have been very active in

supporting workers in the context of individual hearings or disciplinary meetings with the Contractor:

‘before the campaign [our way of dealing with casework] was quite individual, focused on individual problems and that was the problem - of it not being collectivised’ (National Union Representative, Interview 2018)

The recruitment of members for the Independent Union followed the collective action instead of preceding it. When it began representing the three dismissed workers, its associational power resources were null; it had almost no members among the cleaners and had to start building solidarity with other groups from scratch. The union used a tangible example of a successful campaign to show the workers that there was a chance of victory ‘if they remained united’; this persuaded many of the cleaners, especially those long since employed at the University, to be open to join a union and to the possibility of more collective action to follow.

#### 4.5.2 - Phase 2 – Education

When coming together to protest for the reinstatement of their colleagues, the cleaners started sharing their grievances and noticing that they were similar, or the same, and that they all felt mistreated. Above all, the Independent Union showed them the difference in conditions between them and other comparable in-house workers at the University. They highlighted four domains (see table 15) and explained that such disparities were not fair and could be overcome.



‘I don't think they were actually aware at the beginning that their terms and conditions were so much worse than [...] the rest of the university’  
(Independent Union Officer, 2018)

*Table 15: Conditions for the outsourced cleaners and in-house staff.*

	Outsourced Cleaners	University in-house staff
Sick pay	Statutory Sick Pay:  £89.35/week after 3rd day of illness - up to 28 weeks	6 months full pay  6 months half pay
Annual leave	28 days	41 days
Parental leave	6 weeks at 90% of salary  33 weeks at £140.98	18 weeks full salary
Employer contribution to pension	1%	13-16%

*Table from Acciari and Però (2017). Data confirmed on Independent Union files.*

When they realised how much worse they were treated compared to the University's in-house staff, the cleaners, many employed long term, were determined to take advantage of the traction of the previous mobilisation to demand equal treatment. Then, the Independent Union formally asked the Contractor and the University to offer the cleaners the same conditions on sick pay, annual leave, parental leave and pension contributions that the in-house staff received, as well as an early implementation of the London Living wage (moving the adjustment by 5 months to allow workers to receive the adjusted wage earlier). In addition to these demands, they also asked for a dismissed colleague to be reinstated.

‘You need to create a sense of injustice, you need to make them see that it’s not normal, what they are going through, and make them angry. If they are convinced that they deserve more, they are just going to do it’ (Independent Union Activist, Interview 2018)

All the interviewees talk about the moment they realised how much worse the conditions for the outsourced staff were, creating that outrage able to transform a vague dissatisfaction into a sense of injustice, paving the way to collective action (McAdam, 1988; Kelly, 1998). The workers interviewed were particularly angry at the lack of a proper sick pay policy. The cleaners were paid a sum (£89.35 per week), only after the third day of illness, which resulted in people going to work when sick for fear of losing their wages or their job, in the context of an already very low paid and precarious position.

‘People would come to work when they were very sick. That is not good’ (Worker, Interview 2018)

The Independent Union began to explain workers’ rights - the law, the contract and how to obtain better conditions. The idea of a strike as a normal tool for negotiation and as a fundamental right of the workers was stressed in meetings and seminars. The Union organised a series of strikes to reinforce the workers’ demands of equal conditions on the four above mentioned aspects; they held a formal ballot in February, obtaining 66% turn out and 100% yes votes to the strike plan. At first, they went on strike for a day or two every week, with picketing organised on campus. Then, they decided to call a strike for a whole week and keep picketing with noisy dances and demonstrations. When asked if they were scared of being on strike and visible on the picket line, the most active workers in the campaign said not: ‘going on strike was just our right’. For all the interviewees, it was the first time they had ever gone on strike. Due to being educated

about workers' rights, they felt persuaded about going on strike as a normal and acceptable thing to do, and not something to fear.

'When the Contractor came with a proposal which was good enough even if the conditions offered were not really the same as the in-house staff, we were discussing whether to accept or not. But then the cleaners were excited and angry, and they would not stop before they got what they wanted. So, what could we do? We kept going' (Activist, Interview 2018)

'A manager told me "you are harming the business" but I said no "going on strike is just our way of telling you that we want better conditions otherwise you don't listen"' (Worker, Interview 2018)

On the other hand, the National Union recognises the cleaners' lack of consciousness regarding their own rights and the practices and conditions that could be considered acceptable in a workplace. That was before the moment of realisation that occurred thanks to the Independent Union's formative activity.

'Again, because they didn't know what was [...] acceptable; and so, every now and then you would have a piece of casework and it would be normally a case of "this seems unfair to me".' (National Union Officer, 2018)

On top of specific information regarding each worker's contract, the Independent Union routinely organises employment law workshops aimed at teaching all workers their rights, and possible remedies to improve their conditions. They provide exercises that help workers to differentiate between violations of the law – for which solutions can be eventually sought in tribunals – and unfair or poor conditions, that should be tackled with collective action. Seminars are provided both in English and Spanish, allowing Latin-

American members to actively take part in activities. Practical exercises are enriched by explanations and question rounds and regard all the principal aspects of employment relationships: from wages, payslips, holidays and parental leave to discrimination and bullying in the workplace. The workers and activists I met at one of these workshops, with about a hundred participants, were proud of this ongoing formative activity from which they said they derived much strength.

‘Even the workers who are [the National Union’s] members often ask us to help with payslips or their holidays because we know a lot. They come and ask us!’ (Worker, Interview 2018)

Fostering a consciousness of employment rights as well as of the possibilities of collective action, was a crucial tool for mobilising the cleaners. The Union managed to dispel the fears of the workers by showing them what was permitted by law. Learning how to react to threats of dismissal in case of strike, or that they had the right to demand a certain number of hours between each shift, made the workers feel more confident in fighting for their rights. Moreover, the language used in these meetings (i.e. the constant use of the word *comrades/compañeros*) together with references to the concepts of class struggle, exploitation of the working class etc., frame the discourse in an ideological position that helps to reinforce the collective approach to problem solving. These meetings are often crowded and widely appreciated by members; in the last one I attended, the overwhelming majority voted in favour of increasing their frequency. The atmosphere at the meetings is friendly, welcoming and there is a sense of community that shows through the homemade sandwiches and children wandering around the premises. However, it is clear that unlikely other initiatives linked to community organising strategies (Holgate,

2015; Simms and Holgate, 2010) the community built in this context is entirely grounded on a shared typology of jobs performed by members, usually low skill and low paid jobs. All the Union's activities are indeed centred around work-related issues.

#### 4.5.3 - Phase 3 – Disruption

The Independent Union increasingly addressed the University as primarily responsible for the treatment of workers employed on its campus. The University at first attempted to disown the dispute, pointing at the contractor as the employer, thus solely responsible for the cleaners' conditions. The picketing during strike days was organised on Campus, in front of the most important buildings for students and staff; the demonstrators wanted to be as visible as possible, with loud music and dancing. Students from other campuses joined the picket line following a trend of solidarity that saw various stakeholders of Universities across London protesting for better conditions for cleaning staff (Garrett, 2017). The National Union officers offered support as well:

‘The students were nice. Also [National Union Representatives] came with bananas and biscuits for us picketing.’ (Worker, Interview 2018)

The focus of the strategy did not lie in the interruption of cleaning services. Not all cleaners were on strike, and the workforce was big enough to allow supervisors to organise shifts to cover all buildings. The aim of the strike was not to show how dirty the buildings would be without the work of the cleaners, or to place the University and Contractor in trouble because of a lack of hygiene on campus. Rather, they intended to

expose the ‘hypocrisy’ of the University as an institution that aims to work for the betterment of society, but instead wants to ‘save money by exploiting migrant workers’ (Activist, Interview 2018)

The organisers aimed at the core business of the University in two ways. First, the loud picketing took place at the end of the academic year, when students were either preparing for their assessments or sitting exams. The University had to allow students more time during their exams and ensure that examiners would ‘take these circumstances into account when ratifying marks and progression and classifying awards’ (University’s written communication to the students, 2017). Second, the protestors aimed at the Institution’s status in the community. Indeed, in the academic sector, an excellent reputation is crucial to attract students, qualified staff and funding, and can be considered a fundamental asset of the core business.

Outsourcing is often seen as an instrument to externalise the management and the cost of employees who do not perform tasks within the core business. However, by being visible on campus and forcing the University to interact with the cleaners without the mediation of the Contractor, the protesters managed to force the University to take responsibility of the disruption, and to pay costs, both in terms of disturbances to the day-to-day activity on campus, and in terms of public image. Protests took place in front of buildings hosting public talks on inequality and social policy, close or even within the most important or historical buildings on campus. Even if compelled to accept the legitimacy of a strike decided through formal procedures, the University in its communication to staff and students, branded the way protests were conducted as ‘unlawful, particularly those which deliberately disrupt exams’ (University email, 18 May

2017). This contributed to increasing the workers' anger, because they perceived their actions as normal albeit noisy practices during strikes and demonstrations. On some occasions the police were asked to attend demonstrations, and in one case an academic member of staff was arrested 'on suspicion of common assault' and then released (Bloomer, 2017). Police intervention escalated the conflict but also the visibility of the action, drawing even more attention to the events from the outside.

At that point, the strikers and the Independent Union had lost the support of the National Union, allegedly for disagreements on the method of the protests; on these events the accounts of what happened diverge in details depending on the source, but both unions agree that there was an irreconcilable divergence in the level of conflict they were willing to reach. However, the Independent Union, despite losing an ally, managed to expand its associational power by securing endorsements from members of parliament and columnists from top newspapers and across social media, leading to an escalation of public attention towards the campaign.

'Our idea is that the disruption you can bring to the service is not only in terms of money lost by a company. Sometimes disruption can be disruption of the reputation' (Independent Union Officer, Interview 2018)

All the people interviewed agreed on the importance of the threat to public image of the University as the main reason for their final victory. Indeed, after the workers refused a series of offers made by the Contractor, the University decided to bring the cleaning service back in-house as soon as the contract with the provider would reach its end. The dispute ended with an even greater victory than expected for the outsourced staff;

the Independent Union had not asked or hoped for a decision to bring the cleaners back in-house. The National Union, which did not officially take part in the strike, claimed to have strongly advocated an in-sourcing solution during the negotiations. Indeed, while the Independent Union could not get a seat at the table to bargain with the University and the Contractor because it was unrecognised, the National Union was held as the official representative for all the cleaners by both the University and the Contractor. The termination of the contract with the service provider and the transfer of the workers to the University as a direct employer, required the joint activity of all parties involved. The National Union remained in charge of the negotiations and the bureaucratic work needed to adjust the contracts, while the Independent Union was only involved ‘informally through written communication’ (Independent Union Activist, Interview 2018). The Independent Union never obtained recognition from the University or the Contractor and had no interest in doing so, considering the formal agreement with employers a burden that would hinder more aggressive collective action.

The confrontational approach of the Independent Union was key in forcing the University to take responsibility for the treatment of the cleaners on campus. The idea of being physically visible and vocal was central to the strategy, both in the first campaign aimed at the reinstatement of three workers and in the bigger campaign. While the National Union had a much more cautious approach, looking at formal negotiations as the main path to obtaining improvements in working conditions, the Independent Union saw the solution in a strike-oriented strategy and visible collective action:

‘I think that in the UK in general, they are really afraid of strikes. It’s become such a hard thing or unusual, or so surprising anyway, because



you do not expect your migrant cleaners to organise' (Independent Union Activist, Interview 2018)

Compared to similar attempts at organising cleaners in London during the 1970s as recalled by Rowbotham (2006), this Campaign paradoxically benefited from a general context no longer familiar to union actions and strikes. Indeed, days of work lost during the 1970s and 1980s reached above 20 million per year, while in the 2010s they have rarely exceeded 1 million per year (Office for National Statistics, 2018). The workers' unusual presence on campus with dances and music at very topical moments in the University calendar, such as exams periods or public lectures, was key in attracting attention and building solidarity from wider society. The cleaners' movement of a few decades ago was surrounded by a profusion of other campaigns and movements, and despite its good positioning to build a net of solidarity, it could not find the strength to emerge from the general climate of agitation of those years. On the other hand, the colourful disruption brought on campus by the University cleaners during exams and talks by famous pundits, was able to stand out in the eyes of the general public, no longer accustomed to strikes, but with a renewed sensibility towards the hard-working poor.

## 4.6 Discussion and conclusion

The path analysed in this chapter describes a process that goes from the first contact of the Independent Union with the university cleaners, to a successful close to the dispute. The campaign shows many resemblances with other grassroots movements organising precarious migrant workers in cleaning (Williams, 1999) or other sectors (Ganz, 2009).

However, the university cleaners' case provides a critical opportunity to analyse a campaign that began from a very disadvantaged position in terms of power resources, which went on to build strong membership and support from the public.

The literature tends to focus on identifying which power resources play the most important role in enhancing unions' capabilities to organise precarious workers. Authors show how successful strategies are usually built in taking advantage of the leverage that unions have, owing to associational strength (Savage, 2006), institutional support (Pulignano et al., 2015) and structural power (Benassi and Dorigatti, 2018), or a combination of them (Benassi et al., 2018). This chapter contributes to the literature in providing an account of a campaign that has been successful, regardless of the poor resources at onset. This is relevant because the increasing precarious and fragmented nature of work means that situations of zero power resources are increasingly common in the labour market; thus, the identification of processes apt to build power resources and organise workers in challenging contexts is of primary importance. Instead of identifying existing strength sources, this chapter discusses how to construct them, with special attention to associational resources. Moreover, the literature often tackles different strategies in isolation, or even contrasting different choices of the kind of support they offer to their members (Ackers and Payne, 1998; Heery and Adler, 2004); conversely, I argue that different approaches can work together and be complementary in the context of a process able to deliver both an increase in power resources and a successful campaign. Moreover, the swift development of the story allows us to neatly identify three different stages that the organisers themselves perceived as distinct steps in successful campaign.

Crucial to kickstarting the campaign was the ability of the union to collectivise the action on individual grievances. The representation and support of workers through hearings, disciplinary meetings and court cases is usually analysed merely as a ‘servicing’ activity (Boxall and Haynes, 1997) that requires the investment of a relevant portion of union resources (Wright, 2013, p. 292) and is usually opposed to the ‘organising’ activity. Gall (2005) analyses the strategy based on identification, ‘semi-collective grievances’, involving a ‘significant number of the members of the workforce’ that led to the unionisation of the workforce and a recognition of the Union. However, in the case analysed in this chapter, the grievances presented by the workers were chiefly individual, which places the Independent Union’s strategy a step further from what is discussed by Gall (2005). Indeed, the first phase of the campaign’s strategy took the workers from an isolated position of disorientation over their personal situation, to a collectivisation of their grievances through collective action. The Independent Union, thanks to the activity of the cleaners involved, started engaging more workers willing to act when the injustice of their colleagues’ cases emerged, and they started seeing those grievances as part of wider and unfair treatment from their employer. In this first phase the union started building its associational power resources by encouraging workers to join and talk about the union in the workplace and recruiting other colleagues.

The second phase was crucial, both for the beginning of the larger campaign and for empowering the workers to endure the sacrifices required during long periods of strike and agitation. This entailed the ‘education’ of workers through teaching employment law and contextualising their demands in the framework of a legitimate negotiation, including striking, portrayed as a lawful instrument of collective action. Research usually looks at

formative activities on employment and labour law organised by unions, primarily for their workplace representatives (Murray et al., 2014; Rainbird and Stuart, 2011). When looking at learning strategies for the whole workforce there is a focus on language learning for migrants (Heyes, 2009) or more general developmental courses (Warhurst et al., 2007) aimed at recruiting. However, in this case, seminars and activities directed at teaching legal technicalities were directed at the whole workforce as an instrument of mobilisation. The idea behind this strategy was that knowledge of rights would provide the strength, anger and determination to mobilise a larger number of workers. Findings are indeed consistent with this hypothesis; the pride in feeling knowledgeable on complex matters related to employment law and rights, was apparent in the interviewed workers, and they claimed that their awareness was crucial in maintaining the solid determination of striking.

Finally, in terms of action, the Independent Union engaged in a disruptive strategy that was not centred on the mere suspension of cleaning activity, but rather on interfering with core assets and activities of the university. Even within the restrictive parameters of the UK legislation that curbs creativity in developing new forms of protest, the Independent Union and the workers successfully engaged in demonstrations that hit the core business of the university. The idea of disrupting the university services, more by being visible than by simply withdrawing one's work, has proven effective in this specific case. Name-and-shame strategies are not new in the landscape of unions' activities; however, this specific campaign did not receive strong support from the outset from other movements, as is found in similar campaigns. The most popular endorsements came when the dispute was already approaching its end; this final phase shows how the union, after

building associational power by enlarging its membership, managed to gain support from the public as well as from other stakeholders at the university.

In this chapter, I discuss union strategies as a process aimed at organising precarious workers in a rather hostile context. The three phases discussed are all crucial to the unravelling of the successful campaign in this critical case; all steps are closely interrelated and mutually supportive and reinforcing in the transition between the different phases of the campaign. However, each key activity of the campaign from the first approach to the workforce, to the strategy in the dispute with the two counterparts, can be isolated and discussed as an instrument to revitalise unions struggling at specific stages of their activity.

The relationship between the National and Independent Unions ended up in bitter disagreement, when the campaign became more disruptive; each accused the other of trying to sabotage their activities. The most confrontational methods of the Independent Union were considered too aggressive by the National Union; on the other hand, the latter's more cautious approach was exposed as too weak. This seeming trade-off between dialogue and confrontation highlighted in the relationship between the two Unions, could suggest the inapplicability of the more aggressive strategies to unions favouring more cooperative strategies towards employers (Ackers and Payne, 1998; Fichter and Greer, 2004). However, other branches of the same National Union employed a similarly adversarial strategy in organising cleaners in other universities, showing that the process analysed in this chapter could also be adopted by less militant and more structured unions.

The context in which the campaign took place was quite hostile, and the Independent Union managed to organise the workers despite starting out with minimal

resources in all respects. However, despite the university showing a negative attitude towards the protests and the Independent Union itself, its high status and consequent high value attributed to its reputation could be seen as a source of structural power for the workers; a high relevance of reputation often lacks in other sectors, and that could be an argument against the generalisability of these findings. While observing the activity at the Independent Union office, I witnessed meetings to organise cleaners from high street retailers, museums, parks and newspapers, which could fit the type of employer keen to make concessions to defend its public reputation. On the other hand, however, I met workers who just won a dispute for better conditions at a plant outside the city where their task was cleaning recycling trucks; videos of their protest posted on social media show a workplace so removed from the public attention that any strategy could seem nonviable; nonetheless after days of strike the employer decided to meet the (very reasonable) requests made by the workers, both in terms of wages and health and safety improvements, also agreeing to pay back the days of work lost when striking.

This chapter focused on a specific campaign of university cleaners to explore under which conditions precarious workers can be successfully organised; starting from zero power resources, the Independent Union managed to build associational power, both in terms of membership and of support from the public, through a process of collectivisation of individual grievances, education of workers on their rights and a disruption of the university's core activities. The main limitation of this study is its level of generalisability; indeed, one interviewee mentioned that this campaign was 'a perfect storm' created by the specific setting and timing of the events. Despite the well organised process of mobilisation and action, its replicability cannot be taken for granted; testing

the effectiveness of this strategy in other contexts would add strength to the argument of this chapter. Furthermore, this study does not analyse in details the interaction between the National Union and the Independent Union; for future research, it would be interesting to more deeply explore the interactions between the galaxy of new small independent unions and pre-existing unions in the workplaces, and in general with larger unions and the TUC; finally adding the perspective of the employers involved in the dispute would add an additional perspective to the analysis.

#### 4.7 Summary of contributions to the thesis

This chapter focused on unions' action at workplace level, offering an analysis at micro-level of the strategies for improving workers' conditions. In the debate about the different approaches to improve labour conditions, it offered an example of the effectiveness of unions' action at workplace level in protecting the rights of marginal workers. In a very deregulated context, workers and their representatives resorted to creative and disruptive strategies to ameliorate basic working conditions; starting from a very low level of power resources, the case study emphasizes unions' possibility to have a serious impact on vulnerable workers' conditions. This contributes to the broader argument of the thesis about the merits of trade unions on one side, and the effect of labour disempowering of labour market deregulation.

Also, the chapter offered an example of a marginalised workforce in a highly deregulated context; cleaners are often given regular contracts, but very low-paid and with poor working conditions. Within this thesis, the case study contributes to the debate on labour market dualism and the insiders/outsiders dynamics, by shifting the focus from the

difference in the level of protection between different groups of workers, to a wider concern regarding precarity and vulnerability of workers.



## Chapter 5

## Conclusion

## 5.1 Chapter Overview

The purpose of this thesis was to investigate different approaches to solving the growing problem of labour market precarity. The widespread consensus on the benefits of deregulation has led scholars and policy makers to focus on labour market reforms in an attempt to tackle inefficiencies and help those left behind through competition in the labour market. However, the evidence in favour of lowering employment protection legislation to fight unemployment has proven ambiguous, and even more so have the assumed benefits in reducing precarity. This project intended to unpack the debate around precarity in the labour market and discuss three different levels of action to improve workers' conditions.

The first chapter provided the introduction to the thesis. It first outlined the recent history of the consensus around labour market liberalisation and two opposing understandings of it as the cause, or the solution, to unemployment and precarity across European labour markets. Second, it introduced the debate on the insiders/outsiders framework, shaping the approach to the diagnosis and relief of labour market precarity. The thesis developed in conversation with these two debates, offering a contribution articulated over the following three chapters, each opening with a different perspective.

Each chapter used different methodology and data to discuss three possible levels of institutional action in the labour market. The second chapter analysed *employment protection legislation* from a legal/institutional perspective and offered a critique of its role in influencing mechanisms behind the risk of poverty in three European countries: the UK, Italy and France. The third chapter compared the different reactions of Italian and

Spanish social partners to reforms introducing instruments that were potentially disruptive of the *collective bargaining system*. The fourth chapter offered a case study of a successful campaign to improve working conditions of cleaners at a British university led by an *independent union at workplace level*. While each chapter engaged with literature specific to the dimension analysed, the whole thesis' contribution is broader and two-fold. I discuss the overall contribution in the next sections, highlighting the limitations of the project as well as scope for further research and practical implications.

## 5.2 Thesis contribution

### 5.2.1 - Labour market deregulation or labour empowerment?

This project offers a first contribution with an evaluation of different institutional approaches to improving workers' conditions in the labour market. The starting point of the project is the claim that reducing labour market regulation for the whole workforce would help in reducing the precarity of workers with non-standard contracts. Countries with more liberalised labour markets are often portrayed as virtuous models that have removed institutionalised privileges of standard workers, to allow a smoother labour market where temporary workers are not marginalised in a trap of precarity.

Thus, the thesis begins with a comparison of countries with different levels of employment protection legislation, the UK, Italy and France. Discussing the links between labour market regulation and the risk of poverty, the first chapter argues that it is true that highly deregulated labour markets are able to blur the boundaries between standard and non-standard workers' conditions; however, they also fuel mechanisms fostering economic precarity. Considering the risk of poverty as a better measure of

precarity than is contractual typology, this thesis argues that lowering employment protection levels is not the best approach in reducing labour market precarity.

Conversely, stronger wage setting mechanisms and stronger collective bargaining institutions are able to keep wage dispersion under control. Moreover, as discussed in the third chapter comparing Italy and Spain, a more deregulated labour market like in Spain compared to Italy, can trigger a vicious circle of labour disempowerment, and employers' willingness to take advantage of their relative stronger position. This is highlighted by the approach of Spanish and Italian social partners to reforms introducing the possibility of regressive derogations to collective bargaining agreements; Italy has been able to retain a comparatively higher level of coordination in collective bargaining and employment relations, a stronger position of unions, and employers willingness to cooperate. This eventually resulted in a more coordinated use of derogations, which means more control on wages and working conditions for workers with all types of contracts, standard and temporary.

The ability of union action to improve workers' conditions emerged in the last part of the thesis, at workplace level. The context of the critical case study in the fourth chapter is the highly deregulated British labour market, characterised by a hostile approach to unions and their activities. The cleaning sector is low paid and employs many vulnerable workers, mainly migrants. Some had long term and regular employment relationships with the cleaning contractor, but their working conditions were very poor, and they did not have any say regarding conditions. This section of the thesis discusses the strategy of an independent union that managed to organise workers and win significant

improvements, showing the effectiveness of union action, despite very low power resources.

The thesis contributes to the debate on labour market regulation and unions' role in improving workers' conditions. Part of the literature advocates labour market deregulation as the solution to unemployment and the marginalisation of outsiders (Lindbeck and Snower, 1987); others lay the blame with unions and high residual levels of employment protection for standard workers for the increase in precarity in the labour force (Rueda, 2005; Palier and Thelen, 2010). Conversely, the findings of this project suggest that labour market deregulation can have unintended consequences in terms of fostering economic precarity and in disrupting the coordination of collective bargaining systems (chapter 2 and 3); while union empowerment can help in achieving a more cooperative relationship between social partners and defending vulnerable workers at workplace level (chapter 3 and 4).

### 5.2.2 - Overcoming the insiders/outside framework.

The second contribution of this project is related to the discussion of precarity, with a proposal that goes beyond the insiders/outside framework that has shaped the debate over recent years. The discourse in the dualism literature which is focused on the mechanisms reinforcing the boundaries between labour market segments, and the distinctive characteristics of people excluded from good jobs and standard contracts (Emmenegger et al., 2012). Conversely, I address precarity as a diffused ailment of the labour market and argue that focussing on reducing the divide between standard and non-standard workers is not the optimum approach in tackling the wider issue of precarity.

Indeed, the measure I use to identify precarity in the second chapter is the risk of poverty, which goes beyond and across the standard/non-standard contract divide.

Also, in the third chapter, I argue that stronger deregulation at the margins of the labour market has a detrimental effect on union power resources and the willingness of employers to cooperate, which in turn affects the whole workforce, not only workers at the margins. This is compatible with the literature portraying labour market deregulation as a challenge to unions who increasingly struggle to represent and protect all workers (Doellgast et al., 2018); conversely, it disputes the notion that regular and temporary workers have opposing interests, and that lowering employment protection for workers at the margin of the labour market appease unions' and insiders' preferences (Rueda, 2005).

Finally, the group of cleaners that are at the centre of the critical case study in the fourth chapter, fittingly represents a vulnerable workforce in a highly deregulated labour market. Even those with 15-year relationships with their employer were in constant fear of losing their jobs or being denied holidays or overtime payments. The freedom of the cleaning company to offer miserable working conditions to its employees was not related to the type of employment contract used, but to the general poor conditions in the sector, minimum wage and lack of collective representation.

This project embraces a broader approach to the issue of labour market precarity, overcoming the focus on a supposedly dualistic structure of partially deregulated labour markets. The thesis argues in favour of a more encompassing approach to improving labour position that does not involve opposing the interests of standard and temporary workers. In this perspective, the second contribution of this project goes towards shifting

the attention from the dualism debate to a more general concern for all workers experiencing hardships within and outside the labour market.

### 5.3 Limitations of the thesis and further research

The limitations of each study are addressed within each chapter; here, I discuss the limitations of the thesis as a whole.

First, while the issue of findings' generalisability has already been discussed for each study, it is worth pointing out that it affects the project in its entirety. The thesis intended to challenge the consensus around the merits and faults of labour market deregulation and unions in improving precarious workers' conditions. It did not intend to prove unequivocal causal relationships, but to provide evidence of instances in which labour market deregulation contributes to increased precarity, while collective bargaining institutions and union action can secure improvements. It must be considered that variations in national labour market structures, different economic circumstances, historical paths of unionism, and so forth, could trigger different results; thus, testing again the hypothesis across different domains, and comparing other countries will help confirming the generalisability of my statements.

Second, this thesis has a three-pronged structure that allows for a discussion about labour market deregulation and precarity from different angles, adding worthy insight on the ramifications of policy outcomes. However, further research on other levels and from different perspectives would increase the relevance of the analysis. In particular, for the discussion of meso-level action, further research on collective bargaining dynamics and derogations could be conducted at industry level. Comparing interactions between social

partners in a chosen sector across different countries would broaden the understanding of the relationship between workforce's structure and behaviours of employers and unions. Further research should investigate this to reinforce the thesis' argument.

The vastness of the scholarship addressing labour market deregulation, unions and precarity shows the relevance of the topic; its practical implications are wide and of great global importance. If policy makers intend to reform labour markets by intervening on the levels of regulation and employment protection, they need to find evidence in solid research addressing the consequences of similar reforms. Quantitative evaluations of the efficiencies of labour markets have been used and cited to support policy decisions; however, further research uncovering and discussing the mechanisms behind precarity, and their relationship with labour market institutions, are necessary to refine the targets of policy interventions, and support decisions that can effectively improve workers' conditions.



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