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Fading Corporatism: Israel's Labor Law and Industrial Relations in Transition

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Abstract

[Excerpt] This book surveys Israeli labor law from 1920 to the present. The process of writing and publishing a book does not always conform to the pace of events, particularly when the subject matter is contemporary history. The book is therefore updated until the end of 2005. References to court cases and events that began before 2005 were updated at the end of 2006. However, no developments since that time have been integrated into the text. In my opinion, no such event undermines the central argument of the book; several reinforce it.

Presenting a book in English that focuses on Israel's labor law presents many editorial dilemmas. Moreover, the book's claim is that Israeli law developed on the basis of continental European systems and is now adopting features of American law. Hence it is difficult to determine how to translate the law and how to convey a "feel" of the Israeli story. While providing a consistent method was the most important goal, I have also attempted to keep the book as simple and user-friendly as possible.

Keywords

Israel, labor law, industrial relations, corporatism, labor market, union, workplace

Fading Corporatism

Israel's Labor Law and Industrial Relations in Transition

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Introduction

Labor Law in Transition—Between Law and Industrial Relations

Over the last decade Israeli labor law—and, more generally, social law—has changed dramatically. The changes are not easily viewed from the outside. The two laws governing collective labor relations—namely, the Collective Agreements Law (1957) and the Settlement of Industrial Disputes Law (1957)—have hardly been touched. A broad range of new laws has not seemed to alter the basic premises of Israeli labor law but has merely dealt with issues not touched upon in previous legislation, most notably in the area of antidiscrimination and equal opportunities. The case law, developed in a common-law fashion, draws on self-reference and always cites previous cases to prove that little has changed and that most new developments are the result of incremental development. These convenient images of continuity conceal what the agents of law (judges, legislatures, labor lawyers, and NGOs) are all well aware of: labor law has changed dramatically, and nothing has been left intact.

There is no single legal anchor that can demonstrate the nature of this change. Instead, an accumulation of changes has affected the whole. The existing laws of collective bargaining, dismissals, and equality have been transformed. The definition of "employee" has been rewritten over a short period of time. The courts gradually nudged aside the traditional doctrine of "employment at will" and replaced it with the "just cause" rule. Labor law, at all levels, has been constitutionalized. New doctrinal fields of labor law have emerged: employment equality; rights and obligations in the process of collective bargaining; the law of trade union organization drives; the law on the permissible scope of strikes; and the law of employees' rights in the process of corporate mergers, acquisitions, and restructuring. Changes are not always in the areas most readers would expect to find them. For example, the guarantee of national health care insurance since 1995 introduced a radical rewriting of

health law but also implied a considerable rewriting of labor law at the same time. The current state of affairs indicates that most legal references from more than ten years ago have become outdated.

The types of changes that can be deciphered upon a close reading of the Israeli legal system are more commonly apparent in transitional political regimes. Yet in Israel there was no political revolution. Although in 1977 the right-wing Likud Party ended the hegemony of the Labor Party, which had been in political control from the founding of the state in 1948, the transition was democratic and did not alter the basic political foundations of the state. Israel did not go through the processes of transition that have been characteristic of, for example, Eastern Europe. The political transformation also predated changes in labor law by at least a decade. Moreover, much of the newly protective labor law has been legislated during the years in which the right-wing party has ruled. It is therefore not possible to directly link changes in law with the left-right changes in the Israeli political map. A relationship exists, but there are too many gaps to be filled.

How, then, do we explain the extensive legal transition in Israel? There are two common ways of doing this. The first is to account for law's transition by drawing on legal reasoning. This type of explanation suggests, for example, that the changes in labor law are a result of changing jurisprudence. The Supreme Court has developed a jurisprudence that draws on values, purposes, and balancing-of-rights tests. Consequently, the law is more commonly phrased in terms of good faith, human dignity, reasonableness, public policy, and the like. Two basic laws on human rights were passed in 1992 and have been acknowledged to comprise a constitution in a state traditionally thought of as having none. The Supreme Court has extended the protection of human rights to the private sphere. All of these general changes affected labor law. This type of explanation, however, is not sufficient. It does not explain why many branches of the law have generally remained intact while labor law has changed. Moreover, the explanations fail because they are self-referential. They do not explain why the general principles changed as well. At a higher level of abstraction, these explanations conceive of all changes in law as being derived from within the legal system itself. They assume that the legal system is closed and that it develops its own rhetoric, logic, and structures. Changes may have taken place because some rules simply didn't work. Others rules were needed instead. These explanations assume that there are benchmarks by which to measure the outcomes of the legal system and decide when they should be replaced. These benchmarks may include consistency, clarity, preference for judicial discretion over rules, and the like. Yet this legalistic explanation is not really satisfying either. It does not explain why the previous regime of labor law no longer performed well enough? Where did it fail? Moreover, problems of consistency and clarity require only relatively technical adjustments in the law. Such changes hardly account for the scope of the change in labor law.

There are, of course, variations to this first type of explanation. For example, popular discourse tends to place emphasis on personalities. Many changes in

labor law are often explained as a result of the changing composition of the Labor Court. The president of the National Labor Court resigned in 1997 and was replaced by one with different views and a different temperament. More sophisticated explanations explain changes in labor law by reference to changes in the general jurisprudence of Israel and point to the importance of Chief Justice Barak, the president of the Supreme Court in Israel, in inducing change. These explanations can probably account for one change or another, but they hardly succeed in capturing the complexity of transformation and the multiple agents involved in the process. They assume that the law is a one-person show. They don't explain, and in fact lack the tools to explain, whether these unique personalities could have achieved the same changes under different circumstances. They can't account for changes that take place outside the courtroom, and they ignore the role of the legislature. They are not satisfactory because they assume, just like the previous type of explanation, that the legal system can be explained by reference to the legal system itself. They are even more disconcerting than those previous explanations because they cannot be rigorously tested and are often more dependent on anecdote than on fact.

Unlike the law-centered explanation, there is an alternative type of explanation to the rapid rewriting of labor law, which is characterized by disregard, lack of interest, and even hostility toward the legal reasoning itself. These views are more difficult to characterize because in their external appearance they are usually silent about the law. There are books about transformation, books about society, and books about labor, in all of which the analysis hardly touches upon the legal rule. When law is mentioned, it is deemed to be exogenous to the study of economic, social, and political systems. It's not that anyone suggests that laws do not exist but only that law doesn't really matter. Law is held to be a passive reflection of market pressures, the electorate's power, and social processes. To understand law it is therefore necessary to study other systems. But once the study of other systems is undertaken, the study of law actually becomes no longer interesting in itself and is relegated to the lawyers, who can deal with law's internal logic and rhetoric in their quintessential professional manner.

The two views of legal transformation are not really in tension with one another. They actually share a fundamental assumption. Both views relegate law to a separate sphere of inquiry. Gouging a strict divide between the legal and other social systems may be methodologically convenient but not convincing. To overcome this imposed division of labor, the fundamental premise of this book is that law is not simply a mirror of other processes, for it has also taken part in constituting them. Law and industrial relations are autonomous systems, each with its own agents, institutions, modes of strategic interaction, and communications. The political and social systems have used law to strategically affect the nature of the industrial relations system that was being incrementally constructed. But law also reflected the range of strategic interactions among the agents of other systems, particularly the industrial relations system. The proposed explanation for the new labor law is therefore based on the

interaction between the legal and the industrial relations systems, without assuming that one is exogenous to the other.

Juxtaposing law and industrial relations side by side allows another kind of explanation for the transformation that has taken place in both systems. The argument made in this book is that the rapid disintegration and current rewriting of labor law are a response to the collapse of what was (roughly) a corporatist regime. At the same time law also constituted the corporatist regime and took an active role in constituting the new system.

The original web of rules constructing Israeli labor law was developed for several decades from the foundation of a corporatist industrial relations system in pre-statehood Palestine until after the foundation of the Israeli state. At the peak of what is designated here as "corporatist labor law," sometime in the 1980s, the legal rules were intended to minimize legal intervention and entrench the autonomy of the social partners (i.e., trade unions and employers' associations). Law further supported and protected a unique system of interests representation that was characterized by centralization, concentration of interests, and the delegation of power from the state to the active associations in the industrial relations system. The corporatist model was therefore to construct "a law without law"—that is, a law based on the autonomous making of norms and not by means of state-authored instruments (laws and adjudication).

A second phase of labor law began in the late 1980s; this book takes the year 1987 to be the pivotal year, although any single date is probably artificial and oversimplified. In 1987 the Minimum Wage Law was passed after more than ten years of political deliberations, expropriating the determination of a national minimum wage from collective bargaining. Soon thereafter other legal developments followed. The second phase of labor law came in tandem with the gradual decline of the Israeli corporatist system, and a mismatch became apparent. The corporatist nature of the Israeli system faded. Membership rates in trade unions and the coverage of collective agreements declined. Collective bargaining became decentralized, and the concentration of interests representation that prevailed in the past was no longer sustained. The declining role of collective agreements was compensated for by a growing use of regulation and by the lively intervention of nongovernmental organizations in the struggle over regulation. The corporatist system was gradually replaced by a pluralist alternative.

The labor law that was devised to entrench the corporatist system was no longer adaptable and did not respond to the problems that arose once the centralized and autonomous making of norms was no longer regularly negotiated. At this stage, the state-centered authors of labor law—most notably the legislature, courts and executive branch—as well as new agents in civil society, started an intensive phase of rewriting labor law. It was quite clear that the decline of the corporatist system not only rendered labor law at that time inappropriate but also made planned reform impossible. To compensate for the decline of corporatism, legal arrangements were expected to provide a new set of agreed-upon, acceptable, and suitable norms. Yet the same causes underlying

the decline of the corporatist agreement also prevented negotiations over a general social pact to guide reform. Labor law was therefore rewritten piecemeal, without a unified agenda and by numerous agents.

Unlike the first phase of labor law, which sought to *entrench* corporatism, the second phase sought to *construct* a new system. In this process, the objectives of labor law have changed. What seems to be a dense web of incremental developments is actually more than just a quantitative change. The second phase of labor law is qualitatively different because it provides a different concept of law and its relation to other social systems, most notably the industrial relations system. The previous legal regime sought to a great extent to isolate industrial relations from legal rules and entitlements and to leave the definition of rights and duties to the social partners. The current system is based on stricter, far-reaching, and intrusive legal rules that govern individuals as well as the social partners. Law was transformed from a *facilitative* into a *governing* instrument.

The decline of the Israeli corporatist structure was relatively rapid. The current system is transitory in nature and therefore defies simple classifications, and it certainly contradicts any simple thesis regarding the convergence of labor regulation in the global village. It is, however, a fascinating laboratory for transformation, as the relatively rapid pace and nature of decline highlight differences between systems. From a legal system that was based on instruments and premises characteristic of corporatist and semicorporatist regimes that prevail in continental Europe, Israeli labor law has turned to rapidly adopting institutions molded in American law. The Israeli laboratory allows a comparison that is usually difficult to make. The cleavage between the American and Swedish systems, for example, allows only a limited scope of comparison, unlike extensive comparisons that can be made between similarly designed systems such as those of the United States and Canada or the Netherlands and Belgium. However, the comparison between the polarized corporatist and pluralist models of labor law in Israel is feasible because the changes took place in the same country over a relatively short period of time.

While the case study of Israel has comparative implications that extend beyond Israel's borders, it is also strongly rooted in local history, society, and the political economy. The discussion of labor law in this book is not intended to be a comprehensive treatise on the subject. It follows a selective approach that seeks to highlight particular features that are instructive even for those who are not interested in law per se. It chooses various cases, statutes, and other legal instruments that can shed light on society.

Labor law serves multiple roles in this scholarly analysis of transformation. First, labor law is akin to a variable that is being explained. As argued at the outset, labor law did not change because of changes in the legal system but because of changes in the industrial relations system. Second, labor law is studied as an important instrument for mobilizing change. The study of how corporatism was replaced cannot ignore the changing structure of law. Third, labor law is also a social text. It substantiates nonlegal claims that are often

difficult to demonstrate. For example, when scholars and participants in popular debates refer to the growing individualism that has taken hold in Israel, such statements are often supported by very impressionistic accounts. Some of these statements sound like a longing for better days. Yet a careful reading of the law provides a rich text from which social values can be deciphered. All three references to "the law" are developed throughout this book.

The Functions of Labor Law

To serve the multiple references to law, "labor law" here is defined broadly to include all legal instruments that affect the labor market. It can be argued that such a broad definition is overinclusive, as many legal rules have a direct or indirect impact on the labor market. A change in the general law of contracts, constitutional law, or tax policy can have a significant effect on the contractual component of labor law. However, because this book does not provide a comprehensive discussion of all labor law, the expansive scope is valid as it does not limit the discussion a priori to any particular, potentially underinclusive classifications of labor law. Labor law is not defined on the basis of a particular ideological justification ("all laws that protect workers"; "laws that remedy market failures"), nor is it defined technically as drawing only on legal instruments that are explicitly intended to reform the rules applying to the labor market ("statutory labor standards"). Instead I include within labor law any kind of regulation that is instrumental to its functions. At a high level of generality, labor law has three functions. These are independent of the type of industrial relations system and are in my view applicable to labor law in all regimes. They are therefore used here as an organizing (but not explanatory) device that helps to unfold and present the many tiers of transformation.

The first function of labor law is to define where the regulation of labor takes place: in the private or public spheres or in civil society. This is labor law's metalevel. It determines which system of norms prevails when several systems compete. Law determines whether collective agreements prevail over individual contracts and how statutes apply to both. It can also determine the relationship between norms that are negotiated at the sector level and those determined at the workplace level. The substantive content of collective agreements, contracts, and statutes is of lesser importance for this preliminary task of labor law. What matters most for the metalevel is who decides the norms, how they are decided, and how norms and agents interrelate. The second function is to mark the borders of power in the relationship between workers, whether as individuals or as organized groups, and employers (again—individuals and associations). This is often deemed to be the central role of labor law. The third function of labor law is to mark the borders of power between workers and other workers, be they individuals or groups—whether they are working at present, have worked in the past (pensioners), or are unemployed. The third function is often presented as an insiders-outsiders problem but is generally

not placed on the same level as the second. In this book all three tasks are viewed as equally important for the study of labor both in itself and as an explanatory framework for transition in other systems, and for reading labor law as a social text. The only caveat is that a methodological reading requires starting with the first task, as it lexically precedes the other two. Unless one understands the legal choices made at the metalevel, it is difficult to identify the relevant sources of law used to fulfill the other two functions.

The general functions are not addressed in the same manner in all countries. A legal regime defines more particular objectives to fulfill the three functions, and these serve as a guideline for the development of the particular institutions. These objectives are at the center of this discussion. For example, in the corporatist phase the first function was designed to ensure the supremacy of the collectively negotiated norm over all other norms (markets and statutory standards). After the decline of the corporatist regime, the objective of labor law was to strengthen both contractual and statutory norms over the collectively negotiated norms. Some legal instruments were found to be conducive to accomplishing these objectives in the corporatist system (e.g., extension orders and derogation arrangements) while others were tailored to the pluralist system (e.g., greater statutory and adjudicative intervention by means of flexible legal terms, such as "good faith").

It is argued that the different objectives and legal institutions used in the corporatist and pluralist phases of labor law are more than a coincidental conjuncture of legal rules. In both phases, the objectives and the institutions used to fulfill them displayed a very clear and coherent logic. In the corporatist phase, labor law's objectives addressed the first function by granting autonomy to the social partners to negotiate social affairs at the level of civil society. This required a number of supportive legal institutions. First of these was the minimal intervention of law by means of mandatory employment standards in law. The initiative for the few laws that were passed usually came from the social partners, who viewed the statutory formalization of norms, which had already been established in collective bargaining, as beneficial to their own interests. At the same time, the law ensured that collectively bargained standards superseded individual negotiations, rendering individual contract law less important. Given the objective of labor law regarding its first function, there was little need for law to fulfill the other two functions. The social partners were given the power to determine for themselves the legitimate use of power within the industrial relations system, and matters of inclusion and exclusion were determined by means of collective agreements. It was therefore the first function, with its preference for leaving the governance of the labor market to autonomous self-regulation, that explains the almost total absence of law in the fulfillment of the other two functions. This is the notion of corporatist labor law—to construct law that minimizes the role of law itself.

In the second phase, roughly from 1987 onward, the corporatist objectives that facilitated negotiations on the basis of class at the level of civil society were no longer appropriate. Labor law was designed to entrench centralized

bargaining, but centralized bargaining was declining. Law sought to encourage the social partners to resolve their own disputes, but the partners gradually drifted apart and delegitimized the system of disputes resolution itself. The new labor law was entrusted with the task of redefining objectives and creating new legal instruments to fulfill the three functions of labor law. On the one hand, as the industrial relations system was losing its collective features, it appeared that individualized bargaining was becoming the most important method of labor market regulation. However, the legal response was to provide a countervailing force to market tendencies to take over the role of collective bargaining. The first task of labor law was achieved by means of centralizing the locus of power, decreasing the autonomy of the social partners, and increasing the use of mandatory standards, even when the bargaining partners opposed such expansion.

Once the authors of law took over the governance of the labor market from the social partners, they also had to provide a more detailed account regarding the other two functions of labor law. While in the corporatist phase the social partners determined the balance of power between labor and capital, as well as the borders between the insiders and outsiders, in the second phase these issues became a matter for legal determination. More particularly, the second task of labor law was addressed by prescribing new rules that resembled the American doctrines, such as rules on fair bargaining and duties of equality and public policy. Many of these rules were aimed at defining the rights of labor, which appeared to be at a disadvantage as a result of corporatism's decline. Similarly, as to labor law's third function, the new law distributed market privileges and rights between the insiders and outsiders of the labor market. Here, too, the law expropriated the distributive role from the bargaining partners. The second and third tasks of labor law were both accomplished with much detailed regulation that sought to protect individuals at the cost of sometimes enforcing, at other times undermining, collective bargaining. This is the process of "juridification" that characterizes the new labor law.

The Structure of the Book

The transition from the corporatist to the pluralist model of labor law suggests a number of questions to which this book will try to respond. First, to what extent can the decline of corporatism explain the rewriting of labor law? Second, did the legal rules matter? Would the outcome of the corporatist system's decline have been different if different legal objectives and instruments had been in place? And were the new objectives and legal instruments an inevitable outcome of the decline of corporatism? Or were they dependent on a certain historical sequence of events, that is, "path dependent" (Pierson 2000)? Finally, how do the legal texts and narratives help us understand the decline of corporatism?

In a nutshell, the answers to all these questions reflect on the relationship between the legal and the industrial relations systems. On the one hand, the

analysis suggests that law is not the reason for corporatism's decline, but its changing objectives are indicative of transition. Moreover, the legal text is highly instructive for those who wish to understand the dramatic transformation of the Israeli industrial relations system. The study of the Israeli transformation further suggests that while the industrial relations system's influence on the legal system was strong in the corporatist phase, it is the legal system that influences the industrial relations system in the pluralist phase.

This book shows that the transition that has taken place in Israel is path-dependent and that its nature, scope, and pace were not determined by a universal logic of convergence but rather by history, economy, culture, and institutional design. The book also demonstrates how some strategic choices that were made in one system influenced developments in the other. For example, the neglect of shop-floor participation in statutes and the judicial effort to secure the hegemonic position of the General Histadrut contributed to the institutional vacuum that came about with the decline of the latter.

To substantiate the answers to these questions, the first part of this book sets the background for the study. It presents the theoretical framework that distinguishes between corporatism and pluralism as distinct methods of governance and interests representation. Chapter 1 concludes by identifying the questions posed by this framework about the relationship between law and industrial relations. While the distinction and questions are based on a comparative and theoretical framework, it is adapted to the Israeli variants of corporatism and pluralism in chapter 2.

Part 2 illustrates the development of labor law from 1920 until 1987, which, as indicated earlier, was chosen as the date to distinguish the first phase from the second. This analysis is divided chronologically and substantively into two chapters. Chapter 3 describes the years until 1968, when most of the important legal developments were in statutes. Chapter 4 describes the developments that took place after the labor courts system was founded in 1969. During those years, most developments were in the courtroom, as the statutory framework was generally stable and relatively unchanged.

Part 3 discusses the emergence of labor law's second phase from 1987 onward. Each of the chapters in this part conceptualizes change in accordance with labor law's three functions. Chapter 5 discusses labor law's metalevel and the change from governance by peak-level bargaining in civil society to mandatory legal determination of rights. The discussion emphasizes what happened to the legal instruments that were developed to entrench the corporatist system, including extension orders, broad bargaining units, and derogation clauses in statutory standards. These examples demonstrate how little remained, either de jure or de facto, of the instruments that were constructed in the corporatist phase of labor law. Chapter 6 studies the second function of labor law—defining the mutual rights and obligations of workers and employers. The discussion identifies the new framing of workers' and employers' rights by observing the changes in jurisprudence on the freedom of association, the emergence of employees' property rights in their workplace, the changing role

of the state in collective bargaining, and the gradual writing of an employees' bill of rights. Chapter 7 describes the transition in labor law with regard to the third function—that is, the relationship between workers, as individuals and groups, and other workers. The discussion of this often neglected function of labor law draws on two major examples—the legal treatment of foreign workers and the debate on the legal regulation of temporary work agencies.

Although the book tells a local story of change, its implications extend beyond the Israeli experience. Part 4 of this book seeks to generalize on a comparative and theoretical level. Chapter 8 draws on the findings of the Israeli experience to contrast the different objectives of corporatist and pluralist labor law in other countries. Chapter 9 further attempts to abstract from the Israeli situation by observing more broadly the relationship between law and industrial relations. Instead of focusing on one or the other, as was demonstrated at the outset to be the more common approach, it emphasizes the relationship between the two. This provides a possibility of bridging legal and industrial-relations scholarship and avoiding mutual assumptions of exogeneity.

Part I

CORPORATISM

1 Corporatism

Theory and Institutional Design

The term "corporatism," or "neocorporatism," appears in the writings of various disciplines.[1] It also seems to adopt various meanings with a core of shared meaning, although the various definitions may not be entirely congruent. Some definitions emphasize institutional factors such as centralized collective bargaining or high union density, while others emphasize governance based on social pacts. Some accounts of corporatism define it in a manner that is tailored to very particular systems, mostly those that prevailed in the Nordic countries. Such accounts emphasize the systemic logic of corporatism's institutions and its comprehensive outreach into all spheres of governance. However, other discussions of corporatism assume a much more limited meaning, increasing the applicability of corporatism to numerous systems. For example, corporatism is sometimes taken to mean centralized collective bargaining, in contrast to decentralized bargaining.

Corporatism, and its opposite, pluralism, are terms that designate a framework that describes a particular *system of interests representation*. These are the intersts of individuals and groups, and by the term "interests representation" I refer primarily to the institutions that voice these interests, but also to those that constitute, aggregate, resolve, and mediate diverse interests. At a high level of generality, corporatism has been described as "a system of interest

1. The use of the term "neocorporatism" is intended to distinguish the modern European corporatist systems from fascist corporatism. Others distinguish, along similar lines, between societal and state corporatism (Schmitter 1974). Such distinctions emphasize the differences as well as the shared institutional logic of the varieties of corporatism.

For the sake of convenience, in this book the term "corporatism" designates modern-day western neocorporatism, or societal corporatism. Only when explicitly mentioned will it refer to the older antidemocratic or South American state-controlled version of corporatism.

and/or attitude representation, a particular modal or ideal type institutional arrangement for linking associationally organized interests of civil society with the decisional structures of the state" (Schmitter 1974, 86). The main hallmark of corporatism in the governance of the labor market in particular and the broader social and economic spheres in general is extensive negotiations between well-organized groups of labor and capital (employers), with the state actively involved (Teulings and Hartog 1998; Streeck and Schmitter 1985; Katzenstein 1984; Schmitter 1974). These negotiations are conducted by means of collective bargaining agreements that are set at levels higher than the single enterprise, usually at the industry, regional, and state levels. Some agreements are elevated to the level of social pacts among the three agents representing labor, employers, and the state. Their coverage is broad, and they commonly have a mandatory effect that makes them more powerful mechanisms than merely voluntary guidelines and recommendations. The power of corporatism therefore derives from the construction of social consensus based on the principle of bipartite and tripartite negotiations. Corporatism is viewed as a midlevel governance system to be distinguished from the hierarchical power of the state and from private ordering, that is, individual-based market transactions.

To understand the unique features of corporatism as a system of interests representation, it is useful to identify its "other." The alternative to corporatism posed in the literature is "pluralism" (Schmitter 1977, 1989). Pluralism is strongly associated with private ordering but need not imply an unfettered market environment. A pluralist system displays rules that govern the labor market, but these emerge from a different system of interests representation. Trade unions are assimilated to other interest groups, and while employers' associations are rare, they are viewed as other organizations of business. The pluralist system recognizes collective bargaining but does little in terms of promoting it, treating it as a voluntary exchange between associations. Corporatism's emphasis on concentration and centralization in representing interests is not on the pluralist state's agenda. This does not deny the associations the possibility to advance coordination, but without the state's support such an objective is difficult to attain. As a result, collective negotiations are for the most part decentralized and conducted at the enterprise level. Thus the pluralist system is a system that strongly preserves the nature of free exchange and admits collective bargaining to the extent that it is desired by the workers and employers as individuals. Pluralism acknowledges the importance of legislation and the setting of substantive labor standards, but regulation is based on the relative power of political parties and the power of interest groups. Regulating labor does not assume any uniquely designed scheme.

Pluralism is presented as corporatism's "other" because it is easier to administer. It is based on liberties (such as the liberty of workers to associate and the liberty to vote) and not on the state's positive endorsement of rights and powers to specially designated social partners. When corporatist institutions

fade, pluralism remains as the default. Corporatism is a project that requires construction, while pluralism is a project that already exists. Hence, corporatism is often measured and studied, but pluralism is merely assumed. By comparison with the "normality" of pluralism, the logic and institutional design of corporatism seems particularly complex.

It has been argued that the distinction between pluralism and corporatism is overstated and, at most, a caricature or an "ideal type" of two positions situated on a continuum, neither appearing in reality in its pure form (Bobacka 2001, 20–24; Cox 1988). Indeed, when posing corporatism and pluralism as two sides that frame this project, it is clearly impossible to assign to each of the two terms a precise set of definitions and institutional examples. Instead, they should be treated as push-and-pull forces that mold the choice of institutions for governing the labor market. Assuming the more general view of corporatism, it is necessary to identify its core components (and by reversing them, the core components of pluralism as well). There are two ways to characterize corporatism. The dominant method is to identify it on the basis of its institutions. A secondary approach is to observe corporatism's substantive outputs. This chapter surveys the fundamental institutions and norms associated with corporatism, with an emphasis on the former. With regard to both, the description is not intended to resolve methodological or theoretical questions but to illustrate the fundamental dilemmas associated with the corporatist design of governance. As will be demonstrated later, the institutional response to these dilemmas was at the core of the corporatist labor law that developed in Israel. The fading of the corporatist system in Israel awoke the dormant pluralist alternative.

The Institutional Design of Corporatism

On the basis of the general description of corporatism, it is possible to outline a number of fundamental features that comprise the corporatist structure. These features can be grouped into three interrelated categories: corporatist associations and the principle of state recognition, the internal organization of the associations ("internal characteristics"), and the interaction between them ("relational characteristics").

Associations

At the core of the corporatist system are associations situated between the private and the public spheres, which are also distinguished from other voluntary communities and groups that function in civil society. Streeck and Schmitter (1985) propose that corporatism is based on associations that, in their more perfect form, can be characterized as "private interest governments," "agencies of regulated self-regulation," or "the public use of private organized interests." The prominent associations that comprise the corporatist system represent the

interests of labor and of employers, namely, trade unions and employers' associations. These associations are characterized by several features. First, they tend to have a generally high level of membership. This stems from two different factors. Many unions in corporatist regimes are not confined to the representation of workers in one workplace and therefore cover at least a sector (or industry), and some are based on statewide membership. In other cases, industry-based or occupational unions are part of a trade union confederation. Such confederations have two alternative structures. The more common structure is that in which independent unions join a confederation to which they delegate some of their power. Less common is the structure of the Israeli General Histadrut and the Austrian OGB, where the confederation is the primary union, from which the various trade unions branch off.

Employers are similarly associated on a broad basis, although the employers' associations are not a mirror image of trade unions (Offe and Wiesenthal 1985). Employers' associations by their very nature designate some form of centralization While trade unions can represent workers in one workplace, employers' associations, by definition, span several workplaces. Rarely will an employers' association be based on coordination among random or small groups of employers. The logic of organization for employers is typically based on coordination along a sector, industry, or region (including the entire state).

The associations that take part in corporatist negotiations, on both sides, are not voluntary interest groups. They enjoy some form of state recognition, which is at least partially institutionalized and covers more than the freedom of collective bargaining and the freedom of contract. Institutionalized recognition can be at different levels of intensity, ranging from consultation in policymaking, as is required by the Swiss Constitution, to exclusive licensing arrangements, as in the Austrian case.[2] Another form of recognition is the delegation of authority usually held by the state in areas deemed to be a matter of social responsibility, such as the delegation of the unemployment funds' administration in Sweden and Belgium to the trade unions—the so-called Ghent system.[3] The unique position of the corporatist associations can be observed by the prevalence of formalized bi- and tripartite institutions.[4] These may include bodies for consultation and policymaking.[5] Tripartite institutions can also be observed in the management of social welfare provi-

2. On the Swiss mode of constitutional recognition, see the *Vernhemlassungsverfahren* procedure (article 32.2 of the Swiss Constitution) granting associations the right to be consulted before legislative proceedings. On the Austrian mode of recognition in which employers must join the WKO and trade unions must be constructed within the institutional structure of the OGB, see Strasser and Kepler (1992, ¶502–10).

3. See, for example, in Belgium, Vilrokx and Van Leemput (1998), and in Sweden, Kjellberg (1998, 101).

4. Generally, formalized legal institutions are sometimes bipartite and at other times tripartite, although this distinction should not be overstated, as the state is implicated once it establishes even bipartite institutions. Moreover, the bipartite institutions are generally in an ongoing relationship with the state as well.

5. For an example in Belgium see Blanpain (2004, ¶¶730, 742–44).

sions.[6] Notably, the role of tripartitism is also highly visible in labor tribunals (EIRO 2004).

Recognition must also be addressed at *particular* associations, not just at associations in general. That is, in a corporatist regime the state is implicated somehow in the identity of the associations. As will be demonstrated in the following chapters, recognition need not always be overt and explicit. It may also be hidden within general and seemingly neutral rules of association.

The requirement of recognition highlights one of the major differences between corporatism and pluralism. Corporatist associations are distinct from voluntary associations. This distinction has been used to illustrate methodological differences between the corporatist and the pluralist literature, as well as policy and practical differences. The comparison with pluralist systems is instructive because the basic unit of analysis for pluralism is individuals, whereas for corporatism it is associations. Accordingly, the questions posed by studies of these two systems are generally different. Pluralists inquire as to why individuals join communities, while corporatists are more interested in the formation of associations and how they are interrelated. An association is an organic entity, in which the group is larger than the sum of its parts. It has an existence that is separate from its constituency at a certain point in time, and individuals may join or leave it without changing its fundamental character.

Associations in corporatist systems are different from those in pluralist systems because they are not formed spontaneously. Pluralism therefore assumes that communities attract members on a voluntary basis, catering to the immediate self-interest of members. Different factors may account for individuals' affiliation with associations, including self-interest, state coercion, or merely an incalculable sense of belonging.[7] Streeck and Schmitter (1985, 126) therefore argue a separate logic of collective action, whereby in corporatism the associations' members are "forced to give up what may often be opportunistically attractive possibilities for acting individually or through less formal groups, in exchange for accepting to be bound by compromised long-term and more general obligations negotiated for them by their respective class, sectoral or professional associations."

Consequently, pluralism suggests spontaneous formation, numerical proliferation, horizontal extension, and competitive interaction. Corporatism suggests controlled emergence, quantitative limitation, vertical stratification, and complementary interdependence (Schmitter 1974). As Schmitter (1974; 1989, 62) emphasizes, not every system in which organizations are involved can be called corporatist. The unique feature of associations in corporatism is their exclusive, quasi-legal position. Exclusivity is a result of the "singular, noncompetitive, hierarchically ordered" nature of these associations. The quasi-

6. For an example in the Netherlands see Visser and Hemerijk (1997).

7. In this sense, communitarian theory is better adapted to account for affiliation with corporatism, and it offers a more diverse set of tools to account for affiliation than do the simple economic incentives assumed by liberal theory.

legal position granted to these associations is what makes exclusivity possible within the domains of the rule of law.

Internal Characteristics

Corporatism requires inclusive associations that internalize the represented group's externalities in collective action and allow for hierarchical coordination between different levels of aggregate interests and group activity (Streeck and Schmitter 1991; Streeck 1995). The extent of the associations' control must match the market in which they negotiate. Thus, to achieve a negotiated ordering of the labor market in a given state, the unions and the employers' associations must be able to capture the market as a whole. This is achieved in two complementary ways. First, the associations must enjoy the broad support of their constituencies, including support for their representation of the constituency as a whole. This is the internal characteristic, denoting the structure of the associations and their relationship with their constituencies. Second, if the association does not enjoy the voluntary support of the constituency, then negotiations will have to extend beyond the voluntary constituency. This can be achieved with the active support of the state for corporatist negotiations and is hence a relational characteristic of those negotiations. This latter form of extending the corporatist agreement beyond the natural constituency will be discussed in the following subsection.

The associations taking part in corporatist negotiations are characterized by a high level of concentration and centralization. "Concentration" refers to a limited degree of competition among associations representing one side of the corporatist triangle (Schmitter 1981; Cameron 1984; Golden 1993; Ebbinghaus 2004). On the labor side, concentration appears either in the form of a clear jurisdictional divide, coupled with a high level of coordination among noncompeting unions, or as a combination of competition and a high level of coordination. To demonstrate the former, one can point at the clear jurisdictional divide among trade unions in Germany, whereby each union represents one industry and each industry is represented by only one union (Weiss and Schmidt 2000, ¶321–36, 356–58). Moreover, most unions are federated in the DGB (The German Federation of Trade Unions). By contrast, in Belgium and the Netherlands there are competing federations of unions, structured along ideological and political lines, but there are also well-structured incentives for cooperation among the federations, reflected in joint bargaining with employers (Visser and Hemerijck 1997, 83–87). Similar differences can also be found on the employers' side, although interassociational rivalry and competition for membership are less common (Vatta 1999).

Besides concentration, corporatist associations are also characterized by the "centralization" of authority. Concentration and centralization complement one another. As a consequence of concentration, which prevents interassociational rivalry (on both the labor and the employer side), the task of representing a very broad range of interests falls to only a handful of associations or feder-

ations. Thus, one union or one federation may organize workers in various regions, diverse industries, and numerous establishments. When the interests represented are few and homogeneous, centralized and decentralized representation may yield similar bargaining positions. The outcome of negotiations will equally affect all those covered by an agreement. When the interests represented are highly varied, however, the importance of centralization is crucial. Centralization ensures that broader interests will prevail over factional and local interests. Corporatist associations must provide a consolidated bargaining position for all those represented. Similarly, they must bind all the affiliated associations and local organizations to their centralized policies. This does not prevent local variations in working conditions and even in wages. Variation may take place either within the framework negotiated by the centralized bodies or by means of a wage drift and supplementary bargaining at the local levels on qualitative (nonmonetary) issues, such as work time, shifts, and training (Wallerstein 1990).

Associations do not naturally incline toward concentration and centralization. In fact, sustaining these features is one of the major problems for corporatist associations in light of the interest of smaller factions (such as affiliate unions in a federation) in conducting their own negotiations separately from those of the association as a whole. This is an intrinsic feature of corporatist bargaining, as the interests of the stronger are compromised in favor of those of the weaker members. Alternatively, an association may deprive certain groups, particularly the weaker or politically vulnerable ones, to advance the interests of the dominant groups represented. Thus, whether a centralized association opts for solidarity in wages and equality or for the subordination of the weaker groups, some sense of dissatisfaction is likely to arise.

The problem of legitimizing centralization may be mediated by the association's efforts to instill in its membership a sense of fairness. This can be achieved by strategies of alternating losers and winners or by procedural practices of due process and democracy. It is, however, noteworthy that internal democracy can serve as both a threat and an effective aid to a centralized association. It is an aid to the extent that it promotes the use of voice as an outlet for dissatisfaction. At the same time, a simple representative democracy on the basis of one person, one vote may undermine the balance between internal factions and lead to an impasse in decision making. It is not surprising that one of the most effective ways of undermining associational structures is by imposing liberal-democratic requirements, as Margaret Thatcher proved so well in her labor law reform during the 1980s (Lockwood 2005).

As opposed to the organizational strategies of associations for the purpose of satisfying their heterogeneous memberships, it is also possible to impose institutions that ensure the ongoing centralization of the association. Such institutions have been used as proxies for corporatist arrangements, including the power of the central body to appoint the leadership of the local industrial and occupational groups within it, the power to deny wage agreements negotiated by lower-level bodies, and the power to veto industrial conflicts initiated by

the lower bodies and to control the strike funds accordingly (Wallerstein, Golden, and Lange 1997). Sometimes these institutions are self-imposed and fall within the compass of the associations' bylaws, while less often they are regulated by the state in the process of delegating authority and extending recognition.[8] In both situations, these solutions do not easily resonate with democratic processes, and hence they present a constant tension, which is intrinsic to corporatist associations.

Alternatively, it is possible to forge an alliance between macro-level corporatism (peak-level and centralized) and firm-level means of labor-management cooperation, such as works councils. Empirical studies have noted that such forms of cooperation are correlated to macro-level corporatist features (Hicks and Kenworthy 1998). As long as the works councils do not perform traditional union functions—namely, negotiations over wages and the initiation of industrial action—the local representation scheme does not undermine the logic of centralized bargaining (Thelen 2001). Collective bargaining between the centralized, industry-based unions fulfills the more adversarial function of labor-management relations, while the works councils, situated at the enterprise level, provide the more cooperative features.

Together, concentration and centralization accommodate the singular voice of labor on the one hand and employers on the other hand. When the state is involved in bargaining as well, it also sends peak-level representatives, high-ranking government officials, rather than low-ranking civil servants. For the state this entails coordination among the various ministries, e.g., those in charge of finance and labor. Further coordination is required with other governmental or quasi-governmental institutions, such as the central bank or the social security agency.[9]

Relational Characteristics

The interaction among associations that characterizes corporatism involves "institutionalized and relatively centralized systems of collective bargaining" (Wallerstein, Golden, and Lange 1997). While the previous set of characteristics refers to the internal structure of the associations on each side of the trilateral relationship, the following characteristics refer to the interaction among them. These can be further separated into characteristics of the negotiations process and those that refer to the implementation of the negotiations' outcomes.

8. See, for example, in Austria, Strasser and Kepler (1992, ¶9–13) and Traxler (1993, 246–48).

9. At a relatively late stage of the writing on corporatism, the role of a central bank and its relationship with the state have been emphasized. Currently, some view this to be one of the fundamental features of a corporatist system (Wallerstein, Golden, and Lange 1997; Iversen 1999), but there is an empirical question regarding the effects of centralization in collective bargaining and the role of the central bank and how they interact (Chou 2000; Sakamoto 2005).

First, corporatism is characterized by bargaining between labor and employers at the peak level. The corporatist process emphasizes the construction of a broad political consensus by means of negotiations. Consequently, it is generally associated with a low level of industrial action initiated by unions, the abstention from unilateral action by the state and the employers, and the use of alternative means for dispute resolution, with regard to both legal and economic (interests) disputes. The mediation of interests by the governing political party, most notably in the social-democratic versions of corporatism, can also be described as part of the consensus-building process.

Entering into negotiations is generally voluntary, but the parties' incentives to negotiate are frequently embedded within the system. These incentives include several important institutional factors, which appear in different corporatist systems to varying degree. First, the state has an important role in inducing negotiations. This is particularly evident in systems where corporatist associations, especially the trade unions, have been backed by social-democratic labor parties (Moene and Wallerstein 1995). In fact, some have recognized a special strain of "social-democratic corporatism" in which the alliance between labor and government has been an integral and stable component (Shalev 1992, 5–6). In these situations, the social-democratic party in power mediates conflicting demands and provides state aid in various forms to accommodate agreements (e.g., imposing tariffs, changing interest rates, changing income tax policy, or changing social security benefits and conditions). The state, being the largest employer, can also serve as a "model employer," setting the pattern for private-sector bargaining; alternatively, it can draw on private-sector agreements to compensate for the absence of clear market signals in the public sector. Thus, the assumption that there are three separate parties in tripartite negotiations is misleading. The alliance between a governing party and a trade union, and its interest in gaining electoral support beyond the working class, ensures a checks-and-balances system in which the parties internalize one another's interests through various institutional mechanisms.

The corporatist emphasis on broad and voluntary negotiations is also associated with relatively low levels of strikes and industrial action (Korpi and Shalev 1979). The flip side of the coin is that employers and the state refrain from the unilateral use of power without resorting to prior negotiations. Nevertheless, strikes continue to fulfill an important function in corporatism as well, often a result of the problems associated with the internal characteristics outlined above. Generally they are wildcat strikes (i.e., unauthorized by the trade union or the federation) initiated by the rank and file as their only means of protest once negotiations have been centralized, or as a means of winning a wage drift and other local concessions. Strikes can also be used by the centralized union as a means of obtaining legitimacy from the rank and file and demonstrating responsiveness to the workers' interests at times of compromise. Otherwise stated, in corporatism strikes may be an outlet for demands

that corporatism would prefer to silence.[10] It has therefore been suggested that corporatism does not necessarily make strikes unnecessary but merely changes their nature and objectives.

The second relational feature of corporatist institutions is the requirement that collective agreements will be mandatory, binding on all parties, and extended to regulate broad segments of the population. This requirement distinguishes corporatism from the view that collective relations are merely voluntary and nonenforceable (as was the case in the United Kingdom). Corporatism views the negotiations' outcomes as a substitute for legislation. Hence, the outcomes of negotiations must be binding in order to avoid individual derogations from the agreements that are shaped by the relative market power of the parties in individual transactions. Such derogations undermine the collective nature of arrangements and their role in the decommodification of an individual's status and well-being. This is a feature that generally appears in most systems of industrial relations, but its importance in corporatism is augmented because of the central role of bargaining, the comprehensive scope of issues relegated to the sphere of social negotiations, and the distance between the bargaining agents and individuals. Consequently, the negotiations' outcomes appear as binding as state laws to individual workers and firms. This application deviates from the law of contract, which holds obligations to be the product of individual consent.

Various measures may be employed to achieve comprehensive coverage by collective agreements. It is possible to distinguish between measures that seek to ensure comprehensive coverage within the unit of bargaining and those that seek to extend coverage beyond the natural bargaining sphere (EIRO 2002). The former include, for example, laws that mandate the application of agreements to members of the signatory union, as well as to members of other unions and nonmembers. A similar outcome can be reached by the signatories' consent to compulsion as a means of inducing the employer to extend agreements to all the employees, or by employers' voluntary application of the agreements to all employees regardless of membership status. By contrast, extension orders, whether issued by the legislature or the executive branch, apply the agreements to employers who are not members of an employers' association and to their employees.[11] Consequently, such employers lose the advantage of opting out of the representative organizations taking part in

10. The Israeli case demonstrates this trend well. There are, however, other examples, such as Italy, where wildcat strikes emerged to contest the abolition of the *scala mobile* (Baccaro 2003, 12).

11. The common practice of issuing "awards" that characterized the unique nature of industrial relations in Australia and New Zealand in the past was also consistent with the objective of extending collective agreements beyond the domain of bargaining. The logic of extension can also be identified in the method of wage setting in the United Kingdom, through wage councils. While none of the three countries mentioned here can be classified as corporatist per se, it has been acknowledged that they sustained elements of centralized bargaining of a corporatist nature.

corporatist negotiations. It should be noted that corporatist extension of coverage results from the external (to the social partners) extension of a particular collective agreement, rather than the voluntarily use of one agreement as a model for others, as is the case in pluralist pattern bargaining (Katz 1993).[12]

The relatively rigid requirement that agreements should be broadly applicable, mandatory, and binding, can be contrasted to the less rigid framework constructed for negotiations. A comprehensive ordering of the labor market through collective negotiations can be achieved if there is a very broad voluntary membership (e.g., when membership is motivated by the Ghent system) and a lesser level of intervention by the state in extending coverage of agreements beyond the voluntary unit. Alternatively, a low level of membership requires a high degree of external intervention to ensure a corporatist level of coverage. Broad voluntary membership is deemed more desirable because it attenuates the state's need to use power (i.e., law) to intervene in the ordering of the labor market. A high level of state intervention to ensure broad coverage may undermine the premises of corporatism. This is best demonstrated by the case of France, where fewer than 10 percent of the workers are trade union members but the coverage of collective agreements extends to over 90 percent (Flanagen 1999). This is but one of many phenomena, on account of which France has been deemed an example of statism rather than corporatism.

The Outcomes of Corporatist Systems

The general definition of corporatism, thus far, has been procedural or structural in nature. Corporatism implies governance by means of negotiations and consensus building among singular, centralized, state-recognized associations representing labor and employers. This structural definition omits the substantive outcomes resulting from negotiations. However, corporatism has also been associated with various substantive norms, such as wage compression, wage restraint, low levels of unemployment, and lower levels of inequality.

Must corporatism be defined on the basis of these outcomes (Cox 1988)? One answer holds that corporatism need not be associated with any one substantive outcome. One of the premises of the corporatist system is that associations negotiate their own norms. There is no one particular norm that can serve as a benchmark for the corporatist system. An alternative response suggests that the nature of corporatist negotiations necessarily requires the prevalence of low unemployment because high levels of unemployment imply a

12. Pattern bargaining designates a situation in which the trade union selects one employer with whom negotiations are conducted, followed by an attempt to replicate the collective agreement to other employers in consecutive bargaining rounds. The distinction between corporatist arrangements for broad application of agreements and pluralist pattern bargaining is not clear-cut. The German IG Metall's prominent role in wage bargaining for many years can be viewed as a hybrid of pluralist pattern bargaining and a nonformal method of corporatist wage coordination.

dualist market and a failure of corporatist associations to advance broad interests, rather than the narrow interests of the associations' members. Consequently, failure to achieve this particular outcome is indicative of a systemic failure in the structural design of the corporatist system. This latter response suggests a type of reflective equilibrium between the characteristics of the process and its substantive outcomes.

What is the range of norms associated with corporatism? There has been a surge of theoretical and empirical literature on corporatism, starting in the early 1980s, pointing to corporatism's strengths and weaknesses. Although the literature is sometimes inconclusive and the empirical studies are open to criticism for their choice of typology in identifying corporatist regimes (Flanagan 1999, 1150–75; Leertouwer and de Haan 2002), it is nevertheless instructive for assessing the range of substantive norms associated with corporatism.

Corporatism and Wage Restraint

One line of studies ties corporatism and the centralization of collective bargaining with wage restraint. When unions act collectively, they accept greater wage restraint than they would otherwise concede if acting independently (Moene, Wallerstein, and Hoel 1993). It is assumed that the bargaining agents, especially when conducting negotiations in coordination with the state, are better informed about the macroeconomic conditions and are more capable of assessing the consequences of various policy options. It is further argued that corporatist institutions enable wage setters to avoid the various negative externalities driven by wage bargaining on behalf of small groups (Crouch 1985; Bruno and Sachs 1985; Calmfors and Driffil 1988; Soskice 1990). Lars Calmfors (1993, 161) summarizes various types of negative externalities that have been proposed in the literature. The externalities are derived from the rising labor costs for employers in collective negotiations and are consequently distinguished by the agents who bear the rising costs: consumers, other producers, the economy, investors, and other employers competing for the same labor force. Of special significance is the externality that is imposed on other workers. This may take the form of increased unemployment or an "envy externality" resulting from workers' intersubjective assessment of wages, or from the need to restructure efficiency-wage arrangements. Consequently, centralized bargaining avoids raising wages for one group without considering the effects on other groups, such as consumers or workers.

Both explanations for the alleged relationship between corporatist structures and wage restraint have been contested. A critique of these arguments can take one of two forms. The stronger version is that corporatist negotiations do not provide the benefits attributed to corporatism. The weaker version holds that these benefits are related to corporatist systems but to other systems as well. The first critique holds that while corporatist associations have better information regarding macroeconomic performance, they suffer

from the same problem that governments have regarding the absence of information on preferences at lower levels. Thus, information advantage on one level may be offset by information disadvantage at another. To demonstrate the second type of critique, Calmfors and Driffil (1988) make the argument that both highly centralized and decentralized systems fare well in terms of wage restraint, as opposed to systems in which wage bargaining is conducted at the midlevel (namely, the industry level). This type of critique is less detrimental to the values associated with corporatism because it only holds that with regard to this specific norm (wage restraint) corporatism is not the only system to yield such results. Generally, the relationship between the centralization of bargaining and wage restraint has been empirically demonstrated in either its strong (exclusive relationship) or weak (corporatism is one of the systems associated with wage restraint) versions (Calmfors 1993, 179–80).

Corporatism and Full Employment

Wage restraint is not only an end in itself; it is also correlated with the objective of full employment (Flanagen, Soskice, and Ulman 1983). This is merely an extension of the externalities problems noted above, yet it has been asserted to be one of the most important outcomes of corporatist bargaining. Given that a rise in wages can have adverse effects on employment levels, centralized bargaining is constrained by employment targets. On one side of the bargaining table, centralized unions continue to represent the unemployed and therefore internalize their interests as well. On the other side of the table, employers opt for wage restraint and higher employment levels, especially when raising wages would require them to initiate layoffs. The internalization of the negative externality caused by unemployment therefore helps to overcome the "insiders-outsiders" problem, which pervades labor market governance by institutions (Lindbeck and Snower 1988). The evidence regarding the relationship between the centralization of wage setting and unemployment demonstrates the weaker thesis, according to which the centralization of wage setting is one way of promoting low levels of unemployment. As in the general discussion of wage restraint, the alternative method is highly decentralized bargaining—shaped for the most part by market forces with little institutional interference—or (less effectively) enterprise-based bargaining (Layard, Nickell, and Jackman 1991; Moene and Wallerstein 1995).

Corporatism and Equality

The association of corporatist systems with equality has also been demonstrated. This stems from several factors. First, wage equality derives from the higher levels of wage compression (or lower levels of wage dispersion) that have been demonstrated to be correlated with corporatist arrangements (cf. Freeman 1988; Agell and Lommerud 1992; Rowthorn 1992). Unlike the ambiguous evidence regarding wage restraint, the data consistently indicate that