

The battle over flexibilization in post-communist transitions: Labor politics in Poland and the Czech Republic, 1989–2010

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Abstract

In post-communist transitions, given the steepness of union decline and the inheritance of rigid communist-era Labor Codes, a convenient way to compare the relative efficacy of organized labor is to assess its ability to contain the push for ‘flexibilization’ in the revision of labor regulations. This article compares Poland and the Czech Republic (1989–2010), where important differences emerged in revised Labor Codes in such areas as dismissals, fixed-term contracts, collective bargaining, and union rights. In all these aspects, Czech labor did significantly better in resisting flexibilization. The explanation rests on the evolution of a legacy union in the Czech Republic that was able to concentrate labor’s resources and coordinate with an electorally viable set of left parties to secure their backing for labor’s agenda. This was not possible in Poland given the deep divisions within organized labor and the shifting fortunes of left parties in a more volatile party system. The cohesiveness of labor and the viability of left parties do not explain variation in labor power everywhere. They do, however, jointly constitute a portable mechanism that enhances the strength of organized labor in post-communist countries and possibly even in late-developing countries marked by market reforms and democratic contestation.

Keywords

Czech Republic, flexibility, labor regulations, liberalization, Poland, post-communist transition, trade unions

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Introduction

‘Numbers only tell part of the story. Where many observers around the world see only decline, I see increased democracy, greater pragmatism and freedom for millions of workers to form representative organizations to engage in collective bargaining with their employers and to participate in decisions affecting society and the workplace.’
(Michel Hansenne; ILO, 1997)

The statement from the former Director-General of the International Labor Organization (ILO, 1997) may have been overly optimistic, but it rightly suggests that a decline in union membership is not automatically an indicator of labor’s impotence. In post-industrial settings, differences in trade unions’ strategies, rates of strike activity, and modes of concertation all point to alternative pathways to union renewal (Frege and Kelly, 2004; Heckscher and McCarthy, 2014). In post-authoritarian settings, despite the initial domination of legacy unions descended from the old regime, some unions learn to cooperate, devise new strategies, and learn to bargain with political and business elites (Caraway et al., 2015; Etchemandy and Collier, 2007). In the case of post-communist transitions, however, the challenge is heightened by the task of managing simultaneous and wholesale political and economic transformations following decades of central planning (Przeworski, 1991). Despite initial optimism about labor’s potential role in spearheading civil society (Kubicek, 2004) and about the transference of European Union (EU) industrial relations practices to Eastern Europe (Vickerstaff and Thirkell, 1997), the first decade of post-communism saw a precipitous decline in union density and the futility of ‘illusory corporatism’ (Ost, 2000). These conditions led many to conclude that labor was simply too weak or passive to defend workers’ interests or influence policy (Crowley, 2004; Crowley and Ost, 2001; Kubicek, 2004; Vanhuyse, 2006). Not surprisingly, this coincided with the view that businesses in Eastern Europe enjoyed significantly more flexibility than their counterparts in Western Europe (Meardi, 2002).

This article does not dispute these findings, which are based primarily on observations from the first decade of transition. Rather, it builds on more recent analyses of differences across post-communist labor relations (e.g. Avdagic, 2006; Chen and Sil, 2006; Cook, 2010; Robertson, 2004; Sznajder Lee and Trappmann, 2016), with a focus on the indicators and sources of variation in the efficacy of organized labor. Within the context of post-communist transition, given the steepness of union decline and the fluidity of newly emerging institutions and policies, familiar predictors of labor power (such as union density or rates of strike activity) are not likely to be useful. To the extent that small differences in labor power might emerge over time, these can be better tracked through the efforts to resist the employer-backed push for greater flexibility in employment practices and labor markets. True, the advance of flexibilization has created pressures to transform labor institutions everywhere. The scale and impact have been markedly greater,

however, in places where state-guided or centrally planned economies once prioritized 'rigidity' in labor markets in the interest of political and social stability (Sil and Candland, 2001). In the case of communist regimes, this rigidity was evident in remarkably similar Labor Codes that guaranteed full employment, placed severe constraints on dismissals and worker movement, and relied on enterprise unions to manage social benefits. Surprisingly, post-communist reformers were prepared to discard the entire apparatus of central planning, yet chose to retain and revise the Labor Code as the basic framework for labor relations. This provides us with an opportunity to engage in a structured–focused comparison (George and Bennett, 2005: 67): the 'structure' consists of a universe of cases that feature similar communist legacies and comparable imperatives of political and economic transformation; and the 'focus' concerns the question of whether and how unions in certain countries managed to resist or delay employer-led efforts to dilute worker-friendly labor regulations.

The empirical study is a paired comparison of the Czech Republic and Poland during the first two decades of transition. The two countries satisfy the conditions for a 'most similar' systems comparison. They are both democracies that are now EU members with market economies that are reasonably well integrated into the global economy. In typologies of post-communist economies, the two countries are usually placed in the same category as, for example, in Bohle and Greskovits (2012) who classify them as cases of 'embedded liberalism'. Also, while business associations in both countries were organized speedily and quickly became influential, organized labor in both countries had to contend with significant declines in union density amid rising unemployment. The period under consideration spans two decades, from 1989 to about 2010. Given that the first decade of transition was a time of rapid institutional change and extreme uncertainty, the longer timeframe allows us to analyze labor politics against the more stable configurations of interests over time. Indeed, the main battles over revising the Labor Code did not get under way until after the first decade of transition, by which time the rate of union decline had slowed down, and both the political system and market economy were more consolidated. At the same time, to analyze labor politics under relatively stable conditions, it is necessary to exclude the period from 2010 onward since the onset of the financial crisis affected the two countries in different ways and led to heightened uncertainties and emergency measures that temporarily distorted the dynamics of labor politics. Within this 1989–2010 period, the comparison is aimed at establishing and explaining differences in the extent of flexibilization achieved through changes in labor law, particularly the revised Labor Code. The argument developed in the following section is intended not only to explain the different trajectories of Poland and the Czech Republic, but also to illuminate certain permissive conditions that allow organized labor to be politically efficacious in the face of union decline and pressures for flexibilization.

The first section below demonstrates that, even with common principles linked to EU accession, significant differences emerged between Poland and the Czech Republic in such areas as the procedures and costs of termination, schemes for

unemployment insurance, the use of fixed-term (temporary) contracts, the scope of collective bargaining, and union rights vis-a-vis newly established works councils. In these aspects, labor's preferences were more closely aligned with the outcome in the Czech Republic than in Poland. The next two sections respectively highlight two mechanisms that jointly affected labor's ability to resist flexibilization as labor politics became more routinized in post-communist settings. The first of these concerns, the cohesiveness (or lack thereof) of organized labor, at least as it impacted union-led collective action during policy or legislative debates affecting employment relations. Cohesiveness was greater in the Czech Republic, where a legacy union remained the dominant union but learned to leverage its inherited resources and membership base to advocate more effectively on behalf of employees. Polish labor, by contrast, was hurt by the presence of two large confederations that represented most of the unionized workforce but were divided in their priorities and political allegiances. The other mechanism relates to the nature and role of political parties. As the case of the Czech Republic demonstrates, the net impact of labor's cohesiveness depends on the availability of electorally viable left parties willing to back labor-friendly positions in the legislature in exchange for electoral support from the working class. The conclusion characterizes this two-pronged argument as a special variant of the 'labor-and-left' thesis that was popularized in earlier studies of European labor relations (e.g. Huber and Stephens, 2001; Lehmbruch, 1984; Williamson, 1989) but the logic of which seems more relevant now to post-communist transitions (and to late-industrializing states that are at least partly democratic and pursuing sustained market reforms). While the cohesiveness of unions and their linkages to viable left parties are neither necessary nor sufficient for explaining the efficacy of organized labor power, they may be regarded as jointly constituting an important mechanism that, all other things being equal, enhances the ability of organized labor to exert influence under conditions of union decline and liberalization.

The quest for flexibilization in Poland and the Czech Republic

Labor relations under communism presumed a unity of purpose among planners, managers, and workers. Communist regimes adopted similar Labor Codes, including the Czechoslovak Code of 1965 and the Polish Code of 1974, that guaranteed all citizens the right to employment, established automatic dues-paying union membership in most enterprises, and laid out specific regulations for the dismissal or reassignment of workers. Within these frameworks, trade unions served as 'transmission belts' for coordinating efforts to meet production targets and managing the distribution of social benefits. But, they also played a role in ensuring that any dismissals or reassignments were carried out per regulations (Pravda and Ruble, 1986).

After 1989, in a rapidly shifting environment marked by extreme uncertainty, workers, unions, and private employers, all had to adjust to new realities, including the steady divergence in the interests of labor and business. In the course of a fluid transition, many of the usual predictors of labor power in post-industrial countries

simply did not work (Armingeon, 2006). The decline in union membership, for example, proved to be much sharper during the first decade of transition because of the sudden end to the automatic dues-check-offs, which had produced an artificially high level of union membership at communist workplaces. And, with unions no longer administering social benefits, workers were unsure of the point of union membership amidst factory closures, wage arrears, and rising unemployment. Over time, however, the rate of union decline slowed significantly, suggesting a normalization of labor relations. In the Czech Republic, for example, union membership dropped 72% between 1990 and 2000, but only 34% between 2000 and 2010; the corresponding figures for Poland were 60% and 27% (Organization for Economic and Co-operative Development (OECD), 2013). Such stark variations in the rate of union decline in different periods make it difficult to employ trends in union membership as a consistent indicator of labor's influence across time and space in post-communist settings.

Strike rates are not a reliable indicator of labor strength in post-communist transitions either. On the one hand, the generally low level of militancy in post-communist settings is a function of specific conditions, including the inherited tradition of cooperative labor-management relations and the extreme anxiety of workers fearful of dismissals under turbulent conditions (Crowley, 2004; Crowley and Ost, 2001; Kubicek, 2004). On the other hand, where strikes have occurred with some regularity, as in Romania, these have been a function of either dire conditions or labor's weak bargaining position (Bohle and Greskovits, 2012: 184–191; Kideckel, 2001; Robertson, 2004; Varga, 2014). Similarly, institutions set up for tripartite social dialogue, while ostensibly giving unions some voice, at best generated marginal agreements that had little bearing on workers' livelihoods in the midst of wholesale privatization (Ost, 2000). Even in Poland, where the Solidarity trade union had ties to leading reformers and was consulted on the process of privatization (Paczyńska, 2009), the discussions were predicated on the acceptance of closures and mass dismissals that would push Poland's unemployment rate to 20% by 2002 (Ost, 2005). Under the conditions of radical transformation, tripartite commissions simply did not function as intended, and union participation turned out to be more a formality than an indicator of influence.

Yet the shared legacy of communist-era labor relations does yield a different sort of proxy for estimating the efficacy of organized labor in post-communist settings: the extent to which *unions managed to limit the advance of flexibilization in the course of revising worker-friendly labor regulations*. This move is predicated on the fact that, across post-communist regimes, preexisting Labor Codes, rather than being jettisoned along with the system of central planning, continued to provide the basic framework for labor relations and became the object of contentious efforts to amend various provisions for the sake of flexibility. In this context, flexibilization is understood to mean the overall ease with which employers are able to employ or dismiss workers, to set the terms of their employment, to arrange work schedules as needed, and to define the range of issues subject to bargaining with employees' representatives. Given that communist-era Labor Codes were

designed to establish 'rigidity' in labor relations, post-communist reforms everywhere included efforts to increase flexibility. Yet over time, significant variation emerged in the degree of flexibilization, with organized labor in some post-communist countries significantly more satisfied with the outcome.

Once communist regimes fell, the Labor Code remained in place, but new Acts were adopted by decree to establish collective bargaining and the right to strike. Other revisions were adopted during the 1990s without much strife to adjust the language of labor regulations to facilitate their application to a newly emerging private sector. More fundamental revisions, however, would prove to be much more contentious. Major battles were fought over the adoption of the 2002 version of the Polish Labor Code (adjusted in 2004 to conform to the EU's Charter of Fundamental Rights) and the 2006 version of the Czech Labor Code (which already incorporated those same standards). In both cases, EU accession produced some general guidelines, such as tripartite social dialogue, the introduction of employee councils, and the balancing of flexibility with employee rights (Bluhm, 2008; Wasileski and Turkel, 2008). And in both cases business associations lobbied hard to minimize restrictions on employers, while unions sought to preserve worker-friendly clauses (Gardawski et al., 2012; Myant, 2010). Yet, in the end, important differences emerged in key elements of the revised Labor Code and related regulations, with labor in the Czech Republic faring better on both of these elements.

Dismissals

Although layoffs became more easy in both countries, the revised Czech Code retained far more specificity in the conditions that must be met before dismissals, even retaining some of the language from the communist era – 'for organizational reasons' (Wasileski and Turkel, 2008: 271). This specificity permitted more challenges from laid-off workers who could question the conditions under which they were given notice, a situation that Czech employers sought to avoid by agreeing to relatively more generous severance packages where termination was by mutual agreement (Wasileski and Turkel, 2008). The cost to employers for laying off a worker in the Czech Republic was substantially higher than in Poland owing to clauses requiring a longer period of notification (2 months) as well as a more substantial severance package (3 months' pay). Poland made allowances of 1 month's pay in cases where those being terminated were eligible for retirement or disability benefits, but otherwise immediately transitioned newly unemployed individuals into the unemployment insurance scheme. In terms of weekly salary, the net cost of firing an employee in the Czech Republic came out to be 65% higher than in Poland, about 22 weeks of salary as opposed to 13 weeks in the latter (Kuddo, 2009; World Bank, 2009).

Unemployment insurance

Unemployed Poles receive a monthly amount (€110–160, depending on the number of years worked) over a period of 6 to 18 months, depending on regional

unemployment and other household income. Unemployed Czechs begin with 65% of the monthly earnings, then 45% starting with the fifth month up to a total of 11 months, depending on age. On the surface, the compensation may appear slightly more generous in Poland. But the qualifying rules in Poland are far more stringent: 365 days of work over the preceding 18 months, as compared with the same 365 days of work over 36 months in the Czech Republic. The less stringent qualifying rules and the more substantial severance package in the Czech Republic, together with the much lower rate of long-term unemployment (European Commission, 2012), explain why the Czech scheme is regarded as more effective in protecting income and averting poverty by the European Commission's Directorate-General for Employment, Social Affairs and Inclusion (Avram et al., 2011).

Fixed-term (temporary) contracts

Whereas the Polish Code removed all restrictions on the use of fixed-term contracts, the Czech Code established a 2-year limit, whether for single contracts or for repeatedly renewed contracts. Although these limits would be extended in 2012 as part of the response to the financial crisis, the restrictions on fixed-term contracts represented a modest success for Czech labor in establishing the primacy of full-time long-term employment – which came with other benefits, such as higher annual earnings, representation in collective bargaining, and more extensive dismissal/severance requirements. By 2010, the percentage of Polish employees on fixed-term contracts stood at over 27% – highest in the EU and nearly double the average across all EU-28 countries. The corresponding figure in the Czech Republic was just 8%, six points below the EU-28 average (European Commission, 2016).

Collective bargaining agreements

Collective bargaining, initially introduced by decree following the end of communism, was the subject of major debates, with employers in both countries wanting to drastically limit its scope. In the Czech case, unions and left parties insisted on expansive use of collective bargaining as a condition for allowing employers more flexibility with respect to work schedules, including overtime. In Poland, limits on overtime work were roughly similar but allowed for additional scheduling based on individual contracts and specific workplace regulations (Bluhm, 2008: 73). The significance of this difference is evident in the fact that, in 2009, over 40% of the Czech workforce was covered by some form of collective bargaining agreement, including regional or sectoral agreements covering multiple workplaces (Fulton, 2011). In Poland, the Labor Inspectorate noted that fewer than 2 million workers out of a workforce of 12 million were covered by collective agreements in 2008, suggesting around 15% coverage (see Towalski, 2009).

Union rights vis-a-vis works councils

In both Poland and the Czech Republic, EU directives on works councils led to separate legislative debates (since the existing Labor Code had no mention of this). In both countries, unions were concerned about their rights at the workplace and sought to block the establishment of separate employee councils. Again, the outcome was more favorable to labor in the Czech Republic. In Poland, parliamentary debates in 2005–2006 led to legislation allowing employee councils in any workplace, including those with unions, although unions were permitted to nominate representatives. In the Czech Republic, employee councils were set up in workplaces of 50 or more employees *only* so long as unions did not exist in those workplaces, and even then, the councils did not enjoy the same rights as unions with respect to concluding collective agreements or consulting on remunerations and appraisals of employees (Bluhm, 2008: 71).

Responses to the outcome

Perhaps the clearest indication that the 2006 Czech Code ended up being more labor-friendly than the 2002 Polish Code is in the reactions of trade unions and employers' organizations. It may be argued that Czech employers, perhaps influenced by the German tradition of labor-management cooperation with strong workplace unions, were more open to restrictions retained in the revised Czech Code. Yet the evidence suggests that Czech business associations were deeply frustrated with the outcome. Notably, the Confederation of Industry of the Czech Republic, the largest employers' organization in the country, complained bitterly about the regulations governing dismissals which, they argued, were in some ways *more* restrictive than before (Hála, 2006b). In contrast, Polish employers' organizations, although asking for still more flexibility, were the main driving force behind the revisions to the Polish Code (Towalski, 2002). On the labor side, Czech unions worked with officials from the Ministry of Labor to draft key provisions of the revised Code, and they were broadly satisfied with the results. The leading trade union center, the Czech and Moravian Confederation of Trade Unions (ČMKOS), claims to have 'contributed substantially to defending and preserving the protective role of the Labour Code' in the face of 'long-term pressure aimed at liberalisation of labour law' (ČMKOS, 2015). In contrast, the main Polish labor federations viewed the revised Code as a clear defeat for labor, even if their lack of coordination contributed to this: Solidarity organized mass protests against the government, while the All-Poland Alliance of Trade Unions (OPZZ) faced internal dissent as its leader was accused of compromising too much with the government (Czarzasty, 2002). These reactions confirm that revised labor regulations, while certainly not reflecting labor's ideal preferences, were closer to what the Czech unions could accept than to what Polish unions could accept.

It is reasonable to ask whether the more limited flexibilization in the Czech case might have negatively impacted Czech workers in other ways, for example by scaring

away foreign investment and reducing employment. Yet precisely the opposite has been true. In terms of per capita foreign investment inflows, the Czech Republic was the best performer among the Visegrád countries in most years between 2000 and 2010, and consistently outperformed Poland during that time. In fact, in 2010 the figure for the Czech Republic (US\$969) was double that of Poland (US\$484).¹ Similarly, the unemployment rate has been consistently higher in Poland. Between 2001 and 2005 Poland's unemployment rate averaged 18–19%, while the Czech unemployment rate averaged 7–8% (World Bank, 2016). The differential narrowed over time, in part due to the exodus of over 2 million Poles since EU accession in 2004; even so, the Czech Republic's unemployment rate, both month-to-month and long-term, has remained lower than that of Poland (European Commission, 2012). True, investment flows and employment levels are a function of many factors, but the point here is simply that the limits on flexibilization do not appear to have hurt the Czech economy or its workforce. In the meantime, they do reflect an outcome that aligned more closely with the preferences of Czech labor than with those of Polish labor. The next two sections turn to the question of why this proved to be the case.

Organized labor – more fragmented in Poland

In the early years of post-communist transition, it was the legacy unions descended from the communist trade union apparatus that began with the preponderance of organizational resources and a larger membership base. But initially they had little experience with adversarial industrial relations, were contending with a flurry of new laws and policies in a new institutional setting, and were quickly losing membership. New trade union organizations frequently criticized legacy unions and sought to redistribute their assets, fueling tensions within the labor movement. Over time, as the institutional context became more stable and predictable, there was a marked increase in the awareness of the discrete interests of labor as well as the role of trade unions. The extent to which this translated into concerted labor action, however, varied significantly.

Polish labor: Divided from the start

Initially, it appeared that unions might exercise more influence in Poland than in other post-communist settings, mostly due to Solidarity's popularity and resources. Even under communism, Polish unions evinced a more robust history of autonomous worker mobilization than in other communist countries, with workers frequently pressing for independent representation (Pravda, 1986). Although the government periodically responded with selective concessions, including a plan to decentralize union structures, the party organization always managed to reestablish tight control over unions. This fed the frustrations that ultimately turned Solidarity from the official trade union body into a union-led resistance movement that had to go underground after it was declared illegal in 1982 (Gardawski et al., 2012; Paczyńska, 2009: ch. 2).

In 1984, the regime sought to undercut Solidarity's clout by creating another regime-sponsored trade union apparatus – the OPZZ. OPZZ was around for only 5 years before the end of communism and did not possess the organizational resources controlled by official communist trade unions elsewhere. In any case, the end of communism in 1989 appeared to make OPZZ irrelevant as Solidarity activists took control of the labor movement while also becoming part of a new political elite committed to a rapid transition to a market economy. Solidarity unions, although operating underground for much of the 1980s, had also amassed significant financial resources through foreign sponsors, including the United States' National Endowment for Democracy, the Central Intelligence Agency, and George Soros' Open-Society Foundation (Kubik and Ekiert, 2001; Paczyńska, 2009: 54). Thus, the study of labor relations in post-communist Poland initially focused mostly on Solidarity, with OPZZ relegated to a footnote.

The situation changed, however, once it became clear that Solidarity-backed political leaders were prepared to accept falling real wages and rising unemployment as the necessary cost of transitioning to a market economy (Ost, 2005). This is what enabled OPZZ to not only survive but attract new members, including workers and local unions defecting from Solidarity. Other groups also left Solidarity's national trade union organization, including Solidarity 80, which independently organized mass anti-government protests and created an opening for ex-communists to come to power in 1993. Although Solidarity trade unionists also organized some labor protests (Ekiert and Kubik, 1999), rivalries among Solidarity, OPZZ, and smaller unions prevented labor as a whole from effectively resisting employers' efforts to gut the social protection of workers in the early 1990s (Gardawski et al., 2012; Ost, 2005: ch. 4).

The division between OPZZ and Solidarity would become a routine feature of Polish politics from the mid-1990s on, reinforced by competing political and ideological orientations. Solidarity unions regularly sided with right-of-center parties (even as they changed labels and leaders), whereas OPZZ tended to ally with the ex-communist party that spearheaded the Democratic Left Alliance (SLD). Thus, whatever opportunities labor officials had to participate in successive governments did not strengthen the position of trade unions writ large, but instead contributed to the 'subordination of trade union demands to the exigencies of political coalition-making' (Trappmann, 2012: 8). Moreover, by the early 2000s, OPZZ's membership had grown to the point that both Solidarity and OPZZ claimed over 600,000 members, accounting for more than two-thirds of a unionized workforce (Carley, 2009). This made it difficult for either center to dominate the labor movement, which would not necessarily be a problem were it not for their inability to cooperate – even on issues on which their positions overlapped. The result, at least over the first two decades of transition, was a divided labor movement that has been characterized as 'bipolar' (Avdagic, 2006) or 'dualistic' (Trappmann, 2012).

During the debates over the Labor Code, Solidarity and OPZZ saw eye-to-eye on the issue of preserving union rights with respect to collective agreements at

the workplace. Beyond that, however, the two unions could not formulate a common position to push back against the employers' associations that lobbied for greater flexibility in the revised labor regulations. Solidarity, despite its earlier support for shock therapy and privatization, resisted the proposed amendments and mobilized large-scale protests against the government when the revised Code was adopted. OPZZ, given that its political ally – the social democratic SLD – was in power, was more open to negotiating with the government; but its leadership faced internal challenges from those frustrated with the concessions made (Gardawski, 2002). In the end, although most members of both trade union centers were frustrated with the outcome, it was their own rivalry that had stood in the way of the concerted action needed to contend with the determined push for flexibilization by employers' associations.

Czech labor: The evolution of a legacy union

The story of Czech labor unfolded quite differently. Under communism, the Czechoslovak Central Trade Union Council had been crafted in line with the highly centralized Soviet trade union apparatus, with virtually all employees automatically enrolled as union members through their workplaces (Porket, 1986). During the Prague Spring, however, 85% of incumbent officials were voted out in trade union elections as a sign of workers' support for Alexander Dubček's ill-fated reforms. After the Soviet invasion, the Central Trade Union Council resumed its main function as a more tightly controlled 'transmission belt' between the regime and the workforce. During the 1980s, Czech unions continued to function normally and did not even join Václav Havel's Civic Forum during the 'velvet revolution'. Only after protests against the communist regime kicked into a high gear did the unions call a general strike to call for a new government (Paczyńska, 2009: ch. 2).

In the first 2 years of transition, as vigorous debates unfolded over the pace and scope of neoliberal reforms, trade unions were virtually invisible. The Czechoslovak Central Trade Union Council was reorganized, first as the Czechoslovak Trade Union Confederation (ČSKOS) and then, following the Czech–Slovak split in 1993, as the ČMKOS. The latter may be regarded as a legacy union in that it inherited most of the assets and membership of branch and regional unions situated within the Czech Republic. However, neither ČSKOS nor ČMKOS exerted much influence during the early years of market reforms, including privatization, prompting some to view Czech unions as docile (McDermott, 2002: 69; Paczyńska, 2009).

Yet it is worth noting that, in relation to the issue of greatest relevance to the workforce – employment stability – a bargain *was* struck early on. It was not between unions and businesses, but between different wings within the Civic Forum movement. One of those wings consisted of neoliberals led by Václav Klaus, a free-market economist who was eager to push forward with market

reforms and tight fiscal policies. The other included former dissidents with social democratic orientations, as well as reform communists who had been banned from the Communist Party for their role in the Prague Spring. This latter wing included Deputy Prime Minister Valtr Komárek and Labor Minister Petr Miller, who effectively pushed Klaus to accept a pact to ensure low unemployment and establish tripartite social dialogue in which unions could later play a role (Orenstein, 2001). Moreover, the unions did win one early victory on their own that was not insignificant: in the new 1990 law on collective bargaining adopted by decree, ČSKOS managed to lobby against the creation of works councils where union organizations existed so as to preserve the latter's bargaining power at the workplace (Pollert, 2001: 20). Thus, although Czech unions did not seem nearly as politically active in the first 4 or 5 years of transition as Solidarity was in Poland, it would be a mistake to interpret the role of unions as indicative of perennial labor weakness.

As the contours of labor politics became more routinized after the mid-1990s, ČMKOS' role became more visible, more institutionalized, and more coordinated. While ČMKOS was a quintessential legacy union that had inherited the bulk of its resources and membership from the former communist trade union apparatus, this inheritance gradually turned into a valuable asset as the federation began to play a central role in the labor movement. ČMKOS' resources enabled it to build a font of legal and technical expertise at its central offices, provide expert assistance to branch and company affiliates, and eventually develop a pragmatic political strategy, while ČMKOS would lose some of its branch affiliates (such as the railway workers' union and doctors' union) to a newer federation, the Association of Independent Trade Unions (ASO). While ASO did become the second largest federation, however, at no point did it account for more than 15% of union members; more importantly, it encompassed diverse branch unions pursuing independent labor actions without much coordination (Myant, 2010). ČMKOS has remained a central actor in the labor movement, accounting for over two-thirds of the unionized workforce (Carley, 2009), holding the most seats for labor on the Czech Tripartite Council, and serving as the sole representative of Czech labor in the International Trade Union Confederation. ČMKOS' dominant position in the labor movement enabled it to use its resources and membership clout to secure a role in drafting amendments to the Labor Code, producing a result it was satisfied with, at least by comparison to its counterparts in Poland.

These different characteristics of the Polish and Czech labor movements do not suffice to explain the variation in revised labor regulations outlined in the above section. In cases where the revisions are the result of legislation in a more or less democratic setting, the positions of parties also come into play. In Poland and the Czech Republic, the battle over flexibilization was not fought in the streets, but in a parliament featuring regular competition among different parties that had led the government at different times. The following section turns to the character and

position of left parties in Poland and the Czech Republic insofar as they might have been sympathetic to labor's general preferences.

Left parties – more stable and relevant in the Czech Republic

Amid rising prices and job loss in the early years of transition, communist successor parties in Eastern Europe did well to tap into deepening public anxiety to build a new electoral base (Cook and Orenstein, 1999). Many of these parties proved especially adept at leveraging 'portable skills and usable pasts' in the new context of democratic contestation (Grzymała-Busse, 2002: 265). In Poland, as disgruntled voters reeled from the initial impact of shock therapy, former communists quickly reorganized themselves as a social democratic party at the helm of the SLD. Over the first decade of transition, the SLD learned to act as a catch-all party, showing concern for the social costs of market reforms but also seeking to demonstrate its competence in advancing market reforms and meeting commitments to international financial institutions (Cook and Orenstein, 1999: 74–75). In contrast, the Czech ex-communists retained the term 'communist' in their name – the Communist Party of Bohemia and Moravia (KSČM) – and regularly appealed to a narrow band of voters, chiefly pensioners and public employees who stood to lose many of the social benefits they were accustomed to. While the SLD managed to form the government twice, in 1993–1997 and 2001–2005 (receiving 47% of the vote in 2001), the KSČM usually received 10–15% of the popular vote (exceeding that range only once, reaching 18% in 2002).

The causal story here, however, rests not on the resurrection of ex-communist parties, but on the electoral viability of any and all parties on the left (Rueschemeyer, 1999). In the Czech Republic, this included the Czech Social Democratic Party (ČSSD), which would become an even more important player than the KSČM in Czech politics. The ČSSD first emerged in the late 19th century, managed to win 30% of the vote in 1919, and proceeded to join several coalition governments in the interwar years (Rueschemeyer and Wolchik, 1999). After 1989, the ČSSD was resurrected by those with social democratic leanings in the Civic Forum as well as former communists who had backed Dubček's reforms in 1968. After a slow start, the ČSSD managed to finish in first or second place in vote shares in *every* parliamentary election since 1996. Thus, while the story of the Polish left revolves mainly around the position of the SLD, the Czech case features *two* parties that, while frequently criticizing each other, often ended up on the same side in debates over social policy.

Left parties in the Czech Parliament

Many of the key figures in the resurrected ČSSD had been dissidents pushed out of the Communist Party after the Prague Spring. Thus, it is not surprising that the relationship between the ČSSD and KSČM was fraught with distrust. In 1998 the ČSSD was in a position to form a coalition government, and opted to do so not

with the KSČM but with its chief opponent on the right, the Civic Democratic Party (ODS). Nevertheless, when it came to issues of crucial relevance to labor, the ČSSD and KSČM frequently adopted similar positions. This was especially true during the ČSSD-led government of 2002–2006 when the ČSSD and KSČM, although not willing to form a coalition, jointly worked on revisions to the Labor Code and several other pieces of legislation (Hloušek and Kopeček, 2010: 24–26).

At least as importantly, while both parties experienced ups and downs, each has maintained a significant electoral presence in every parliament since 1996. Since 1996 the ČSSD has garnered 22 to 32% of the electoral vote, while the KSČM has secured anywhere from 11 to 18%. The total number of seats in the Czech parliament held by politicians belonging to the KSČM or ČSSD has ranged from a low of 41% (in 2010) to a high of 55% (in 2002). The ongoing stability of these left parties in the Czech Republic has been reinforced by the overall stability of the Czech party system, which has been regarded as one of the least volatile in Central and Eastern Europe, as indicated by the lack of huge electoral swings from one side of the spectrum to the other (Powell and Tucker, 2014).

These conditions proved favorable to Czech labor during debates over the Labor Code, not only because the left parties generally were sympathetic to its position, but also because ČSSD had strong links to ČMKOS, whose members constituted a sizable portion of the electorate. Despite its official stance of neutrality, there were numerous channels through which ČMKOS coordinated its activities with ČSSD – for example, by issuing joint calls for strikes (Perottino and Polášek, 2013: 426). And while ČMKOS claimed to be open to cooperating with any party that backed its positions, by the end of the 1990s it was clear that the party that most consistently met this criterion was the ČSSD (Hála et al., 2002: 15). During the 2006 elections, ČMKOS even shared with its members an analysis of party manifestos on key issues of relevance to workers – including wage policy, employment law, and collective bargaining – which concluded that ČMKOS preferences were more closely aligned with the positions of ČSSD and KSČM than with those of any other party (Myant, 2010: 27).²

The convergence in positions of labor and the left parties was buttressed by the movement of key leaders between ČMKOS and ČSSD. In fact, the first leaders of the revived ČSSD were trade unionists who saw the party as a vehicle to provide a new voice for those in the Civic Forum who might advocate on behalf of labor (Hloušek and Kopeček, 2010; Orenstein, 2001). Richard Falbr, once a leader in a branch union, served as Vice Chairman of the ČSSD at the time of its reestablishment, then was elected Chairman of ČMKOS during the 1990s, and later proceeded to run on a ČSSD ticket to get elected a Senator in 1996 and a Member of the European Parliament in 2004. Similarly, Milan Štěch was head of the main metalworkers union (OS KOVO) affiliated with ČMKOS before becoming the latter's Chairman from 2002 to 2010 while also serving as a ČSSD Senator and becoming President of the Senate in 2008 (Perottino and Polášek, 2013). Also, Jaroslav Zavadil served as Chairman of ČMKOS from 2010 to 2013

before being elected on the ČSSD ticket to the Czech Chamber of Deputies. Thus, when new elections in 2006 brought a center-right government wanting to defer application of the just amended Labor Code to consider further revisions, organized labor and the left parties were able to join forces quickly to prevent the deferral and ensure that certain worker-friendly provisions remained in the Code (Hála, 2006a).

The rise and fall of the Polish left

In Poland, the left's relevance rose and fell with the electoral fortunes of the SLD. There were no other left parties that could consistently claim a sizable block of seats in Parliament. The Polish Peasant Party initially backed the SLD but later joined forces with the right-of-center Civic Platform Party (PO). In 1993, a separate social democratic party, Labor Union, got 7% of the vote and 41 seats in the parliament but failed to cross the electoral threshold for parliament thereafter. Other parties that embraced something resembling a leftist program were either extremely small or became drawn to the religious or cultural agenda of right-of-center parties (Rueschemeyer and Wolchik, 1999: 29–31). Thus, the SLD was the only recognizable representative of the Polish left over multiple election cycles. While it did well to form a government in 1993 and again in 2001 (when its vote share reached a high of 47%), it subsequently suffered from a string of internal problems and saw its vote share plummet to 11% in 2005 and just 8% in 2011. This was three percent age points lower than the vote share that the ex-communist KSCM managed by itself in the 2010 Czech elections.³ Since 2005, the main competition in Poland has been mainly between two parties on the right.

The Polish SLD did head the governments that oversaw revisions to the Polish Labor Code, first in 1996 and then again in 2002. While the first set of revisions did not attack worker-friendly regulations as strongly as the second set, the two combined to produce a much greater level of employer flexibility than in the Czech Republic (as noted above in the comparison of the revised Labor Codes in the two countries). This reflects two constraints that the SLD had to contend with: the 1993 government had to deal with implementing conditions negotiated with the International Monetary Fund and World Bank, while the 2001 government had to consider the conditions for EU accession. In both cases, the SLD governments honored their commitments and moved forward on specific targets, including on cutbacks in deficit spending. But this also meant that it failed to come through on the expectations of its supporters concerning better social safety nets and improved living standards for the poor and unemployed (Cook and Orenstein, 1999; Ost, 2005).

Moreover, when it came to dealing with unions, the SLD could only count on support from OPZZ which was locked in a struggle with Solidarity for union members. The SLD and OPZZ certainly joined forces, opposing the right-of-center parties not only on social policy but also on defending secular positions (Trappmann, 2012). But representing not even one-third of the unionized workforce, OPZZ was simply not in a position to offer enough electoral support to

counteract pressures the SLD faced from employers and international actors. In the meantime, Solidarity unions worked closely with right-of-center parties to not only do battle against the SLD, but also to focus on the promotion of conservative cultural values and right-wing ideological causes (most notably, backing for the Catholic Church and its position on abortion). The union-party ties constructed by Solidarity's trade union activists and right-of-center political elites are not surprising, but at least through the early 2000s they dealt a serious blow to the efforts of left parties to garner working class support and to the prospects for collective action in defense of workers' rights and livelihoods (Ost, 2005, esp. pp. 149–178; Trappmann, 2012).

Thus, although the Polish left appeared to have extremely strong prospects when the SLD gained power in 1993, it subsequently had difficulty maintaining its electoral strength, despite a second triumph in 2001. Without the sustained backing of a unified labor movement (given the aforementioned division between Solidarity and OPZZ), the SLD had to negotiate with other groups, including private employers' associations and international financial institutions. Under these conditions, the SLD's survival – unlike that of the ČSSD in the Czech Republic – depended on being able to act as a catch-all party (Cook and Orenstein, 1999). Ironically, this also meant that it did not maintain a recognizable electoral base that could generate some minimum level of support over successive electoral cycles. And in the end, the SLD's time at the helm of the Polish government, even though it coincided with the debates over the Labor Code, did little to slow down the push for flexibilization.

Conclusion: Labor and the left – once more unto the breach?

In contrast to earlier scholarship emphasizing the common weakness of post-communist labor, this article has sought to track variation in labor's resistance to the push for flexibilization during efforts to revise Labor Codes inherited from the communist era. The eventual outcomes of these efforts proved to be more in line with labor's preferences in the Czech Republic than in Poland. The differences in the revised Czech and Polish labor regulations across various dimensions – the cost of dismissals, fixed-term contracts, collective bargaining procedures, union rights vis-a-vis works councils, etc. – are not large, especially by comparison to the wider range of variation evident across labor regulations worldwide. But they are significant not only in terms of employment-related consequences – such as the extent of collective bargaining coverage and the use of fixed-term contracts – but also as an indication of the varying efficacy of organized labor in post-communist settings.

In explaining the variation in labor's effectiveness in the battle over flexibilization, the above analysis indicates that, under conditions of declining union density in the midst of post-communist transitions, two factors contributed to the outcome: (i) whether there exists a unified trade union federation that can concentrate its resources and memberships when pursuing agendas that relate to multiple workplaces and sectors, and (ii) whether one or more parties on the left consistently hold

a sizable block of parliamentary seats and are willing to support labor's agenda in exchange for electoral support. Due in part to the nature of the transition process, these conditions emerged in the Czech Republic by the late 1990s and remained in place through the second decade of the transition, including during the crucial period when amendments to the Labor Code and related regulations were being hotly debated. Similar conditions might have emerged in Poland had the transition process unfolded differently. As things turned out, Solidarity's evolution from anti-communist opposition to an eager backer of market reforms resulted in persistent divisions within organized labor and prevented it from providing a stable electoral base for the Polish left, even after the SLD's first taste of electoral success in 1993.

This result could not have been anticipated at the outset and may even be regarded as somewhat surprising. In Poland, Solidarity emerged with tremendous political capital, having led a movement that helped topple a communist regime and initiate shock therapy; but in the process, Solidarity-backed politicians came to embrace the full range of neoliberal policies, including the need for labor market flexibility, and so whatever advantages labor may have once enjoyed were quickly forfeited against the backdrop of competing dyads of parties and unions working at cross purposes. In the Czech Republic, where the neoliberal reformer Klaus initially had the upper hand and a strong commitment to full-blown market reforms, organized labor was mostly represented by a legacy union that remained on the sidelines during the 'velvet revolution' in 1989; yet that union adapted, developed more competencies, and learned to bargain with not only businesses, but with parties that proved to have some 'staying power' in the electoral arena. Workers, unions, and political parties in both countries had to adapt to a changing institutional environment, but it is in the Czech Republic that we see a less fragmented labor movement that was able to leverage its links to stable parties on the left to amplify its voice, even under conditions of union decline and pressures for flexibilization (see Figure 1).

The argument may be regarded as a special case of the 'labor-and-left' thesis, which once highlighted the role of concertation between large unions and social democratic parties in establishing corporatist institutions and advancing pro-labor agendas in Europe (Huber and Stephens, 2001; Lehmbuch, 1984; Williamson, 1989). With the advent of post-Fordism and the concomitant decline of unions, these ties are seen to have become attenuated, or at least less consequential (Anthonsen et al., 2011; see also Lash and Urry, 1987). In post-communist settings, the labor-and-left thesis, to the extent it received a hearing at all (e.g. Avdagic, 2006), was seen as irrelevant in the midst of simultaneous transitions to democracy and market economies, especially given the volatility of emerging party systems and the seemingly quiescent posture of rapidly shrinking trade unions. While this may have been true during the first decade of transition, this article proceeds from the view that, over time, the eventual stabilization of the institutional environment warrants a reconsideration of the labor-and-left argument (Rueschemeyer, 1999). At least in the two countries compared here, it is evident that, despite continuing union decline and mounting pressures to boost flexibility, the cohesiveness of

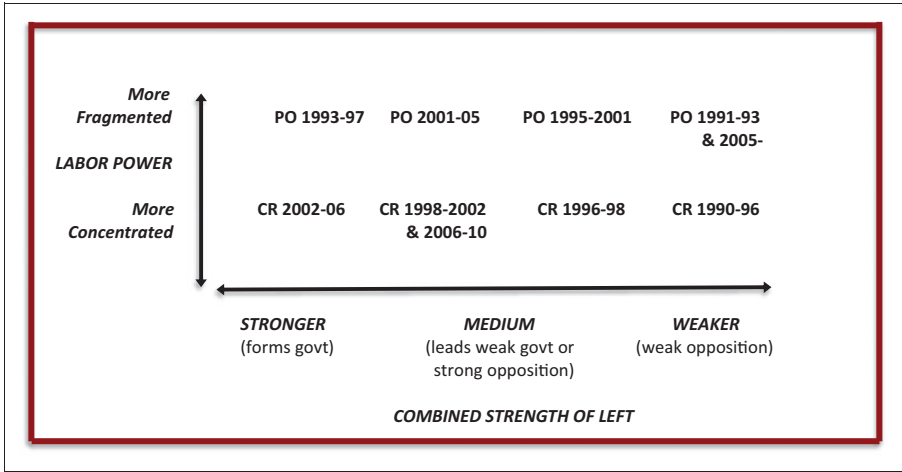


Figure 1. Labor power and strength of left parties – Poland (PO) and the Czech Republic (CR), 1990–2010.

organized labor and the electoral viability of left parties combine well to explain why revised labor regulations ended up more closely aligned with the preferences of labor in the Czech Republic than in Poland.

It is important to clarify that these two core explanatory factors are neither necessary nor sufficient for explaining variations in labor power or in the extent of flexibilization everywhere. In fact, in many developing and post-socialist countries, neither trade unions (however unified) nor left parties (however sympathetic to labor) have been able to slow down the advance of laws and policies designed to dismantle preexisting social pacts and boost labor market flexibility (Sil and Candland, 2001). And where there are some marginal successes, these may well be the result of different sets of factors depending on the nature of the regime and the relative importance of different sectors. China, Russia, and South Africa all have large trade union federations, but in all three cases, to varying degrees, the federations have been kept tightly connected to ruling parties so as to preempt large-scale social unrest (with markedly less success in South Africa). There are also left parties worldwide that moved away from preexisting commitments to the social protection of labor in favor of market reforms, whether to satisfy conditions imposed by international financial institutions or to demonstrate their ability to increase private-sector growth and foreign investment.

Yet while the ‘labor and left’ thesis may not constitute a general explanation for variation in labor politics, nor should it be treated as an idiosyncratic account relevant to only the cases examined here. Other Eastern European countries also saw central planning quickly dismantled to make way for market economies, while new patterns of political contestation took hold and new policy imperatives emerged in relation to the requirements of EU accession. Consequently, labor in

these other post-communist countries have had to contend with challenges not unlike those faced by labor in Poland and the Czech Republic – particularly the combined effects of rapid union decline and mounting pressures for flexibilization. In this regard, since the differences between the outcomes in the Czech Republic and Poland capture much of the range of possible variation, the labor-and-left thesis may be considered a plausible hypothesis to capture emerging differences in the dynamics of labor politics and the efficacy of organized labor across post-communist countries.

Indeed, the core logic of the argument is abstract enough that it can be adapted to assess labor's relative strength/weakness in developing countries, at least insofar as certain conditions are present. These include: multi-party electoral competition, policies aimed at market reform, trade union federations that are at least semi-autonomous, and legislative battles over preexisting laws and regulations viewed as rigid and obsolete by business. These conditions essentially generate a 'family resemblance' between post-communist countries and developing countries engaged in liberalization, at least in terms of the politics of flexibilization (Sil and Candland, 2001). Further research is needed to determine the portability of the 'labor-and-left' argument across different institutional settings in the developing world. But, through carefully designed 'contextualized comparison' (Locke and Thelen, 1995), it is possible to explore whether and how the cohesiveness of organized labor and the electoral competitiveness of left parties might account for why labor in some countries is able to exert relatively more power and influence, even in the face of union decline and mounting pressures for flexibilization.

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Notes

1. These figures are based on total net foreign investment inflows divided by total population, with data drawn from tables provided by the World Bank (2016).
2. The second largest labor federation, ASO, was much smaller, did not always have a unified stance, and did not do anything to undermine the cooperation between ČMKOS and the left parties (Myant, 2010).
3. Polish election data are from the National Election Commission of Poland, available at: http://pkw.gov.pl/315_Wybory_do_Sejmu_i_do_Senatu

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