Institutional Design and Economic Inequality: Socioeconomic Actors and Public Policy In Germany and the United States

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INSTITUTIONAL DESIGN AND ECONOMIC INEQUALITY:
SOCIOECONOMIC ACTORS AND PUBLIC POLICY
IN GERMANY AND THE UNITED STATES

by

JENNIFER L. HUDSON

A Thesis submitted in partial fulfillment of the requirements
for the Honors in Major Program in the Department of Political Science
in the College of Arts and Sciences
and the Burnett Honors College
University of Central Florida
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Fall Term 2014

Thesis Chair: Barbara Kinsey, Ph.D.
ABSTRACT

In this thesis I conduct a comparative analysis of the influence of socioeconomic actors, business and labor, on public policy in Germany and the United States, specifically public policy that has an impact on economic inequality. The objective of this study is to gain a better understanding of how institutional constructs may determine the level of influence by different socioeconomic actors on public policy. In particular, I examine the link between institutional design and economic inequality, specifically the relative influence of business interests in varying types of capitalist economies and democratic systems, and assess those facets of institutional design that may facilitate the channeling of business influence in policy making. I explore institutional changes in the German political and economic system beginning in the late 1980s to determine whether these changes have altered the policy making process over time, and analyze similarities with institutional changes that have taken place in the United States beginning in the late 1970s to present. Further, I examine whether shifts in institutional design indicate that the German system is transitioning towards a more liberal model similar to that of the United States, and consider what effects this may have on the level of economic inequality in Germany.

To conduct my analysis I use the Institutional Analysis and Development (IAD) framework; based on the IAD framework I create a conceptual map of the channels by which socioeconomic actors are involved in the policy making process. I evaluate the policy-making process in both formal and informal policy arenas. The policy areas analyzed include corporate governance, industrial relations, and tax, welfare and minimum wage policy during the selected time periods. The analysis shows that the institutional designs that produced the selected policies
benefit business interests and may contribute towards economic inequality. The larger goal is to develop research that will build a theoretical foundation to help us identify how these systems may be improved to produce a more equitable allocation of economic resources.
DEDICATION

This thesis is dedicated to my father who always believed in me no matter what, to my mother for her continued strength and support, and to my daughter, Sofía, who is my inspiration.
ACKNOWLEDGEMENTS

I extend my appreciation to my Thesis Committee, for their guidance, support, and dedication to the honorable profession of teaching. I am especially grateful to my Thesis Chair, Dr. Barbara Kinsey, for believing in me and guiding me through such a valuable process of learning and discovery.
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CHAPTER 1: OVERVIEW & EXPECTATIONS

INTRODUCTION

“The kinds of organizations that are the focus of this study are expected to further the interests of their members. Labor unions are expected to strive for higher wages and better working conditions for their members…the corporation is expected to further the interests of its stockholders; and the state is expected to further the common interests of its citizens…” Mancur Olson, *The Logic of Collective Action*.

Should food, clothing, and shelter be considered public goods that every citizen has the right to? What happens when the system exhibits characteristics such that increasingly more and more citizens struggle to provide these very basic necessities? The transformation of private wealth into public goods and the initial access to private goods in the form of individual earnings, wages, and market income are highly dependent upon public policies. As Hacker & Pierson contend governments are instrumental in influencing what people earn in the first place.\(^1\) While the debate over the fairness of economic inequality is still an area of high contention,\(^2\) it is becoming even more relevant as its rise continues. This is especially disconcerting in certain Western industrialized democracies, such as Germany and the United States, with robust capitalist economies equipped with the institutional mechanisms and financial means to address and even reduce economic inequality. Public policy, specifically social, labor and tax policies, has worked toward addressing such dilemmas since the turn of the century. Different ideologies, institutions, and ideas are in constant conflict, and as such democratic systems have been established in such a manner to provide a means for every system to enable every citizen to have a voice. Yet it seems that increasingly some interests take precedence over others and policies are produced that do not necessarily equally represent the interests of the citizens.\(^3\) Thus, it is relevant to understand the institutional mechanisms that permit certain actors to have a greater influence over others in the public policy arena. Recently many scholars have demonstrated that
the influence that the majority has over policy changes is increasingly less relevant in the United States, while economic inequality has continued to rise. (Piketty & Saez; Bartels; Gilens; Hacker & Pierson).

As economic inequality has been increasing in Germany as well, it is pertinent to compare the institutional mechanisms to those of the United States in order to examine any similarities and differences that may contribute towards policies that have an effect on economic inequality. Additionally, it has been proposed that Germany may be shifting towards a more liberal model, such as that of the United States. If Germany is adapting to a more liberal model, it is expected that this may be reflected in shifts in institutional design that allow for the greater influence of certain actors over public policy. Distinguishing between Germany and the United States as a social market economy (SME) and liberal market economy (LME) respectively, these institutional designs are geared towards very different labor market and social welfare policies, which are expected to have different effects on economic inequality. Egalitarianism is presumed more readily achieved via the collective bargaining process and redistributive policies in social market economies, however these means have been challenged in Germany in the last decade. For example, while the German system has been known to be more inclusive with employee representation, the trend has been towards decreasing inclusiveness. In addition, as presented in varieties of capitalism theory distinguishing factors in institutional design in the United States and Germany should also have very different results on economic inequality. In coordinated market economies (CMEs), such as Germany, socioeconomic actors rely on the state to preserve coordination amongst the business industry (including workers and unions), while in liberal market economies (LMEs), such as the United States, business interests look to the state to
safeguard the market as best suits their needs. Furthermore, it is vital to understand how these institutional designs may limit the influence and representation of the citizens in favor of powerful socioeconomic actors. In both of these systems, while government institutions are central to public policy, other institutions exist outside the formal political arena that permit socioeconomic actors to have an effect on the policy process. Institutional designs often permit the interests of certain socioeconomic actors to prevail at the expense of economic equality. The socioeconomic actors considered in this study are business interests and labor unions. The rise of capitalism has been accompanied by the rise of business interests influence and power within these democratic systems, though by different means and to different degrees. In exerting this influence these actors have considerable leverage in regards to policy making. This thesis assesses the role of institutional design and examines how variances in institutional design provide differing levels of influence by these select actors on policies that have an effect on economic inequality. Sufficient evidence demonstrates that government policies have a significant direct and also indirect impact on economic inequality. Thus, it is relevant to understand the socioeconomic actors that influence these policies and how.

To be sure, these socioeconomic actors may also affect the institutional design of formal and informal institutions. According to the Institutional Analysis and Design (IAD) framework, institutions are distinguishable as formal and informal. Formal institutions are classified as the laws, policies and procedures, while informal institutions are understood to be commonly accepted conventions. Understanding the different institutional designs of Germany and the United States may offer unique insight into what types of systems may allow for greater influence of certain socioeconomic actors on public policies, specifically those that have an
impact on economic inequality. Although comparatively economic inequality has risen at a faster pace and to a much larger extent in the United States, in recent years Germany has seen a shift towards greater economic inequality. In a more general sense, Germany would be expected to combat economic inequality better than the United States due to its stronger tendency towards egalitarian policies. However, evidence persists that Germany may be shifting towards a more liberal model. These changes require further observation, for if this shift continues it is likely it will be accompanied by a continued rise in economic inequality.

The intuitional designs of Germany and the United States are founded on the concept of democracy, with federal systems designed to disperse authority. While established to prevent greater influence by any one actor over another, the institutional designs of these systems often results in other challenges. Dispersed power combined with different ideologies creates a varying number of veto players. As defined in the veto player theory, veto players are individual or collective actors in the policy process.\textsuperscript{11} The common problem of gridlock created by inability to reach consensus amongst veto players\textsuperscript{12} is not unique to the United States. The German system was transformed following the failure of the Weimar Republic in order to create greater stability and consensus in the political process.\textsuperscript{13} However, as Tsebelis notes, fundamentally these systems that are created for stability may actually impede significant policy change.\textsuperscript{14} It is thus that actors involved make use of use other means to push agendas through and influence the policy making process. As Hacker and Pierson explain, it takes well-developed resources, skill, experience and organization to develop new means to gain access to the policy arena and influence policy in democratic systems, which are often plagued by divisions, gridlock, and slow change.\textsuperscript{15} Some of these include the use of the filibuster in United States’ politics to impede the
Labor Law Reform Act, pass Bush tax cuts, and to block the minimum wage bill in 2014, while other legislation and reforms have occurred via other instruments, such as bill partitioning and the use of expert commissions and expert analysts. Still other facets of institutional design offer unique opportunities for opportunism, influence and less than democratic results. As will be shown, the existence of not only formal but also informal arenas, informal rules, and informal processes permit socioeconomic actors to be involved in the policy making process in a variety of manners that enable their influence, and more often the greater influence of some interests over others.

In the United States, business interests have taken greater precedence over policy following dramatic shifts beginning in the late 1970s. In Germany, the constructs of business-labor relations have been shifting for some time and those that were in place for several decades (i.e. employment protection) were adjusted incrementally setting the stage for major policy shifts. Following high unemployment in the 1980s, traditional business-labor constructs began to change - exhibited by greater job flexibility, decreased hours and less employment protection. It is assumed that the goals of business interests are dependent on a variety of exogenous variables, such as globalization and the need for these changes to remain economically competitive. So while Germany remains a coordinated (social) market economy (CME), and neoliberal economic ideas may be gaining ground, businesses are not necessarily exerting a stronger influence on the direction of public policy per se, but with changes in business-labor relations, the direction of policy is changing, albeit not to a necessarily more liberal model in a rigid sense, but one that exerts more liberal tendencies. Hence, welfare and
redistribution spending, while on the increase overall²⁰ meet less people’s needs, and greater
flexibility in the labor market has led to greater wage inequality.²¹

The question of whether Germany is shifting towards a more liberal model of capitalism
similar to that of the United States and whether this will have any effect of public policy that
may further impact rising economic inequality can be better examined by comparing the
institutional designs of both Germany and the United States. I use the IAD framework to
examine what impact institutional design has in permitting certain socioeconomic actors to have
greater influence over public policy that is linked to changes in economic inequality. Moreover,
it allows for a deeper understanding of both the formal and informal rules and other dynamics
that have an effect on producing and influencing policy and which actors are better able to assert
their influence, how, and why.

In regards to economic inequality the focus will be on measures of wage inequality,
market income inequality and household disposable income. Similar trends, albeit at a less
amplified rate in Germany, have been observed in both countries. While the overall institutional
framework may only be slightly changing in Germany and it will likely retain its position as a
CME, within this system liberalization is certainly taking place. However, I argue that it is not
necessarily changed ideology on the part of business interests. It is more likely that these
interests have persisted throughout time and are merely adjusting within the institutional
framework in order to ensure goals, such as efficiency and economic profits, continue to be
fulfilled. To be clear, it is assumed for the sake of this research that these are generally the goals
of business interests. It is also understood that this would be challenging to prove definitively
and assumptions can only be made from observations of their actions and the policies they support.

PURPOSE AND SIGNIFICANCE

As explained in the Economic Report of the President (1997), economic inequality is multidimensional, and can be assessed in multiple ways. Previous research has addressed different means of measuring economic inequality and used a variety of approaches to assess the impact of numerous factors. Evidence demonstrates that government policies have a large impact on economic inequality. Further, the government institutions that generate these policies are in themselves influenced by a variety of factors, including socioeconomic actors that take part in the policy making process, by means that are at times straightforward or clear, but more often not so. Recognizing the role that formal and informal institutions play in channeling the relative influence of socioeconomic actors in the policy making process, given the apparent link between policies and economic inequality, it is important to understand how these mechanisms are related to changes in economic inequality.

While the influence of socioeconomic actors via institutional mechanisms on the policy process may not provide a direct causal link to economic inequality, enough correlation exists relating the impact that policies have on economic inequality to explore these processes further. I conduct a comparative study of the institutional designs in Germany and the United States; these two cases exhibit similarities since both are Western industrialized democracies with robust economies, but also contrasts such as the differences in political systems, institutional designs and the means by which influential socioeconomic actors affect the policy making process. In doing so, it may be possible to gain a better understanding of what characteristics in the design of
these institutions allow such actors to impact those policies that have an effect on economic inequality.

Moreover, in comparing Germany to the U.S. it is possible to address the institutional changes within the German political and economic system and find further evidence as to whether these institutional shifts have eased the process by which these systems permit certain socioeconomic actors to access and influence policy making and set forth agendas. In this manner, business interests can be distinguished in order to clarify if they are gaining greater influence, and establish a closer link between institutional design and economic inequality. The policies that are the focus of this paper will demonstrate how the institutional designs channel the influence of socioeconomic actors in the policy making process. In examining the means by which socioeconomic actors exert influence over industrial relations, corporate governance, welfare programs, labor and tax policy in both the informal and formal policy arenas, I will demonstrate how the informal and formal rules serve to provide channels that facilitate these socioeconomic actors’ influence. More specifically, I will consider how influence over formal and informal rules that govern the informal arena may translate into greater influence over the formal policy making process.

As business interests in both Germany and the United States interact with labor unions over matters of industrial relations and corporate governance, business interests are endogenously often better organized with access to larger financial resources than labor unions to command outcomes that continue to serve their goals. Moreover, exogenous variables such as economic and social conditions carry considerable weight in the execution of business interests’ goals over labor. Whether regarding executive compensation, wage setting, labor regulations, or
employee benefits, due to exogenous and endogenous factors, business interests have a disproportionate amount of resources at their disposal. In the end this is self-reinforcing, as this influence permeates the formal policy arena, where these socioeconomic actors continue to exert unequal influence over the policy making process, such as formal wage setting, welfare reform, labor and business regulations, and tax policy. In both Germany and the United States, business interests have gained considerable influence over the policy process, more often than not disparate influence to that of labor unions. While the German system maintains noticeably more social benefits to compensate for inequitable distribution, the advent of minimum wage legislation that still permits considerable influence to business interests leaves a number of questions open. It is unknown how much influence labor unions will maintain or what effect minimum wage legislation will have on the economy, unemployment or economic inequality. Regardless of this disparate influence, and provided Germany retains its main foundations as an SME, it is expected that Germany will still be able to somewhat better dampen the extremity of economic inequality on the lower end of the income strata as compared to the United States. However, due to marked increases in income and market inequality at the higher end of the spectrum, it is also expected that economic inequality will continue to rise.

In Chapter 2, I examine the literature on economic inequality, institutions, and public policies in Germany and the United States. In Chapter 3, I proceed to outline the Institutional Analysis and Design framework and discuss how this framework provides a means to analyze the processes by which socioeconomic actors influence public policy in Germany and the United States. In Chapters 4 and 5, I examine the selected policies in Germany and the United States respectively. Chapter 6 presents a comparative analysis of the channels of influence by which
business interests, as compared to labor interests, assert greater influence over the policy making process in Germany and the United States. Chapter 7 concludes, addresses limitations, and presents potential areas for future research.
CHAPTER 2: ECONOMIC INEQUALITY, PUBLIC POLICY, AND INSTITUTIONS IN GERMANY AND THE UNITED STATES

LITERATURE REVIEW

The literature examines the interplay among socioeconomic actors, government institutions, and policies, with financial market and labor market deregulation signifying a growing influence of business interests and a declining influence of labor unions. The role of institutions in channeling the relative influence of economic actors on policy is well noted. Rueda illustrates that while government policies can have a direct (i.e. public employment) and indirect effect (i.e. social, labor policies) on economic inequality, we must follow the trail of influence to political agencies and institutions to understand why some policies that should affect inequality do not and some that should not do; and why some institutions that should affect policy do not, while some that should not do.24 The policies governments introduce are often influenced by the ability of socioeconomic actors to take advantage of institutional characteristics to channel their interests. That is why the focus of this research will be on how different institutional designs mediate the influence of socioeconomic actors (business interests and labor unions) on government policies.

Landman explains the relevance of institutional design, which includes executive-legislative arrangements, the electoral system, and political parties. To be more specific, executive-legislative arrangements are instrumental in designing, approving and administering public policies, just as the electoral systems and political parties define who the political agents are and what the balance of power will be.25 These institutional constructs provide both the strengths of the democratic system, yet also institutional constraints that permit select interests to dominate policy choices.
A systematic analysis of the institutional designs in Germany as compared to those in the United States is necessary to understand how and why various economic actors have gained increasing influence over government policies that may affect economic inequality. Various approaches include comparing social to liberal market economies\textsuperscript{26}, coordinated to liberal market economies as in varieties of capitalism\textsuperscript{27}, the veto player theory\textsuperscript{28} and the multi-streams approach\textsuperscript{29}. Each of these offers insight into the institutional designs of Germany and the United States and not only which policies traditionally differ due to these, but also what facets may permit the growing influence of different socioeconomic actors on the policy process.

According to Pontusson, the main differentiating factors between social market economies (SMEs) and liberal market economies (LMEs) is not the rate of unionization, it is in the percentage of collective bargaining which is fifty percent greater in Germany than in the United States. The core features of social market economies are the coordination between businesses, institutionalized collective bargaining between employers and unions, and social welfare programs.\textsuperscript{30} Social spending contributes to the state of the labor market in the form of employment protection, government transfers and social services. In SMEs, Pontusson finds that unions and collective bargaining are not always in sync, employers are often better organized and government legislation may even extend collective bargaining to employers not originally participating in the negotiations.\textsuperscript{31} Hacker and Pierson also find that business interests are much more organized than labor unions, which they attribute to the rise of organized business interests in the United States in the 1970s, with the development of umbrella groups such as the Chamber of Commerce, the National Federation of Independent Business, and the Business Roundtable.\textsuperscript{32}
However, socioeconomic actors exert influence by different means in the United States and Germany. From the varieties of capitalism perspective, Germany exhibits that of a coordinated market economy (CME), while the United States exhibits that of a liberal market economy (LME). This perspective focuses on the role of the government in the marketplace. In CMEs socioeconomic actors rely on the state to retain the industry coordination and wage setting under their control, while in LMEs business interests look towards the state to protect the market via deregulatory policies. This offers some understanding of how liberal market economies may offer an easier means for certain socioeconomic actors to influence policy. Recent research also signals a shift in Germany towards a more liberal market economy and a possible link to rising economic inequality. Bosch, Mayhew and Gautié note that industry wide agreements are diminishing resulting in a more liberal economy that offers a substantial extent of exit options for employers. However, this does not indicate what specific facets in the institutional design of each of these permitted the growing influence of business. Institutional design and changes thereof could offer greater insight into how the United States may have become more supportive of preserving the marketplace and favoring business interests. Moreover, exploring the institutional designs can permit a greater understanding of how business interests in Germany influence policy in a coordinated market economy and distinguish any shifts towards a liberal market economy.

The growing influence of certain socioeconomic actors over others has the ability to transform the political agenda and influence which policies take precedence. For example, in the United States a rise in corporate PACs and their contributions to political campaigns facilitated the efforts of businessmen like Charles Walker, whose Carlton Group and a coalition of
businesses were able to push through their agenda despite a Democratic government and Carter’s original plans to increase taxes. These efforts steered the way towards increasing influence of business in Washington, exemplified by tax cutting policies from 1978 onwards.\textsuperscript{35} This was compounded by the failure of labor law reforms as labor groups found themselves less able to get their agenda through.\textsuperscript{36} In Germany, Culpepper notes that businesses are influential on policy not because of traditional lobbying pressures, but on their expertise in these areas as to what will work best, while labor unions have a desire to compromise with these businesses for fear of “unilaterally imposed state decrees” and losing their bargaining power.\textsuperscript{37}

Other research focuses on individual facets of institutional design that contribute to the ease of legislation which seems to benefit business interests over labor unions at the expense of growing economic inequality. The \textit{veto player} theory addresses how the quantity and balance of veto players impacts the ease of legislation. Tsebelis finds that while institutional veto players exist in different forms in the United States, such as the President, the Senate, and the House and in coalition governments of Western Europe as partisan veto players, they similarly affect the ability to enact policies that change the status quo. This status quo, contends Tsebelis, can only be changed when veto players with specific agendas are successfully able to convince other veto players of the benefits of what they propose and how stable the policies are. Tsebelis classifies the government in parliamentary systems and congress in presidential systems as the agenda setters.\textsuperscript{38} However, this fails to address a number of other agenda setters, such as the socioeconomic actors or the emergence of new types of veto players.

Split between five political parties, the parliament of Germany is often very diverse with a greater incidence of vetoes. Schweiger explains the necessity for this perpetual coalition to ease
the legislative process, while there has also been a rise in number of laws requiring passage by
the often opposition dominated Bundesrat and major policy changes requiring a two-thirds
majority in both the Bundesrat and Bundestag.\(^39\) However, in the United States Hacker and
Pierson note that veto threats were not an issue during the beginning of the Carter administration
with the majorities in both houses of Congress and the Executive into the hands of the
Democrats, but reforms such as labor reform were defeated and in fact the ones that went
through were far from what would have been expected, especially considering Carter’s agenda.\(^40\)
Moreover, in Germany the Hartz Reforms went through with surprising ease. Herweg and
Zohlnhöfer attempt to explain this using the multiple streams approach, referring to Chancellor
Schröder’s use of an expert commission of businessmen and other industry experts which
enabled him to bypass opposing interests.\(^41\) The multiple streams approach seeks to explain
agenda setting as a framing process facilitated by the merging of three separate channels,
politics, policy ideas, and problems.\(^42\) Alternate means exist within institutional design to ease
legislation. In the United States, Hacker and Pierson refer to the role the filibuster played in
preventing labor law reform in 1978, and link this to the growing influence of business in policy
making.\(^43\)

*On the relative influence of economic actors on policy and economic inequality*

A considerable amount of research centers on how changes in corporate governance
impact policies. As explained by Culpepper in *Quiet Business and Politics*, corporate governance
is exemplified by the manner in which business owners, known as the shareholders, influence the
management and how the variations in corporate governance clarify the type of capitalism
found.\(^44\) Hacker and Pierson detail the extent to which state policies in the United States have
worked in favor of corporate governance exemplified by deregulation, leading to increased wealth for a few, while the decline of organized labor has reduced the voice of many and exacerbated the growing inequality. Barker contends that Germany has undergone a shift in corporate governance towards a more liberal market model due to increased competition and how corporate governance is a key element in economic and political outcomes. Bosch and Kalina raise interesting points concerning the possible links between changes in corporate governance, the prioritization of short-term goals, cost-saving measures and less inclusive wage bargaining. Bosch and Kalina attribute this decline in inclusiveness to changes in corporate governance following the shift from bank ownership to privatization, with the jobs not only being outsourced to companies with less coverage, but also the rise in deregulated employment and a more limited quantity yet stronger coverage for core employees.

Sjöberg, in cross-examining the effects of corporate governance on earnings inequalities over a twenty-one year period (1979-2000), finds an overall strong link between politics, corporate governance and wage setting and suggests some ways in which corporate governance can affect earnings inequality. In doing so, he relates the main differences in corporate governance in the United States to a more dispersed ownership shareholder system, a focus on short-term returns, a diminishing focus on long-term investments such job training, frequent downsizing and weakened labor organizations; on the other hand, the tendency in continental Europe has been towards concentrated ownership by banks or major stakeholders and more centralized and influential wage bargaining.

Cioffi contends that despite growing discontent by certain labor sectors in Germany regarding the Social Democratic Party’s (SPD) corporate governance reforms and liberal market
policies taken in the early 2000s, in light of poor economic conditions and political constraints resulting from “economic and interest group pressures” led to a continuation of pro-shareholder and market-driven policies.\textsuperscript{50} Furthermore, Cioffi asserts that the push by managerial elites from multinational corporations in alliance with large financial institutions (prior to Schröder) that sided with switching to the American model of corporate governance eventually influenced corporate governance reform, despite opposition from blockholders and managers from smaller businesses. Most importantly, labor had originally sided with reform in both the United States and Germany, partially an effort to retain their voice for those they represented and due to deteriorating economic conditions.\textsuperscript{51} Culpepper further adds that since reunification, despite a great difference in approaches and levels of government interference in vocational training programs between eastern and western states, both sides came together on the need for policies supporting subsidized labor as needed by businesses unable to offer this training.\textsuperscript{52} Similarly, Hacker maintains that evidence is growing that the shareholder system, as commonly found in the United States, does not actually work in favor of the shareholders. In positing this he refers to studies by political economists Gourevitch and Shinn, who attest that these systems tend to benefit the managerial elites.\textsuperscript{53}

In regards to financial market deregulation, Cioffi explains that government policy has been shifting in Germany towards a more Anglo-American model where corporate governance and “finance capitalism” is on the rise, along with policies that shift from protecting the shareholders and laborers to protecting the managerial elites.\textsuperscript{54} Jackson and Sorge note that various liberalizing financial market reforms have occurred, most notably the ability of banks and corporations to sell equity shares tax-free, resulting in a rise of foreign owned shares, and a
shift towards a blended system of stakeholder/shareholder value based corporations, while maintaining a system of codetermination.\textsuperscript{55} Jackson and Sorge clarify the influence of European Union laws that have loosened restrictions allowing corporations to move headquarters into countries without employee codetermination rules and permitting more outsourcing.\textsuperscript{56} Cioffi discusses adjustments in corporate governance in both Germany and the United States that have resulted in a greater focus on finance capitalism, compounded by further decline in organized labor in the United States and a decrease in union density and collective bargaining in Germany, where works councils are being used more on the individual firm level.\textsuperscript{57} Further, Cioffi notes that United States labor law provides no representation of employees in corporate governance, while providing only minimal input by shareholders.\textsuperscript{58} Hein and Truger confirm that this shift towards finance capitalism in Germany has been accompanied by insufficient regulation of the financial markets and rising inequality.\textsuperscript{59} The United States 1999 repeal of the Glass-Steagall Act via the Gramm-Leach-Bliley Act removed significant financial market regulations,\textsuperscript{60} which was followed by a sharp increase in economic inequality.\textsuperscript{61}

The effect of labor unions on wage inequality is discussed extensively in the literature. To begin, Bosch, Mayhew and Gautié found that wage rates and thus wage inequality were strongly influenced by how inclusive (i.e. how many people affected regardless of union membership) collective bargaining agreements are. The low inclusiveness of wage policy was both due to low trade union density (see appendix: A5), such as that in the United States where lobbying is more prevalent, or declining employer density, such as in Germany where multi-employer bargaining exemplified through coordination and centralization is in decline, in addition to union density and effectiveness of unions.\textsuperscript{62} In the United States, Cioffi notes that
labor unions more concerned with pension funds sided with shareholders, whittling away the already nonexistent voice of the employees, who were completely excluded from any representation whatsoever, while in Germany labor even originally supported reform despite capital gains tax cuts. To be clear, labor unions may be exhibiting the tendency to protect a core group of workers.

Burgess and Symon claim that unions supported employer efforts for nonstandard work as it benefitted the unions’ employment goals while allowing the employers to benefit from subsidized labor. Moreover the central employers’ association, the Confederation of German Employers’ Associations (BDA), has not been in support of expanding collective agreements or installing a national minimum wage. Burgess and Symon also explain that competition between unions in certain industry sectors have left them vulnerable to deregulatory policies, while legally no restrictions prevent multiple agreements from existing within sectors or between groups of employees, resulting in a stratification of the labor force. Jaehrling and Méhaut break from the common explanation, which looks at the dualization occurring from new exit options and instead focus on how old exit options and regulations still permit such inconsistencies to occur (for instance, via outsourcing). Jackson and Sorge explain that since unification in 1990 German institutions have been challenged and placed under greater stress affecting both the welfare and tax system. Corporate governance and institutions of the welfare state have been experiencing an increased conflict of ideas, with businesses focusing on selective liberalization that has created and environment of insiders and outsiders.

It is also imperative to address how the shift towards a greater influence of business interests really impacts policies that matter in regards to economic inequality. Research focuses
on the factors contributing in both Germany and the United States to the expanding divide in wage, market and household disposable income. To be sure, researchers have looked towards the public policies that influence these factors, such as wage determination, labor policy, regulatory policy, tax policy, welfare policy and even social policy. The reason for concentrating on the effect that policies have on economic inequality warrants explanation. For one, government policies have a substantial impact on market income. As explained by Pontusson, market income encompasses income from labor, capital gains, rent, interest and dividends. Hacker and Pierson contend that government legislation can affect market income in a variety of ways, such as via union law, minimum wage law, corporate governance regulations, and financial market rules, to name a few.

For a country such as Germany that has had no statutory minimum wage and generally depended on collective bargaining agreements to set wages, this wage setting process is less influential on average wages when collective bargaining coverage is on the decline as well as the use of collective bargaining in general. Jackson and Sorge address the decline in collective bargaining and diminishing number of employees covered by works councils due to decentralization, cost-cutting efforts, as well as a shift towards the service sector not covered by the same procedures as the manufacturing sector. These changes have been facilitated by labor law deregulations for nonstandard employment. In the United States minimum wage policy has not seen an increase to keep up with inflation, while labor unions have clearly been on the decline. In addition, regulatory policy was also seen as an impediment to economic growth in the United States in 1970s when the shift towards deregulation began. Moreover, most low-wage workers in both the United States and Germany due to unemployment benefit stipulations
are often excluded from unemployment benefits. In both countries social assistance has decreased in value, while subsidized in-work benefits, such as EITC, may also serve to depress wages, as employers know their wage payments will be supplemented.\textsuperscript{73}

Labor and regulatory policy each affect the overall labor and financial market conditions in determining which groups receive the greatest benefits. For example, Garz explains that temporary work has surged in Germany since deregulation has led to increased temporary work over steady work, with low-wages being more prevalent amongst temporary workers.\textsuperscript{74} Jackson and Sorge explain that active labor market policies of the Hartz reforms have led to increased nonstandard employment while dually revoking benefits for such work. Moreover, budgetary spending on welfare and labor market policies both decreased of late and are now more beneficial to core workers than the general public.\textsuperscript{75} Heinrich discusses a stratification occurring within Germany that is protecting one tier of workers, while deregulation is negatively impacting the other tier of workers. Heinrich explains that since the financial crisis, not only has deregulation most negatively impacted the unconventional employment sector, including decreased social benefits, job security and protection against poor working environments, but this sector has grown substantially.\textsuperscript{76}

Meanwhile, plentiful evidence signifies a growth in economic inequality in Germany and the U.S. In a study by the Organization for Economic Development, the OECD signals to the strongest link to the rise in economic inequality in the U.S. to the expanding wage gap, mostly due to the increase in incomes of executives and finance professionals (see appendix: A4). The gap in household disposable income has risen as well as redistribution is very limited (see appendix: A2).\textsuperscript{77} In Germany, the OECD signals to the expanding divide in market income
(includes employment income and self-employment income), capital income gains, and the increase in part-time employment as the strongest links to rising economic inequality, while redistribution has been less effective (see appendix: A1, A2, A3). In both countries, changing societal dynamics such as single parent households, females in the labor force and marrying within similar earnings groups contributed only slightly to the rise in economic inequality.

In both the United States and Germany it appears that certain groups in society may be benefiting more than others from the policy making process. While there is sufficient research regarding the impact of policies on economic inequality, there is more evidence provided about the United States concerning the link between corporations and business interests and how they influence these policies. In regards to Germany, research concerning shifts in corporate governance and deregulatory policies opens a gateway to exploring the institutional design and changes that likely provide a clearer link between business interests and policies that have an impact on economic inequality.
CHAPTER 3: THEORETICAL FRAMEWORK

To compare the institutional designs of Germany and the U.S. and their relation to the influence of certain socioeconomic actors on ensuing policy outputs that have a link to changes in economic inequality would be an ominous task if not narrowed down to the examination of certain relevant policies that may offer some insight. Thus, this paper will focus on the following policies: changes in corporate governance, industrial relations, welfare reform, labor and tax policy beginning in the late 1970s in the United States and early 1990s in Germany. Further, I conduct my analysis based on the Institutional Analysis and Design (IAD) framework; this framework offers a “multi-tier conceptual map” that provides a strong structural framework to address the channels by which socioeconomic actors influence policy. As Ostrom & Polski state,

“The IAD framework is best viewed as a systematic method for organizing policy…It does not replace other techniques, but provides a means to synthesize the work of multiple participants, including those who are directly involved in the policy situation and have an interest in policy outcomes. The IAD framework helps analysts comprehend complex social situations and break them down into manageable sets of practical activities… provides a means to incorporate diverse participants in policy analysis and design.”

Ostrom refers to Mancur Olson’s work on the logic of collective action, in which he emphasizes the difficulty rational and self-interested individuals have in joining together to realize collective goals. However, Ostrom contends that individuals have proven to be very successful at deliberately organizing and that often government policies are to blame for inadequate provision of public goods. The issue of cooperation and coordination certainly becomes more difficult among competing interests with contrasting ideologies of what is fair especially in regards to economic resources. As economic resources such as earnings and profits are largely considered private goods, there is considerable difficulty in translating these economic resources into a more equitable allocation. Although Ostrom’s work and most use of the IAD framework focuses on
collective goods such as common pool resources, the concept of collective action is fitting to explain certain socioeconomic actors relative influence on policy in their ability to successfully organize, especially when these policies have an impact on the availability of and access to economic resources necessary to secure public goods that are necessities of life. Moreover, although rational individuals with limited resources, information or access to the policy arena may find it difficult to organize their common interests, groups of individuals already organized due to the nature of their activity, amplified by the availability of resources and economic advantage may find the process of organization much easier and thus their ability to influence the policy process comes with greater ease.

Thus, the IAD framework provides a means to assess the socioeconomic actors involved in the policy process and the means by which they are able to exert their influence. Also, it permits a better understanding of why often the issues in the policy arena must reach a certain level of salience before the disorganized general public can assert any influence. Hence, the need to organize becomes more relevant certain policy arenas, which are governed by different rules. According to Ostrom and Polski, formal institutions are differentiated as the laws, policies and procedures that govern situations. Organizations are distinct as particular institutional formations in which members unite with the goal of realizing common objectives. Informal institutions are recognized as commonly accepted conventions that govern interactions between and the actions of actors in any given environment. As informal institutions, rules define how the actors interact, what their roles are (in general and relative to one another), and what the terms of involvement are for each actor and their interaction with one another. Some rules of interaction are overseen and follow a general set of formalized guidelines, while others are
simply understood between the actors. Unlike formal laws, rules can more readily be changed thus altering the motivations that define the system. These constructs provide a means by which to understand how the socioeconomic actors make use of a variety of methods to influence the policy making process, and why bias seemingly exists towards one actor relative to another. Further, Ménard confirms the IAD framework permits closer observation of the informal rules developed by actors within different sectors as they work with the fundamental rules placed upon them by the government and society.

LEVELS OF ANALYSIS

Ostrom asserts that in assessing multiple levels of analysis one can find “nested action arenas” in individual levels of analysis or across the scope of multiple levels of analysis, thus affording the opportunity to link several action arenas. For example, markets exhibit the characteristic of being governed by the rules of competition adhered to by organizations that create a natural coordination, while these rules may spill over into the political arena, affecting efficient allocation of resources. Moreover, Ostrom states, “All rules are nested in another set of rules that define how the first set of rules can be changed.” At the operational-choice level, decision-making (and thus rule formation) occurs by actors previously given approval to do so by other actors (government agents) at the collective-choice level or constitutional-choice level. At the collective-choice level, authorized actors interact to make policy choices and determine what institutions govern the operational choice level. At the constitutional choice level, the processes of the collective-choice arena are formalized and legitimized. In regards to determining where the problems lie in the policy making process, Ostrom notes that several tiers provide channels of influence:
“The problem could be at an operational tier where actors interact in light of the incentives they face to generate outcomes directly in the world…[or] at a policy (or collective-choice) tier where decision-makers repeatedly have to make policy decisions within the constraints of a set of collective-choice rules. The policy decision then affect the structure of arenas where individuals are making operational decisions and thus directly impacting the physical world. The problem could just as well be at a constitutional tier where decisions are made about who is eligible to participate in policymaking and about the rules that will be used to undertake policymaking.”

Industrial relations in Germany can be understood to occur the informal collective-choice arena, while in the United States business interests maintain considerable autonomy in their ability to be governed by market forces. Corporate governance in both the Germany and the United States also occur in the informal arena. This is considered to be an arena of much lower salience, which adheres more to informal rules. However, there is crossover in both cases as formal rules enacted in the arenas of collective-choice and constitutional-choice determine a broader set of rules-in-use that affect the informal collective-choice arena and the operational arena. In the formal collective-choice arena the actions are prone to greater salience, yet informal rules are still of great importance albeit less apparent to the observer. At the constitutional tier may lay the gravest challenges to overcome, in the constructs of democracy that permit the relative influence overall of certain socioeconomic actors over others. The different tiers constitute where the action arena is located for actions that affect policy output, whether indirectly or directly. For this research, the focus will be on the formal and informal collective-choice arenas. In the informal arena it will be considered how the informal and formal rules permit business interests to maintain greater influence than labor unions, not only over industrial relations in general, but also wage setting and labor regulations. Then, it will be considered how this influence in the informal arena translates into greater influence in the formal policy arena.
THE ACTION ARENA

The overall framework for analysis to evaluate the process involves identifying the action arena, the actors involved, what their positions are, what the links are between actions and outcomes, how much control over the process the actors have, what information is available to whom, and what costs and benefits the actors attach to possible outcomes. The actors involved are defined by the resources available to them, their values and beliefs about “states of the world” and what modes of action are acceptable, how they make use the information they have and what processes they use in any line of action. In this research, the main actors under evaluation will be socioeconomic actors, business interests and labor unions. The arenas under assessment will be both formal and informal in nature and of varying degrees of salience. Other variable actors will be considered depending on the arena under assessment for the particular outcomes being observed. For example, in the formal political arena, the relationships socioeconomic actors maintain and develop with political agents directly involved in the policy process offer considerable avenues of influence.
In the above diagram, the action situation is the arena where policy choices occur.98

Again, the action arena will vary depending on the policy being assessed. It is assumed that due to varying degrees of salience and the level of informal or formal rules that govern each situation the channels by which socioeconomic actors influence the policy process will change. The concept of salience is further developed in a discussion about information rules as pertaining to rules-in-use as exogenous variables.

The Actors

Ostrom explains that whether the actors being examined are individuals or groups, it is pertinent to determine what their preferences are and what motivates their actions, including what the perceived benefits and costs are, what their level of accountability is, and what incentives may influence their actions.99 It is common for actors to behave opportunistically and under “bounded rationality” when information is incomplete, though more frequent interaction among actors will often lead to greater reciprocity.100 Actors may also act as policy
entrepreneurs, albeit this may be opportunistic as well. Thus, these factors should be considered when choosing complementary theories to develop the actors’ motivations. The central actors being observed in this research are business interests and labor unions referred to as “socioeconomic actors” involved in the policy making process. According to Ostrom, these actors would be considered organizations, as they are united in the purpose of achieving common goals. In the varying action arenas other actors are considered for the role they play in facilitating or deterring the process by which business interests influence the policy making process relative to labor unions. How interactions with one another or with the business interests and labor unions directly provide channels of influence will be discussed. For example, in the formal action arena where the legislative process takes place in the bicameral systems of Germany and the United States the political agents will be considered (at times by their party affiliation though this is not always definitive). In addition, political leaders will be assessed, that being the chancellor in Germany and president in the United States, in their varying functions and ability to make a certain number of unilateral decisions. The supplemental actors are instrumental in not only their actions with the central actors, but also their interactions between themselves or unilaterally. As Tsebelis demonstrates based on the veto player theory, the balances often shift between these actors either heightening or dampening the ease by which legislative process produces policies. Accordingly, these actors are a necessary element.

Positions, Strengths and Decision-making Processes

In regards to the positions, strengths and decision making processes of the actors, contrasting theories will be considered to develop the actors further. For business interests, especially so in the United States, it is generally assumed that these socioeconomic actors are
commonly motivated by different economic theories rooted in classical economic theory. While on the macro level theories may vary at different ends of the pendulum, regarding business interests considered here it generally assumed that their motivations are founded in microeconomic theory that considers the reduction of transaction costs and maximization of profits to be instrumental. However, the emergence of neoclassical liberalism, exhibited by an increased reemphasis on free market principles is observed to different extents in Germany and the United States. In Germany however, it will be shown that while on the micro level the business motivations remain the same as those in the United States, to reduce costs and maximize profits, the processes by which this is achieved is not necessarily the same, while the tendency may be shifting towards a more neoliberal model. For labor unions, in both cases it will be taken as generally assumed that the motivation is to protect the socioeconomic welfare of employees, such job preservation, employment protection, or wage matters to select a few. The strengths and decision-making processes of the central and other actors considered vary depending of a variety of dynamic exogenous variables, including the rules-in-use, biophysical conditions and attributes of the community.

*The Actions*

The actions the actors take are not only dependent on the various exogenous variables, but also on the information they have in general, about one another and about the processes in general (including experience and expertise) which vary in each respective action situation. Moreover, the level of control each actor has over the action under examination is also dependent upon these exogenous variables, the actors they interact with, what their respective levels of control are to one another, the type of relationships formed and patterns of interaction
developed. For instance, within the informal collective-choice arena overarching rules may be broader and informal rules may be more easily revised, thus permitting more flexibility in actions taken. In the formal collective-choice arena, informal rules still govern interactions, though formal actions taken here must follow a constitutional set of rules and if the formal processes are to be changed they must be legitimized. An example of this would be the introduction of the filibuster into the United States policy making process. Moreover, at a certain level of authority unilateral actions are a possibility as well as legitimized at the constitutional level.

Figure 3: Exogenous Variables to the Action Situation

Ostrom generalizes biophysical conditions as four different types of goods, characterized by their “subtractability of use” and “difficulty of excluding potential beneficiaries.” Within these categories exist public goods, which are of low “subtractibility of use” and minimal excludability; and private goods, which are of high “subtractibility of use” and minimal difficulty in “excludability”. Ostrom further clarifies “excludability” as the costliness in
excluding recipients from produced goods or services, the level of which determines when a
good is best to be distributed publicly, for due to the cost of exclusion collective action becomes
more difficult for fear of free-riders. “Subtractability” determines how the use of goods or
services by one individual impacts the availability of this resource to another.107 Economic
efficiency, reallocation of economic resources, the availability of resources and who has rights to
these resources all factor in and amplify conflicting ideologies over how economic resources
should be allocated within democratic systems and whether the government should be at all
involved in the transformation of private goods into public ones. Therefore, for the work
presented here the relevant considerations concern not only the taxation, transformation and
redistribution of private goods into public ones via welfare and other social programs, but also
the access to private goods in the first place, such as via wages and other sources of income.
Ostrom further explains other factors that influence how rules work together with varying
conditions (such as transaction costs or the size of the resource system) to create positive or
negative incentives to allocate resources.108 In this manner, transaction cost theory emerges and
gains significance in the motives of business interests to influence policies or change rules in
order to reduce a variety of business costs, including the cost of labor. Labor organizations will
similarly be affected by the availability of resources such as jobs, wages and other social benefits
for workers.

ATTRIBUTES OF THE COMMUNITY

Ostrom classifies this variable as the culture, norms and values of the community that
affect the action arena.109 Ostrom further points out that within this variable may be found the
“history of prior interactions, internal homogeneity or heterogeneity of key attributes, and the
knowledge and social capital to those who may participate or be affected by others.” In this area, the historical context and development of the respective democratic systems in Germany and the United States are relevant. Past experiences have served to shape what communities accept as reasonable and contributes to the ability of actors to influence public policy in various directions. In combination with biophysical conditions, whether new or reemerging conditions, communities’ norms, culture and values are shaped and in turn react. However, these attributes also impact the abilities of and level of influence socioeconomic actors have at different points in time.

RULES-IN-USE

Ostrom describes rules in use as the informal understandings between individuals that govern their interactions and which may evolve into formal rules in a collective-choice or constitutional context. These rules can emerge in a variety of methods in democratic systems. Generally, Ostrom states that there are no legal restrictions prohibiting individuals from associating in an organized manner under a set of prescribed rules, provided the activity in itself is not against the law. Further, rules can become formally instituted via national or subnational governments. Rules are subject to change, whether by new understandings that may also become new rules in the informal arena, or within the formal arena via constitutional, legislative or administrative means, though the decision making process often varies significantly between these. The ability of actors involved in the policy making process to affect rules is instrumental in the varying degrees to which they are able to do so. Whether interaction occurs in the informal or formal arena is also central to how much of an impact one actor can have on another. Ostrom develops a set of rules that act as exogenous variables affecting the action
situation, where actors make use of these rules to develop their positions, examine net costs and benefits, make informed choices, and exact control over potential outcomes. The set of rules are further broken down into information rules, aggregation rules, scope rules, payoff rules, boundary rules, position rules and choice rules.¹¹³

**Figure 4: Rules as Exogenous Variables Affecting the Elements of the Action Situation**

![Diagram showing the relationship between information, aggregation, scope, boundary, position, and choice rules affecting actors, positions, information, control, potential outcomes, net costs and benefits, and actions.]

Note: Adapted from E. Ostrom 2005: 189.

**Information Rules, Issue Salience & Proximity**

Information rules are described as those that determine what information is made available to the public or kept private.¹¹⁴ As the availability of information affects not just the ability of actors to make informed decisions and exact change, but also the relevant issues that one actor may have over another, issue salience seems like a relevant area to consider further. The channels available to business interests are highly dependent on the formalized institutional framework or the formal and informal institutions that guide the relations of socioeconomic interests in relation to public policy. Issue salience is important in that it addresses public
awareness of policy issues. Culpepper posits that issue salience is instrumental in delineating the means by which business interests influence public policy.\textsuperscript{115} Culpepper offers some standard characteristics to be expected in the four categories he denotes as “Formality and Salience in Issue Domains.”\textsuperscript{116} Similar to Ostrom, Culpepper classifies informal institutions as rules formulated by non-state actors outside the legislative or formal regulatory arenas where the state does not intervene. Traditionally, areas of high salience/formal rules primary would include policies such as taxes, welfare spending, healthcare, and pensions. Areas of high salience/informal rules commonly include issues such as wage bargaining. In the area of low salience/informal rules would be issues such as executive pay and corporate governance.\textsuperscript{117} However, these are certainly not concrete. As Culpepper notes, salience is not static.\textsuperscript{118} Similarly, Hacker, Soss and Mettler explain the impact that the changing salience of the welfare issue has had over the years in the United States.\textsuperscript{119} Further, that proximity must be factored in when assessing the salience of policy issues in that highly salient yet distant policies with limited tangible effects will elicit a greater amount of “elite rhetoric, media frames, and widely held cultural beliefs.”\textsuperscript{120} This is relevant in that this is where the influence of certain socioeconomic actors and their ability to frame highly salient issues and to influence the legislative process as in bureaucratic networking comes into play.

**Figure 5: Political Salience, Institutional Formality, and the Governance Style**

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<tr>
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<th>Informal Rules Primary</th>
<th>Formal Rules Primary</th>
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<tbody>
<tr>
<td><strong>High Salience</strong></td>
<td>Social partner bargaining</td>
<td>Partisan contestation</td>
</tr>
<tr>
<td><strong>Low Salience</strong></td>
<td>Private interest governance</td>
<td>Bureaucratic network negotiation</td>
</tr>
</tbody>
</table>

As issues become more salient and the possibility of public interest increases, politics and policy are more likely to respond and dramatic policy change becomes a possibility.\textsuperscript{121} However, even dramatic policy change may be minimized as negotiations lead to many compromises. As issues gain increasing salience, more unified interests must gather forces to exert sufficient influence to counter the weight the public interest carries.\textsuperscript{122} Thus, business interests may attempt to wait it out to counter issues once they have been resolved in the public arena and have retreated into lower salience, attempt to shift issues into the policy arena of lower salience, or act to increase salience of issues and influence public opinion to garner support.\textsuperscript{123} Where the issues are less salient, yet still in the formal institutional arena, legislative political agents are relieved from pressures to respond to public opinion. Negotiations over less salient issues are often shifted to state bureaucracies between political agents and economic and social interest groups, where lobbying and expertise are vital tools and intimate connections are formed.\textsuperscript{124} In the arena dominated by issues of high salience and informal institutions, negotiations over issues relevant to the public occur wholly between socioeconomic actors, such as employer’s associations and labor unions and often result in compromise in order to maintain the domain of autonomy.\textsuperscript{125} However, due to the high salience, these interest groups must take accountability into consideration to those they represent leading to a more conflict ridden process where relative positioning due to exogenous factors matter more.\textsuperscript{126}

\textit{Position and Choice Rules}

Position rules help define who the bystanders are and which actors are permitted to become more involved in the action arena where valuable resources are managed.\textsuperscript{127} In the realm of influencing public policy, economic and social actors are afforded different levels of
autonomy and awarded varying levels of involvement in the policy making process. The level of influence that these actors have relative to one another and relative to the process as a whole is highly dependent on the salience of the issues and whether the action is taking place within a formal or informal arena. Position rules will be considered those that afford socioeconomic actors access to the political process in addition to the autonomy they are afforded in the informal arena. Ostrom specifies that choice (or authority) rules determine what actions actors can take within their respective positions.\textsuperscript{128}

\textit{Boundary Rules}

According to Ostrom boundary rules determine who is able to have access to valuable resources and whether there are any limitations to this or costs involved.\textsuperscript{129} Also, boundary rules determine who can enter into and exit from positions as defined in position rules.\textsuperscript{130} This determines the number of participants and the ease by which they can exit the action arena.\textsuperscript{131} Here it will be considered the ease with which socioeconomic actors maintain contact with other actors in the formal arena in addition to what determines each actors’ level of influence in the informal arena.

\textit{Aggregation and Payoff Rules}

These rules clarify how actors make decisions in the action situations\textsuperscript{132} and the level of influence they exert over the actions taken.\textsuperscript{133} For example, how much advantage do socioeconomic actors have relative to one another in varying action arenas? In the case of Germany, I will consider how these rules determine the level of control business interests, and more specifically, employers’ associations have relative to labor organizations. As well, I will
consider how this level of control varies between different arenas, such as at the national and subnational level of the policy making process. In the case of the United States, I will also consider the relative level of control business interests have compared to labor unions in the situations under analysis. Payoff rules determine what the benefits and costs are to a particular action and its outcome and thus provide the “incentives and deterrents” in any given action situation. Payoff rules also set limits to what costs and benefits are acceptable. The process of negotiations between socioeconomic actors and other actors in both the formal and informal arenas will be considered here. The payoffs for each actor will be considered a determinant of what direction these negotiations and the policy process take.

Scope Rules

Ostrom classifies scope rules as those that determine who can take from where and what resources are off-limits. Scope rules also determine who is affected by informal or formal rules and whether these rules are flexible, immutable and how restrictive they are. Scope rules can be further understood from an economic theory viewpoint, in which “the economic nature of a good or service” can be ascertained by the attributes of excludability and subtractability. It is here that it is determined what goods are actually considered to be private and public goods in this research. While the attributes of the goods and services are part of the biophysical environment in the overall conditions, it is the scope rules that determine the outcomes that dominate this variable and what potential outcomes are even possibilities. In this manner, it is relevant to understand where the concepts of private versus public goods are founded and what relevant theories influence this. Here I address further particular economic and
social theories that influence the socioeconomic actors' ideas that lead to conflicting concepts of what is just.

OUTCOMES

Outcomes of actions in the action arena can be evaluated by assessing a variety of performance criteria, including economic efficiency, fiscal equivalence, redistributional equity, accountability, conformance to general morality, and sustainability. As well, policy feedback will be considered. Hacker et al. contends that “policy feedback,” the unintentional impact that policies have on transforming political institutions and attention on issues, can be further extended and examined in the purposeful intent to transform public opinion by making issues more salient. In this manner, policy outputs can move issues into the more salient and formal action arena or issues solved within the informal arena can also be shifted into another arena. The outcomes will be discussed briefly in each policy discussion as well as in an overview in the conclusion chapter, where I will also discuss limitations and further research.

METHODOLOGY

Certain similarities exist across the institutional designs of Germany and United States. For instance, socioeconomic actors are granted varying levels of autonomy and deference founded on their expertise, which is heightened by asymmetric access to information. This permits these actors to have considerable leeway in rule formation, while disproportionate power is greatly influenced by a variety of exogenous and endogenous variables, such as socioeconomic conditions, issue salience, asymmetric information and access to resources that act as determinants in bargaining positions. To be sure, the development of these positions and
formation of rules in the informal arena, and the output of informal negotiations result in outcomes that affect the level of influence socioeconomic actors have when they interact in the formal policy making process.

Thus, I will use the IAD framework to ascertain how much leeway socioeconomic actors are granted comparatively in Germany and the United States and whether the level of influence business interests have in relation to labor unions is stronger in one system or the other. In using the IAD framework, I will assess how exogenous factors, such as economic conditions, and endogenous factors, such as asymmetric access to resources (i.e. informational and financial), affect the ability of these actors to command policy in a desired direction. Further, in examining changes in the level of influence of these socioeconomic actors, as exhibited by changes in informal and formal rules in the informal arena, I will demonstrate how access to greater resources in combination with exogenous variables impacts the relative influence of business interests over labor unions in the formal arena. Additionally, this framework will allow me to consider how important the overall institutional designs may be in serving to reinforce the ability of business interests to influence the policy process regarding policies linked to economic inequality.

Due to data limitations, I will not be able to employ the IAD framework to its full extent. This paper focuses on a certain number of specific rules and variables. Based on secondary literature, I study the differences between institutional designs in the formal and informal collective-choice arenas. I will demonstrate how exogenous and endogenous variables amplify the disproportionate influence of business interests as compared to labor. It will be shown that certain aspects of institutional design in the German system, while still permitting the greater
influence of business interests and even displaying some “liberalizing” shifts within, still produce policies that may have a negative impact on economic inequality but are also better equipped to counter this inequality via redistribution and other means. In the next two chapters, I proceed to discuss the selected policies in Germany and the United States and the relevant facets of institutional design in each that offer channels of influence.
CHAPTER 4: SOCIOECONOMIC ACTORS AND POLICY IN GERMANY

COLLECTIVE BARGAINING: THE AUTONOMY OF INDUSTRIAL RELATIONS

As a coordinated market economy (CME), the institutional framework of the German political system has traditionally permitted industrial relations considerable autonomy in regards to rulemaking. The relations between the government and business are formally recognized and institutionalized, while also following a set of informal rules and processes of interaction.¹⁴² The autonomous feature of industrial relations takes place outside of the formal political and legislative arena, yet is formally recognized and constitutionalized, in a process of collective bargaining between employers’ associations, works councils and trade unions that permits greater flexibility.¹⁴³ Conventionally though, this arrangement has also made it less advantageous or even possible for employers to terminate workers. Compounded with the focus on long-term gains, often price adjustments or other mechanisms had been used and short-term profits sacrificed to deal with increased foreign competition.¹⁴⁴ However, other means became necessary as exogenous factors increased the need for alternate methods to ensure viability. These changes were achievable at this period in time due to less than favorable economic circumstances in Germany including high unemployment and increased competition for businesses from Eastern and Central Europe with lower wages and fewer regulations following reunification and opening of markets.¹⁴⁵ In the process of decentralization of collective bargaining from the regional or sectoral level to the firm level, firms were able to make greater use of an already formally institutionalized means to opt out of collective agreements via “opening” or “hardship” clauses making it possible to lower wages over the long-term. Following the decline in industry-wide collective agreements, union coverage declined
dramatically and continued to, amounting to between 75% and 175% increase in employees not covered by 2007.¹⁴⁶

Dustmann notes that while wage inequality also increased for covered employees in the lower income strata, all income levels experienced negative wage growth in the uncovered sector.¹⁴⁷ The emergence of new sectors included numerous firms not even founded on collective agreements, thus leading to a considerable increase in low-wage work. As small to medium size firms are not required to engage in collective bargaining or to institute works councils, these sectors have been particularly vulnerable to declining wages.¹⁴⁸ However, negative wage growth is relevant in the covered sector as well and attributable to the decentralization of wage bargaining that began in the 1990s in which job security became the main goal of works councils, while trade unions conceded with employers’ associations on a variety and proliferation of opening clauses that granted employers considerable leverage.¹⁴⁹ Significant here, is the transformation of informal rules occurring within industrial relations. Originally intended to cover issues such as hours worked in relation to firm survival through financial difficulties, the clauses transformed considerably to cover wages and other terms and in relation to maintaining firm competitiveness.¹⁵⁰ The option for firms to move abroad gave further leverage to employers’ associations over trade unions.¹⁵¹ Moreover, the lack of national minimum wage permitted wages to fall below standard rates.¹⁵²

Dustmann argues that these changes set the stage for the Hartz reforms nearly a decade later, preparing the political arena for dramatic policy changes, including a reduction and limitation of unemployment benefits and more “active” labor market policies.¹⁵³ As Culpepper emphasizes, significant changes in institutions often occur more readily in the informal arena,
even when concerning high political salience issues, but particularly when concerning issues of low political salience, with salience referring to the relevance of issues to the average voter.\textsuperscript{154} Thus, as opening clauses in their original form were of low salience, the potential for their use or their possible transformation was likely not of great concern when they were instituted. In fact, at the beginning of the rise in use of opening clauses in the 1980s, the general use was towards a decrease in number of hours worked and was addressed at the level of the firm, with the original intention being to permit firms to adjust due to economic hardship.\textsuperscript{155} However, given the economic climate and this option of flexibility firms were able to easily adapt and change the rules. Moving towards the inclusion of wages came in tandem with the desire of firms to maintain or increase competitiveness via diminished labor costs.\textsuperscript{156}

**HARTZ REFORMS: LABOR DEREGULATION AND WELFARE EROSION**

In regards to the Hartz reforms, Dustmann addresses the furthering impact these policies had on declining unemployment and rising wage inequality at the lower end of the wage spectrum, yet credits the incremental changes occurring within industrial relations as exhibited in wage decentralization associated with improving Germany’s competitiveness.\textsuperscript{157} The Hartz reforms occurred at a time when levels of unemployment continued to be very high and budgetary issues were of great concern, while fostering public support was enabled by the revelation of bloated employment figures by the Federal Employment Agency.\textsuperscript{158} Thus, as the issue moved from the informal/low salience arena to the informal/high salience and finally to the formal/high salience arena, one would expect the channels used by business and labor interests to change. For example, one would expect to see greater lobbying and influence by business interests, in addition to an increased effort by political agents to garner support for the new and
drastic policies. High unemployment was a very central issue to the voters,\textsuperscript{159} though this would not be easy legislation to pass. In a study performed by the OECD to understand significant alterations in policy, the Hartz reforms are considered as case in point for Germany, as these reforms represented the absolute greatest revision in labor-market policy of the post-war generation.\textsuperscript{160} The 2009 OECD study signals to the advantageous circumstances during the time period, including the worsening unemployment situation and data-falsification by the Federal Labor Office (BA), weakening the position of the Labor Ministry and labor in general. These circumstances led to the minimization of the Labor Ministry as it was combined with the Ministry of Economics and Technology, thus easing the law making process, while reforms were positioned strategically further easing their passing and implementation.\textsuperscript{161} Further, the scandal that occurred at the Federal Labor Office (BA) permitted Chancellor Schröder the opportunity to appoint an expert commission led by Volkswagen’s Director of Personnel, Peter Hartz, to lead its reform.\textsuperscript{162} Moreover, as Chancellor Schröder’s approval of the reforms came in the midst of the reelection campaign, pressure increased on his party members and trade unions to show their support as unemployment was a key campaign issue.\textsuperscript{163}

During the time period of the Hartz legislation, many divisions existed between parties within the SPD-Green coalition causing major obstacles, including a narrow majority in the Budestag (lower house) and an opposition led majority (FDP) in the Bundesrat (upper house) of which two bills required its approval.\textsuperscript{164} The OECD study cites that it was unlikely such encompassing changes could have occurred within the corporatist institutions.\textsuperscript{165} This is likely to be the case as the study by Ellguth et al. demonstrates; the less dramatic influence of opening clauses in establishments with works councils, and the desire for consensus in order to maintain
autonomy would likely have deterred such transformations. Yet challenges faced in the political arena posed a challenge as well. However, the formal institutions of the government make use of some common informal practices during the legislative process. The federal ministry regularly summons the input of a variety of actors during the augmentative process, with the BDI, BDA, and DGB all taking part, in addition to the use of expert commissions and experts of other sorts. Placing this in the formal political arena as a high salience issue should certainly have dampened somewhat the effect that business interests were able to exert. Evidence demonstrates that business interests were dissatisfied with the Hartz reforms, finding them to be watered down and to have insufficiently addressed a main concern of business interests, the tax wedge. Moreover, reports presented jointly by the BDI and BDA in 2007 called for further deregulation, flexibility and elimination of subsidization.

RETAIL TRADE POLICY

Germany’s policy making process is characterized by its inclusiveness and consultative nature that is often constrained by a multiple number of veto players with conflicting interests, thus requiring a multitude of negotiations. These institutional factors often result in slow and incremental change, as was the case with the liberalization of the retail market (the debates over which began prior to the Hartz reforms), which eventually occurred following a ruling by the Federal Constitutional Court that turned the issue over to the Länder (federal states) citing there no case for federal regulation as per the Basic Law. As this was an issue of relatively low importance to voters and thus inadequate to promote electoral salience, the deliberations moved form the national to the subnational arena of the states and organized interests, where retail employers’ associations were in support of liberalization of the Ladenschlussgetz and trade
unions were in opposition. Repositioning this matter into an arena of less salience, yet still within the formal policy making process likely strengthened retail employers’ associations’ position on the matter. This is exemplified not only by the weak position of retail labor unions in general, but also by the process by which stronger and better positioned business interests were able to gain headway by advancing the reform in a decentralized manner, catalyzing the reform in other states. The significance of the retail reforms in regards to economic inequality pertains to the prominence and rise of part-time work and mini-jobs in Germany as discussed further in the section on income inequality. The retail sector in conjunction with the hotel and food service industry represent the greatest portion of low-wage work and are not covered by collective bargaining agreements.

CORPORATE GOVERNANCE

A significant difference between Germany and the United States is the split between the financial and nonfinancial sectors in regards to liberalizing Germany’s traditional “blockholder/stakeholder,” patient capital model of corporate governance. While the financial industry was quicker to transition towards the shareholder model, the nonfinancial industry exhibited opposition. The government on the other hand under Schröder promoted the transition, subverting the nonfinancial industry, by eliminating the capital gains tax for companies that engaged in the selling of shares in other companies. Informal institutions in place via formal laws permitted the nonfinancial industry in Germany the ability to refrain from such a transition and demonstrated the decisive split between business interests in Germany. When the time came for the European Takeover Directive (greatly liberalizing hostile takeover law), a more salient issue that was taking place in the formal political arena, business interests of
the nonfinancial sector, with the support of labor unions were able to use means such as lobbying to influence the Schröder government to change its position.\textsuperscript{178} Thus, overall business interests of the nonfinancial sector have been able to maintain a strong position in Germany.

The structure of German nonfinancial business industries is founded in a system based on patient capital. The long-term focus had allowed more flexibility in the past to deal with economic shocks in the short-term.\textsuperscript{179} This sector in Germany, while exhibiting more flexibility of late in industrial relations with labor due to the increased pressures of extreme unemployment and competition, has still exerted efforts to retain the blockholder/patient capital style of corporate governance. The nonfinancial business industries have been able to exert influence in both the informal and formal arena in Germany, and attempts to undermine them, such as Schröder’s tax policy, have been diminished due to the government’s reliance on the “support of institutional incumbents.”\textsuperscript{180} In matters that have pertained to the formal policy making arena, German industries have made use of extensive lobbying and framing to gain public support.\textsuperscript{181} Moreover, Barker and Rueda find that corporate governance is closely related more specifically to the relative positioning of insider versus outsider labor.\textsuperscript{182} Insider labor is relevant in that insider labor tends to benefit from greater job security, while the negative effects of inconstancies in business cycles such as unemployment tend to fall on outsider labor.\textsuperscript{183}

\textbf{INCOME INEQUALITY, TAXES, & MINIMUM WAGE POLICY}

As is already understood, federal minimum wage policy had not been introduced due to the institutional structure of industrial relations. To be sure, traditionally wage levels had been set at a sectoral or industry wide level until minor adjustments in the collective bargaining process began to transform the traditional rules of these institutions. These institutions
transformed even further as the Hartz reforms solidified the deregulation of labor. The introduction of a national minimum wage has been a recurring topic that only recently passed through legislation. Public discontent with the Hartz reforms continued to push the minimum wage into the forefront,\(^{184}\) as did rising economic inequality.\(^{185}\) The quantity of low-wage workers increased by nearly fifty percent between 1995 and 2006.\(^{186}\) While the Hartz reforms did not originate the advent of low-wage work and deregulation, the reforms did serve to reinforce the persistence of low-wage work even following the economic upturn. In fact, two components of the low-wage sector, temporary work and mini-jobs, continued to gain even more importance.\(^{187}\) Labor unions have persistently been in support of a national minimum wage and altered their stance on the autonomy of industrial relations following the Hartz reforms.\(^{188}\)

Germany’s first minimum wage legislation was formally instituted this past August (2014). With the help of the Federal Ministry of Labor and Social Affairs, a coalition agreement between the Christian Democratic Union/Christian Social Union of Bavaria (CDU/CSU) and the Social Democratic Party (SPD) for minimum wage legislation was introduced as a component of a larger reform, the “Act on Strengthening Collective Bargaining Autonomy” instituting a statutory minimum wage starting in January 2015.\(^{189}\) Most relevant is that the minimum wage law covers foreign companies in Germany as well, and despite some opacity it leaves intact collective bargaining agreements, while also maintaining the important position of industrial relations in the policy process in the federal appointing of representatives from employers’ associations and labor unions on the Minimum Wage Commission in charge of assessing and adjusting the minimum wage level.\(^{190}\) However, recent new articles suggest that labor is dissatisfied with the number of loopholes afforded to business interests, while business interests
reluctantly agreed. Further, concerns remain that the two-year adjustment period offers too much leeway and will dampen the impact and by 2017 the minimum wage will be falling behind again. To be sure, the legislation does include significant exceptions, such as the exclusion of minors, exclusion of long-term unemployed for the first six months of hiring, while marginal work has a cap on monthly earnings. The adjustment period afforded to employers covers previous collective bargaining agreements for two years, upon which they must pay the only minimum wage as set in 2015 even if it is raised in 2017. No further evidence is available after the period ending in 2017. The complicated nature and conditions included in the minimum wage legislation deserve further assessment as to the influence of business interests and labor on this legislation.

Changes in capital income over time has been more challenging to address in Germany due to a deficiency of records and inconsistencies due to measurement methods, though in recent years intensive research has yielded better analyses. When adjusting for stock market valuation, private capital in Germany has risen substantially since 1970. While Germany’s income taxes have been progressive overall, the top income tax rate started to decline in 1990 and dropped significantly from 2000 onward. Between 1992 and 2005 tax reforms had an impact on the top income tax rate in the decrease in taxes on capital income, capital gains from business and income from a number of business activities, while corporate tax was also substantially reduced in 2000. Each of these relates in some manner towards business interests, though discussion is minimal on the influence of business interests on these tax policies and requires further investigation.
CHAPTER 5: SOCIOECONOMIC ACTORS AND POLICY IN THE UNITED STATES

ORGANIZED BUSINESS & THE NATIONAL LABOR RELATIONS ACT

The growing importance of business interests in the political arena can be observed in the increased efforts by political parties to address their needs and the increased efforts by business interest to insert themselves into the policy making process beginning in the 1970s. Leader of the organization for business interest groups, the American Council for Capital Formation (ACCF), Charles Walker, who had previously formed the business interest group the Business Roundtable, began to organize the efforts of business interests to increase pressure in Washington for tax breaks for businesses. Under Walker, the umbrella organization the Carlton Group began lobbying heavily in Washington in 1979 for increased tax breaks and deregulation for businesses and with the entry of Walker into a key position under the Reagan administration proposed provisions were included into the ERA of 1981 with particular ease. During the development of the 1981 Economic Recovery Act (ERA), typical gridlock in Washington over the Kemp-Roth tax reduction of 30 percent played a significant role in the Republican Party's and Reagan administration's support the proposals of business interests; this placed the Democratic Party in a precarious position where compliances became necessary in order to retain support from business interests vital to the party’s position and strength in Washington. During extensive negotiations lasting four years, the Democrats continued to yield to an increasing number of concessions that benefitted business interests even greater than originally proposed. The grassroots campaign by which organized business interests gathered resources and public support to flood congress with letters demonstrates the high salience of the
issue in the need for political agents to be convinced on the importance of the issues at hand. Moreover, compliances made by the Democrats illustrate the growing influence of business interests over issues in the high salience formal arena.

Further, business interest efforts have been detrimental in regards to the organized labor. The National Labor Relations Act (NLRA), also known as the Wagner Act, was established in the 1930s during the pro-labor movement partially strengthened in response to the devastations of the depression. Despite the bill being an effort to retain previously established labor law, business interests mounted a full-scale offensive front. Attacks against labor increased in the 1970s and culminated in the 1980s with the Reagan administration’s new appointees to the National Labor Relation’s Board leading to significant changes in rules and policy that tremendously weakened labor’s position. Several attempts at labor law reform, including the Common Situs Picketing Bill and the Labor Law Reform Act of 1977, were defeated in part by increased lobbying and concerted efforts of business interests in Washington, amplified by the ability to increase financial contributions to political candidates and overtake labor’s efforts. Efforts by business interests also initiated the congressional response by opponents of the bill to engage in a filibuster, which ultimately led to the bills defeat. These defeats of labor were magnified by changes in the constitution of the National Labor Relations Board, shifting the balance of power to pro-business interests and lead to the establishment of new rules that significantly weakened the ability of labor unions to organize, to defend themselves against employers and undermined their ability to enforce collective bargaining agreements. Reagan's appointment of an experienced anti-union consultant as chairman of the NLRB solidified labor’s disparate position. Thus, the ability of the government and parties in power to reconstitute and
reform institutions has a tremendous impact on the influence of certain actors over others. To be sure the ties that business interests have with political agents can lead to institutional changes that favor business interests. In turn, business interests invest more in the policy process. During this time period the most salient issue was recovering from the economic crisis endured during the 1970s, which resulted in high inflation and high unemployment.

INCOME INEQUALITY, TAXES, & MINIMUM WAGE POLICY

Taking inflation into account the minimum wage reached its peak in purchasing power in 1969, at a point when unemployment was at a very low point (under 4 percent). Since then, the wage distribution in the lower income strata has consistently followed a pattern consistent with minimum wage policy. Wage policy was also greatly impacted by the tax cuts introduced under the Reagan administration, as the tax cuts on non-labor income were reduced to the top level of labor tax rates. Moreover, not only did minimum wages remain stagnant, they reach a “historical low relative to output per worker.” In fact, wages remained stagnant for nearly a decade and minimal increases in the late 1990s and 2000s under Clinton and Obama administrations failed to compensate for wage income loss on the lower end of the spectrum since the 1970s as wage adjustments overall lost significance as a policy tool to address distribution. Rising inequality in regards to wage inequality at the lower end of the wage spectrum emulated the weakened position of the labor organizations that traditionally represented the interests of lower-wage workers. Labor lost a variety of tools as it became more costly to exert efforts towards wage concerns. On another note, social mobility has declined due to other factors such as waning investment in education and training and the inaccessibility to access educational resources due to rising costs. The accessibility to opportunity to gain
social and economic mobility is inextricably tied to who has access to and advantage in the action arena. The Democrats made use of another filibuster technique known as “hostage taking” to pass minimum wage legislation by blocking more relevant bills to the opposition thus permitting a small increase in the minimum wage. Minimum wage legislation proposed by President Obama was also blocked more recently via use of the filibuster.

Even more relevant in the United States to the growth in wage inequality is most noticeable at the higher end of the wage income spectrum where significant gains have been made. Piketty addresses the rise in incomes and the high concentration of capital income and their impact on income distribution. The rise of incomes in the top income strata coincides with a decrease in the top marginal income tax rate leading to even greater incentive by those extracting these incomes to retain these very policies. Further, the concentration of capital income results in part from the higher returns to capital and the expansion of capital to include industry, finance and real estate. The Carlton Group was instrumental in pushing for the capital gains tax cuts that amplified income growth at the higher end of the spectrum. A battle of negotiations between political parties led to extending benefits for business interests. Corporate tax cuts were not the only ones pushed for by business interests; top income taxes and capital gains taxes were further reduced with the ERTA of 1981. Business interests stood not only for business gains, but individual gains for the people behind business, too.

CORPORATE GOVERNANCE

Corporate governance in the United States is traditionally delegated as a state bureaucratic affair, where corporations are given ample leeway to set rules at their own discretion. The matter of executive pay rarely entered the mainstream news, and Congress
traditionally passed the matter over to the SEC, deemed to have the necessary expertise over such concerns. Executive pay is relevant in that the differential between executive compensation and normal wages increased from twenty-four times to three hundred times greater between 1965 and 2007.²¹⁹ Hacker and Pierson contend that this is by no means excludable from the realm of public policy, as government failure to adapt regulatory policies, combined with the inability of labor unions to act as a countermeasure dramatically influenced its rise.²²⁰ Moreover, the Reagan administration’s efforts to tackle rising inflation included unprecedented monetary policy under Paul Volcker that caused a rapid drop in inflation and, decreased the value of the dollar causing slowed output for exports and led to a recession that hurt lower to middle income workers.²²¹ Tax policy that benefitted the upper tax brackets compounded this even further. A major shift also had begun towards the financial sector as a new means of investment during a period where interest rates were kept high leading to the meteoric rise of stock options and the advent of alternate means of executive compensation, at a time when productivity from labor continued to contract.²²² Further, measures to counteract the expected rise in inequality from drastic measures to stimulate the economy were all but ignored.²²³ Under the Reagan administration, multiple steps were taken to dampen the effectiveness of business regulations, such as an executive order to subject cost-benefit analysis to all new regulatory proposals and carefully selected appointees to key government agency positions.²²⁴ As Levy and Temin assert regarding the United States, institutional change was not a necessary and unavoidable result of the economic disturbances of the 1970s, though they may have eased the process and afforded more avenues for change.²²⁵

Government policy also had a direct impact in the passage of a bill in the 1990s that limited another countermeasure, private litigation, and business influence that prevented policy
to regulate stock options, a major contributor to executive pay. A brief period of pressure due to campaigning brought the issues to the forefront enabling interested parties in Congress to put enough pressure on the SEC to agree to pay disclosure. Only when the issue of executive pay became a highly salient issue in the midst of the Enron and Worldcom scandal did pressure from Congress and the Presidential office have any substantial effect on the SEC setting regulations, making it possible for the government to formalize regulations via policy. The Sarbones-Oxley bill that passed following these scandals was a shadow of its original form, further reflecting the ability of business interests to influence the policy process. The issue of executive pay continued to gain salience over the years following theses scandals, leading the Democrats to propose a bill in 2005 for “say on pay,” shareholder approval of executive salaries. However, by this time Republicans were in control of the House and the bill stalled and was fought off again, contested by the Bush administration and extensive lobbying in 2007 when Democrats had control of the House. Thus, it appears that even when issues become highly salient, other institutional factors still allow for other channels of influence that permit business interests to effect what is happening in the policy arena.

THE EROSION OF SOCIAL-WELFARE PROGRAMS

As Hacker asserts business interests have been instrumental in the development and transformation of social policy in the United States through a variety of means not at the forefront of the policy arena in regards to issue salience. Business interests are often able to exert greater influence when the policy arena is more abstruse, where they face less organized opposition. Business interest were instrumental in shaping private pensions, accepting Social Security as a means to invest further in this, and deterring efforts towards universal health care,
by expanding private insurance and thus limiting the need for government backed insurance.\textsuperscript{232} Hacker contends that not only has the issue of welfare reform varied in salience over time, but also the level of direct impact these policies have on the general public, which alters the ability of organized interests to frame issues.\textsuperscript{233} The campaign led by business interests in the 1970s also included an onslaught of efforts to reduce social policy and create a new private source for profit. The efforts included the reinvigoration of well-established independent research organizations, such as the Heritage Foundation, Cato Institute, and American Enterprise Institute to increase efforts to sway public opinion that focused on stereotypes of the changing social dynamics of welfare.\textsuperscript{234} These continued efforts to stigmatize welfare had a tremendous impact on public opinion and thus the direction of policy agendas, exemplified by shifts even in the traditional stance of the Democratic Party during Clinton’s presidential campaign. Further, the adoption of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) regressed social policy to the state of that prior to the 1960s.\textsuperscript{235}

Welfare took a huge hit from the 1996 reforms aimed at reducing incentives not to work, such as limiting the short-term and lifetime benefits, while affording benefits to those who seek employment.\textsuperscript{236} Several exogenous factors eased the legislation, such as lower unemployment levels, subnational efforts to reform welfare, the desire to reduce budget deficits, and a change in the balance of power in both houses of Congress to the Republican Party.\textsuperscript{237} While business interests were supportive of this policy transformation, minimal support came in the form of lobbying; when it did it was mostly in regards to particular aspects of the bill that pertained to certain sectors.\textsuperscript{238} Still, this was a high salience issue and garnered the support of many political agents from both parties, especially on the subnational level.\textsuperscript{239} Business interests instead
focused on independent research as stated above. Think tanks are notoriously substantially funded and offer an alternative means by which business interests can set policy agendas, especially in the high salience political arena.\textsuperscript{240} Welfare advocates were less organized and while socially minded think tanks represented the interests of welfare recipients, they both suffered from significantly less financial backing than business interests, moderating their ability to engage a movement at the level of business interests’ capabilities.\textsuperscript{241} Findings suggest that public support for welfare has fluctuated, though declined a greater percentage in the 1990s and was often considered as linked to scrupulous activity and gained a more notorious connotation likely in part to the increased salience of the issue as evident by greater focus by the media and political agendas.\textsuperscript{242} During implementation of the bill, organized interests such as the healthcare industry and agrarian industry played a role in maintaining some important components such as Food Stamps and Medicaid that would have otherwise been diminished.\textsuperscript{243}
CHAPTER 6: COMPARATIVE ANALYSIS

The relationships that govern the action arena are vital to policy output and thus it is relevant to consider further the informal and formal rules that may be instrumental in permitting different levels of influence over the direction of policies. Addressing similarities and differences in the institutional designs of Germany and the United States may offer some insight into how to better design democratic institutions to prevent the possibility of unequal representation of interests and inequitable allocation of economic resources. In comparing a select number of policies, including corporate governance, wage legislation, and industrial relations in the formal and informal policy arenas it is possible to better understand how business interests work within these varying capitalist and democratic systems.

In the formal political arena, both Germany and the United States are prone to gridlock due to factors such as ideological preferences, differences of ideas and the number of veto players. While parliamentary and presidential systems have some similar characteristics, particular differences exist that are important to address as they may have an effect on the relative level of influence that certain socioeconomic actors have over the policy process. While these federal systems in general create stability, they can both be plagued by institutional gridlock. These factors often slow the democratic policy process, and require continuous compromise that often drastically alters policies from their original intended purposes, or lead to the increased use of methods that create avenues by which policies that favor certain actors over others become instituted. In the informal arena alternate channels exist in both Germany and the United States, though there are a few striking differences. In Germany formalized autonomy of industrial relations explicitly establishes the importance of business interests and labor unions.
in the policy process. On the other hand, in the United States it appears that permissiveness to be governed by market forces indirectly grants business interests considerable advantage. Moreover, the ability of organized business interests to indirectly contribute funds to influence the political process in the United States offers them significant advantages. Overall though, in both Germany and the United States, the informal arena does offer greater ease with which to influence the policy process, which translates to the formal policy arena. As rules are established and adapted to changing economic, social and global conditions, political agents in the formal policy making process look to these socioeconomic actors for insights, awarding great value to their expertise. Further, certain facets of institutional design, such as the ability of political leaders to make unilateral decisions or political agents to cause institutional gridlock tend to augment the influence certain socioeconomic actors have over others. Unfortunately, the economic wellbeing of a nation is not truly exemplified by gross domestic product per capita, national income per capita, or even the level of unemployment. These socioeconomic dimensions fail to relay great disparities such as economic inequality, changing labor and welfare conditions, and other trade-offs that accompany economic efficiency. In order to understand how the institutional designs permit those with greater resources to dominate the policy process, I compare several policies detailed in the previous chapters.

GERMANY

In the formal political arena in Germany, power is dispersed between the President who serves as a “representative” and is appointed by the Bundestag (Lower Chamber representing the states), the Bundesrat (Upper Chamber), and the Chancellor whereby rests the executive power. Both the Chancellor and the Bundestag have the authority to call a vote of “no confidence.”
The Chancellor has the authority along with the Federal Cabinet to appoint specialty expert commissions, to select appointees to specialty councils, such as the Federal Ministry of Labour and Social Affairs, and to introduce a majority of new legislation. The Bundestag is often comprised of a coalition of sorts between parties, while the Bundesrat (similar to the U.S. Senate) is often controlled by the opposition party that must approve mandatory legislation; however, there is also legislation classified as non-mandatory that if opposed can be passed with majority approval in the Bundestag. Splits are common not only between parties, but within as well. Thus, when federal elite party members shift their positions away from their parties traditional stance (i.e. towards supporting a more free market model), subnational groups with close ties to either business interests or labor organizations with different agendas than the newly established elite minority may find their relative influence affected.\textsuperscript{248}

Thus, in regards to the Hartz legislation (2003/04), as this was occurring in the formal political arena, the number of channels via which business interests could influence policy would be determined by the rules-in-use in this arena. In the formal political arena, the Federal Ministry of Labour appointees represent business and labor interests. In the case of the Hartz reforms, Chancellor Schröder, also appointed a specialty expert commission with no representatives from the main business associations (BDI/BDA) or trade unions, led by prominent business leader Hartz from Volkswagen to reform the Federal Labour Office following the scandal.\textsuperscript{249} In this manner, the Chancellor was able to also introduce new labor legislation that was much more in line with a neoliberal path and would likely not have emerged from the autonomous institutions of industrial relations.\textsuperscript{250} The expert commission also focused on matters outside the traditional realm of industry relations, such as collective bargaining, so as to not instigate any further
As it was discussed earlier, the preference of the socioeconomic actors of industrial relations is to maintain autonomy, which supports this notion. However, during the proposal process of any new legislation, business interests, trade unions and other experts are consistently invited to review and discuss the first draft. Hence, employers’ associations, such as BDI and BDA, and trade unions were able to offer input into the content of the legislation. To be sure, employers’ associations had already been going through a process of deregulation and decentralization of collective bargaining agreements independent of the formal political arena. Agenda 2010, which included the Hartz reforms, also included corporate tax cuts as well. In fact, business interests supported the reforms despite public opposition to benefit cuts, and further expressed the desire for the expansion of the reforms. With the declining position of unions and decreasing number of employees covered by collective bargaining arrangements due to the use of opening clauses, it became easier for business interests to create a level of excludability. Labor unions may have conceded in order to maintain protections for a core component of workers. Research demonstrates a decline in inclusiveness.

In this case, when considering business support for the reforms and the evidence that the Chancellor was able to propose new legislation that was highly controversial and contested within and between parties, it appears that business interests were able to make use of informal rules, such as expert consulting on policy. Moreover, as the legislation did not infringe upon collective bargaining autonomy, it passed with greater ease. However, the influence of both business interests and labor unions was slightly minimized. Yet, the reforms seemed more in line with the agenda of business interests, especially since business interests had already been pushing for greater liberalization in the informal arena. Labor though did receive minimal
concessions in order to solidify the proposal’s acceptance by all parties that were already hinging on upcoming elections.\textsuperscript{261} However, the divided control of the German Parliament may have led to the minimization of concessions towards labor.\textsuperscript{262} Previously, the government had pursued labor market reforms in accord with business interests and labor unions under the “Alliance for Jobs,” but legislation proposals fell apart due to lack of trade-offs to compensate labor for the detrimental effects of increasing labor market flexibility.\textsuperscript{263} Throughout the adoption and implementation of the Hartz reforms came other opportunities for business interests to influence the legislation, however these opportunities were not unique to business interests as labor unions made some minor gains as well.\textsuperscript{264}

In the informal, yet often highly salient arena of collective bargaining,\textsuperscript{265} business interests and labor unions maintain considerable autonomy.\textsuperscript{266} In this process, they are only inhibited by formal rules (laws) that grant them their autonomy and that set standards for collective bargaining agreements, co-determination and other institutions of industrial relations.\textsuperscript{267} In this manner, business interests seek to maintain as much autonomy as possible via negotiations with labor unions, as is clear in their opposition to several reform proposals, such as to the works councils that would have altered the established rules.\textsuperscript{268} Yet, in maintaining their autonomy, business interests are able to transform these rules independently, due to the economic conditions at the time that placed labor in a disadvantaged bargaining position. Further, business interests are influential in the original process of formulating formal rules by which the industrial relations exist. The original opening clauses were never intended to include matters of wages, yet the flexibility in the rules permitted such alterations.\textsuperscript{269} Within the informal arena, while the boundaries as to who may engage in collective bargaining are formalized (i.e.
via the Collective Bargaining and Agreement Act\textsuperscript{270}, the position of each actor and level of control each has is dependent upon other exogenous factors, such as extraneous economic and social conditions that influence the relative positioning and control each has, in addition to altering the payoffs for each. In this situation, this is exemplified by the high unemployment that weakened the position of labor unions, while the economic conditions and heightened competition shifted the position of the employers’ associations. In setting new agreements and making use of opening clauses in a decentralized manner, business interests were able to exert greater influence and even increase flexibility in the scope of what collective bargaining agreements covered and determine the best allocation of economic resources.\textsuperscript{271} This shift in the allocation of wages and liberalization of labor that began here set the stage for the Hartz reforms and had an impact on wage inequality.\textsuperscript{272}

Business interests have traditionally and continued to take an opposing stance to the institution of a minimum wage in Germany.\textsuperscript{273} In fact, The CDU/CSU and FDP (Free Democratic Party) have traditionally taken the same position as business interests this matter, preferring to retain the autonomy of collective bargaining, while the SPD returned to its former stance of promoting minimum wage legislation.\textsuperscript{274} The positions of two major parties resulted in stalling minimum wage legislation.\textsuperscript{275} Due to conflicting stances on minimum wage legislation by political parties in the Grand Coalition, minimal progress was made between 2005 and 2009 on minimum wage legislation.\textsuperscript{276} Conflict between business interests and labor unions increased and was exemplified by the political strife between representatives for each, SPD Labor Minister Scholz and CSU Economic Affairs Minister Glos from 2007 to 2008.\textsuperscript{277} Business interests and labor unions have continually influenced the battle over minimum wage in the formal political
arena in Germany, and it appears business has had a stronger influence in preventing an agreement on minimum wage legislation. Minimum wage legislation only passed following a major concession made by the SPD to the CDU in which the party agreed to relinquish its position regarding debt liability laws in the European Union.\textsuperscript{278}

THE UNITED STATES

In the formal political arena of the United States, power is dispersed amongst the President, the House of Representatives and the Senate. All three of these are the minimal number of formal institutions required for policy approval.\textsuperscript{279} The President of the United States has the ability to take several unilateral actions; for example, Lewis finds that presidential use of the power to unilaterally select appointees has very distinct purposes. Presidents place appointees in order to retain better command over agencies and policy administration, especially when policy ideas are in conflict.\textsuperscript{280} President Reagan made use of this power to place an unlikely candidate as head of the National Labor Relations Board, who had very different policy goals for labor than what labor had been working towards at that very time. Subsequently, a new channel opened for business interests to achieve their goals of minimizing the position of labor unions. Lewis notes that Reagan’s team targeted a specific number of positions.\textsuperscript{281} In restricting the use of vital tools such as striking and legal action, while also permitting extensive infractions against the National Labor Relations Act, the National Labor Relations Board facilitated the agenda of business interests.\textsuperscript{282}

The use of the filibuster in ultimately defeating the labor law reform is definitive. The ability of political agents to make use of such a tool is instrumental in demonstrating how institutional design permits greater influence of some actors over others. The filibuster itself is
considered to be an informal rule (unlike the presidential veto which is constitutionalized), and allows for obstruction of a bill by opposition in the Senate unless limited by a three-fifths vote in a process known as cloture.283 Traditionally the methods of using the filibuster entailed lengthy and unscripted debates and attrition that characteristically come with great opportunity costs, such as the misuse of time and resources. However, it is now more common to use the mere threat of a filibuster and the cloture requirement to ensure a more rapid process, though facilitating its ease of use has also led to the proliferation of this practice.284 In the case of labor law reform in 1978, business interests encouraged the congressional use of the filibuster to ultimately defeat the bill.285 The ability of business interests to influence congressional actions is linked to their ability to form close connections with and influence political agents towards policies favorable towards business interests.

In the United States lobbying is a powerful institution of influence used by business interests and money certainly is a key factor.286 Deregulation under the Carter administration set the stage for further lobbying efforts by business interests in years to come.287 Corporate political action committees’ (PACs) contributions in the political arena have a substantial impact on the direction of policy, and the rise of this tool in the 1970s marks a clear change in the influence of business interests.288 While policies are not directly the result of contributions, indirectly these contributions do afford greater opportunity to sway the direction of policy via the ability to build relationships with political agents.289 Combined with mass grassroots campaigns to encourage interest development, the rise of business interests became undeniable and uncontestable.290 The ability of business interests to place the issues relevant to them with such ease in the public eye transcends the ability of those who are less able to organize and increase issue salience. The
influence of the economic ideas of business interests desiring to adhere to an approach of free market capitalism gained tremendous ground during the last four decades, undoubtedly because of their ability to take advantage of various facets of institutional design. Advances have been made not only when issues are of low salience in the formal political arena, but also methods have developed to conquer issues of higher salience. The ability of business interests to contribute massive amounts of financial resources to these efforts and the limited restrictions on such in the United States undoubtedly plays a role. However, most importantly, it is the ability of business interests to offer expertise and to lobby in the low salience bureaucratic arena that gives them the organizational edge to influence policy.\footnote{291} The reorientation towards microeconomic policy to counter macroeconomic problems in the late 1970s-80s\footnote{292} demonstrates a major shift in the ideas that are the driving force behind what is happening in the policy arena. Think tanks are an alternate means to lobbying for business interests. This method of promoting business interests was useful regarding influencing the public opinion on welfare legislation.\footnote{293} The means to influence public opinion thus in turn influences the political agents in the legislative arena. While think tanks may claim to be nonpartisan, evidence shows that they often work in the interest of select actors, such as business interests.\footnote{294} For example, the Heritage Foundation does not mask its purpose of striving towards “the principles of free enterprise, limited government, and individual freedom.”\footnote{295} Two additional factors must be noted: the importance of media use in promoting policy preferences, and negative connotations regarding the welfare system.\footnote{296} Moreover, the funding structure of these nonprofit organizations permits business interests policy preferences to set their direction.\footnote{297}
CHAPTER 7: CONCLUSIONS AND FUTURE WORK

Endogenously, greater resources, such as asymmetric information and economic assets when combined with exogenous variables, such as socioeconomic conditions and issue salience, establish the relative positioning of socioeconomic actors to one another. The institutional designs that directly and indirectly provide channels by which these socioeconomic actors influence the policy process magnifies the importance of these variables. Thus, in both Germany and the United States, the socioeconomic actors better equipped to exploit these variables are better able to manipulate the policy process towards their advantage. In both Germany and the United States this has clearly given an advantage towards business interests over labor unions. Yet, established differences in the institutional designs may tend towards the more substantial influence of business interests in the United States as compared to Germany, which may explain the more significant rise in economic inequality in the United States. As a coordinated and social market economy, the avenues of influence are slightly more regimented in Germany, while redistribution minimizes the detrimental effects of unequal influence somewhat better. At any rate, shifts have occurred within the German system indicating that business interests still have disproportionate influence over labor. If these shifts continue within the German system, it is quite possible that the ability to offset changes in economic inequality will be diminished. Furthermore, exogenous variables may heighten the need for the political, economic and social system to liberalize further to compensate for new external demands.

The rise of organized business interests and their influence on public policy in the United States has been more substantially documented than of that in Germany. Further investigation will be necessary to determine the channels of influence by which business interests influence
the policy process in Germany. Certainly, within Germany the dynamics are shifting due to several exogenous and endogenous factors. Integration with the European Union, economic factors and the pressures of globalization are leading business interests to diverge. Yet it appears that Germany’s system of industrial relations will retain its importance in years to come. While German business interests may be seeking to liberalize labor regulations, they also seek to retain their autonomy. New minimum wage legislation demonstrates the continued influence that business interests have in the German policy process. This is especially demonstrated by the continued influence the socioeconomic actors of industrial relations will have in future minimum wage developments. It is presumed that the exogenous and endogenous factors that shaped business interests' desire for increased liberalization thus far will be a determinant in future motivations of business interests. While the financial sectors in Germany have exhibited greater support of converting to a shareholder model similar to that of the United States, particular nonfinancial sectors of business have chosen to retain a system of governance based on long-term stability and the stakeholder model. Hence, it is not surmised that as a whole business interests in Germany thus far are fully committed to liberalization to the same extent as the United States. Also, further research is required to determine what impact the recent minimum wage legislation will have on economic inequality in Germany. Presumably, business interests will determine what steps to take next dependent upon the economic impact that minimum wage legislations has on business interests.

There are also limitations to this study. To begin, the concept of issue salience is touched upon briefly throughout this paper. Substantial data would need to be gathered and a quantitative analysis performed in order to understand better how important issue salience is as a factor in the
relative influence of business interests over public policy. There are also many other actors that should be considered as socioeconomic actors that influence the direction of policy. For instance, groups such as the German Council of Economic Experts continually offer their opinions as to the best direction of policy. As historical evidence demonstrates, ideas are a fundamental component without which many great theories would not exist. Without the development of political and economic theories, that state and society as we know it would not exist. The framework used in this paper is meant to offer the opportunity for further research into understanding how ideas influence the rules by which we choose to govern our interactions. A closer and causal link between the actors studied, the policy process, and policies that have an effect on economic inequality is also something to strive towards. The material studied in this paper is only a starting point in determining how we can establish political and economic systems that result in more equity without impinging upon individual liberties. It is not without examining different ideologies, ideas and theories though that it will be possible to gain a deeper understanding of the rules that relevant actors use to govern their interactions. Ideas are the “blueprints for new institutions” and determine what choices are considered legitimate.
APPENDIX: INEQUALITY DATA
A1: Gini Before Taxes and Transfers, Working Age Population

Source: Author’s adaption from OECD data, 2014.

A2: Gini Post Taxes and Transfers, Working Age Population

Source: Author’s adaption from OECD data, 2014.

A4: Hourly Wage Growth, Workers Ages 16-65, United States (1979-2009)

A5: Trade Union Density, 1980-2013

Source: Author’s adaption from OECD data, 2014.
NOTES


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