

RUDOLF TRAUB-MERZ
AND TIM PRINGLE (EDS)

TRADE UNIONS IN TRANSITION

FROM COMMAND
TO MARKET ECONOMIES

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Imprint

Trade Unions in Transition – from Command to Market Economies

Edited by Rudolf Traub-Merz and Tim Pringle

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Foreword

This volume brings together studies on the dynamics of trade unionism in three country groups: Russia/Ukraine, China/Vietnam and Poland/Hungary/Slovakia. What binds them together is the fact that these countries embarked on a transition from command to post-socialist market economies, even though they did this in different intensities and with disparate political governance structure. While one group (Poland/Hungary/Slovakia) took »shelter« in the EU and framed their political and economic reforms in following guidelines from the West, another group (Russia/Ukraine) set off for a development course of its own; a third group (China/Vietnam) went for a dichotomous strategy, stepping with one foot into the world of market economies while leaving the other in the past of party-state regimes.

Trade Unions were in the midst of all these reforms. The country reports analyze on how they were coping with leaving the past of playing fiddle to the party-state as transmission belts behind and adapting to the challenges which arise from capitalist markets, in which unions represent workers interests in collective bargaining.

To develop a common framework for analysis (see for this the introduction), authors were invited to a writers workshop to St. Petersburg in June 2015. For the »larger« economies of the country groups (Russia, China, Vietnam, Poland) it was found valuable to have more than one report available while in the other cases authors were tasked to cover all dimension of transition »in one stroke«.

The case of the German Democratic Republic (GDR) was not included in the original project design but added later. Transition processes in the GDR and the reunification with the Republic of Germany were certainly unique and can hardly be used for comparative purposes; the »survival strategies« of GDR unions, exemplified in this book in the case of the IG Metal (East) and the integration of labour relations of the east into labour relations of the west are nevertheless



important for the understanding, to what extent a structure from the west can be superimposed to the east and become a story of success or failure.

We are grateful to all who have contributed to this project and helped to shape this book with their presentations, inputs and discussions. We express our gratitude to the Friedrich-Ebert-Stiftung (FES) and here in particular the FES Global Trade Union Project for providing the financial resources for this publication.

The Editors



Trade Unions in Transition: From Command to Market Economies

Rudolf Traub-Merz and Tim Pringle

Labour relations lie at the core of social transitions. This was the case when agrarian societies industrialised, when industrial societies turned into service-based economies and more recently when command economies transitioned to market-based »post-socialist« economies. While the context, speed and spatial limits of transformations vary, they are all characterised by struggle as existing social relations are confronted with the possibility of being replaced – or at least re-arranged.

Transition from command economies to market-based »post-socialist« economies has frequently been framed as a double transition: the return of private enterprise alongside the democratic model of political governance. Both arenas of change are joined in theory by a commitment to the application of competition rules as the key mode of allocating economic and political resources.

The experience of the past three decades has proved the »double transition« to be an inadequate model, even as an ideal-type. Instead we can see three distinct models emerging, connecting economic and political governance in disparate modes.

- A. New members of the EU: central and eastern European countries that completed transition at economic and political levels as a precondition of EU membership. Eastern Germany may be regarded as a special case in this group.

- B. Countries of the Commonwealth of Independent States (CIS) that have remained under Russian influence. Economic and political transition became mired in the trauma of the Chicago School-inspired »big-bang« approach to economic reform and privatisation.



Formally, political systems developed democratic-pluralist elements but remain under significant constraints – some new, and some inherited from the pre-reform era.

- C. China and Vietnam: Transition policies concentrated on economic reform but at a political level, the one-party state remains intact.

As a core social relationship in the process of transition, labour relations are central to all three cases and manifest themselves in different and changing forms. For example, in central and eastern European countries that have joined the EU, trade unions are striving to reproduce – more or less – the »classical« role assigned to them in capitalist economies: fixing the price of labour and lobbying for pro-labour legislation in the development of social policies. In China and Vietnam, Party-led trade unions have struggled to meet the challenge of economic transition by experimenting with localised reform projects. These pilots are constrained by authoritarian governance and concomitant political fear of the potential for a »second trade union« to emerge out of ever-present labour unrest. In the CIS countries and Russia, various forms of social partnership between traditional trade unions and the state have succeeded in ensuring that new trade unions remain weak alternatives to the ongoing dominance of traditional albeit repackaged trade union organisations.

Using our labour lens to deconstruct the political economy of each of the three country clusters is necessarily a complex undertaking. The co-existence of an emerging and dynamic private economic sector alongside a restructuring and shrinking – more or less – state sector generates elite competition for resources that renders the state both a site of contestation and a force in contestation. Across all three country groups, the state retains the function of regulating the terms and conditions of the capital–labour relationship (Jessop 2002: 45) and has developed legal and political frameworks accordingly. The social forces that determine these processes of transition have in turn been complicated by inter-union rivalries and forms of labour resistance that have on occasion been massive but have sometimes manifested themselves outside the organisational shelter of unions.

Four levels of comparative trade union transition and institutional integration in the new social relations have been distinguished as an



analytical compass to guide the contributions in this volume through the categories and inevitable grey areas that exist between them.

- (i) Trade unions and the state: transition from »transmission belts« to autonomous organisations representing distinct interests. Legal, organisational and political autonomy of trade unions from the state enabling them to side with workers and become interest-based.
- (ii) Internal governance: transition from hierarchical non-democratic systems of governance to membership-based accountability based on election of representatives, union dues and self-financing.
- (iii) Economic role: transition from the administration of social insurance and welfare distribution to participation in collective bargaining and wage setting across the labour market.
- (iv) Conciliation and conflict: transition from a framework of integrated interests negotiated via conciliation to one of opposing interests negotiated via collective bargaining and organising of strikes and actions short of a strike. Ending the role of conciliator and becoming instigators of conflicts.

Readers may question the absence of social dialogue as a fifth dimension for assessing transition. However, while participation in national tripartite meetings and the concomitant »seat at the high table« that this implies is sometimes indicative of the influence of trade unions on social relations, institutions of social dialogue should not be conflated with an autonomous manifestation of the forces of organised labour. To do so would be to ignore the structural configuration of trade unions. On one hand, union participation in tripartism may indeed be a concession extracted by organised labour arising from an ability to mobilise committed union members in episodes of (class) conflict that compromise the interests of capital or the state – or both. On the other hand, a trade union may be granted participation in social dialogue institutions such as tripartite negotiations that require it to forfeit any role as an agent of conflict; in other words, precisely the reverse conditionality. Such was the case in the Soviet state socialist environment and such is



the case in China's »market socialism«, in which participation in tripartite dialogue is the outcome of the trade union's relationship with the ruling party rather than working class power. Social dialogue without reference to the independent use of conflict power is not a feature that may distinguish unions in state-socialist societies from their environment in market-based systems.

Outlining these analytical dimensions for the purpose of assessing trade union transition does not give us much of a clue concerning either the course of transition or its final outcome. Even if we assume that »Eastern unions« tried to re-establish themselves as copies of »Western unions«, there was more than just one »Western« model to pick from.¹ The lack of homogeneity in the process of transition requires empirical case studies – which is exactly what we provide in this volume.

In a one-party-state environment, unions enjoy a legal monopoly, which can be done away with in one fell swoop. The arrival of political democracy opens the gate not only to political party pluralism but equally to union pluralism. Workers' representation can be set up in such a way as to introduce competition into inter-union relations. From here, there are different ways to go. Unions may want to re-establish a monopoly, this time not based on legislation or the power of the state but on a voluntary agreement between themselves. The legal monopoly would be substituted with a political monopoly, bringing forward a unitary union system. While this may be seen as the best way to reduce competition on labour markets, the more likely way after decades of a party-state-enforced monopoly is to revive pluralism and foster trade union competition.

Trade union pluralism can exist at the workplace level, within enterprises, at branches or the central state. While at lower levels it coins the system of collective bargaining, at the higher or central state level it becomes linked to the political party system.

Political democracy is mostly accompanied by trade union pluralism and political party competition can foster rivalry between trade unions. The competition for members, influence and recognition may take place between a »repackaged« traditional trade union and new »alternative«

1 Van Klaveren, Gregory and Schulten (2015) distinguish five different types of European capitalism and labour models alone, namely, the Nordic, Central, Western, Southern and Eastern European models.



unions; between newly established unions; or indeed both. Inter-union rivalry can be ameliorated via voluntary agreements between trade unions that can also lead to some form of unitary union system, although such an outcome is exceptional. The more common scenario may be a system in which trade union pluralism exists at the workplace and is instrumentalised through collective bargaining, while higher unions form close alliances with political parties.

However, when political party pluralism and trade union pluralism marry, it does not provide ideal conditions for trade unions to work together coherently or for workers to unite in solidarity. Indeed, the scenario of one party-union alliance confronting an opposing party-union alliance may be seen as the worst case for the regulation of state-union and inter-union affairs as trade unions are locked into a proxy war with rival trade unions fought on the territory of multi-party elections. The history of unions in Poland is a case in point. For unions, retaining organisational autonomy from political parties has emerged as a major challenge following the introduction of liberal democracy.

Another major challenge is internal governance and democratic accountability. Trade unions that have operated in one-party states throughout most of their histories do not have traditions of accountability to members via elected representatives or the fostering of union financial independence via members' dues. The form of union organisation in state-socialist societies was democratic centralism that exhibited a default tendency for decision-making to travel in a top-down direction and funds being provided by the state, further weakening primary enterprise-level unions. If rules on internal democratic governance are introduced, the union hierarchy is turned around. Elections relocate organisational power downward and provide lower ranking unions with the opportunity to retain a higher share of members' dues for themselves, or to opt out and end their affiliation. Ordinary members can do likewise. Once political reforms are introduced, union members have often – but by no means always – responded to any lingering manifestation of »unacceptable« practices by voting with their feet.

Fragmentation of unionism and the financial collapse of the central trade union layer were realistic scenarios when transition set in, giving room to speculation that trade unions might only survive at enterprise level. It is hardly surprising that the immense wealth – in particular, real



estate assets – with which the party-state had endowed the union apparatus to execute their welfare role became a flashpoint for inter-union conflict. In some countries, a »fair« wealth apportionment between old and newly established unions was implemented; in other cases, the legal successors of the former party-state unions managed to retain their »inheritance«. This in turn allowed them to compete with new rival unions and fund their affiliates. In all cases, the ultimate arbiter of trade union property rights was the state and this provided post-socialist governments with important leverage and influence over the direction of trade union reform and, by implication, social reform in general.

Enterprise-level trade unions in state-socialist societies have historically been weak. They were largely pre-occupied with ensuring the enterprise met production targets and the distribution of often scarce welfare. Following the re-emergence of private enterprise and capitalist labour relations, these unions were confronted with having to organise strikes either in defence of labour rights or in support of collective interests through collective bargaining.

The right to strike legitimises collective bargaining as an instrument of industrial relations and the capacity and willingness to organise strikes are key determinants of the amount of pressure a union can exert on the labour market. It is scarcely surprising that given their histories, former party-state unions have found participation in collective bargaining and organising strikes a profound challenge as such activities represent the opposite of their traditional role. Cases of former party-state unions successfully using strikes in support of collective bargaining are rare and the result has been a glut of collective agreements that have been bargained in name only. Many go no further than minimum legal requirements and the legitimacy of the unions that sign them is profoundly undermined.

Strikes were usually organised by newly established unions unfettered by a tradition of party-led trade unionism in a one-party state. Indeed, in famous cases, strikes went far beyond localised conflicts over collective agreements and were key to ushering in a new union system. The Gdańsk shipyard strikes in 1980 led to the founding of *Solidarność* in Poland. The miners' strikes in Siberia and eastern Ukraine in 1988–1989 are testimony to the fact that overhauling a party-state based trade union system cannot be reduced to an administrative act but is rather the outcome of labour conflicts themselves.



The right to strike itself is not always straightforward – in some countries it is legislated as an individual right, whereas in others it is enshrined in trade union law. In the final analysis, it is not the right itself that is of paramount importance but rather the practice of unions in using it and the bureaucratic barriers that governments erect to prevent legal strike action. When authoritarian governments use repressive legislation to impede strikes, ban them or use the Criminal Code to punish strike leaders, unions and strikes become separated as the former are unlikely to organise the latter in such circumstances. But labour conflicts do not vanish but rather become wildcat actions, taking place without the involvement of trade unions, and sometimes outside the law.

China and Vietnam are the living examples of this today. The arrival of the market economy ended the job-for-life guarantees and access to welfare that was known in China as the »iron rice bowl«² and the concomitant establishment of capitalist labour relations has generated a rise in collective labour conflicts mostly over wages and social insurance issues. In both countries, such wildcat action has sometimes served as a catalyst for official experiments in collective bargaining and trade union elections, even as the latter have rarely moved beyond a mediating role and the constraints of allegiance to the ruling party. The Chinese and Vietnamese unions are thus caught in a dilemma: they cannot prevent strikes without open confrontation with their own members; and they cannot engage in strike action without undoing their party state-dictated conciliation role. This duality that characterises the trade union systems of authoritarian post-socialist states can also generate suspicion as one-party states have a tendency to regard the trade union federations over which they exercise leadership as a possible source of institutional and organised opposition. Vietnam is experimenting with a new form of industrial relations pluralism, without formally accepting »freedom of association« as an organisational principle. The practice of strikes is de facto claimed by »informal« industrial relations, which are allowed to play their role outside the legal framework.

Moving beyond the authoritarian regimes of China and Vietnam to countries that fall into country categories A and B in our framework,

2 The translation of the Chinese term used to refer to an occupation with job security, as well as steady income and benefits.



this volume also demonstrates that the challenges trade unions in transitional societies have faced – and continue to face – are not restricted to the fixing of a price for labour and decent working conditions. They go to the heart of state politics and the messy business of political alliances aimed at securing wider political rights: to organise, demonstrate, publicise, exercise solidarity and participate in all aspects of social relations. Or at least not having these rights rolled back. In these endeavours, unions established in the heat of militancy and strikes may adopt a more principled position against authoritarian tendencies but find themselves faced with the classic union dilemma of securing sustainable members' support for difficult political goals.

And what role did – and do – external forces play in the formation of post-socialist societies? Central and eastern European countries found guidance and shelter in the EU, despite having to meet stringent and myriad conditions to gain membership. To various degrees they have found themselves on the path of the aforementioned »double transition«, guided for better or for worse by the European Union's new macro-political and macroeconomic framework.

Indeed, many unions also looked to the West. Most of the post-Soviet trade unions became affiliated to the Global Union Federations and the International Trade Union Confederation (ITUC). But the demise of the Soviet model has changed the fundamentals of the organisations from which solidarity and help were sought. The fall of the Berlin Wall empowered the forces of market fundamentalism and under ideological, institutional and economic attack Western unions lost influence and impact just at the time when their support for the »Eastern newcomers« was most needed. Clearly, international trade union support did not meet the expectations of many union activists in the post-socialist countries. Much of what the West had to offer to unions came through governments and multilateral institutions and was geared towards institutionalised social dialogue and eschewed organisational autonomy that pursued and defended collective class interests through conflictual methods.

The outlines of the contributions in this volume were agreed during a writers' workshop in St Petersburg in June 2015. It was clear from the beginning that a tight corset could not be applied for analysis as the course of trade union reform and the political frame within which it continues to take shape differ strongly and no uniform approach has



been followed. The classification into the three country categories, however, proved valuable in helping authors focus their views on specific aspects.

The GDR case study was not part of the book's initial remit and entered the fray at a later stage. Transition processes in the GDR and the reunification with the Republic of Germany were certainly unique and can hardly be used for comparative purposes. Nevertheless the »survival strategies« of GDR unions, exemplified here in the case of IG Metall (East) and the integration of the labour relations of the east into the labour relations of the west are nevertheless important for understanding the extent to which and how successfully an existing structure in the west can be superimposed on the east.

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Trade Unions in China¹

Tim Pringle

1. Introduction

The All-China Federation of Trade Unions (ACFTU) is a gargantuan organisation of almost 300 million members. It operates under the leadership of the Communist Party of China (CPC), an arrangement reinforced in law. As the only legal trade union in China, it has not faced competition for members from an alternative trade union since the founding of the People's Republic of China in 1949. Workers have not won the right to organise trade unions independent of the ACFTU, the right to strike is not protected in law and there is no recognisable system of legally supported collective bargaining.

However, this authoritarian picture should not be conflated with working class passivity. The ACFTU – and by extension the CPC – has faced six waves of widespread labour militancy (Sheehan 1998; Pringle 2013) that have implicitly challenged its legitimacy as an authentic trade union. Indeed, the »challenge of labour unrest« (Pringle 2011) and concomitant issues of trust and representation constitute major aspects of the »challenge of transition« to a market economy that trade unions face in post-socialist countries (Pringle and Clarke 2011). In this chapter, I argue that, despite important pilot projects (see Chan and Hui on union elections in this volume), the ACFTU remains separated from its members' collective interests and reluctant to embrace a systematic programme of reform aimed at improving its credibility in key areas of trade union work. These include an ongoing dependence on man-

¹ This chapter draws on and updates material from my two books on the same subject, namely, *Trade Unions in China: The Challenge of Labour Unrest*, published in 2011 by Routledge, and the relevant sections of *The Challenge of Transition: Trade Unions in Russia, China and Vietnam* with Simon Clarke, published by Palgrave in 2011.



agement in the workplace; a reluctance to promote an institutionalised and participatory system of collective bargaining; and a refusal to organise or even defend strike action. In mapping out how the ACFTU is structured and operates, I will highlight three barriers to trade union reform in China: the pressure both to represent the working class and to implement CPC policies; the absence of freedom of association; and a continued lack of trust on the part of the Chinese working class.

The chapter is organised as follows. Section 2 presents a brief historical overview of the role of trade unions in China, with a focus on the market reform era since 1978. This is followed by Section 3, on the structure of the ACFTU, recent trends in membership and its organisational principles. Section 4 discusses the framework of labour-related laws in which the ACFTU must operate. The final section (5) discusses how a combination of economic strikes and the emergence of organisations to assist workers has presented challenges to the ACFTU. Indeed, the combination may have generated the crackdown on labour NGOs in 2015. This chapter is also intended as a context for the accompanying chapters in this volume on trade union elections (Chan and Hui) and trade union strategies in the automotive sector (Zhang) in China.

2. The ACFTU Pathway

2.1 Early Debates on Union Autonomy

While independent trade unions have been consistently prohibited by the CPC, the extent of trade union autonomy from the Party has been the subject of debate at important junctures in the Republic's history. The paradox of autonomy under a Party-led trade union in a one-party state was personified by Li Lisan during the early 1950s. As both minister of labour and acting head of the ACFTU, Li Lisan was responsible for drafting labour policy and regulations for the new republic. Perry (1997: 45) argues that the results of his work – which included the Trade Union Law (1950) and Labour Insurance Regulations (1951) – were an important influence on the emerging social relations in the »work unit« (*danwei*). During the full nationalisation programme launched in the First Five Year Plan (1953–1957) all urban workers were assigned to such work units. In the lexicon of the CPC, these workers were deemed



»masters« of the state-owned enterprises (SOE) that operated under the umbrella of work units and enjoyed secure employment, as well as relatively high levels of welfare compared with other developing countries (Weil 1996). It was precisely this »iron rice bowl« that the CPC dismantled in preparation for joining the World Trade Organisation five decades later.

Differences of opinion over the role of trade unions in general and workers' strikes in particular emerged during the first years of the new republic; a time characterised by high hopes and militancy among workers in both the expanding state sector and the shrinking private sector (Sheehan 1998: 23). Liu Shaoqi was elected chair of the CPC's Standing Committee in 1954. In his role as a Party theoretician – and rival to Mao – he wrote the *Report on the Trade Union Question* in which he argued that »all problems that arise can be solved without recourse to strike action« (Liu Shaoqi 1988: 398–399). In contrast, the aforementioned Li Lisan argued that strikes were a way of preventing the long-term consolidation of pro-capitalist forces (Li Lisan cited in Xu 2003: 17–18).

These differences resulted in frequent shifts of position on the part of the ACFTU, ranging from enthusiastic support for workers' demands to support for a strengthening Party line against autonomous working class militancy. In October 1951, the Party's response was to purge the leadership of the ACFTU and stamp out the development of potentially syndicalist tendencies that emphasised trade union autonomy and power. In the wider political arena, a series of campaigns was launched² aimed at putting capitalists on the back foot and institutionalising worker participation in management at enterprises; in effect, to prepare the economy for full nationalisation and the attendant industrial peace it was supposed to induce. These campaigns gave an official impetus to the labour movement even as they brought it firmly under Party control through the ACFTU as the new leadership consolidated its role as »transmission belt« tasked with transmitting CPC policy to workers and the views of workers to Party leaders. This often left union cadres between a rock and a hard place as the contradictions of implementing CPC policies and representing working class interests began to make themselves felt. At the Seventh ACFTU Congress in 1953, enter-

2 The Democratic Reform Movement, the Three-Anti and the Five-Anti Movements (see Sheehan 1998).



prise-level union officials were heavily criticised for »economism« – in other words, prioritising wages and living standards above political and economic development. Some workers later pointed to this Congress as the point at which the ACFTU »lost their guts« by formally abandoning claims of autonomy from the CPC (*Workers' Daily*, 21 May 1957, cited in Sheehan 1998: 13).

2.2 Unions and the »Great Proletarian Cultural Revolution«

By the end of the 1950s, an anaesthetised trade union system had been established in which the ACFTU acted as a compliant pillar of CPC rule; it devoted much more effort to explaining Party and management policy to its members than transmitting the wishes of its members up the transmission belt. As far as most trade union members were concerned, the union was a »labour bureaucracy« that allocated social and welfare benefits and emergency material assistance, much of which was in short supply (Pringle and Clarke 2011: 10).

However, any sense of bureaucratic inertia was blown apart by the »Great Proletarian Cultural Revolution« (hereinafter »Cultural Revolution«). The »ten lost years«, as they are now referred to in the official Party history, lasted from 1966 to 1976, although the power struggle at the heart of this tumultuous period was effectively settled at the Ninth Party Congress in 1969. In essence, the Cultural Revolution was a fight about China's rate of progress towards »communism« and who should lead it. It was also an important period for the Chinese working class, as some sections took the opportunity to organise for improved wages and conditions.

The Cultural Revolution began in the summer of 1966 with Mao's astonishing appeal to students to »bombard the [party] headquarters«, as he launched a struggle to regain control of the Party – lost following the Great Leap Forward³ – and eradicate its leadership (Karnow 1972: 195). As students split into »conservative« and »rebel« groups of (sometimes armed) Red Guard factions, growing working class participation in the Cultural Revolution prompted a response from the People's Lib-

³ An attempt to »catch up« with Western levels of industrial output – notably that of the United Kingdom – within 15 years.



eration Army (PLA) and »troops moved into factories and rural communes to supervise industrial and agricultural production« (Karnow 1972: 297; Leys 1977: 189–195). As the balance of power between armed »conservatives« and »rebels« ebbed and flowed, China edged towards civil war. Eventually, Mao pulled back and threw his weight behind the army and tripartite Revolutionary Committees made up of cadres from the Party and army, as well as leaders from Red Guard organisations. The Ninth Party Congress in 1969 established a new party structure (Karnow 1972: 277–278) that virtually ignored trade unions. It was only with Mao's death, the arrest of Cultural Revolution leaders known as the Gang of Four and the cautious but in retrospect epoch-changing market-reforms that the ACFTU re-emerged as a player in China's industrial relations.

2.3 The Challenge of the Market

The unions returned to the fore of labour politics in China with the contradictions of their dual role as representatives of working class interests and implementers of Party policy in the workplace intact. The old arguments over autonomy re-emerged but this time in a very different environment from that of the 1950s. Instead of a march towards full nationalisation of the economy, as stipulated in the First Five Year Plan, the market-orientated reforms announced by Deng Xiaoping in 1978 were the first steps in the opposite direction. The »Household Responsibility System« permitted peasants to sell »surplus« crops in private markets. In the urban areas, new hires in state-owned enterprises were subject to time-bound contracts by regulations introduced in 1986. As the reforms deepened, pressure to dismantle the »iron rice bowl«, which served as the material basis for urban social relations under »state socialism«, (Clarke and Pringle 2009) increased. These relations were replaced with capitalist labour relations, which were partly disguised by the CPC's rhetoric of the »socialist market economy«. In contrast to the dramatic events in the former Soviet Union (see chapters by Traub-Merz and Traub-Merz and Gerasimova in this volume), this was a relatively gradual process, as the CPC strove to ensure that the river of market reform would be crossed »by feeling for the stones« (*mo shi guo he*).



The now famous Third Plenum of the Eleventh Congress of the CPC was convened in December 1978. The controlled introduction of market forces in the allocation of resources put China on the road to the »socialist market economy« that was to generate a combination of pilot projects, provisional regulations and, eventually, the passing of an Enterprise Law (1988), a Trade Union Law (1992) and a Labour Law (1995) in a process I have elsewhere called »regulated deregulation« (Pringle 2011). The first decade of the reform era certainly regenerated old arguments over trade union autonomy. At the unusually lively Eleventh Congress of the ACFTU in 1988, ACFTU Chairman Ni Zhifu called for »a readjustment of the relationship between the trade unions, Party and government« (Howell 1998: 159). The debate was silenced in the wake of the violent suppression of the Democracy Movement in 1989.

The repression of demonstrators and worker organisations that emerged during the Democracy Movement ended debates on trade union autonomy inside the ACFTU and reinforced the prohibition on organising outside it. The formation of Workers' Autonomous Federations (WAFs) in Beijing and other major cities during the Democracy Movement had deeply alarmed CPC leaders (Black and Munro 1993). The workers who established them were initially inspired by the student protests against corruption taking place in Tiananmen Square in Beijing. Profoundly aware of the workers' lack of trust in the ACFTU (Black and Munro 1993), these labour activists added a distinct egalitarian voice – initially rejected by student leaders – to the protest movement and issued calls for improved representation in the workplace, as well as measures against growing inequality. However, while working class anger at the representative inadequacies of the ACFTU, inflation and corruption undoubtedly induced millions of workers in state-owned enterprises to join the massive street marches in the spring of 1989, the Beijing WAF's call for a general strike largely fell on deaf ears (Han Dongfang, personal communication, London: 12 March 1993). The fact that the right to strike was removed from the Constitution in 1982 was not the reason why the strike calls failed to have an impact, but simply that the WAFs did not have a strategy or indeed a capacity to organise workers *in the workplace* (Han Dongfang, personal communication, Hong Kong, 17 July 1999).

The combination of the absence of workplace organising skills and ACFTU acquiescence to the CPC's market reforms left the urban work-



ing class extremely vulnerable when the dismantling of the »iron rice bowl« began in earnest in the late 1990s. The »re-making« of the urban working class in China was certainly facilitated by state policies and repression. But it was the logic of market forces and capital accumulation that drove this momentous process that was premised on two major developments, one economic, the other social. First, the re-entry of private capital into the Chinese economy and the diverse forms of enterprise ownership that came with it, including private ownership, foreign ownership, joint-venture companies and township and village enterprises (TVEs). Secondly, a gradual but significant relaxation of the constraints on residential restrictions known as the *hukou* system. The relaxation permitted large numbers of people to leave the countryside temporarily and seek off-farm employment in both the new privately-owned and invested factories and the construction and infrastructure projects that facilitated their operations. The human migration that followed is possibly the largest rural–urban migration in human history (Zhang Honglin and Song Shunfeng 2003: 386). During the 1980s and early 1990s, over 150 million people found work either in special economic zones that concentrated on attracting foreign capital, private enterprises – often employing fewer than seven people – or in Township and Village Enterprise (TVEs) that emerged out of the former rural communes (Greenfield and Leung 1997).

2.4 The Great Restructuring

The rise of the private sector and concomitant arrival of foreign capital put significant competitive pressure on state-owned enterprises. Market logic deemed them to be employing excess workers who enjoyed levels of welfare and job security that did not sit well with the pressures of private capital accumulation. The subsequent laying off of tens of millions of workers from state-owned enterprises during the late 1990s was a major political and economic event that represented perhaps the greatest challenge to Party credibility since the start of the reform era. The Party’s decision to push ahead with state-owned-enterprise restructuring was endorsed at the Fifteenth Party Congress in 1997. The process continued up to 2002 and risked widespread urban social instability. As a consequence, the CPC produced a state policy that



facilitated the unprecedented wave of mass redundancies at the same time as attempting to ameliorate its effects. The policy was known as *xiagang*, literally »to step down from one's post« in English. As policy, *xiagang* was quite different from redundancy in developed industrial economies. The crucial distinction was that state-owned enterprises retained a set of obligations to laid-off employees, including a livelihood stipend that was between 30 and 50 per cent of their former wages and the reimbursement of medical costs, as well as a formal – albeit pared down – labour relationship. Stood down workers remained – at least on paper – eligible for various benefits, such as partial reimbursement of medical expenses and heating allowances, and retained their employment record for up to three years.

The *xiagang* policy first moved on to the political and economic agenda in 1993 as the implications of Deng's tour began to make themselves felt.⁴ The State Council released the Regulations on the Placement of Surplus Staff and Workers of State-Owned Enterprises and the then Ministry of Labour launched pilot re-employment projects in thirty cities in 1994, prior to rolling out *xiagang* nationally. By the end of 1997, 11.5 million workers had been laid off. According to statistics published by the Information Office of the State Council, 25.5 million more state-owned-enterprise workers were laid off between 1998 and 2001 (State Council 2002). The redundancies were not evenly spread. The hardest hit areas were the pre-reform industrial powerhouse provinces of the North-East: Liaoning, Jilin and Heilongjiang – which became centres of unrest. Further south, Hubei, Hunan and Jiangxi were also badly affected, as was Sichuan in the west. By the turn of the century, the ratio of unemployed and *xiagang* workers as a percentage of the urban workforce in these provinces ranged between 8 and 12 per cent (China Labour Market Yearbook 2002, cited in HKCTU 2004: 12), although these percentages hid clusters of joblessness. By 2001 the city of Fushun in north-east Liaoning province recorded 396,596 people »at their post«, but 305,128 who were »not at their post«, a 43 per cent lay-off rate, while the registered unemployment rate was only 2.7 per cent (Liaoning Statistical Yearbook 2001: 66–68 and 92).

4 Deng Xiaoping's famous Southern Tour achieved its aim of neutralising »conservative« opposition to economic reform that had grown in strength since the 1989 Democracy Movement. Within a year, reform policies were back in the ascendancy, putting China back on the road to a market economy and the concomitant return of capitalist labour relations.



Definitions of *xiagang* varied considerably over time and place, producing what Solinger called a »layering of statuses« into seven categories of *xiagang*, rendering a reliable count of unemployed and laid-off workers impossible due to »inconsistent state statistics, flexible, disaggregating definitions, and multi-layering of the laid-off and jobless« (Solinger 2001: 688). Acutely aware of the potential for widespread but scattered resistance to *xiagang* cohering into a national labour movement – or at least a movement of the unemployed – the state's *xiagang* policy also promoted re-employment (*zai jiuye*) by obliging restructuring state-owned enterprises to set up re-employment centres offering subsidised retraining courses, sometimes managed by the trade union. The government encouraged unemployed and laid-off workers to seek jobs for themselves, chiefly in the service industries and private sector. According to the State Council's »Notice on Securing Basic Living Standards and Re-employment of Laid-off SOE Workers« a laid-off worker could not remain registered at a re-employment service centre for more than three years and labour relations with the original enterprise were terminated after this period. If he or she was still out of work, registration as formally unemployed was the next step in order to qualify for welfare benefits. Research conducted in the late 1990s demonstrated that it was the final termination of any labour relationship with the SOE – rather than unemployment itself – that laid-off employees feared most (Pringle and Leung 2006). Profound pessimism with regard to job prospects within the three-year time limit was part of an overall lack of confidence in the re-employment centres and many of these places were described by interviewees as »empty camps« (Pringle and Leung 2006) as workers shunned them and their goal of acting as a conduit for severing the relationship with the *danwei*. In one survey carried out by the Beijing Academy of Social Sciences Institute of Sociology, only 52.5 per cent of laid-off workers had found new jobs within three years (Pringle and Leung 2006). The obligation for downsizing state-owned enterprises to establish re-employment centres formally ended in 2003, although far fewer were set up after 2001 and the lifespan of most centres was from 1998 until 2001–2002.

In response to the poverty and insecurity that came with restructuring, the government encouraged the ACFTU to establish relief centres for the laid-off state-owned-enterprise workers, but there is



little evidence to suggest they were effective. According to both the Trade Union Law and the ACFTU Constitution, Chinese trade unions had – and have – a duty to educate workers to support the government’s reform policy. Institutional passivity spread into areas where trade unions could feasibly have played a more active role, such as in challenging management abuse of authority and the illegal asset-stripping of state-owned enterprises. The roots of union compliance lay in the union’s dual role as a Party-led trade union. Despite the politically inspired attempts to soften the impact of redundancies, the effects on working class neighbourhoods were real enough as many enterprises were downsizing because of economic difficulties and this obviously had a negative impact on their ability to pay *xiagang* wages and allowances. Research in the city of Chengdu found that 17.9 per cent of the women workers surveyed received no livelihood allowance from their employers after being laid off and those who did had to survive on less than a third of the average monthly income for Chengdu citizens. The average income in 2001 – when the survey was conducted – was 595 yuan per month, but 11.6 per cent of the laid-off women received less than 100 yuan and 56.5 per cent between 100 and 200 yuan (Zou and Qin 2001: 55–60). A survey conducted by the Organisation Department of Liaoning Provincial Party Committee in 2000 concluded that being selected for *xiagang* was often followed by a rapid descent into a ›hard and bitter life‹: divorce rates went up, crime rose and suicide rates showed a marked increase (CPCCC Research Group 2001: 200–201). In Chengdu, Zou and Qin found that the introduction of contracts in the 1980s had not prepared women workers for the poverty of unemployment that often followed *xiagang*. The social position of former state-owned-enterprise women workers was profoundly weakened by *xiagang*. This group differs from other vulnerable social groups, such as migrant workers from the farms or urban dwellers who have never been attached to an urban work unit or enterprise. Far from being on the margins of urban society, these women were, prior to *xiagang*, at the core of the old production system – ›the masters of the country’s [enterprises]‹ (Zou and Qin 2001: 55–60).

In Section 3 I summarise the impact of mass redundancy on the ACFTU and the organisation’s subsequent attempts to respond to the return of capitalist labour relations to China with a massive top-down membership campaign and structural reconsolidation.



3. Re-building the Party-led Labour Union in the Market Economy

3.1 Membership

Indivisible from the destruction of secure employment in the state sector has been the (re)construction of ›indecent‹ work in the private sector. In the first two decades of the reform era, the provinces of Guangdong and Fujian attracted the largest amounts of foreign, Hong Kong and Taiwanese capital. Located on the south and east coasts, the two provinces produced for the export market (Hart-Landsberg and Burckett 2004: 13), with new industrial towns in Guangdong in particular contributing to China's reputation as the ›workshop of the world‹. The private sector received a significant boost from China's membership of the World Trade Organisation in 2001 and capitalist labour relations spread rapidly throughout the country. According to ACFTU figures, at the end of 2006 there were over 101 million people employed in the non-state sector, spanning various forms of private ownership, compared with just under 73 million in the state- and collectively-owned sectors (ACFTU 2007: 37). Enterprises in the private sector rapidly acquired a reputation for super-exploitative and even illegal labour practices and often enjoyed protection against protests and prosecution from relevant government departments (Globalization Monitor 2009: 34–35). This trend has continued and at the end of 2015, the National Bureau of Statistics put the number of people engaged in the private sector – including the self-employed – at 280.8 million people (China Statistical Year Book 2016).

For the ACFTU leadership, the most visible initial impact that the spread of capitalist labour relations had on the organisation was the loss of members and, crucially, enterprise-level trade union cadres. The point was made in the starkest of terms in 2000 by Wei Jianxing, chair of the ACFTU:

... a considerable number of trade union organizations [and branches] have collapsed and their members washed away. But the organization of trade unions in newly established enterprises has simply not happened. At the end of 1999, national trade union membership dropped to eighty-seven million, leaving more than one hundred mil-



lion workers unorganized. When there is not even a trade union, what is the point of talking about trade unions upholding the legal rights of workers? Or trade unions being the transmission belt between the Party and the masses? Or trade unions being an important social pillar of state power?

Wei 2000

Wei's speech signalled a union recruiting campaign targeting the private sector. According to official statistics, membership increased from 123 million in 2003 – up from 87 million in 1999 – to 280 million in 2013, accounting for 81.1 per cent of all workers, including 109 million so-called »peasant workers« (*nongmin gong*), the official term for workers with a rural hukou registration.⁵ This extraordinary growth in membership was not a result of »union organising«, however, but rather a top-down process of »establishing unions« in the flourishing private sector through bureaucratic intervention. The process generally excluded direct contact with workers and was led by higher level unions contacting employers and asking for permission to establish a trade union. Once employers were convinced this would not lead to a rise in labour militancy, the agreement was ratified and sometimes simply announced to workers, who had played no part in the process. Many only learned that they had become union members on receiving a wage slip that carried a deduction for union membership.

3.2 Structure and Organising Principles

The ongoing influence of trade union custom and practice from the command economy era was also reflected in a largely unchanged union structure and relationship to the CPC itself that generally ruled out accountability to members' interests. The vast majority of new members were recruited into »grassroots unions«, mainly at enterprise level, but also including community unions (*shequ gonghui*) and various forms of federations (*lianhehui*) in special economic zones or neighbourhoods.

5 »The national union membership reached 280,000,000, and the annual increase of the minimum wage is 12.6 per cent on average«, Renmin Website, 11 October 2013. (»全国工会会员达2.8亿人 最低工资标准年均提高12.6%«, 人民网, 2013年10月11日.); <http://acftu.people.com.cn/n/2013/1011/c67502-23166727.html>.



Enterprise-level unions have remained dependent on management for their day-to-day operations and a key issue in their lack of effectiveness has been the low level of support that enterprise unions receive from more politically powerful higher-level unions once they have been established. They and the union fees they provide prop up a hierarchically-structured organisation inherited from the pre-reform era. Below the central leadership organisations are 31 provincial-, autonomous region- and municipal-level unions that stand alongside the nine industrial unions. However, the geographical federations are responsible for the operationalisation of the industrial unions in an arrangement that leaves the latter much weaker.

Beneath this layer are the city-, prefectural and county-level trade unions and their industrial equivalent. At the next level down are the »grassroots« trade unions in enterprises, institutions and government departments and then the members themselves. This structure is illustrated in Table 1. Union organisations above grassroots level are generally staffed by trained civil servants allocated to the union, often with no experience of direct organising work and even less contact with workers themselves. Figure 1 provides official statistics for trade union officials as recorded for 2012. According to the China Trade Unions Statistical Yearbook (CTUSY) the term »grassroots-level trade union« refers to primary (enterprise)-level trade unions and federations of enterprise-level unions. The terms »above grassroots-level trade union« refers to unions at levels with leading functions, that is, district-, county-, city- and provincial-level unions and their industrial union equivalents (CTUSY 2013: 168).

Table 1: Numbers of Trade Union Organisations and Officials in 2012

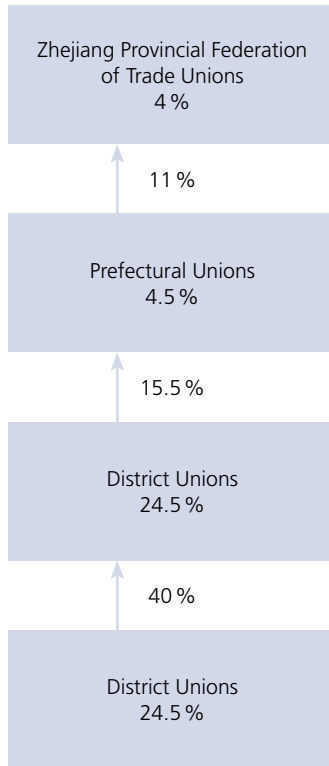
Trade union level	Number of unions	Number of full-time officials	Number of part-time officials
Above grassroots level	81,073	161,292	338,223
Grassroots unions	2,663,437	918,047	7,106,538
Total	2,744,510	1,079,379	7,444,761

Source: China Trade Unions Statistical Yearbook (2013) pp. 102, 105.



The ACFTU's income streams are derived from union dues, government subsidies and profits from ACFTU business ventures, such as hotels and sports centres. Members pay 0.5 per cent of their gross wages, while companies pay a tariff of 2 per cent of their total wage bill. In some provinces, companies without unions pay a »union preparatory tax« (Traub-Merz 2013). The ACFTU also runs hotels and sports centres that supplement its income. Traub-Merz provides an illustration of how union dues and income were distributed in Zhejiang province in 2009.

Figure 1: Distribution of two per cent Trade Union Levy on Enterprises in Zhejiang Province

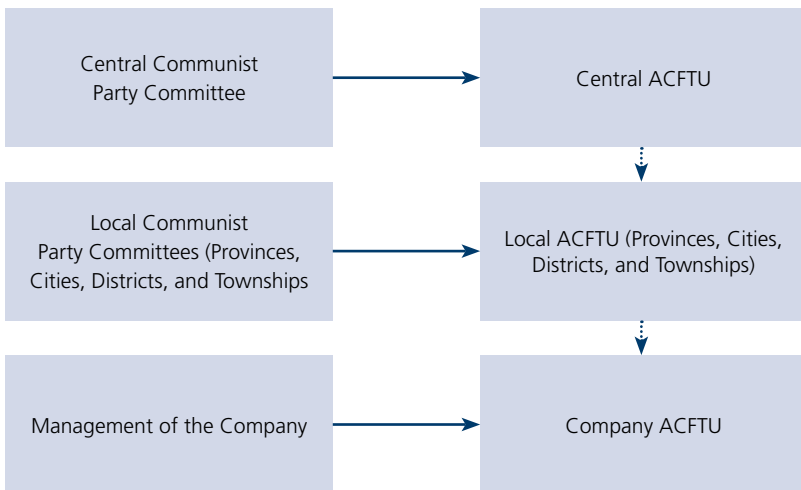


Source: Traub-Merz (2012), p. 23.



Parallel to the ACFTU structure is the CPC organisational structure. This means that there is a corresponding Party office at each operational level of the ACFTU, with the exception of grassroots unions and members, where the presence of a Party organisation is not universal. What this means in practice is that all significant union posts above enterprise level are assigned by the Party. At enterprise level, the union chair is often appointed by management and in many cases doubles up as a human resources manager or is a relative of the employer – although this practice was made illegal following the 2011 changes to the Trade Union Law – rendering union work dependent on the employer’s cooperation. In recent years, there has been a trend of establishing Party offices or representatives in private enterprises above a certain size. While this may moderate employer hegemony in the workplace or ease union dependency on employers, it is unlikely to increase union autonomy or capacity to represent members’ interests. Liu (2010) argues that it will simply transfer enterprise-level union dependence from employer to Party committee. In the absence of freedom of association and ongoing low levels of trust between the unions and members, this is likely to be the case.

Figure 2: Party and Trade Union Parallel Structures



Source: Liu Jinyun (2010).



As mentioned above, there have also been pilot projects concerning the election of trade union representatives at enterprise level. As Chan and Hui report in detail in their chapter on trade union elections in this volume, such elections are often subject to employer manipulation – a phenomenon hardly unique to China – or require prior approval of candidates by higher unions, which has the effect of squeezing out candidates or candidate slates that include militant workers. On the other hand, it is important to recognise that the ACFTU’s policy on the direct election (*zhixuan*) of union officials at enterprise level has evolved in an attempt to address issues of trust and representation – albeit in pursuit of industrial harmony rather than internal union democracy. Prior to 2010, union elections were restricted to enterprises with a proven level of industrial peace and Article 15 of the ACFTU’s »Opinion on Questions Arising from the Implementation of Trade Union Reform and Construction« (1997) recommended that elections should be restricted to small and medium-sized enterprises. However in the strike waves of 2010 and since, some strikes have been resolved through direct negotiations between elected workers’ representatives and management under the supervision – more or less – of city-level trade unions (Pringle and Quan 2017). This has encouraged higher unions to view elections of enterprise-level union committees as part of the resolution of strikes and disputes.

3.3 Democratic Centralism

Hierarchical control and concomitant adherence to CPC policies that the ACFTU is expected to transmit and implement is further entrenched by the union’s organising principle of democratic centralism. In theory, democratic centralism is a combination of democratic discussion leading to a decision that is rigorously implemented by the elected leadership of revolutionary organisations. The method was developed to great effect by the Bolsheviks in Russia and the Soviet Union between 1905 and 1921. However, as the Russian Revolution descended into the horror of Stalinism, democratic centralism became a key instrument of dictatorship. In the hands of the ACFTU, centralism easily outweighs democratic intentions and democratic centralism has become indispensable in ensuring continuing CPC leadership over the unions, while



providing a »theoretical« justification for the exclusion of dissenting voices. It guards against the emergence of democratic innovation within the ACFTU, while maintaining vigilance against the possibility of a democratic alternative trade union emerging outside it.

Democratic centralism also helps to maintain the status quo with a default resistance to change. We can see from the above how the dual characteristics of Party leadership and weak enterprise-level unions combine to act as a barrier to effective trade unionism and slow any momentum towards reform. The absence of alternative trade unions generates pressure on the ACFTU from below. The combination of the lack of effective representation and strict adherence to the organising principle of democratic centralism leaves workers pursuing claims with three basic choices: to exit the enterprise in search of better conditions elsewhere; to organise an unofficial protest or wildcat strike; or to initiate a claim against their employer and pursue it through juridical channels. None of these courses of action does anything for the reputation of the ACFTU with regard to its role of promoting industrial harmony or improving credibility in the eyes of workers. Moreover, all manifestations of industrial conflict – from large numbers of individual court cases clogging up the courts to large numbers of workers blocking roads and even railways – increased top down pressure from the CPC accordingly. And as I will demonstrate in Section 5, strikes have become a regular feature of the industrial relations landscape. On the other hand, the establishment of juridical channels of dispute resolution have been an area of activity in which the ACFTU has been able to use its access to CPC lawmakers and policymakers to produce a legal framework for labour relations that some legal scholars argue reflects »a very significant dynamism« that has facilitated convergence with some ILO standards in many aspects of Chinese labour law (Cooney, Bidulph and Zhu 2013: 147). This framework is examined in the next section.

4. Labour and Trade Union Laws in China

The regulatory administration of labour relations under the command economy was gradually replaced by a new legal framework for industrial relations. This process culminated in 2008 with three laws: the Labour Contract Law (LCL), the Labour Disputes Mediation and Arbitration Law (LDMAL), and the Labour Disputes Mediation and Arbitration Law (LDMAL).



tration Law (LDMAL) and the Employment Law, which was meant to promote employment.

Previously, two important laws pertaining to industrial relations operated alongside myriad provincial and city-level regulations. The existing Trade Union Law (1950) was reformed in 1992 and China's first national Labour Law (1995) combined various regulations pertaining to different types of enterprise – based on ownership and size – into one national law that applied to all industrial workers (Ng and Warner 1998: 66). The revised Trade Union Law (TUL) defined the role of the trade unions as representing the legitimate rights and interests of the workforce. As in the original version, the Trade Union Law upheld Party leadership over the unions, prohibited alternative unions and prescribed democratic centralism as the organising principle of the ACFTU. The 1992 Law stipulated that »trade unions shall safeguard the legitimate rights and interests of the workers and staff members«, but this commitment was qualified by the obligation to »protect the overall interests of the entire Chinese people« (Article 6). The right to strike had been deleted from the 1982 Constitution of the People's Republic of China, thus constraining the ACFTU from organising or even supporting strikes. Instead, in the event of a »work stoppage« or go-slow, the union was obliged »together with the management or the parties concerned, [to] strive for a settlement through consultation on any demands made by the workers and staff members and *that are rational and can be met*, so as to restore the normal order of production as soon as possible« (Article 25, my emphasis).

The Trade Union Law was further revised in 2001. In this version, the ACFTU »shall take economic construction as the centre, adhere to the socialist road, uphold the people's democratic dictatorship, abide by the leadership of the Chinese Communist Party, adhere to Marxist-Leninism Mao Zedong Thought and Deng Xiaoping Theory, persevere in reform and opening« (addition to Article 4). While ideological and legal adherence to CPC leadership was clearly retained and strengthened, the changes at least acknowledged the emergence of opposing interests in the workplace. The position of the trade unions in »consultations« with the employer and in mediating to protect workers' legitimate rights was strengthened by a clause allowing higher level unions to participate in establishing enterprise-level unions where none existed, and provided protection of trade union officers from dismissal without the



agreement of the majority of the labour force or its representatives. The 2001 revisions also introduced the principle of trade union elections into law: »Trade union committees at various levels shall be democratically elected at members' assemblies or members' congresses ... Trade union members' assemblies or congresses have the right to remove or recall the representatives or members of trade union committees they elected« (Article 9) and provided for trade union participation in tripartite bodies. The 2001 revisions also slightly modified the role of the trade union in the event of a work stoppage or go-slow, so that now it had not merely to »strive for a settlement through consultation«, but

*shall represent staff and workers in consultation with the enterprise, institution or relevant party, and shall reflect the opinions and demands of staff and workers, as well as raise solutions. The enterprise or institution shall strive for a settlement with the **reasonable** demands made by the staff and workers. The trade union shall strive hard in its task to assist the enterprise or institution to restore the normal order of production as soon as possible.*

Article 27, my emphasis

4.1 National Labour Law

In contrast to the collectivised security of the »iron rice bowl« era, China's first national Labour Law prioritised individual labour rights and only three articles were devoted to collective contracts. Li Boyong, the Minister of Labour at the time, stated that the right of enterprises

to dismiss workers for reasons other than workers' mistakes will guarantee the legal rights of employers to run business independently and will give enterprises a certain edge in market competition ... [with limits on redundancies] ... necessary for China's social stability.

Cited in Ng and Warner 1998: 62

The Labour Law stipulated that individual labour contracts should be signed between the worker and the employing organisation and specified the conditions under which an employee can be dismissed. If the dismissed employee »applies for arbitration or brings in a lawsuit, the



trade union shall render him support and assistance in accordance with the law« (Article 30). The Law set a maximum eight-hour working day and average 44-hour working week, but provided for a limited extension of working hours »after consultation with the trade union and labourers«, defined overtime rates (Articles 36, 41, 44) and introduced a system of legal minimum wages (Article 48). Responsibility for monitoring the enforcement of the Law was assigned to the Labour Department, but the »trade union at various levels shall, in accordance with the law, safeguard the legitimate rights and interests of labourers, and supervise the implementation of laws, rules and regulations on labour by the employing units« (Article 88). The pro-capital orientation of the Labour Law was often referred to in the public consultation exercise that preceded the passing of the Labour Contracts Law (LCL) in 2008.

The Labour Contracts Law was introduced after an intense and unprecedented period of public consultation and lobbying from academics, civil society organisations and even a submission from the International Trade Union Congress, which has a history of delicate relations with the ACFTU. The Labour Contracts Law made written contracts mandatory (Article 10), stipulated permanent employment for employees who have served two fixed-term contracts (Article 14) and clarified severance pay for those workers whose contracts are not renewed (Article 46). There were at least two unintended consequences of the Labour Contracts Law. The first was that employers laid off large numbers of workers due to qualify for permanent employment (Cooney et al. 2013). The second was that employers have since increased the use of agency⁶ workers – especially in the state sector – in order to avoid the obligation to provide permanent employment (Chan 2015). After lobbying from the ACFTU, the authorities moved to clamp down on this practice and the Ministry of Human Resources and Social Security (MHRSS) issued the Interim Regulations of Labour Dispatch in January 2014. The regulation gave companies just over two years to reduce the proportion of agency workers to 10 per cent of the workforce, with a deadline of March 2016 – an ambitious target given that in 2010 the state sector was the biggest employer of China’s 60 million dispatched workers, having seen an increase of 33 million over the preceding three years (*Jingji Guancha bao* 2011). One Shanghai-based law practitioner said that some employers

6 Generally referred to as »dispatched« workers in China.



*sign them on as regular employees, but there would seem to be many more who just do nothing, whether out of ignorance, inefficiency, disregard or lack of fear of consequences because they feel they can resolve problems with their »guanxi [contacts]«.*⁷

The practice of employing agency workers has remained widespread, particularly as the Chinese rate of growth has slowed and the pressure on labour markets has eased (see Zhang in this volume).

4.2 Formal Dispute Resolution

The 1995 Labour Law had laid the foundations for the system of mediation and arbitration for individual and collective labour disputes, paving the way for the eventual passing of the Labour Disputes Mediation and Arbitration Law (LMAL), also in 2008. Arbitration remains central to individualised labour dispute resolution in China for two reasons. First, enterprise-level unions are too weak to defend workers at the initial mediation stage, and second, courts are not allowed to accept cases that have not previously been through arbitration procedures. The Labour Disputes Mediation and Arbitration Law provided a legal basis for the Party's policy – and by extension the ACFTU's – of channelling disputes into a two-tiered juridical system of dispute resolution that contained industrial militancy in a rights-based discourse aimed at keeping people in the courts and off the streets. As we can see from Table 2 this certainly had an effect in terms of the sheer numbers of workers applying for arbitration. The data trend is also reflected in court settlements.

Article 2 of the Labour Disputes Mediation and Arbitration Law stipulates that Labour Dispute and Arbitration Committees (LDAC) may accept disputes arising from the confirmation of labour relations; contractual issues related to conclusion, performance, alteration or termination; dismissal or resignation; working hours and insurance; remuneration and injury compensation; and other labour disputes prescribed by laws and regulations (MOLSS, 2008). The Labour Disputes Mediation and Arbitration Law also made it clear that arbitration deci-

⁷ See: <https://www.mayerbrown.com/China-Companies-Must-Shed-Dispatch-Workers-04-04-2016/> (last accessed 31 July 2016).



sions are legally binding, abolishing fees for arbitration and extending the time limit for applying for arbitration from 60 days from the date of the original dispute to one year. The new law extended the scope of arbitratable matters to cover nearly all labour-related disputes, including disputes arising from whether an employee–employer relationship exists. This had been a major source of frustration to workers, despite a pro-worker Supreme Court ruling on the matter in 2001 that allowed Labour Dispute and Arbitration Committees to accept a case when there was no labour contract but sufficient evidence to prove a labour relationship existed (Huang Kun, 2004: 279).

Combined with the global financial crisis of 2007–2008, the Labour Disputes Mediation and Arbitration Law facilitated a surge in disputes going to arbitration committees (see Table 2). Compiling figures from the *China Social Science Statistical Yearbook and the China Labour Statistics Yearbook* Cooney et al. (2013) reported significant rises in cases going to arbitration after the Labour Disputes Mediation and Arbitration Law was passed. Figure 4 illustrates the long-term trend.

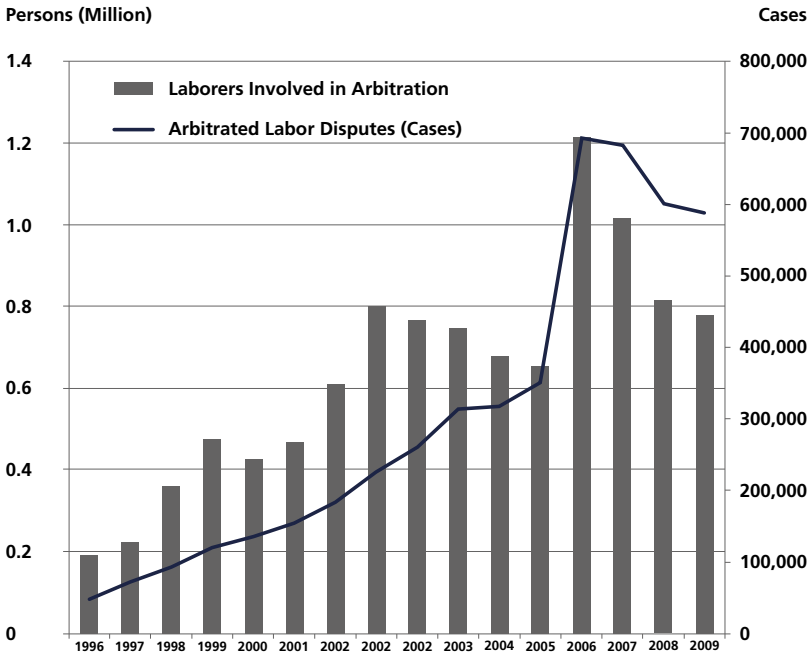
Table 2: Labour Disputes Going through Juridical Channels, 2005–2015

Year	Mediation and arbitration cases	Collective disputes going to mediation and arbitration	Litigation cases accepted
2005	313,773	16,216	122,480
2006	317,162	13,977	126,047
2007	350,182	12,784	150,992
2008	693,465	21,880	295,521
2009	684,379	13,779	318,643
2010	600,865	9,314	–
2011	589,244	6,592	–
2012	641,202	7,252	–
2013	665,760	6,783	–
2014	715,163	8,041	–
2015	813,859	10,466	–

Source: *China Social Science Statistical Yearbook* and the *China Labour Statistics Yearbook* 2016: 343.



Figure 3: Labour Arbitration Cases, 1996–2011



Source: *China Labour Statistics Yearbook 2012* (2013: 352–353).

This phenomenon has encouraged the ACFTU to train or hire substantial numbers of lawyers and paralegal advisers. In 2005, the union claimed to have established 3,858 legal aid agencies nationwide (Chen 2007: 64). This figure increased to 14,000 legal aid and rights protection centres by the end of 2014 (ACFTU 2015). Higher unions are also hiring lawyers to provide legal assistance to enterprise trade unions and their members, a service supplemented by the *pro bono* activities of paralegal volunteers. During 2014 and the first half of 2015, the Guangdong Federation of Trade Unions claimed to have sent 1,400 lawyers into enterprises, »encouraging trade union councils [committees – author] to purchase social services and make full use of social lawyer resources to provide efficient and timely legal aid services for workers« (ACFTU 2015). However, the union has a justified reputation for only taking on winnable cases and this has encouraged a trend of labour NGOs and/or self-trained paralegal activists and other labour



legal aid providers to take up at least a small proportion of the remaining cases (Halegua 2008).

The number of cases coming before Labour Dispute and Arbitration Committees and ongoing labour militancy have also resulted in more official emphasis on dialogue and mediation at enterprise level, although the efficacy of such recourse is constrained by weak enterprise-level unions and the low levels of trust in unions on the part of workers. Such has been the increase that the city-level trade unions have been encouraging primary unions to focus on mediation and conciliation procedures to ease pressure on arbitration committees and the courts, in which »delays of up to one year were not uncommon« (Gallagher and Dong 2011: 58). In January 2012, the Regulations on Enterprise Labour Dispute Negotiation and Mediation drawn up by the MOHRSS came into force. The regulations state that large and medium-sized enterprises must establish mediation committees and employ a mediation officer. Smaller enterprises may do either or both (China Briefing 2011) but are not obliged to do so.

4.3 Regulating Collective Dialogue

An important chapter of the Labour Contracts Law for the ACFTU was the significant extension of clauses related to collective contracts. The ACFTU began to push seriously for collective contracts in the mid-1990s, but these efforts were undermined by the stubborn command-economy traditions of integrated interests, inexperience in workplace bargaining and the absence of an effective bargaining partner, as employer organisations were weak and largely established by the Party itself (Clarke, Chang and Li 2004: 252). The same tradition generated top-down, quota-driven and non-participatory agreements produced on the basis of »collective consultation« (*jiti xieshang*) as opposed to »collective bargaining« (*jiti tanpan*). Consultation implicitly suggests that a »win-win« agreement between employer and employees can be achieved without serious contention, work stoppages, strikes and the like. There is no need therefore for the more aggressive »bargaining« often perceived as a characteristic of »Western-style« trade unions and which has only recently been cautiously adopted in some mainstream discourse and media reports.



The Labour Law (1995) contained only three clauses on collective bargaining, which were successfully inserted into the final draft of Labour Law as a result of ACFTU lobbying. But these hardly provided an effective counterbalance to an overwhelmingly individualistic pro-capital law. Although there is still no discrete law on collective contracts in China, the combination of a full chapter on collective contracts in the Labour Contracts Law and the details stipulated in the »Provisions on Collective Contracts« (»Provisions«) of 2004 have provided a framework at national level. The Labour Contracts Law stipulates that collective contracts can cover wages, working hours, leave, work safety and training, although neither this law nor the Provisions specifically rule out additional matters (Cooney et al. 2013: 101). Article 23 of the Provisions allows for »professional personnel« to negotiate on behalf of enterprise workers and management during the consultative process, a change that has the potential to expand or even challenge the role of higher union bodies. Another important change is that Article 53 of the Labour Contracts Law stipulates that area (regional) and sector-level agreements can be signed below county level.

By January 2010, the ACFTU had entered into 1.11 million collective contracts at county level and above in 1.9 million enterprises and covering 150 million workers or 89 per cent of workers in unionised enterprises (Yang Lin 2009; Ding and Wang 2010). The figures should be treated with caution as collective contracts remain for the most part a top-down quota-driven project with little actual content beyond, at best, the reproduction of legal minimum standards. Worker participation in negotiations is extremely rare even in the pilot projects conducted by the ACFTU in response to localised labour protests. For example, beginning in 2003 an ACFTU pilot project on sector-level bargaining made important progress in taking collective dialogue beyond the single enterprise in the town of Xinhe in Zhejiang province. The so-called »Wenling Model« pioneered a sector-level collective contract between the local trade union and an employer organisation representing 116 knitwear manufacturers that dominated the town's economy. Facing sophisticated unrest led by skilled workers who were able to command wages of up to 3,000 yuan per month, leaders of the union and the employers' association embarked on a process of collective consultation that developed into bargaining, despite the fact that worker representatives were not elected. These contested collective



negotiations eventually produced a wage table, including fixing rates for specific jobs, commitments to annual negotiations and a guarantee that rates could only be adjusted upwards (Pringle 2011: 114–33). In 2007, the then Premier Wen Jiabao endorsed the Wenling woollen knitwear industry's collective consultation system, saying that it could be »summarised and popularised« across the country. Under the Wenling model labour disputes decreased by 70 per cent (China Labour News Translations 2009).

Guangdong province has been particularly important in the development of collective dialogue between employers and workers. The province – especially the boomtown of Shenzhen – has often been the site of choice for innovation in trade union reform and has been relatively quick to act on signals from the union and/or CPC leadership for reform. For example, Guangdong's provincial-level and Guangzhou and Shenzhen city-level trade unions were quick to react to the announcement by the director of the ACFTU's Collective Contracts Department, Zhang Jianguo, that

the fundamental issue is to establish a collective bargaining system that would allow labour disputes to be managed and resolved within the enterprise. From this point of view, collective bargaining is the route we must take in defusing conflict and developing harmonious labour relations.

Yang Lin 2009

In the aftermath of the strike waves of 2010–2011, there was a public debate in Guangdong and neighbouring Hong Kong over the various drafts of new regulations that included sections on collective bargaining rather than collective consultation.⁸ The context was the emergence in Guangdong province of ad hoc collective negotiations that included – more or less – some form of limited worker participation usually through labour NGO interventions in support of workers' demands or, on occasion, support from higher unions to enterprise unions (Pringle and Meng 2018). In the debate over collective bargaining, employers' organisations – including foreign chambers of commerce and associa-

8 These were, respectively, the Guangdong Regulations on Democratic Management and the Shenzhen Regulations on Collective Consultation.



tions of Hong Kong investors and factory owners – lobbied the Guangdong authorities to water down mandatory obligations to bargain with workers, while labour NGOs and even the ACFTU pushed for legal constraints on capital. In the end, the Guangdong Provincial Regulation Collective Contracts for Enterprises (Guangdong Regulations) that came into force in January 2015 represented a »compromise« that disappointed non-state actors but was nevertheless hailed by the ILO as a big step forward as »workers and employers in the province will benefit from a new system to settle – and even prevent – workplace disputes, based around structured collective bargaining« (ILO 2014). The Guangdong Regulations stipulate that where 50 per cent of the workforce call for collective negotiations, the union must respond by making a request to the employer (Article 18). The latter must provide relevant company data to the workers’ representatives and/or trade union reps in order to facilitate the negotiations (Article 15) and

representatives are protected by law, their negotiation duties are regarded as regular work, enterprises may not adjust their jobs, reduce their wages and benefits without justifiable reasons.

Guangdong Regulations, Article 16

Despite the ILO’s enthusiasm, this is as yet largely untested progress. Indeed, the gradual incorporation of ILO standards and conventions into national laws (Cooney, Biddulph and Zhu 2013: 143) stands in contrast to the CPC’s ongoing failure to accept the ILO’s fundamental principle of freedom of association and collective bargaining. This deficit continues to undermine efforts by the authorities to promote harmonious labour relations, a reality that becomes starker with every strike. On the other hand, there is some evidence in support of the ACFTU’s claims that it has improved its representative performance via specific projects in collective bargaining, a subject we will return to in the discussion on the ACFTU’s responses to strikes in the next section. Section 5 will illustrate how the three highlighted barriers to reform – namely, the dual responsibilities of the ACFTU, the absence of alternative trade unions and workers’ lack of trust in the ACFTU – have contributed to the general, but not absolute, failure of Chinese unions to adapt to capitalist labour relations, as illustrated by the continuing labour unrest and lack of accountable and participatory collective bargaining.



5. The Challenge of Strikes

5.1 Counting Strikes

Despite the lack of official statistics, commentators are in broad agreement that economically driven labour unrest in general and strikes in particular are not rare in China. Demands for improved trade union representation are less common, but are increasingly including workers' demands. They usually appear as calls for the establishment of an elected enterprise-level trade union committee or the removal of an existing committee, followed by elections for a new one (China Labour Bulletin 2014; also see Chan and Hui in this volume).

In the absence of official data on strikes, organisations and individual scholars have attempted to use media and eyewitness reports to track strikes and identify trends. As can be seen from Table 3, China Labour Bulletin's (CLB) strike map records a significant rise in strikes from 2013 until 2016.⁹ It is important to note that the data are not necessarily representative or a reliable aggregate total of strikes or the number of people taking part in them, as China Labour Bulletin points out. Indeed, Lee (2016) has cast doubt on the entire rising strikes thesis, arguing that they were just as common in 1990s. (For an interesting discussion on »counting contention« in China see Elfstrom 2017).

The source and nature of strikes and labour unrest has altered over the course of reform. Demonstrations and occupations of public space characterised the protests by laid-off state-owned-enterprise workers fighting a scattered rearguard action against restructuring (Cai 2002) and to protect the »iron rice bowl« from the mid-1990s until approximately 2002. These »protests of desperation« (Lee 2007: 35) were not strikes as the workers involved were mostly already laid off (Pringle 2013). In contrast, labour militancy since the beginning of the 2000s has been organised primarily by migrant workers employed in a booming private sector (Chen 2013; Wenten 2011; Pringle 2013).

Throughout the 1990s migrant workers' resistance was characterised as »spontaneous« and »short-lived« (Pun 2005: 6) or as »protests

⁹ CLB's strike map goes up to the present day but the methodology for collecting data changed significantly in 2017. See link for details: <http://www.clb.org.hk/content/strike-map-applies-new-fixed-sampling-method-2017>.



Table 3: Sampling Strikes

Year	Overall number of strikes	Number of strikes with 100–1000 participants
2012	382	160
2013	645	299
2014	1358	396
2015	2774	442

Source: China Labour Bulletin Strike Map.

against discrimination» (Lee 2007). Lee identifies three main causes behind migrant workers' largely defensive protests: unpaid wages and illegal wage deductions, managerial violence and abuse against workers and industrial injury (Lee 2007: 164). The discrimination that migrant workers laboured under was epitomised by their lack of access to trade unions, urban social welfare and education for migrant workers' children. Up until the Fourteenth ACFTU Congress in 2002 and the recruitment drive it kick-started, migrant workers were not even regarded as part of the working class as the union failed to challenge the discriminatory official label of »peasant worker« based on migrant workers' rural residence status that excluded them from urban services and welfare schemes.

Recent research, however, has revealed a distinct change in the nature of migrant worker protests (Leung and So 2012; Elfstrom and Kuruvilla 2014; Fuchs 2015; Pringle and Meng 2018). These studies have found a clear tendency towards the »normalisation« of strikes and interest-based demands going beyond the individual labour rights framework and above minimum wage levels set by local governments. Indeed, increased wage levels are one of the most potent illustrations of the power of strikes. Most strikes and protests have been able to push through wage increases at the enterprise level (Friedman 2012) and have also acted as a crucial factor in the significant rise of the legal minimum wage across the country since the second half of the 2000s. Unger (2013: 29) has shown that the legal minimum wage level in Shenzhen tripled between 2004 and 2011 after having stagnated throughout the 1990s. According to official data, the average minimum wage throughout the country increased by 12.5 per cent per year in the period



from 2006 to 2010 (Reuters 2012). Moreover, as strikes have become »normalised« workers have sometimes elected representatives with a mandate to negotiate with management outside of the enterprise union structures (Lin 2016). At the same time, demands for reform of the existing enterprise trade unions have emerged since the mid-2000s (Pringle 2017; Pringle and Meng 2017; Lee, Brown and Wen 2014).

The patterns of organising and the use of specific forms of protest have undergone a qualitative transformation (Pringle and Fuchs 2015). Researchers and labour NGOs have documented not only an increase of so-called »copycat« strikes, but also of attempts at cross-factory (and cross-regional) coordination of strike action, facilitated by the ubiquitous use of new information and communication technologies, such as the instant messaging services QQ and *Weixin* (*WeChat*) or the microblogging website *Weibo* (Qiu 2009; Pringle and Crowthall 2017). The strike wave in the summer of 2010 started with a strike at the Honda car parts plant in the Nanhai district of Foshan in Guangdong province and swept through automobile factories across the country before spreading to the electronics and textile sectors (Wang 2011; Butollo and ten Brink 2012). A strike wave involving 70,000 workers in 73 different enterprises rolled through the northern Chinese city of Dalian in the same year (Meng and Lu 2013). In Dongguan, up to 40,000 shoe workers struck for two weeks in 2014 against low wages and unpaid social insurance premiums (Schmalz, Somer and Xu 2017). Jacobs (2015) describes strike action taken by taxi drivers in at least six different cities in January 2015. Walmart retail workers have been organising online and in stores against imposed changes in working hours, with up to 20,000 employees participating in online chatrooms organised by activists such as Zhang Jun, Wang Liya and Wang Shishu (Pringle and Crowthall 2017). In the third week of November 2016, striking Coca-Cola workers in three cities thousands of miles apart – Chengdu, Chongqing and Jilin – called for effective trade union involvement in talks with management over plant sell-offs (CLB 2017). Also in November 2016, workers at a Danone water-bottling plant organised a week-long strike against the unannounced sale of the factory they worked in. The strikers' demands included legally-backed severance arrangements and the settling of pension rights and social insurance arrears. At around the same time, a Sony camera plant in Guangzhou was secretly sold, provoking a strike by its 4,000 plus employees. On 10 November 2016, workers organised



a strike and picket lines that brought the plant's assembly lines to a halt and blocked goods from moving in or out of the plant just as the Christmas busy season was getting into gear (CLB 2017). In sum, while no national figures are available, there is enough research to conclude that strikes are an important feature of industrial relations, despite the lack of legal protection. As one Chinese researcher focusing on the gemstone industry in Guangdong explained:

All the workers in all the cases [I came across] preferred to use strikes first. If workers could not hold a strike, or their strike failed, or workers got dismissed after holding a strike, only then would they turn to labor litigation. Labour litigation is time-consuming for them, and it is uncertain what they can gain from the verdicts. [...] it is always the second priority. They will try to solve the problem by collective action first.

Interview, Hong Kong, August 2011 cited in Pringle and Fuchs, 2015: 61

There are a number of factors behind this transformation. First, as Traub-Merz has argued, »the working population (...) is declining and thus the era of unlimited supplies of migrant workers is at an end« (Traub-Merz 2011: 4). Labour shortages have led to an increase of what Wright (2000: 926) and Silver (2003: 13–16) have called workers' structural power, embodied in tight labour markets and globalised production. In fact, labour shortages appeared for the first time in 2003 and have continued ever since. In 2004 an additional (skilled and experienced) labour force of at least one million was required in the Pearl River Delta alone. Since then, the shortages have spread to other areas of the country and to unskilled labour as well (Pringle 2013). In this context, workers have begun to develop more confidence in their abilities to stage successful strikes (Fuchs 2015), sometimes with the support of labour NGOs, especially in Guangdong province. Second, the »new« (second) generation of migrant workers has largely grown up already in urban areas or left the countryside after finishing school and most carry ambitions to remain in the city rather than return to the countryside (Han 2009; ACFTU 2010). Daily experiences of subordination and discrimination have contributed to an increased readiness to participate in collective forms of resistance (Pun and Lu 2010). The third factor is the impact of the state's labour legislation efforts, already discussed in Section 3. The legal framework is far from the mythical level playing



field. But its existence and evolution imply an attempt to discipline employers into accepting limited forms of job security by making it a little bit easier for workers to secure stable employment by using the Labour Contracts Law to slow the rate of informalisation (Kuruville, Lee and Gallagher 2011) and hold employers to account for labour rights violations (Cooney et al. 2013).

5.2 Union Responses

The ACFTU is strongly constrained by its dual role of implementing CPC policies and upholding the rights and interests of the Chinese working class. The lack of trust among its members that this dual role generates is exacerbated by the ongoing dependence of enterprise-level trade unions on management for their day-to-day operations. In the context of rising militancy, this scenario is highlighted by the ACFTU's refusal to organise strikes, leaving workers to bear the risks involved. There are three outcomes to this development. First, the ongoing pressure from below through strikes exposes the ACFTU's credibility gap among workers, many of whom have come to regard them as more effective than asking the union for assistance and representation in mediation with employers. The failure to curb militancy draws the attention of the CPC leadership, who in turn put pressure on the union from above. For example, since 2013 General Secretary Xi Jinping has twice ordered the ACFTU to draw up plans for a programme of trade union reform (CLB 2017). Second, labour NGOs have emerged in China over the past 20 years to provide various forms of assistance and services to workers. Although these organisations are certainly not an institutional match for the ACFTU, some of them have gained the trust of workers, who turn to them for assistance in disputes with employers. Often subject to surveillance and repression even in more relaxed times, labour NGOs in Guangdong province who had become involved in organising activities and assistance to workers involved in collective negotiations employers were subject to coordinated state suppression in December 2015. Nevertheless, their presence has subjected the ACFTU to competitive pressure to improve its trust among workers and its representative performance (Howell 2015; Pringle 2016). Third, faced with collective interest-based strikes that cannot be resolved through juridical meas-



ures, the union has attempted to improve its reputation with pilot projects aimed at improving its image and representative capacities in the areas of accountability, representation and collective bargaining.

5.3 Union »Direct« Elections

The direct election of enterprise-level trade union committees is dealt with in detail by Chan and Hui in this volume, but I will present a contextual summary of the issues here. Strikes have generated cautious experiments in direct enterprise union elections instead of the traditional appointments by employers or higher level unions. Howell frames experiments with direct elections of enterprise union chairpersons as an attempt to reconcile the constraints imposed by the ACFTU's political subservience to the CCP with its legal obligations to members. The goal, according to Howell (2008: 845), has been

to nurture a stratum of grassroots trade union cadres who prioritize workers' interests over Party and/or national interests. In essence it is a subtle attempt to democratize the trade union from within, transforming it from an administrative machine subservient to the Party into an effective organization for interest group representation.

In practice, however, strict conditions were imposed for direct elections of trade union representatives, centring on the absence of strikes in a given enterprise, as well as restrictions on the size of factories involved (Pringle 2011: 165). In addition, the democratic content of elections was qualified by pre-election committees, with duties that included the vetting of candidates. As is usually the case in China, there were exceptions. Pringle's study of trade union elections in Zhejiang province demonstrates different procedural approaches, at least one of which permitted so-called »sea-elections« (*hai xuan*) or open candidature (Pringle: 2011: 174).

More experiments have bucked the regulatory constraints and, in contrast, are linked to labour unrest. While elections generated by strikes or strike resolution agreements can still be subject to manipulation by management or bureaucratic intervention from higher levels of the union over time, they nevertheless contain germs of credibility. The



demands for the »re-organisation« of the trade union at the well-known Honda auto-parts factory are viewed by many as a watershed moment, but like the strike itself they did not emerge out of the blue. Similar demands for improved accountability had been around in Guangdong for some time. Workers at a Japanese-owned plant had raised a similar demand in 2005 and dock workers at the Yantian port terminal in Guangdong province included the demand for a representative trade union branch – as opposed to the existing »whitecollar staff club« – when they brought exports to a halt in 2007 (Pringle and Meng 2018). Other examples include a Reebok factory in 2002 (China Labour News Translations 2007), Uniden in 2005 (CLB 2005), Walmart in 2006 (Pringle and Clarke 2011), Ole Wolff Electronics in 2007–2008 (Globalisation Monitor 2008) and OHMS in 2012 (Ramzy 2012).

In May 2012, the Shenzhen Federation of Trade Unions (SFTU) announced that direct elections for enterprise-level trade unions would be rolled out across 163 enterprises in the city with more than 1,000 employees. This was a significant policy alteration that opened organising space for activists in the workplace. However, in terms of producing positive outcomes for workers' interests, there is evidence to suggest that trade union elections are not as effective as the strikes that have generated them. In October 2013, university student researchers from the LNGO Students and Scholars against Corporate Misbehaviour (SACOM) wrote an open letter to the SFTU claiming that although »some enterprise unions are performing well in some aspects, [for example] elections do take place at some trade unions«, only two out of the five factories their researchers visited clandestinely had effective union branches (SACOM 2013). Nevertheless, the momentum and experience of labour militancy has encouraged the emergence of strike-driven elections, as discussed by Chan and Hui in this volume.

5.4 Collective Bargaining

Section 4 mapped the legal environment for collective workplace dialogue and cited Guangdong as the main location for a number of collective bargaining pilots; although as Lee et al. (2016) point out experiments have occurred in many other areas. Two main scenarios of collective bargaining have emerged: factory closure and/or relocation bargain-



ing and annual collective bargaining (Pringle and Meng 2018). Closure bargaining is usually sparked by a walk-out following rumours of relocation. Until the aforementioned crackdown on labour NGOs in 2015, this phenomenon had become a significant factor of labour relations in Guangdong due the provincial government's strategy of industrial upgrading (Butollo 2014) and the presence of labour NGOs prepared to assist in collective bargaining (Pringle 2017). While outcomes vary, the negotiations that have taken place have served as part of a process of bargaining skills acquisition for both worker representatives and the union itself. The capacity of workers to elect and re-elect bargaining representatives was illustrated by a series of three strikes at the Lide Shoe Factory during 2014–2015 (Lide Update 2015a). During the third strike, workers' representatives organised a solidarity fund, a social media blog that issued 28 reports on the struggle and appointed picket marshals and media coordinators. Arrests of workers, issues with accountability and frequent bargaining in bad faith by management eventually led to a six-day 24-hour picket of the factory gates by 300 workers and their representatives in April 2015 to prevent management moving equipment and goods to another location (Lide Update 2015b; Lin 2015). The final collective bargaining sessions resulted in management meeting all the workers' main demands. However, while important for the labour movement, the capacity for closure bargaining to directly impact the representative capacity of the ACFTU is not as clear as the gradual emergence of annual collective bargaining in sectors in which workers have more structural power derived from their position in global supply chains (Silver 2003).

Assessing collective bargaining in the wake of the aforementioned Honda strike, former chairman of the Guangzhou Federation of Trade Unions Chen Weiguang reports that the median negotiated pay rise in six Guangzhou-based wholly-owned auto-parts factories was 15 per cent for the period 2011–2012, with an average wage of RMB 3256 for frontline (*qianxian*) shopfloor workers – excluding deputy supervisors and above – in 2012. For larger and more capitalised joint venture auto-assembly plants, the median wage increase over the same period was 19 per cent – but with higher differentials – and an average wage of RMB 5834 (Chen 2014). Chen comments that the wave of strikes in the auto sector has been integral to the transformation of collective negotiations in the industry from symbolic (*xiangzheng xing*) to the



genuine article (*huo zhen jia shi*) (Chen 2014). At the same time, annual collective bargaining is primarily designed to avoid further strikes. As Chen explains,

first, it [the Honda strike] was a manifestation of the power workers had acquired under the conditions of globalisation. Secondly, it was a threat to the upholding of social stability and economic development. These two things are closely linked and they are both a concern and challenge for our trade unions and their future development.

Interview, Beijing, December 2014, cited in Pringle and Fuchs 2015

Similar outcomes have been obtained by the institutionalisation of annual collective bargaining at the Yantian Port Terminal in Shenzhen. Research by Pringle and Meng (2018) discusses four rounds of collective bargaining bookended by two strikes in 2007 and 2013 respectively. They argue that the rare phenomenon of a functioning union branch at the port was established by the higher union – the SFTU – which was not dependent on management. The high levels of structural power (Wright 2000) that globalised production bestows on dock workers was certainly »tamed« by the SFTU, but the process included elected worker representatives who negotiated significant wage rises in successive annual bargaining rounds.

However, these examples are outliers and are likely to remain so while the ACFTU retains a monopoly on trade union organising and operates under CPC leadership. The exceptionalism is rooted in the ACFTU's dual role of maintaining stability and upholding workers' legal rights, which renders the risk of rolling out such experiments on a broader scale too great. Closely controlled individual pilots can be managed by sophisticated and experienced higher unions such as the SFTU. For both the ACFTU and the CPC, replicating them elsewhere could generate more strikes, possibly accompanied by politicised demands for independent trade unions – anathema to both organisations. But without freedom of association and the competitive pressure for membership that it brings (Pringle and Clarke 2011), impetus for genuine trade union reform is little more than a reactive and atomised response to labour militancy. As demonstrated by the ongoing strikes, this traps most workers in an attitude of distrust towards the ACFTU most of the time – a situation Friedman calls the »insurgency trap«



whereby workers cannot access the political gains – such as the Labour Contracts Law – that »they themselves have produced« (2014: 1001). As I have demonstrated, the ACFTU can buy time when faced with powerful sections of the working class and support constraints on labour NGOs that wish to intervene on behalf of more vulnerable workers. But it has failed to nurture any sense of harmony between workers and employers as the CPC is instructing it to do.

6. Conclusion

This chapter has presented a summary of the development of trade unions in China as the ACFTU has attempted to adapt gradually to the capitalist labour relations of the market economy while remaining under the leadership of the CPC. Although there have been piecemeal changes to how unions respond to capitalist exploitation in the workplace, the ACFTU has not undergone any significant organisational restructuring that would allow enterprise-level unions to constrain and bargain with employers, while enjoying the support of higher unions that are not preoccupied with balancing stability against its members' rights and interests. As such, the ACFTU does not organise strikes and its failure to do so means that efforts to establish a system of genuine collective bargaining will fail as the union will be negotiating from a position of structural weakness.

On the other hand, we are not looking at a static situation. I have shown how ACFTU membership has increased dramatically to almost 300 million after the shock of restructuring and privatisation of many state-owned enterprises following the Fifteenth Party Congress in 1997. The resulting top-down recruitment campaign took place in the absence of alternative unions as the CPC has refused to make any concessions to freedom of association. This means that the massive increase in membership has had little impact on the low levels of workers' trust in the ACFTU. Most enterprise-level unions remain dependent on management and the higher level unions are constrained by the CPC leadership.

Although Party leadership of the unions facilitates access to law-making processes, even *relatively* labour-friendly laws such as the Labour Contracts Law are not properly implemented in workplaces due



to weak unions. In response, workers have increasingly used strikes to protect their rights and interests and on occasion these efforts have been assisted by labour NGOs, especially in Guangdong province where there has been qualified progress in collective bargaining. However, isolated and rigidly controlled pilot projects in various aspects of trade union work are no substitute for the right to organise, protection of the right to strike and a commitment to build a national system of collective bargaining – all of which remain very distant prospects. Ongoing labour militancy continues to alarm the CPC leadership and President and Party General Secretary Xi Jinping has twice ordered the ACFTU to draw up plans for a programme of trade union reform. These have yet to materialise in any systematic way. Thus the stalemate continues and it is still the case that the most important impetus for trade union reform remains workers' collective class-based organisation and action.

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Trade Union Elections in China: Past, Present and Prospects¹

Chris King-Chi Chan and Elaine Sio-leng Hui

1. Introduction

Industrial relations in China have undergone substantial changes since 1978, as the country has shifted from a command economy to a market economy with a strong state presence and has gradually been incorporated into global capitalism. With the large-scale privatisation of state-owned enterprises and the increasing inflow of foreign investment in the private sector, Chinese workers have become more vulnerable in the labour market and have been subjected to unfair and often illegal treatment at work. The party-controlled trade unions – which some scholars call »sham« trade unions (Taylor and Li 2010), a »transmission belt« (Chan, A. 2008); or just part of the government bureaucracy (Friedman 2009) or party apparatus (Lee 2006) – have failed to protect workers against unscrupulous employers. This has induced widespread extra-trade union activism in China. Specifically, strikes bypassing official trade unions have become a vital means through which Chinese workers safeguard their interests in the face of capitalist exploitation. In 2010, the strike at Honda sparked a country-wide wave of strikes in China (Chan and Hui 2012).

Increasing labour militancy has put huge pressure on both the Chinese government and the official trade unions to promote, at the enterprise level, what are officially called »direct elections« (*zhixuan*) (Jingbao 2012; Zhongguo 2012) or »democratic elections« (*minzhu xuanju*) (Yang-

¹ This paper is a modified and summarised version of Hui and Chan (2015). The authors would like to thank the Research Grants Council (RGC) of Hong Kong (CityU 140313), the Chiang Ching-kuo Foundation and the College of Liberal Arts and Social Sciences of the City University of Hong Kong for their financial support for this research.



cheng Wanbao 2010; Nanfang Daily 2012b, GDFTU 2012b), especially in the Pearl River Delta (PRD) of Guangdong Province. Such direct elections were viewed by some union reformers as a way of improving the representative capacity of enterprise-level trade unions (Pringle 2011). At national level, on 5 June 2010 the All-China Federation of Trade Unions (ACFTU) issued a document entitled »Reinforcing the building of workplace trade unions and giving them full play« (ACFTU 2010), which stated that workplace trade union elections should be conducted in accordance with the law. In August 2010, then deputy chair of ACFTU, Mr Wang Yu Pu, noted, at a national meeting on trade union grassroots organising, that trade unions »in enterprises in which conditions have matured should explore the possibility of holding direct elections of trade union chairs; they should ensure that such elections truly reflect members' true preferences and that the elected chair can represent workers, be a voice for them and act for them« (Liaowang 2012). In March 2012, the ACFTU sent an investigation team to Guangzhou to study the implementation of »democratic elections« in enterprises (GDFTU 2012) and in June it extended this research to Shenzhen (CLB 2012).

Is this new policy initiative a signal from the party state for the bottom-up democratisation of ACFTU? Is there any hope for democratic unionism in workplaces under China's authoritarian regime? If not, what are the barriers to this? This chapter attempts to answer these questions.

We will first review the history of workplace trade union elections in China since the economic reforms took off in 1978. We will then outline three stages of trade union committee elections: (i) the »top-down« approach initiated by the party state or its apparatus; the approach induced externally by transnational corporations; and, more recently, (iii) a new type of election driven by strikes. Although strike-driven trade union elections constitute a new step for union democratization, by studying eight cases in the Pearl River Delta from 2012 to 2013, the authors found that they are usually indirect or quasi-direct in nature as the candidacies of union leaders are often manipulated by the party state and the All-China Federation of Trade Unions (ACFTU). For the purpose of this chapter, we selected two cases to demonstrate our findings. We argue that the structural barriers to trade union democratization remain, although the possibility of changes in workplace relations after strike action has been observed.



2. Trade Union-directed Elections in China since 1978: Three Stages

In China, union officials at the enterprise level are generally appointed, not elected. Furthermore, chairs of enterprise trade unions are usually concurrently Chinese Communist Party (CCP) cadres, local government officials or senior managers of the relevant enterprises (CLB 2007). However, enterprise union elections are not completely foreign to China and some experimental elections have been held in various parts of the country since the 1980s. As a matter of fact, there is a framework for enterprise trade union elections in Chinese law. According to the Trade Union Law (Article 9), Provisions on the Work of Enterprise Trade Unions (hereafter, Provisions on Trade Unions, Article 11) and Trial Measures on the Election of Enterprise Trade Union Chairs (hereafter, Measures on Trade Union Chairs, Article 14), the union executive committee and chair can be elected in either the trade union members' congress or the trade union members' representatives' congress; in the former case, all members can vote in the election, whereas in the latter only a handful of members can vote. Meanwhile, it is stipulated in the Measures on Trade Chairs (Article 20) and the Provisions on Trade Unions (Article 51) that an enterprise union chair should be under the leadership of both the enterprise party branch and the higher-level unions, with the former playing a more important role. In enterprises without any party branch, the union should be under the sole leadership of the higher-level unions. The paradox between the democratic procedures for union chair elections and the emphasis on the party state's leadership well reflect the dual institutional identities of Chinese trade unions, which act as part of the state apparatus and as labour organisations simultaneously (Chen 2003). Most plant union elections that have taken place in recent decades were either initiated top-down (by the higher-level trade unions or the party state) or induced by transnational corporations. Only after 2010 did strike-driven elections start to emerge. In this section, we will review this historical development and the limitations of these types of election.

2.1 Party-state Top-down Elections

The first elections initiated top-down took place in 1986 in the SheKou industrial zone in Shenzhen (Nanfang Daily 2012). A few companies were



involved in this pilot scheme. However, »direct elections« did not spread to other areas of the country, and over time the so-called direct elections became a formality in the original companies, as management heavily influenced the selection of candidates. Howell (2008) studied the enterprise trade union elections initiated by reformers within the national and provincial trade unions in the provinces of Guangdong, Shangdong and Zhejiang from the mid-1990s. She concluded that direct elections could be widely adopted only when »there is a shift in the political context, either because of regime crisis or because of political liberalization« (Howell 2008). Howell's state-centred approach cast light on the internal dynamics of ACFTU and the party state, but she neglected the role of labour as a crucial social force shaping the development of direct elections and trade union democracy in China. She probably did not foresee the waves of migrant workers' strikes that have the potential to influence workplace relations. More recently, Pringle (2011) examined two top-down-initiated enterprise elections organised by the Yuyao (city) Federation of Trade Unions and the Yuhang Federation of Trade Unions in Zhejiang during the 2000s. He argued that there was no solid evidence that union elections in Zhejiang had improved workers' pay and working conditions or the effectiveness of ACFTU; this was partly because of the dependence of the elected unions on employers and the lack of support from higher levels of the union organisations. He also found the manipulation of candidacies via employer or higher level trade unions, which were indeed working together. Unlike Howell's state-centred perspective, Pringle did not place much hope in ACFTU or the state to drive the development of union elections. He contended that labour unrest would increase the pressure on ACFTU to »further improve its effectiveness in representing workers' legitimate rights and interests« (Pringle 2011).

2.2 Elections Induced by Transnational Corporations

In addition to elections initiated top-down by the party-state or its apparatus, there have been a few elections induced by transnational corporations in recent years (Yu 2008; Chan, A. 2009). These requests by transnational corporations are generally a response to strong consumer movements in Western countries. Transnational corporations ask their supplying factories in China to conduct such elections under the um-



brella of their corporate social responsibility (CSR) programmes. In response to pressures from overseas consumer groups and labour NGOs, CSR programmes have become fairly common in China since the 1990s. In her study of the elections initiated by Reebok in the early 2000s in two sub-contractors in Shenzhen and Fuzhou, Chan (2009) suggested that elections prompted by CSR programmes have not led to trade unions becoming independent of enterprise management. Chan stressed the leverage that transnational corporations have over their suppliers in China and argued that the pilot election programmes could have worked better had the relevant transnational corporation applied stronger pressure to its suppliers and given more support to the elected unions (Chan, A. 2009).

Chan was right to pay attention to the power relations between the transnational corporations and their sub-contractors when analysing union elections in China in the context of global production chains. However, she seemed to have placed too much hope in the transnational corporations, which have been the key drivers of and the biggest beneficiaries in the global economic race to the bottom. The key issue is that CSR, backed by the consumer movement in the West, is not strong enough to compel both transnational corporations and their suppliers to take union elections seriously without strong state intervention and worker power. CSR programmes have long been criticised as public relations ploys on the part of TNCs (Pun 2005; Chan, K.-C.C. 2013) and the TNC-induced elections were probably another piece of window dressing. The union elections recently held in Foxconn, an electronic supplier of many global brands – including Apple – were another example of TNC-induced elections (Financial Times 2013). In 2010, at least 14 Foxconn workers committed suicide in their factory dormitories (Huffpost Tech 2012), which raised concerns over its militaristic managerial style. The wave of workers' suicides and resistance in Foxconn continued in subsequent years (SACOM 2013). Under pressure from Apple, in February 2013 Foxconn agreed to organize union elections in its Chinese factories. However, according to a survey conducted by a group of students and scholars, 90.2 per cent of the workers interviewed in Foxconn were unaware of the union elections and 94.7 per cent of them had not voted in them (SACOM 2013). Moreover, the Foxconn spokesperson made it clear in a media interview that »union elections have never been on Foxconn's agenda« (SACOM 2013). As these cases show, transnational corporations are not likely to truly embrace trade union elections, which would probably increase their labour costs.



2.3 Strike-driven Elections

The recent strike-driven trade union elections differ significantly from previous ones in terms of their driving force. They are neither top-down-initiated nor TNC-induced; rather they have been instigated by workers' strikes and we shall refer to them as workers' strike-driven elections. Most of these cases have taken place in the Pearl River Delta (PRD) of South China after the Honda strike in 2010 (Chan and Hui, 2012), where we conducted our empirical research. We investigated eight factories in the cities of Shenzhen, Foshan and Guangzhou from September 2012 to March 2013. At the enterprise level, we interviewed 100 workers, three trade union members' representatives (*gonghui huiyuan dabiao*), five enterprise union officials (*gonghui weiyuan*) and three union chairs. We also conducted participant observation in some trade union activities (such as the Staff and Workers' Congress and meetings among the enterprise union officials) and workers' gatherings. Due to space limitations, we shall not elaborate on all eight cases. Instead we shall closely examine two factories: Autoco, an automobile spare parts factory in Fushan, and Eleco, an electronics factory in Shenzhen. We focus on these two cases because they were highly promoted by the government and ACFTU as models and were widely reported by the official media.

The examination of these two factories was embedded in the analysis of the eight cases and the larger development of union elections in China. To increase our ability to generalize from these cases, we supplemented the case studies by interviewing five trade unionists at the district, city and provincial levels, four labour scholars and by conducting a systemic review of internet materials, media reports, trade union documents and government reports. In 2013, the year our fieldwork finished, President Xi Jing Ping took power and his government has adopted more repressive and hard-line policies with regard to industrial relations and society in general. Since then, the main strategy of trade union reform has changed to one of strengthening the capacities of local ACFTU branches.²

As will be elaborated in the next section, we find that worker activism from below was the main impetus for the recent elections, but the implementation of the elections was shaped by the dynamics among the

2 Examples of trade union reform pilot projects in this direction can be found in cities such as Shenzhen, Shanghai and Chongqing.



quadripartite actors³ – the party-state, higher-level trade unions, labour and capital – and in fact the elections reflect the balance of forces between these actors in industrial relations after strikes.

3. Workers' Strikes-driven Elections in the Pearl River Delta

As most of the strikes staged by migrant workers⁴ take place in Guangdong, it is not surprising that trade unions in the province are more active in promoting and initiating direct elections than other provinces. Then Deputy Chair of the Guangdong Provincial Federation of Trade Unions (GDFTU), Mr Kong Xiang Hong, confirmed in June 2010 that the federation would speed up the democratisation of plant trade unions and he announced that a pilot scheme for the »democratic election« of workplace trade union presidents would be conducted at ten factories (Takungpo 2010). In Shenzhen Special Economic Zone, the Deputy Head of the Shenzhen Federation of Trade Unions (SZFTU), Mr Wang Tongxin, announced a plan to organise union elections in 163 enterprises in Shenzhen in 2012 (Liaowang 2012). In August 2012, the SZFTU issued the Opinions on Further Strengthening the Organizing of Enterprise Trade Unions, which states that democratic elections should be organised in enterprises (Nanfang Daily 2012c). In the provincial capital city Guangzhou, the Measures on Candidates for the Elections of Guangzhou Enterprise Trade Union Chairs and Interim Measures on Appointing Trade Union Inspectors to Instruct the Elections of Grass-roots Trade Union Chairs were issued in 2011 to guide enterprise trade union elections (Nanfang Gongbao 2011). Furthermore, the new chair of the Guangzhou Federation of Trade Unions (GZFTU), Ms Zhao Xiao

3 When discussing strike settlements in China, Chen (2010) also suggested that they usually involve a quadripartite settlement involving the party-state, trade unions, workers and employers.

4 Most of the production workers in the Pearl River Delta of Guangdong province are rural-urban migrant workers from inland provinces. In China, they are also called peasant-workers (*nongmin gong*) as they move between industrial city and rural village and do not have urban residential rights. In 2003, the party-state's policy started to see peasant-workers as an important component of the production workers category and consider them deserving of state protection. Before this, migrant workers were excluded from AFCTU; ACFTU started to allow migrant workers to become members in 2003.



Wei, highlighted that enterprise union elections should be organised in accordance with the law. Our two case studies were carried out in the cities of Foshan and Shenzhen, respectively.

3.1 Autoco

The Autoco workers staged a strike that bypassed the enterprise trade union in May 2010, which involved over 1,800 workers and lasted for 17 days. In addition to higher wages and better welfare, workers also demanded democratic workplace union elections. They argued that the trade union chair, who was the Deputy Head of the Business Management Department, represented the management's interests rather than those of the workers. Subsequently, in response to the strikers' demand, the higher level unions organized union elections in Autoco from September to November 2010 and then in late 2011.

Figures 1 and 2 show how the trade union elections were organised after the strike. Reviewing the election process and procedures, we

Figure 1: Union elections at Autoco, 2010

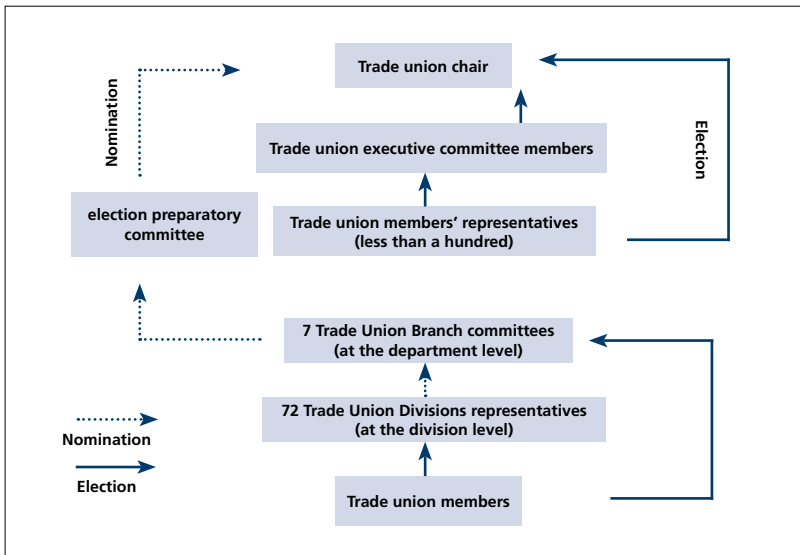
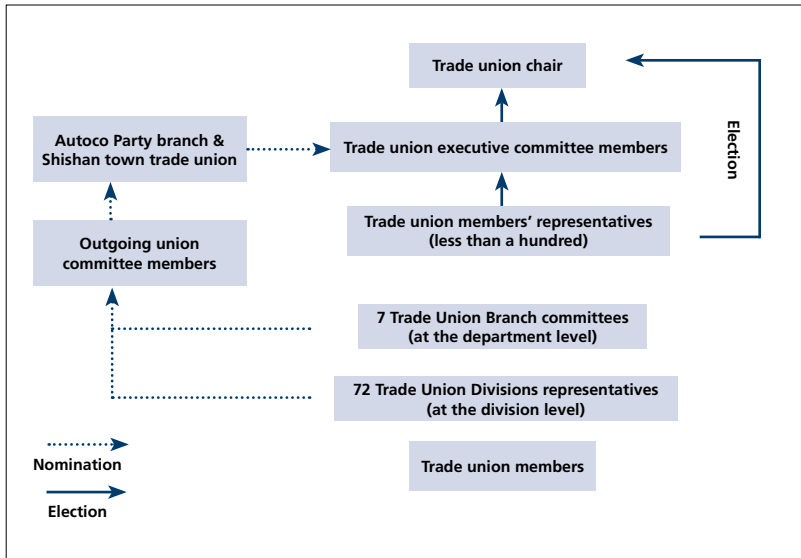


Figure 2: Union elections at Autoco, 2011



identified two merits (expanded union structure and meaningful direct election of union representatives at the division and department levels) and two shortcomings (the undemocratic formation of the election preparatory committee; indirect election of enterprise union committee members) of the reform.

Expanded Union Structure

Before the strike, as the workers were told later on, there were already trade union representatives (fewer than a hundred in number), union executive committee members (seven in total) and the union chair. However, many workers, including those who had worked in the company since its establishment in 2007, were unaware of their existence; this suggests that they were not properly elected by the workers. As part of the trade union reform after the strike, the union organisation was expanded to include union division representatives (*gonghui xiaozu daibiao*) and a union branch committee (*gonghui fenhui weiyuan*).



The former were elected at the division level (*ban*), whereas the latter were elected at the departmental level (*ke*). Moreover, in the post-strike elections five more union executive committee members and two vice-chairs were elected. The overarching trade union structure was broadened to improve union-worker relations as the newly added union representatives and officials, especially those from the lower levels, may better convey members' opinions to the enterprise union committee.

Undemocratic Preparatory Committee

To prepare for these elections, an election preparatory committee was established to decide the electoral rules and regulations. This committee comprised the existing seven union committee members, whom our worker interviewees said were not elected through proper elections (if there were any at all), two trade union members' representatives and two staff and workers' representatives (*zhigong daibiao*), whom workers were not aware of before the strike, and two strike representatives. Among these 13 people, only one was a rank-and-file worker and two were lower-level supervisory workers; the others were managerial staff. One of the election preparatory committee members told us that the district- and town-level trade union officials attended all of their meetings, giving suggestions and commenting on electoral procedures (interviews with workers, December 2010).

»Sea Elections« at Division and Department Level

There were seven departments in Autoco, each consisting of a number of divisions. Altogether there were about 72 divisions in the company. At the first stage of the union reform, workers in each division elected their division representatives using the so-called »sea election« method, which Pringle (2011) found to be the most »democratic« form of election – there were no candidates; workers just put down the name of the person they supported on the ballot paper. The worker who got the most support from their colleagues became the division representative. At the second stage, the elections for the seven union branch committee members were held at the departmental level. The elected division



representatives in each department first used the sea election method to elect four candidates from among the division representatives to run for the branch committee. These candidates were subject to the approval of the higher-level trade unions. Subsequently, the workers in the department as a whole voted to elect three branch committee members out of the four candidates. The candidate with the highest number of votes in this election became the branch chair. These two levels of elections were fairly direct and democratic, but this was not the case in the election of the union committee and vice-chair.

Indirect Election of Enterprise Union Committees

The union executive committee, including the chair and vice chair, is the centre of power in the union structure; the union division and branch committees serve merely as subordinate consultative units. For the elections of the union executive committee, each union branch first nominated three candidates for a total of 21 candidates. Then the election preparatory committee, dominated by the managerial staff, elected six candidates out of the 21. Following this, the trade union members' representatives (whose existence most workers were unaware of before the strike) elected five union committee members out of the six candidates. The two newly elected committee members with the most votes then became the vice-chairs. At this stage most newly elected division representatives and the union branch committee members could not vote in the elections because they were not the union members' representatives. Excluding the majority of workers from the elections of the executive committee members and the vice-chair was highly controversial (if not completely undemocratic), not to mention the fact that the legitimacy of those who had been granted the privileges of voting was strongly disputed.

The 2011 Election

The term of the union executive committee ran out at the end of 2011 and elections were held to elect the new committee for a new three-year term, from 2012 to 2015. Shortly before this election, the election



for the new term of trade union member representatives was held. Replacing the old representatives who were unknown to most workers, the new union member representatives were elected by the members. For the election of the new union executive committee, as in the previous election, there were restrictions on who had the right to nominate candidates and who had the right to vote. This time, the outgoing union committee members, who came largely from the managerial level, had the sole privilege of nominating the candidates after consulting with the union division representatives and the union branch (see figure 2). Before putting forward their nominations, the outgoing committee had first to seek approval from the Autoco Party branch (which together with the Chinese Communist Youth League branch was set up shortly after the strike) and the town-level trade union (Lau 2012). According to the Measures on Trade Union Chairs (Article 7),⁵ the enterprise party branch, together with the next level up of the trade union and the union members' representatives, were responsible for the nomination and election of the enterprise union chair. After all these steps were accomplished in November 2011 the union member representatives' congress was held to elect the new union committee members. Following this, the union chair was elected from among the new committee members. In a nutshell, the majority of the rank-and-file members were denied the chance to elect those who were supposed to govern the trade union on their behalf. Like the election in 2010, the newly elected union members' representatives were the only people granted voting privileges but they were only allowed to choose from the preselected options offered by the outgoing committee members who were under the leadership of the party-state and the higher-level trade unions, and the influence of the management.

Who were elected under such highly manipulated circumstances? A union branch chair told us that »the higher level trade unions suggested that the position of the enterprise union chair should be taken by the mid-level management, such as the department head. This would make

5 The full name of the document issued by ACFTU is »Measures for the Election of the Trade Union Chairs of an Enterprise«. Its Article 7 states the following: »Where the term of the trade union committee of an enterprise expires or a trade union is newly formed, a leading group composed of the representatives of the trade union at the next higher level, the Party organization of the enterprise and the members shall be set up to take charge of the work of nominating and electing the trade union chair.«



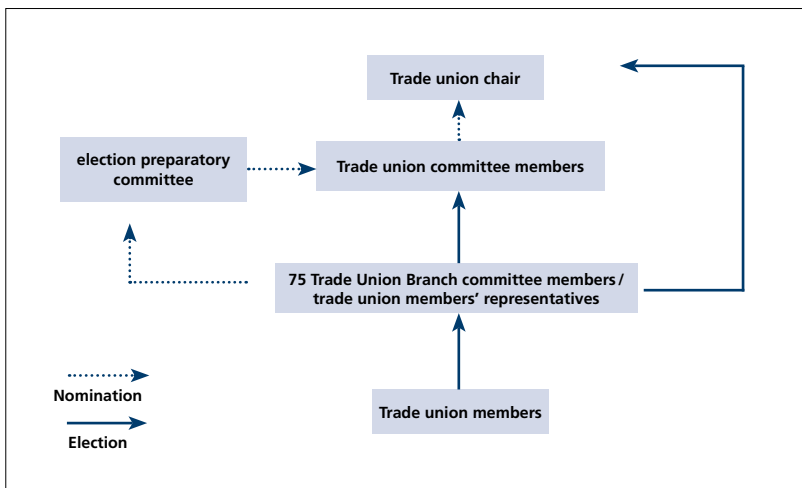
the work of the union easier and smoother« (interview with a union branch chair, 26 September 2012). Such candidates would have greater capacity and confidence to negotiate with the management compared with lower ranking workers. The results were in line with this advice. The newly elected chair was a departmental head, and simultaneously the Secretary of the Party branch in Autoco. In other words, he was someone to whom both the company and the party-state could entrust the trade union.

3.2 Eleco

In April and May 2012, elections were held at Japanese-owned Eleco, after workers had gone on strike in March to demand higher wages, better benefits and the democratic election of trade union officials. The factory employed about 850 workers (Liaowang 2012; Southern Metropolis Daily 2012). The previous chair, who was a departmental head (*bu zhang*),⁶ noted in a newspaper interview that »the enterprise

6 In Eleco and Autoco, they use different Chinese words to name departments.

Figure 3: Union elections at Eleco, 2012



trade union was arranged by the higher-level trade unions; it was established merely for the sake of it and its officials were not elected«. At the time of the strike, all of the union executive committee members came from the managerial and supervisory level (Southern Metropolis Daily 2012) and they did not support the strike. During the strike, the workers issued an open letter with seven demands; trade union elections were at the top of the list. After the strike, the company agreed to organise a union election. Furthermore, the company agreed to give the union an annual operating fee of 100,000 yuan and that the CEO would have two meetings with the union chair each year (Southern Metropolis Daily 2012b).

The key issues in the Eleco elections were, again, who had the right to run for office, to nominate candidates and to vote, and who were actually elected (see figure 3). As in the case of Autoco, a trade union preparatory committee was first set up to decide on election procedures. Little was known about the composition of this preparatory committee; it was not reported by the media nor revealed by our interviewees. The Eleco workers first elected union committee members for the seven branches – altogether 75 in number – who were at the same time elected as the union members' representatives. This was different from the Autoco case, in which the branch union committee members (and the division representatives) were not necessarily the same as the union members' representatives. Our interviews with workers determined that different departments deployed different election methods at this level. For example, in some departments, workers nominated the candidates, whereas in others the managers designated the candidates (interviews with workers, 22 November 2012). According to a newspaper report, 65 out of the 75 (87 per cent) union members' representatives were rank-and-file workers (Liaowang 2012). In our interview with workers, interviewees also told us that »a lot« of the union representatives were ordinary workers, although they could not remember the exact number. The second stage of the elections selected the 11 union executive committee members. The 75 union members' representatives first elected from among themselves 14 candidates for the union executive committee. The trade union preparatory committee, which had an unclear composition, was given the power to approve these candidates (Economic Observer Daily 2012). Once the candidates were approved, the union members' representatives elected 11 of



the 14 to be union executive committee members. In other words, only the 75 union members' representatives, out of the 850 workers in Eleco, had the right to nominate candidates and vote in the election of union executive committee members. According to our interviews with workers, among the 11 newly elected officials, only one was a rank-and-file worker; the others were department heads, section managers (*ke zhang*), team leaders (*zu zhang*) and so forth. The third stage of the process was to elect the union chair and vice chair. The 11 elected executive committee members elected among themselves three candidates for the union chair and vice-chair, and then the 75 union members' representatives voted for their preferred candidate. In this stage, the right of nomination was restricted to an even smaller number of people. After numerous rounds of voting, a new chair, who was the section head of the production department, was elected (Nanfang Daily June 2012).

3.3 Discussion

A number of features of these two elections deserve critical attention. First, despite the claim that the elections were »direct« and »democratic« it is important to focus carefully on who had the right to run in the elections, who had the right to nominate candidates, who had the right to vote and who were actually elected. In the case of Autoco, the elections of the division representatives and the union branch committee were fairly direct and democratic; however, the direct participation of workers stopped at this level. Only the branch committee and the election preparatory committee, dominated by managerial staff, had the right to nominate candidates for the union executive committee. Furthermore, only the union members' representatives had the right to vote in these elections. In the second case, the election process was not direct, but highly cumbersome. Furthermore, the elections were only quasi-democratic. The higher the level of the position being filled, the more exclusive was the election process and the fewer the number of workers who had the right to nominate and vote in the election. Moreover, the higher the position within the union structure, the lower the number of rank-and-file workers who were elected. This indirect election system had a strong filtering mechanism that not only excluded



rank-and-file workers from the top positions, but also excluded them from nominating and voting for candidates for such positions.

The »direct elections« taking place in the Pearl River Delta seem to have taken the easiest route from the authorities' point of view, but it definitely is the least inclusive approach from a democratic-participatory perspective. As reviewed earlier, according to the regulations, union committee members, including the chair, can be elected in either the trade union members' congress (direct election or »sea election«) or trade union representatives' congress (indirect election). In this chapter, we find that the model cases publicized by the party-state are those characterised by indirect union elections in which only a handful of members can vote. When most union members cannot vote directly in the election of union executive committee members and chairs, the accountability of officials to rank-and-file members may be weakened and the chances that companies or higher-level trade unions will manipulate the elections may increase. However, this election system allowed most workers to vote at the lowest level of the union elections, giving them a minimal sense of control.

The second issue worthy of our attention is the role of the higher-level trade unions in these elections. This type of indirect election system reflects the reservations the city-, provincial- and national-level unions have about direct democratic elections; they are afraid that they will lose control over workplace unions if workers directly elect union presidents because workers may nominate or elect somebody who is deemed »untrustworthy« by the higher-level unions. In the Autoco case, for example, our worker informants revealed that the new union chair who joined the factory after the strike was sent by either the government or the higher-level trade union. He was an experienced official in other mass organizations of the party-state. In both cases, the influence of higher-level trade unions was conspicuous. In the Eleco case, the electoral procedures were designed by the SZFTU (interview with a labour scholar, 10 October 2012). They »gave guidance« (*zhidao*) to the previous chair on how to carry out the elections and sent officials to attend the elections (Longgang District Trade Union 2012). Their involvement was not restricted to procedural issues; they were also involved in matters of real significance. They kept a tight grip over the nomination of candidates, as revealed by then vice president of the GDFTU in a newspaper interview on the Eleco elections:



no matter what elections method is used, the most critical thing [is] the nomination and confirmation of the candidates; this is the most fundamental procedure ... Candidates should not be casually proposed by any individuals or organisations; instead they should be proposed by workers on the conditions that they are approved by the higher-level trade unions.

Nanfeng Daily June 2012

This demonstrates that the higher-level unions want to be gatekeepers. Only candidates who were deemed trustworthy and qualified in the eyes of the government apparatus were allowed to run in elections. In fact, according to the Measures on Trade Union Chairs (Article 9), the higher-level trade unions and enterprise party branches are required to review the candidates for enterprise union chair and substitute candidates who are not deemed qualified. Under the system of democratic centralism,⁷ it is stated clearly that the lower-level unions must obey the higher-level ones (Constitution of the Chinese Trade Unions, Article 9). The higher-level unions should guide the enterprise union elections (Trade Union Law, Article 11; Measures on Trade Union Chairs, Article 4) and all elected officials and candidates for union chair should be subject to the approval of higher-level unions and the enterprise party branch (Provisions on Trade Unions, Articles 11 and 24; Measures on Trade Union Chairs, Article 11). In other words, on the surface, workers or their representatives have been given the right to vote, but in fact they are only allowed to fly within a cage.

The third issue that needs to be considered is the actions of the company. At Autoco, one of the key strike leaders obtained the same number of votes as her rival in the election of division representatives, making a second round of voting necessary. Before the second round, a division head (*ban zhang*) tried to persuade his subordinates not to vote for the strike leader. In the end, she got only eight votes compared to her rival's more than twenty. Some of her colleagues apologised to her after the election, saying that they did not vote for her because of pressure from the division head (interview with a strike leader, 28 Septem-

7 Democratic centralism is a Leninist idea concerning decision-making mechanisms and disciplinary policy within the Communist Party. Debates are allowed inside the Party before a decision is made. After a policy is formulated, however, the lower levels must follow the instruction from the higher level.



ber 2010). The enterprise's desire to influence the election by excluding worker activists was evident.

Under this type of quasi-democratic and partly manipulated election, who was actually elected in Autoco? In the end, two vice chairs were elected in February 2011 – one was a department head and the other the deputy head. Most of the newly elected executive committee members (with only one exception) were from the managerial or supervisory levels. In the Eleco case, in some departments the managers selected the candidates who would run in the election of the union members' representatives; this was certainly improper managerial manipulation. In addition, it was reported that after the union elections a number of strike activists were removed from their original job positions. Some workers regarded this as revenge by the company. The Eleco trade union tried to seek help from the SZFTU but did not get a positive response. The SZFTU told the trade union that »this is about the development needs of the enterprise and the trade union should not intervene« (China Fortune 2012). It was obvious that although the company had agreed to hold the union elections, it was far from tolerant of strike activists. The suspected revenge on the strike activists and the tacit consent given by the SZFTU has overshadowed the future development of the fledging trade union.

The fourth issue is that the current indirect election has also defeated its original purpose of making the unions more legitimate and representative. At Autoco, some workers from the assembly division, discontented with the newly elected trade union in wage bargaining, staged an extra-trade union strike to demand a higher pay rise in 2013. Shortly after the strike broke out, the management tried to persuade the strikers to resume working, but the latter were unmoved. Later, the union chair and the union branch committee members came to persuade the strikers to talk to the management in the meeting room. At this meeting, the union chair broke down in tears, saying that the union had tried its best to advance workers' interests and he was surprised to see the workers going on strike. Instead of supporting the workers' strike, the elected trade union acted as the company's mediator to halt it.

On 28 February 2013, an incident took place at Eleco that drew wide attention. A hundred and six Eleco union members signed a joint letter requesting the recall of the newly elected chair from office (interview with workers, 7, 8, 10, 11 March 2013; Guangzhou Daily 2013; Yangcheng



Evening News 2013). These Eleco workers were dissatisfied with the chair because he did not support workers who had labour disputes related to their labour contracts. Workers wrote in their letter to the public that they had sought help from the enterprise union numerous times, but »the union did not take any measures, and thus we were deceived by the company, and signed the settlement agreement (...) we asked the union to intervene in the dispute afterwards; it did not offer any help and the chair even kicked us out of the union office«. The workers' request to recall the enterprise union chair was not approved by the enterprise trade union committee, which has been given the right by the trade union laws to make decisions on recall requests (Chinese Workers 2013). And a labour scholar told us that the SZFTU found the workers' recall request irrational. Because of the disruption caused by the enterprise- and city-level unions, the recall request was turned down.

4. Conclusions

Studying the two model cases widely publicized by the party-state, we have demonstrated that the new type of trade union election emerging in the Pearl River Delta is usually indirect or quasi-direct in nature as the candidacies of union leaders are often manipulated. Several conclusions can be drawn from our case studies.

First, the higher-level unions and the enterprise party branch are the rule-setters in the game. Although having all union members vote in the election of union executive committee members and the committee chair is one of the possible election methods stipulated by law, in all eight cases we studied the higher-level trade unions and enterprise party branch have chosen electoral procedures that restrict the majority of workers to nominating candidates for and voting in lower-level union elections, while granting the privilege to nominate and cast a vote in the higher-level elections (trade union committee members, chair and vice chair) to fewer than a hundred workers. In addition, the nomination of the union chair and executive committee members requires the approval of the higher-level unions and the enterprise party branch. This is an essential constraint on grassroots trade union democratization in China, as the workplace unions are not allowed organisational autonomy from ACFTU higher-level unions in structure and practice.



Our second conclusion is that management has maintained influence over elections. In the case of Eleco, the management manipulated the elections by selecting the candidates who could run as union members' representatives and who, once elected, would be the only people allowed to vote in the elections for the union executive committee members and chair. In the case of Autoco, the management pressured workers to not vote for the strike leaders, to prevent the »troublemakers« from being elected as branch committee members. The involvement of the higher-level unions has resulted in electoral procedures full of filtering effects and management manipulation has made an already biased system even more biased.

Third, although their wildcat strikes led to union elections in their companies, the workers have no guarantees that their extra-trade union activism will be smoothly transformed into institutional power for rank-and-file workers. The rules of the game established by the higher-level unions and the enterprise party branches, as well as management influence have frustrated many strike activists. Workers' strikes were the main impetus for the recent wave of enterprise union elections in Guangdong; their extra-trade union workplace bargaining power pressured the party-state, higher-level unions and management to accept union elections. However, the original uneven playing field was restored in the implementation of the elections. On this playing field, the party-state, the higher-level unions and management exercise far greater institutional and organisational power than the workers. If workers' extra-union associational power is not sustained after strikes, union elections are quickly turned into indirect and quasi-democratic elections by the state-capital alliance. If the Chinese trade unions cannot get rid of the identity dualism highlighted by Chen (2003), not to mention management manipulation, then workers' struggles, such as the Eleco workers' attempt to recall their pro-company chair and Autoco workers' strike to demand a wage increase higher than the one agreed by the trade union will continue. This kind of labour power, if strong enough, could reconfigure power relations between the party-state, trade unions, capital and labour and may be able to push democratic trade unionism a step forward.

Considering the small sample of our research, further research should be conducted on other cases and in other parts of the country. However, based on findings in the research, we are not optimistic



about the future of ACFTU's grassroots reform through »direct elections«. The barriers to transitioning to democratic workplace unionism come from the double manipulation imposed by the party-state and management with regard to the election and operation of trade unions. Workplace trade unions are not allowed to retain autonomy from ACFTU higher-level trade unions, which have to be under the leadership of the local party-state and usually work together with the employers. Many researchers have pointed out (Chan, A. 2009; Pringle 2011) that workplace trade unions need external forces to nurture and support their development in the early stages. But in China today, ACFTU higher-level unions are unable to play this role due to political constraints. However, we also observed the possibility of changes in workplace relations after the wave of strikes. First of all, the election system has allowed workers to vote at the lowest level of union elections and has given them a minimal sense of control. Secondly, persistent workplace activism will keep up the pressure on ACFTU and its local branches to better reflect workers' interests.

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Employment, Labour Relations and Trade Union Strategies in the Automotive Industry in China

Lu Zhang

1. Introduction

The Chinese automotive industry has grown at an exponential rate over the past two decades: annual output increased eighteen-fold, from 1,296,778 units in 1993 to 23,722,890 in 2014, accounting for over a quarter of total global automobile production (CATRC 2011; MIIT 2015; OICA 2015). Since 2009, China has become the world's largest automobile manufacturing nation and auto market. Over 23 million vehicles were sold in 2014 alone (MIIT 2015). Joint ventures between multinational corporations and large Chinese state-owned enterprises have been dominant players in China's auto industry boom. By the early 2000s, all of the world auto giants had established joint ventures with Chinese state-owned enterprises to manufacture and sell vehicles in China. In the wake of the 2008 global financial and economic crisis, China has emerged as the primary profit generator for automobile multinationals such as General Motors, Volkswagen and Nissan.

Achieving a better understanding of labour relations in the Chinese auto industry is important not only because of its crucial position in global automobile production, but also because of the pivotal role of auto strikes in the post-2010 labour unrest in China. The widely reported auto strike wave in 2010 is considered by many to be a turning point in Chinese workers' ongoing struggles for higher pay, better working conditions and genuine union representation. The historic events unfolded when a nineteen-day strike at the Nanhai Honda transmission



plant in Foshan, Guangdong Province, led to the shutdown of the Japanese automaker's four China-based assembly plants and brought Honda production in China to a dead halt. At the peak of the strike, over 1,800 workers walked out, demanding not only a significant pay increase but also the right to elect their own union officials inside the factory union, a branch of the state-controlled All-China Federation of Trade Unions (ACFTU).

Like most strikes in China, the Nanhai Honda strike was organised and fought by the workers themselves. The factory union did not support or represent them in negotiations. The workers elected their own delegation of representatives from each department to negotiate with management. Eventually, management was forced to agree to a 33 per cent pay increase (500 yuan) for all workers to end the strike.

The strike's success in winning concessions from employers inspired a wave of strikes in a dozen other auto parts plants, as well as in other manufacturing sectors and regions. Most were successful in bringing about wage rises and some also promoted trade union reforms at the enterprise level. The strike wave pressured the Guangdong government to promote trade union reforms to improve strike handling and to pass legislation in support of regularised collective bargaining at factory and industry levels (Liu 2010; Gray and Jang 2014).

In this chapter employment, labour relations and trade union strategies in the Chinese automotive industry are analysed, drawing evidence from the author's interviews and documentary research. The author conducted interviews with both formal (regular) and temporary workers, managers, and enterprise union and Party officials in seven auto assembly plants and three parts plants during multiple field trips between 2004 and 2015.

The chapter begins with a brief overview of industrial and workforce restructuring, followed by a description of employment, wages and working conditions in the Chinese auto industry. It then examines the presence and the role of ACFTU in the assembly and parts sectors, respectively. It further analyses rising labour activism and trade union responses at the enterprise and industry levels. The chapter concludes with a discussion of the implications of autoworkers' growing activism for trade union strategies and labour relations in China.



2. Industrial and Labour Restructuring in the Chinese Automotive Industry

Although the first automobile plants were built in China in the 1950s, the industry did not begin to take off until the mid-1990s, when the central government pushed through a large-scale restructuring to prepare the auto industry to meet the challenge of China's pending WTO accession. More dramatic restructuring came with growing competition. The loosening of entry barriers under the WTO agreement and the fast-growing domestic private auto markets ushered in another wave of foreign and domestic investment and new entrants in the auto assembly sector.¹ It was estimated that the average profit margin of a Chinese passenger carmaker was about 12–14 per cent in 2000, but this had fallen to a mere 4 per cent in 2005.² For low-end domestic carmakers such as Chery and Jeely, their average profit margins were even thinner, with an average of 2.5–4 per cent (Wang 2010). Notably, in the aftermath of the 2008 global financial and economic crisis, the average profitability in the Chinese auto assembly sector rebounded after a short downturn in 2008. Industry analysts attributed this largely to the government's stimulus policies, China's rapidly growing domestic auto market and the optimised production capacity and reduced manufacturing costs. What has often been left out, however, is the heightened exploitation of front-line workers through increased work intensity and excessive overtime, as well as the widespread use of low-paid, »flexible« temporary workers on production lines.

Faced with growing competition, major automakers in China have responded by moving toward leaner and more flexible workplaces. Joint ventures have had a major impact on the organisation of production by importing advanced machinery, technology and global standards. In the organisation of production, they have generally combined lean

1 The first wave of foreign investment in the Chinese auto industry, from 1984 to 1996, was pioneered by AMC/ Chrysler and VW in 1984 and 1985, respectively, followed by Peugeot (1985), Citroen (1992) and Daihatsu (1996). During this time period, due to tight state control and a relatively small domestic private auto market, foreign firms – with the exception of VW – were not profitable. Peugeot pulled out of the Chinese market, only to re-enter in 2003.

2 This estimate excluded luxury car brands, which generally have much higher profit margins (Author's interview with an auto industry researcher at Shanghai Social Science Academy, Shanghai, 20 March 2007).



production techniques with the exiting Taylorist/Fordist mass assembly production system (Zhang 2015).

In labour and employment policy, they have reduced job security and sought more flexibility in hiring and firing. The pursuit for labour flexibility involved two processes: the replacement of permanent and long-term workers with contract-based, formal (regular) workers;³ and the introduction of labour force dualism by using temporary workers alongside formal workers on production lines. Among the seven major automobile factories studied by the author, six used a large number of temporary workers, ranging between one-third and two-thirds of the total production workforce (as of May 2011).

The reasons for using temporary workers were straightforward: to cut labour costs and to increase staffing flexibility. For the cost of hiring a formal worker – including all the social insurance contributions and fringe benefits – three to four temporary workers could be hired.⁴ Most temporary workers are agency workers hired through labour agencies. Auto manufacturers can let them go by simply returning them to the labour hiring agencies. Another, less explicit reason was labour control: to divide workers, using temporary workers as a buffer, while maintaining a committed and cooperative core formal workforce. However, as detailed elsewhere, the management-constructed divisions among workers have become a continuing source of irritation and an impetus for the temporary workers to rebel against unequal treatment (Zhang 2011). Furthermore, to the extent that dualism and inequality exist and are ubiquitous between assembly workers and parts workers in the Chinese auto industry, it is not surprising that the main discontent and militancy is found among the temporary workers in assembly plants, as well as among parts workers in the lower tiers of the subcontracting system.⁵

The results of industrial restructuring were impressive. Total output increased from 1.4 million vehicles in 1994 to 2.3 million in 2001, and rocketed to 23.7 million in 2014. Meanwhile, the total number of

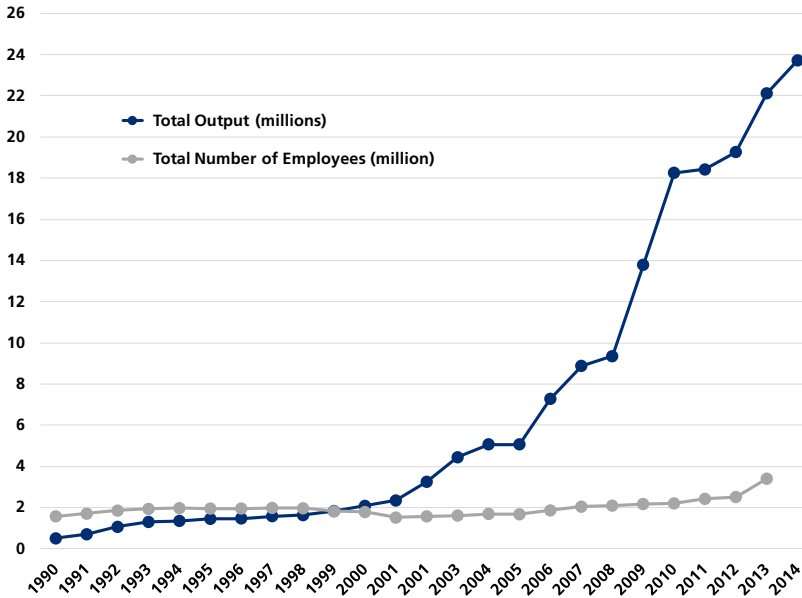
3 The processes reflect the profound change in the Chinese labour system under the market reforms, from a socialist »iron rice bowl« system based on permanent employment to a labour contract system based on individual employment contracts.

4 This estimate is based on the author's interviews with human resource managers at the case-study auto assembly enterprises.

5 For details, see Zhang (2015).



Figure 1: Annual Output and Number of Employees in the Chinese Automobile Industry, 1990–2014



Source: *China Automotive Industry Yearbook*, 1990–2014. Compiled by the author.

manufacturing employees declined, from almost 2 million in 1994 to 1.5 million in 2001 (Figure 1). Employment had increased to 3.4 million by 2013 (CATRC 2002–2014).⁶ Unlike other cases of rapid expansion in the automobile industry, which were accompanied by an equally rapid growth in the number of employees, the full take-off of the Chinese automobile industry was simultaneously a process of weeding out inefficient state-owned enterprises and the older generation of state workers, along with the expansion of Sino-foreign joint ventures and the making of a new generation of industrial workers. As a result, the composition of the workforce was largely transformed after restructuring (see Pringle’s chapter in this book).

6 It should be noted that the statistics only include formal employees listed on companies’ books and payrolls; temporary workers are not counted. Therefore, the actual size of the Chinese auto industry workforce is almost certainly larger. For a more detailed discussion of labour force dualism and the scale and social composition of temporary workers, see Zhang (2011).



3. Working Conditions and Wages

Working conditions were commonly characterised by heavy workloads, intense work pace, long working hours (usually 10–12 hours per shift) and excessive overtime. More than 80 per cent of the workers interviewed by the author considered the current production pace »intense«. All the workers interviewed reported physical strains and exhaustion to different degrees. Both formal and temporary workers complained about arbitrary management decisions to speed up work and on overtime, as well as a lack of worker autonomy and representation over their daily work.

To be sure, Chinese autoworkers' hourly wages are about 30 per cent higher than the average for urban manufacturing workers in China, even though they are very low by international standards. Certainly, there are significant variations in autoworkers' earnings across segments, types of enterprise ownership, regions and skill levels. Except for a handful of large, first-tier parts suppliers, parts workers on average earn significantly lower wages than assembly workers, ranging between one- and two-thirds. When the auto assembly sector is separated from the general grouping of »manufacture of transport equipment«, the wage level can be even higher.

However, wage increases of front-line workers have not kept pace with the remarkable growth of China's auto industry in the past decade. As shown in Table 3, total output and labour productivity in the auto industry grew at a double-digit speed annually between 2002 and 2010 (except for 2008). However, average wage growth of production workers remained in single digits. In 2009, for example, the total vehicle output in China increased by 48.3 per cent, but the average wages of autoworkers increased by only 6.4 per cent. Even this moderate wage increase was achieved primarily through extensive overtime and a significant increase in work intensity. There was a strong sentiment among the workers interviewed that they were underpaid and that they did not receive fair reward and recognition for their work.

It is clear that the Chinese auto industry has not developed a long-term, normalised wage-increasing mechanism consistent with the rapid growth of the industry and labour productivity, a situation, indeed, that characterises Chinese workers in general.



Table 1: Average Annual Earnings in the Manufacturing and Transport Equipment Manufacturing Sectors in China, 2004–2011 (yuan)

	2004	2005	2006	2007	2008	2009	2010	2011
Manufacturing (x)	14,251	15,934	18,225	21,144	24,404	26,810	30,916	36,665
Transport Equipment (y)	18,485	20,204	22,990	26,922	31,658	34,730	40,493	45,635
National Average	15,920	18,200	20,856	24,721	28,898	32,244	36,539	41,799
Ratio y/x	1.30	1.27	1.26	1.27	1.30	1.30	1.31	1.24

Source: Compiled from *China Labour Statistics Yearbook*, various years. Beijing: National Bureau of Statistics.

Table 2: Motor Vehicles and Other Transport Equipment Hourly Wage Costs in Selected Countries, 2008–2011^a (US dollars)

Country	2008	2009	2010	2011
Germany	59.59	57.7	54.8	60.53
United States	41.97	45.19	45.34	46.11
Japan	32.82	35.66	37.21	42.37
South Korea	21.99	19.01	23.42	24.26
Brazil	14.62	13.88	17.22	19.88
Mexico	8.69	8.01	7.95	8.15
China (manufacturing, urban)^b	2.58	2.85	n/a	n/a
China (Transport Equipment)^c	3.35	3.71	n/a	n/a

Notes: (a) Compensation costs include direct pay, social insurance expenditures and labour-related taxes. For complete definitions, see the technical notes at www.bls.gov/ilc/ichcctn.pdf.

(b) BLS, »Manufacturing in China«, Table 2: Average hourly compensation costs of manufacturing employees in China, 2002–2009, www.bls.gov/fls/china.htm.

(c) The hourly compensation cost in China (c) was estimated by multiplying hourly compensation in the manufacturing sector (b) by the ratio of average annual earnings in Table 2. Given the long working hours typical in the Chinese automobile industry, we can expect annual working hours to be close to the manufacturing average.

Source: US Bureau of Labor Statistics (BLS), »International Labor Comparisons«. April, 2013. (www.bls.gov/fls/ichccindustry.htm#29-30); US BLS, »Manufacturing in China«. 7 June 2013. (www.bls.gov/fls/china.htm); NBS (2009–2012).



Table 3: Average Annual Growth Rates in Vehicle Output, Labour Productivity and Remuneration in the Chinese Automobile Industry, 2006–2010 (%)

Year	2006	2007	2008	2009	2010
Vehicle output growth rate^a	27.3	22.0	5.2	48.3	32.4
Productivity growth rate (output per capita)^b	29.2	16.5	0	22.3	23.8
Remuneration growth rate in the auto industry^c	9.0	9.0	8.6	6.4	10.6
National pay growth rate^d	8.7	9.7	11.7	7.8	12.3
GDP growth rate^e	11.6	13.0	8.9	9.1	10.3

Notes: (a), (b) Compiled from China Automotive Industry Yearbook, various years.

(c) The remuneration growth rates for 2006–2009 are drawn from figures published in First Financial Daily (2010), »Shoukun fenpei zhidu, qiche hangye gongren xinchou diwei pai-huai« (Restricted by the Distribution System, Auto Industry Workers' Wages Remain Low), 7 September (<http://auto.ifeng.com/news/domesticindustry/20100907/415831.shtml>); the growth rate for 2010 is drawn from a report on an HRM Auto Industry Survey conducted by one of China's largest recruitment services websites, 51job.com (2011), »2011 Renli ziyuan dianfan qiye hangye baogao – qiche/lingpeijian hangye« (2011 Human Resources Management Model Enterprises Report – Automotive/Parts Industry) (http://my.51job.com/career-post/2010/mkt_awards10/FileDownload/2011hrmAUTO%20SurveyReport.pdf).

(d), (e) National Bureau of Statistics.

4. The ACFTU and Union Presence in the Chinese Automotive Industry

In China, all unions belong to the ACFTU, the sole legal union under the leadership of the Chinese Communist Party (CCP). The ACFTU is the world's largest trade union with over 280 million members. It has 31 regional federations and 10 national industrial unions. Traditionally, trade unions in socialist countries are characterised by their dual function of delivering the state's instructions, top-down, to workers, and mobilising workers for production while submitting the demands of workers to the top, in an effort to protect workers' welfare and interests (Pravda and Ruble 1986). This »classical dualism«, however, is contradictory (Feng 2002). Tensions between the dual functions of Chinese trade unions have become more apparent under market reforms, as the state has retreated from its socialist social contract and from its commitment to



protecting workers' interests.⁷ Meanwhile, the divisions and conflicts between workers and capitalists/managers have increased significantly with the rapid development of a capitalist economy and rampant violations of workers' rights and interests (Chan 2001). Some critics view the ACFTU as merely a state apparatus whose priority is to serve the state's goals of maintaining social stability and upholding political authority, rather than to protect workers' rights (CLB 2009: 3). Others recognise the »double institutional identity« of the ACFTU and its regional branches as both state apparatus and labour organisation, whose power in »representing, mediating and pre-empting« labour conflicts derives from their formal government status (Chen 2003: 1006-7; 2009).

At the enterprise level, however, branches of the ACFTU are generally incapable of representing workers and negotiating with employers because they are both financially and organisationally dependent on, and indeed part of, management.⁸ Indeed, union officials in state-owned and state-controlled enterprises (including joint ventures) are appointed by the CCP and an enterprise Party Secretary often holds a concurrent position as a union chairperson. The union is expected to cooperate with management to promote production and control workers rather than to bargain with management over wages and benefits on behalf of workers.⁹ The lack of genuine union representation and collective bargaining often drives workers to turn directly to industrial action and other forms of grassroots resistance to demand higher pay and better working conditions.

In the automobile industry, while no systematic official statistics on union membership and collective bargaining agreement coverage are available, the piecemeal data I collected suggest a wide variation across sectors, enterprise ownership types and localities. The overall structure of the Chinese auto industry is highly stratified, with a concentrated, capital-intensive, core assembly sector and a fragmented parts sector consisting of multiple tiers of suppliers, including hundreds of

7 For more detailed discussion on the socialist social contract between the Chinese state and labour, see Gallagher (2005).

8 The majority of funding for the union's operational expenses comes from a 2 per cent payroll tax on employers and from the state (Chen 2009).

9 China's trade unions have seven administrative levels: central, provincial, municipal, district, street, community and enterprise. Only enterprise-level union staff members are employees. At other levels, union cadres are officials recruited by the CCP.



small, labour-intensive parts suppliers. While the auto industry is designated a pillar industry of strategic importance, it is the auto assembly sector that has received the most attention and support from the central government.

In the auto assembly sector, where the central government has played a more interventionist role, joint ventures between multinational corporations and large Chinese state-owned enterprises have been dominant players. The main purpose of the Chinese central government in supporting joint ventures between multinationals and large state-owned enterprises is to obtain quick technology transfers and industrial upgrading, and eventually to develop China's own »national champions« that can compete globally. Therefore, Beijing's use of FDI in the auto assembly sector is prudent: the establishment of new assembly joint ventures must be approved by the central government, and foreign automakers are not allowed to build wholly owned assembly plants nor are they able to hold a majority share in joint ventures. Moreover, by controlling the personnel decisions of senior Chinese managers at joint ventures the central government can ensure that they implement an economic, political and social agenda that is concordant with the goals of the party state. Given the more interventionist role of the state, it is no coincidence that a number of characteristics of state-owned enterprises are also characteristic of China's major auto joint ventures, including the presence and role of the ACFTU.

For instance, at the seven large auto assembly plants I visited, there were a Communist Party committee and a union branch of the ACFTU. They played an active role in mobilising workers to promote production and build harmonious labour relations through campaign-style production mobilisation, »thought-work« and heart-to-heart talks with workers, regular group study meetings among party members and worker activists. The factory union mainly organised various employee »care projects«, such as distributing holiday gifts, giving employees birthday presents, visiting sick employees, assisting workers and their families during times of hardship and organising cultural and recreation activities. To a large extent, the enterprise union in the state sector continues to play the role it played under state socialism. Labour control in those enterprises tends to be more sophisticated and hegemonic in nature.

The unionisation rate is generally high and collective wage agreement coverage among formal employees is common in the auto assem-



bly sector. For instance, Dongfeng Motor Corporation (Dongfeng), one of the »Big Four« Chinese automakers, boasted a 100 per cent unionisation rate among its over 132,000 formal employees as of 2011. Among its 82 subsidiary companies, 98 per cent had established collective wage consultation system and 95 per cent had signed collective labour contracts with their formal employees as of 2011 (ACFTU 2011). However, a large number of temporary agency workers had been excluded from the automobile factory unions until recently.

In the auto parts sector, by contrast, the government has no restrictions on the ownership structure. Domestic private-owned and wholly foreign-owned suppliers proliferate. Many parts suppliers are small- and medium-sized companies, where the unionisation rate is much lower than in the assembly sector. For instance, there were 160 parts suppliers located in Beijing and its suburban areas to supply parts for the assembly plants of the Beijing Automotive Group (BAG) in 2011. Together, those parts suppliers employed over 36,000 workers. Among them, 139 were foreign-invested and private companies, employing 31,000 workers. The rest were state-owned and state-controlled enterprises belonging to BAG. Whereas BAG's assembly plants boasted a 100 per cent unionisation rate and collective wage bargaining coverage, 25 per cent of its parts suppliers did not have unions, 57 per cent did not sign collective labour contracts and 59 per cent were not covered by collective wage bargaining agreements (Chen 2012). As already noted, parts workers' wages on average are also significantly lower than those of assembly workers. As a result, the auto parts sector tends to have more worker grievances than the assembly sector. When parts workers' grievances go hand in hand with their growing workplace bargaining power, as to be discussed in the next session, we tend to witness more labor unrest in the auto parts sector.

5. Rising Labour Activism and Trade Union Reform in the Chinese Automotive Industry

Historically, autoworkers are known for their strong workplace bargaining power and militancy in translating local struggles into major victories in the broader labour movement. More specifically, because of the scale and capital intensity of automobile production, as well as



the complexity of the division of labour, localised stoppages by a small group of workers can disrupt the output of an entire plant or even an entire corporation, and cause large losses. Meanwhile, the nature of assembly line production in the auto industry tends to create strong grievances among workers, for example, over the monotony of work, intense production pace and the arbitrary exercise of authority by management (Silver 2003).

My evidence suggests that a similar combination of strong workplace bargaining power and major grievances is evident among Chinese autoworkers and has led to rising labour unrest in the Chinese auto industry. For one thing, the central government policy in favour of large state-owned auto groups, combined with massive foreign investment through joint ventures has increased the scale and concentration of automobile production in China since the late 1990s. Chinese autoworkers are concentrated in enormous factories. The production base of Shanghai Volkswagen in the suburb of Shanghai has approximately 22,000 employees. More impressive still is the concentration of around 120,000 autoworkers employed by the centrally-controlled FAW Auto Group in its various subsidiary firms and plants in »FAW auto city«, a 12 square-kilometre district in the city of Changchun, where over 300,000 FAW employees and their families work and live.

Moreover, the widely adopted JIT techniques have increased the vulnerability of production to any interruptions in the flow of parts to the assembly lines by eliminating the buffers, and thus have boosted the potential workplace bargaining power of Chinese autoworkers. For example, at one of the Sino-Japanese assembly plant I studied, management introduced JIT production methods despite a very poor labour-management relationship, reflected in widespread acts of petty sabotage by workers. In the end, in order to keep production flowing smoothly, management felt obliged to eliminate its experiment and return to a system with greater built-in supply buffers. Similarly, auto parts workers have gained substantial workplace bargaining power, as they are enmeshed in the just-in-time production system and the global sourcing of auto parts production. This point was illustrated in the 2010 Honda parts worker strikes, as a stoppage at one transmission plant was able to shut down Honda's four assembly plants in China.

Chinese autoworkers have also been gaining marketplace bargaining power from a labour shortage, especially among skilled workers and



technicians. As a result, autoworkers in China have become increasingly assertive in demanding higher wages and better working conditions. Over the course of my fieldwork, I documented various hidden and open forms of resistance by autoworkers in the form of sabotage, slowdowns, pilferage, effort bargaining, filing labour dispute cases, collective acts of defiance and wildcat strikes. In particular, I witnessed rising activism among a growing number of temporary workers against unequal treatment at work. Despite the lack of independent unions, workers' localised, grassroots resistance has won specific management concessions, including increased wages and benefits for both formal and temporary workers.

Furthermore, in the wake of the 2010 auto strike wave, the government, due to its concerns about social stability, pressured the ACFTU to carry out reform initiatives on the development and reorganisation of enterprise unions, direct election of full-time union chairmen and promotion of collective wage negotiations. The Guangdong Provincial Federation of Trade Unions, for example, made Nanhai Honda a pilot site for direct union elections and collective bargaining in 2011. The workers directly elected union team leaders, union committee members and a union vice chairman after the strike. In March 2011, with guidance from the Guangdong Federation of Trade Unions, workers and management at Nanhai Honda signed a new collective contract which raised workers' combined wages and bonuses by an average of 611 yuan, a 33 per cent increase (CLB 2011: 41).

Another example is the establishment of industry unions and the promotion of collective wage negotiations in the Guangzhou Economic and Technology Development District (GZETD) in Guangzhou, Guangdong Province. The GZETD has been at the forefront of China's reform and opening up since its inception in 1984. The district has developed six major industrial clusters with complete supply chains, including the auto parts sector. There were over 100 auto parts suppliers in the GZETD, mainly supplying parts for Guangzhou Honda, Dongfeng Nissan, Guangzhou Toyota and other Sino-Japanese auto assemblers. In 2011 the GZETD Federation of Trade Unions established six industry unions in the six major industry clusters. The main tasks of the industry unions are to form enterprise unions and to lead and facilitate regularised collective wage negotiations by their member enterprise unions (ACFTU 2012). The Federation of Trade Unions in the Auto Parts Sec-



tor (FTUAP) is one of the six industry unions. It organises collective wage bargaining forums among its member unions at the beginning of each year, helping them to gather and exchange information on sectoral pay growth, company profitability and wage negotiation strategies. The FTUAP also holds regular meetings, workshops and social events for the grassroots union leaders of its member enterprises to communicate and to learn from each other's experience in collective wage negotiations. In addition, the FTUAP has actively supported enterprise union elections, which allow workers to nominate candidates and to vote for their union chairs and representatives.¹⁰

To be sure, the enterprise union elections and collective wage negotiations are still within the existing framework of the state-controlled ACFTU. No independent unions are allowed, nor are the nomination and election of union leadership free from management intervention and manipulation (Wen 2014). Despite the structural limitations, however, my interviews with workers at two auto parts enterprises in GZETD suggest that wide participation in grassroots union elections has raised workers' awareness of rights and of unions, putting pressure on the elected union leaders to be more responsive to workers' demands and interests. As an elected union chairman of an automotive electronics manufacturer in GZETD commented:

In the past, most workers would view the union as a social welfare organisation, merely distributing gifts and organising recreation activities among workers. Since we began union elections in 2011, workers' views have changed. They now know that the union can actually negotiate higher wages for them and that they can turn to the union for help and protection if their rights are violated. Many workers pay attention to the union's work, and new employees would enthusiastically ask us when they can join the union. We can feel the pressure from workers, demanding that the union do more for them, especially during the collective wage negotiations.¹¹

Such pressure from below, in turn, has led to more effective collective wage negotiations between the union and management and has

¹⁰ The author's interview with a union official of FTUAP, Guangzhou, June 24, 2015.

¹¹ The author's interview, Guangzhou, 26 June 2015.



improved wages and working conditions for workers at the enterprise level. According to the FTUAP, between 2011 and 2014 auto parts workers' wages almost doubled in GZETD through annual collective wage negotiations between elected enterprise unions and management with guidance from the FTUAP.¹²

Since the establishment of the six industry unions in 2011, 226 enterprises in the district formed new unions and 86,000 workers joined unions within one year. The unionisation rate reached 93 per cent in the six major industries. Furthermore, the industry unions recruited over 50,000 temporary workers (hired by labour agencies) to join the unions of the companies at which they were working. Admittedly, the unionization drive in recruiting temporary agency workers to join client company unions was carried out in a top-down manner through administrative guidance issued by the district union of ACFTU.¹³ This is typical the ACFTU's approach to unionize worker and is accordant with its formal government status, But the fact that client companies were quick to jump on board partly reflects management desire for more labour stability, as the widespread use of temporary agency workers in large numbers and growing militancy of agency workers have caused concerns of client companies.¹⁴ Another reason for the relatively smooth unionization of agency workers, at least in the auto industry, is because the social composition of formal and agency workers and the daily work tasks they perform are rather similar. This allows workers for to overcome the management constructed dualism and to forge solidarity in their struggles for higher pay and better working conditions.¹⁵ By unionising temporary agency workers, labour rights violations such as unequal pay for equal work and differential treatment of temporary agency workers have been largely reduced in the six major industries. Through regularised collective wage negotiations, workers' wages grew by an annual average of 16.5 per cent and the number of collective labour disputes fell by 35 per cent in the six major industries

12 The FTUAP Annual Work Report (2015), unpublished internal document [in Chinese]; the author's interview with a union official of FTUAP, Guangzhou, June 24, 2015.

13 The author's interview with a union official of FTUAP, Guangzhou, June 24, 2015.

14 The author's interview with a HR manager at an automobile electronics company, Guangzhou, 26 June 2015.

15 The author's interview with an elected union chairman of an automotive electronics manufacturer, Guangzhou, 26 June 2015.



during the first half of 2012 (ACFTU 2012). Through direct action, Chinese workers have been able to put pressure on the official trade union ACFTU to reform and to become more responsive in promoting and protecting workers' rights and interests at the grassroots level.

6. Conclusion

This chapter has explored labour relations and trade union reform in the Chinese automotive industry. Massive foreign investment and the increased scale and concentration of automobile production in China in the past two decades have created and strengthened a new generation of autoworkers with growing workplace bargaining power and grievances, giving rise to labour activism among autoworkers in China. Concordant with Clarke and Pringle's findings that »the form and extent of independent worker activism, and the response of the state to such activism, are a much more significant determinant of trade union development than is the legal and institutional framework of industrial relations« (2009: 85), my evidence suggests that grassroots worker activism and the state's concerns about stability are the real forces driving ACFTU reforms at the local and enterprise levels.

Contrary to the prevailing view in the social science literature that asserts the structural weakness of Chinese workers and discounts their localised and apolitical struggles (see, for example, Lee 2007), my study shows that even though labour unrest in China has not led to the formation of independent trade unions or competitive political parties to challenge the authoritarian party-state, widespread grassroots protests have been able to gain substantial wage increases and improved conditions for workers on the shop floor. Moreover, rising labour unrest, despite being localised and apolitical, has induced the central government to introduce new national labour law and policy changes that extend new rights and improve conditions for workers as part of an effort to stabilise labour relations and maintain social stability.

This should not come as a surprise. Indeed, as has been widely argued with regard to the US labor movement and elsewhere, institutionalized trade unionism has neither been a precondition for, nor a guarantee of effective working class mobilization (Kimeldorf 1999; Lichtenstein 2002; Moody 1997). Rather, major advances for workers have



often come as an outcome of a major wave of grassroots mobilization and rank-and-file struggles without prior formal organization in parties and unions. Formal organization is an outcome of the struggles rather than vice-versa. Similarly, widespread grassroots labor unrest in China has been leading to meaningful improvements in conditions of work and life for the working class.

A directly related question is where Chinese workers' localized and apolitical labor unrest will lead, and whether it can push for the establishment of independent unions and collective bargaining. My field research has led me to a dynamic view that workers' grassroots protests will continue to push for higher wages, better working conditions, and more union organizing and pro-labor reforms from the official union ACFTU. But the labor movement in China will not follow the schema of the »master narrative« from working class formation to trade union organization to political party and to state power, which is still surprisingly alive in many discussions about the labor unrest in China today. First of all, faced with mounting labor unrest and concerned with maintaining social and political stability, the ruling Communist Party has explicitly urged the ACFTU to »further protect workers' legitimate rights and interests,« to »improve labor protection mechanisms,« to »achieve decent work for the laboring masses,« and to promote »harmonious labor relations and social harmony.« Recent empirical studies have suggested that the ACFTU, especially its branches at the local municipal and district levels, has been taking a more active role in organizing workers and negotiating with employers to improve conditions for workers (Chan 2006; Liu 2010). While the CCP is unlikely to allow any independent unions to exist out of its control, the ACFTU is likely to become more active in organizing workers and responding to their grievances and demands, under the threat that it could become totally irrelevant to workers and state bureaucrats if it cannot deliver any meaningful gains for workers and thereby mediate labor-capital conflicts and preempt strikes. On the other hand, the Chinese government remains firmly in charge, and it has taken an increasingly more repressive approach to worker activists and labor rights groups in the face of the economic downturn.

In retrospect, throughout the twentieth century, »bottom-up pressures from workers and concerns about social unrest from ruling groups have led to new labor legislation and policies designed to stabi-



lize labor markets and industrial relations. Better working conditions, decent wage for decent work, access to more benefits, and long-term employment meant rising living standards for ordinary working people as both laborers and consumers. In this regard, the dynamics currently at work in China parallel those in many other developed countries in the early to mid decades of the 20th century« (GLS 2008: 6).

At the same time, it is also clear that no mechanical application of general theory will suffice. National context and historical legacies matter. We should not assume that the organizing strategies, patterns, rhetoric, and dynamics at work for the labor movement and the general improvement of workers' welfare in China are the same as the conventional wisdoms generated from the experiences of core countries. For one thing, the revolutionary and socialist legacies of the CCP and its continuing official adherence to such legacies have played and will continue to play an important role in shaping the mobilizing strategies, patterns, languages, and outcomes of labor protests in today's China. Rather than solely emphasizing the institutional weaknesses and limitations of Chinese workers' localized, cellular struggles, a more constructive approach is to develop a set of analytical tools that are historically and geographically grounded, and that can help us identify the potential for transformation from below.

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From Harmony to Conflict

Vietnamese Trade Unions on the Threshold of Reform

Erwin Schweisshelm and Do Quynh Chi

1. Introduction

The trade unions in Vietnam are closely tied to the Communist Party of Vietnam (VCP) and have yet to find their role as autonomous genuine representatives of workers' interests. However, the ever growing influence of foreign investors, the casualisation of labour contracts and the increasing number of »wildcat strikes«¹ are putting pressure on the Vietnam General Confederation of Labour (VGCL), the only legally registered trade union in the country. This pressure is having an impact on both the ideological self-perception of the VGCL and its organisational behaviour. It faces a difficult political dilemma: if the situation remains unchanged and the VGCL does not meet the challenges of changing labour relations, workers will nevertheless fight for better working conditions and render the official trade unions obsolete. But if the VGCL starts to perform its role as a genuine workers' representative body in Vietnam, it must become more independent from the party and the state.

This chapter is based on a review of the literature and internal documents of the VGCL, the Ministry of Labour, Invalids and Social Affairs (MOLISA) and other stakeholders in Vietnam, as well as observations of the authors who have been closely engaged in policy debates on labour relations in Vietnam for the past decade. The chapter provides an overview of the existing trade union landscape in Vietnam, its historical development and political and economic context and an assessment of current trends in labour relations and the strategies being pursued by

1 Strikes that do not follow the legal procedures laid down in the Labour Code of 2012.



the trade unions, with a focus on bargaining and industrial action. It concludes with an appraisal of potential changes in industrial relations in Vietnam in consequence of Free Trade Agreements that Vietnam is negotiating and that contain labour clauses requiring the ratification of the outstanding ILO Conventions No. 87, 98 and 105.

2. The Political and Economic Transformation Process in Vietnam since 1986

2.1 »Doi Moi« Reforms

The weaning-off from aid from the socialist bloc in Russia and Eastern Europe and the domestic economic crisis in the late 1980s reinforced Vietnam's determination to initiate a major economic reform, often referred to as »*Doi Moi*« (renovation), in order to shift from a command economy to a socialist market economy. *Doi Moi* was a strategic decision of the Communist Party to boost economic growth, on the basis of the party's unchallenged supremacy (McCormick 1999; McCargo 2004). The economic reform has turned Vietnam from a centrally planned economy into a more market-orientated economy, brought about remarkable economic achievements, transformed the country from one of the poorest countries in the world into a lower middle-income country and has unexpectedly led to important changes in the political sphere.

The economic reform launched by the Sixth National Party Congress in 1986 was based on three key pillars. The first was the emergence of the non-state sector, including indigenous private companies and foreign-owned entities. Second, a sweeping restructuring process was initiated in state-owned enterprises, resulting in the privatisation of most companies and fundamental management reform in others. An economy based on three sectors subsequently emerged: the state-owned sector, which consisted of corporations that wholly or partially belonged to the state; the foreign-owned sector, which includes both companies totally owned by international investors and joint ventures between international corporations and local partners; and the private sector, comprising all firms owned by Vietnamese individuals. Third, the government swiftly moved from an import-substitution to an export-oriented industrialisation strategy with high foreign direct investment in



order to replicate the economic miracles of other newly industrialised economies in the region. To reach out to overseas markets, Vietnam relied on its two competitive advantages: rich natural resources and cheap labour.

Consequently, together with exports of crude oil, minerals and farm products, the export-oriented manufacturing industries – such as garments and textile, electronics and footwear – have become the economy's growth engine in the past three decades.

Thanks to *Doi Moi*, Vietnam has achieved some major economic successes. These include an average GDP growth rate of 8 per cent from 1997 to 2007, when Vietnam joined the WTO, and a tenfold increase in the volume of foreign direct investment (FDI), from USD 2.45 billion in 2001 to USD 20.3 billion in 2007 (GSO 2008). However, these economic gains were due primarily to the contribution of domestic private and foreign-owned enterprises, which are often referred to collectively as the »non-public sector«.

2.2 Structural Limitations of the Economic Transformation Process

Despite rapid economic growth, Vietnam's macroeconomic policy has experienced only modest changes over the past two decades. Fearing that a powerful private sector might challenge its supremacy, the party-state of Vietnam continued to grant state-owned enterprises the lion's share of resources and financial privileges (including access to subsidised loans and to natural resources), while local private companies faced major obstacles in getting access to capital (Beresford 2003). Without appropriate investment in infrastructure and technology, Vietnamese industry remains in its infancy, primarily involved in assembling and finishing. In the electronics industry, for instance, only 20–30 per cent of the value of exports reflects local value added and this local share includes packaging and very basic plastic or mechanical parts (*Sai Gon Investment*, 4 November 2013). Domestic producers either have to buy parts from the multinational corporations or import them from other countries in the region. Hence, as simple assemblers of electronic products, they rely on cheap labour as their major competitive advantage.



Vietnam managed the global financial crisis in 2008 by means of substantial stimulus packages. Those resulted in an accumulation of bad debts and inefficient public investments, however, coupled with a high inflation rate from 2008 to 2011 that led to a sharp increase in labour unrest. By 2015 the macroeconomic environment looked healthy again: a GDP growth of about 6.3 per cent and substantially reduced inflation. As before, the growth is generated mainly in the export-oriented enterprises with foreign investment, because they, unlike Vietnamese enterprises, have easy access to working capital through their parent companies abroad and do not have to rely on the Vietnamese credit market. In contrast, the local Vietnamese economy is suffering from a credit crunch and lack of international competitiveness; 65 to 67 per cent of Vietnamese exports in 2014 were generated in the foreign direct investment (FDI) sector. The country's export sector is thus heavily dependent on foreign investors. Besides the vulnerability towards external shocks caused by this dependency, the spillover effects in terms of technology transfer have been very limited, although the Vietnamese government provides substantial incentives for foreign investment. The sector's contribution to GDP in the period 2005–2013 was 18 per cent (Van 2015).

On the other hand, the roughly 460,000 private Vietnamese enterprises comprise about 97.5 per cent of all enterprises in Vietnam. Although they do not benefit as much from state support as the foreign sector or state-owned enterprises, they provide 60 per cent of total employment and contribute 38.5 per cent of GDP.²

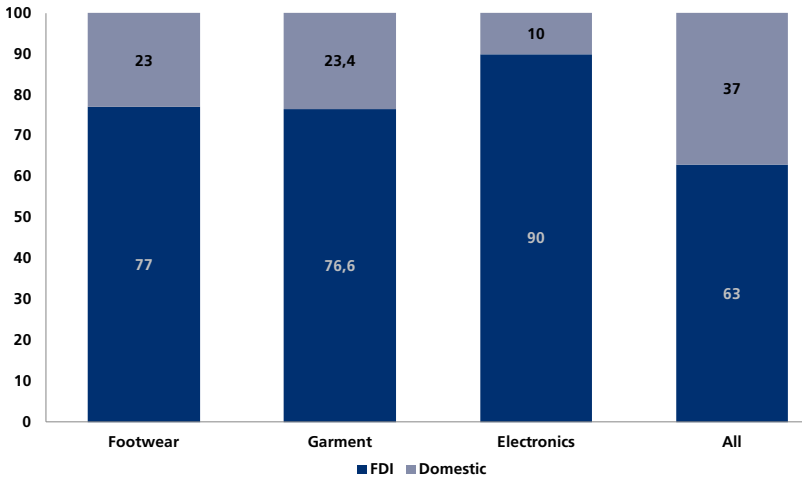
Thus the economy is split into prospering export-oriented companies in foreign hands and a private sector with small and medium enterprises in Vietnamese ownership, sometimes struggling for survival.

In 2014, the population of Vietnam was approximately 90.5 million, of whom 53.7 million were economically active (GSO 2014). However, most workers are employed in the informal economy. Only 18 million are employed in the formal sector with regular wages and covered by labour and social security laws. Over 70.2 per cent of the population live in rural areas and around 54 per cent of the labour force is employed in agriculture, aquaculture and forestry. The population of Vietnam is young, with 50.2 per cent between 15 and 39 years of age and a mere

2 Interview with Mr Mai Xuan Hung, Deputy Chairman of Economics Committee of the National Assembly, Vietnam News, 8.10.2015.



Figure 1: FDI and Domestic Sector Share in Export Value (%)



Source: Vietnam Customs Office, 2015.

10.7 per cent over 50. Every year, around 1.6 million workers enter the labour market. The urban unemployment rate decreased from over 7 per cent in the early 2000s to 3.1 per cent in 2014.

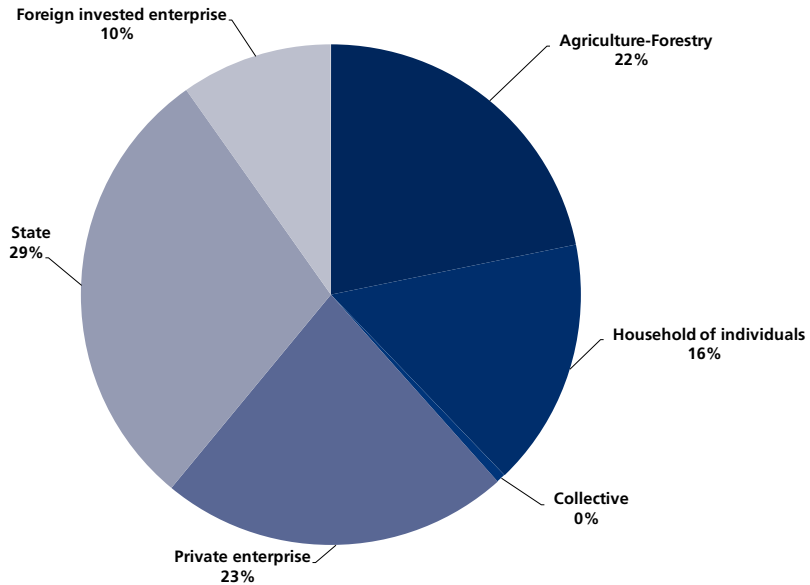
The state sector – which includes the administration, civil services, the military and state-owned enterprises – is the biggest employer, accounting for 29.2 per cent of total wage employment (figure 2). The domestic private sector comes second, accounting for 22.6 per cent of total wage employment. The FDI sector provides only 9.8 per cent of waged jobs.

2.3 Unchanged Party Monopoly

Despite the major economic changes since *Doi Moi*, Vietnam’s political system remains largely unchanged. In principle, the party-state is the most powerful and pervasive institution that makes rules and decisions, with little consultation of societal actors. The official channel for state-society communication is mass organisations, set up by the Party to mobilise different population groups in support of state programmes and policies, maintain channels of communication with the party-state and ensure that these population groups are under control (Kerkvliet 2003).



Figure 2: Wage Employment by Sector, Vietnam, 2013 (%)



Source: ILO Policy Brief, »Who are Vietnam's 18 million wage workers«, 2015.

However, the Vietnam Communist Party (VCP) originated from a mass-based, revolutionary party. Its strength was rooted in the population's support. Though this interdependent relationship with the people changed after the Communist Party seized power, the VCP still wishes to be seen as attentive to the people's complaints, as long as the Party's supremacy is not questioned (Womack 1987; Dixon 2004). Although the party-state retains its supremacy in law-making, more attention has been paid to the people's voice. This »flexible approach« of the VCP is reflected in its tolerant reaction to some protests, such as the peasants' demonstrations in Thai Binh and Nam Dinh in the late 1990s, its refusal to launch a frontal assault against the outlawed Unified Buddhist Church of Vietnam (UBCV, *Giao Hoi Phat Giao Viet Nam Thong Nhat*) and its concessionary responses to labour strikes that were staged before the right to strike was provided for (Kerkvliet 2001). Recently, the Central Party Committee even set up the Institute of Public Opinion to investigate informal and formal feedback on the party-state's policies



(*Lao Dong*, 28 January 2008). In short, although the party-state is authoritarian, it has always tried to find a balance between a policy that remains responsive to feedback and pressure from below and the »ruling interest« of maintaining social stability and public security.³

3. The Labour Movement in Vietnam before and during the Economic Transition

3.1 History of the Labour Movement in Vietnam until 1986

The first wage workers in Vietnam appeared in the early nineteenth century when the French colonialists started recruiting locals for mining. By 1906 there were still only 49,500 industrial workers. After the First World War, the French undertook a second wave of colonial exploration to make up for its economic losses, thanks to which more industrial establishments were set up and the number of local workers, consequently, increased to 220,000 by 1929.

In 1921, the Ba Son union (»red union«) was set up by workers at Ba Son shipyard in Sai Gon to advance members' interests through labour protests against the French employers and support the international (through the Comintern) struggle against colonialists. The unionisation of the Ba Son shipyard inspired the unionisation of other major companies in the country. Between 1921 and 1928, red unions were established in automobile, cement and mining companies and at rubber plantations both in the north and south, many of which were set up by the Association of Revolutionary Youth (*Thanh niencachmang dong chi hoi*), the precursor of the Indochina Communist Party. Despite French suppression, labour strikes increased steadily during this period from 7 to 244 between 1927 and 1933. In July 1929, one month after its establishment, the Indochina Communist Party united the red unions at the first national union congress to form the General Federation of Red Unions (*Tong Cong Hoi Do*). The formation of the GFRU also officially marked the alliance between the red labour movement and the Communist Party. The

3 This was shown again in April 2015 when tens of thousands of workers went on strike against a regulation in the new social security law that they considered to be disadvantageous. After two days the state restored the old regulation to avoid the strike spreading to the whole country.



GFRU prioritised the advancement of members' interests and the fight against employers' exploitation but it added one more goal, namely the struggle for national independence. Hundreds of strikes were organised against employers. The unions also made use of the Conciliation Council to settle disputes with employers. In 1939, the Conciliation Council handled 100 collective disputes and 1,600 individual disputes.

In 1946, one year after the formation of the Democratic Republic of Vietnam in the north, the GFRU was renamed the Vietnam General Confederation of Labour (VGCL). While prior to 1939, the primary goal of the unions was to advance their members' interests at workplace, after 1945 and until 1975 the unions in the north became an arm of the Communist Party primarily to mobilise workers for war-oriented production. The state became the central regulator of labour relations, fixing wages and working conditions, providing welfare benefits, managing recruitment and training, among other things. The union served as the »transmission belt« of the state and the extended personnel department in state-owned enterprises. In contrast, labour associations emerged in the south along with an explosion of strikes. As of the late 1960s, South Vietnam had 525 trade unions with about 400,000 members, about one-fifth of the non-farming labour force. Workers in South Vietnam during 1950s–early 1970s not only carried out strikes at their places of employment, but also joined in general strikes. As argued by some researchers, the memory of the population in the south of the practice of freedom of association and union-led strike activities pre-1975 has certainly not faded away (Kervliet 2010; Chan and Nørlund 1995). After 1975, when private companies were confiscated and became state-owned, the »transmission belt« union model of the North was applied to the South, too.

3.2 Trade Unions during the Economic Transition

Between 1986 and 1988, there were voices within the Party leadership, led by the then-Party Secretary General, Nguyen Van Linh, calling for a reform of the union system in line with the economic reform. During the Sixth Union Congress in 1988, Nguyen Van Linh, who used to be chairman of the Vietnam General Confederation of Labour (VGCL) before he became Party Secretary General, stated that the union system



was »slow to change« and »dependant on the Party«. He called for the »institutional independence of the VGCL« from the government and the Party, extension of union membership to non-traditional areas and making the grassroots level and workers central to union activities.⁴ Although Nguyen Van Linh did not specifically call for the separation of the VGCL from the VCP apparatus, he nevertheless believed that both the state and the working class represented by the VGCL would benefit from a trade union that had an independent voice from the government in national policymaking and monitoring the activities of government and state-owned enterprises. The Party leader's speech aroused a strong sense of reform among VGCL cadres.

However, the 1989 Tiananmen Square incident in China sent a warning to the Vietnam leadership about the potential negative impact of reform on regime stability. The government of Vietnam declared after the Tiananmen incident that it wanted better relations with China and did not want to go to the extremes of central and eastern Europe or Tiananmen (Jeshurun 1993). Consequently, the new-born sense of democracy and independence within the union system quickly faded away. In 1990 when the Trade Union Law was promulgated, there was no more sign of the changes suggested by Nguyen Van Linh in his speech in 1988. As explained in Section 4, the new Trade Union Law provided for the same union functions and approaches as had existed before *Doi Moi*.

4. The Vietnam General Confederation of Labour (VGCL) in the Political and Economic System

4.1 Changes in the Legal Framework of Labour Relations since 1986

Prior to the economic reforms of 1986, the state played the central role in defining employment conditions through a framework of government decrees, ministerial circulars and directives. Management and labour were state employees and hence they were not supposed to have conflicting interests. The economic reforms resulted in a need to establish a

4 Nguyen Van Linh's speech at the 6th Union National Congress, 1988. Lao Dong Publishing House



new legislative framework, which included the Labour Code (1995) and the Trade Union Law (1990). Both laws were amended in 2002 and 2012.

The priority of the 1995 Labour Code was to protect and enforce workers' rights by providing for detailed working standards, including minimum wages, working hours and overtime bonuses, rest time, benefits for female and young workers, social insurance contributions and benefits. The law also makes it difficult for employers to impose discipline or dismiss workers by stipulating a limited number of legitimate reasons for such punishments (Article 36 of 1995 Labour Code). However, the implementation of this law has not been uniform. Violations of labour standards, such as exceeding the overtime limit, evasion of social security contributions, recruitment without labour contracts, illegitimate fines and wage reduction have been pervasive in manufacturing firms (Wang 2002). As in other policy fields in Vietnam, to give the rule of law real meaning remains one of the biggest problems in Vietnam in practice.

Apart from the provision of minimum labour standards, the Labour Code in principle recognises the autonomy of employers and workers in regulating their employment relations through labour contracts and collective agreements, while the state stands back. However, the Labour Code provides few supportive mechanisms for union-management negotiations in the workplace. The law grants workers the right to strike (Article 7.4, 1995 Labour Code) but they have to follow a lengthy and complicated procedure and satisfy a lot of conditions, including having the official trade union as the organiser of strikes. These strike provisions make it extremely difficult for workers to exercise their right to strike in a lawful way (Chan and Wang 2004; Tran 2007b; Lee 2005).

The Trade Union Law was issued in 1990 to realise the efforts of the national union organisation at the 1988 Congress to achieve a little more autonomy from the party-state and extend its scope of organisation to the non-public sector in line with the developing private sector and market reforms (Chan and Norlund 1998). However, due to the impacts of the Tiananmen events in China, the extent of trade union autonomy was only half of what was asked for at the 1988 Congress. On one hand, the union was allowed to express its own opinions independent of the state and management; on the other hand the definition of trade union functions in the Trade Union Law implied that the traditional functions in state-owned enterprises should be replicated in the private sector with few changes (Clarke et al. 2007). The VGCL and its subordinate



unions were still bound to three major functions, namely protecting the rights and legitimate interests of workers, participating in the state administration and firm management, and educating workers about state policies and legislation (1990 Trade Union Law, Article 2). The latter two functions were emphasised again by the provision that the union is »under the leadership of the Communist Party« (1990 Trade Union Law, Article 1) and has to »liaise with the State in order to increase production, create jobs, and improve the standard of living of workers« (1990 Trade Union Law, Article 2). The continuity of this traditional approach was reaffirmed by the VGCL's 1993 statute and its 2002 amendment. The statute recognises no tangible difference between employers and employees by allowing all Vietnamese managers – including the top executives – to join the union and placing no constraints on state enterprises' practice of having high-ranking managers – such as deputy director or personnel manager – as union chair.

The Labour Code was partially revised in 2006 and a major amendment was made in 2012. The revisions were compromises between the VGCL (and more conservative Party leaders) and the government. On the one hand, the revisions grant the upper-level VGCL branches the right to represent workers in unorganised enterprises, which includes the right to collective bargaining and to organise strikes. On the other hand, the 2012 Labour Code provides for compulsory social dialogue (the quarterly labour-management meetings) at enterprise level, in which workers are allowed to elect their own representatives to participate in dialogue with the management together with the enterprise union leaders.⁵

4.2 Organisational Structure of VGCL

The union membership increased from 6.7 million in 2008 to 9.6 million in 2016 (VGCL 2017). The narrow unionisation rate decreased slightly from the peak of 50.25 per cent in 2011 to 43.8 per cent in 2016

⁵ This provision was inserted in the law by the government as a mechanism to prevent the large number of wildcat strikes. However, so far there is no evidence that the decrease in the number of strikes is related to this provision. It remains to be seen whether this can really develop into a dual representation system comparable with the German model of workplace codetermination.



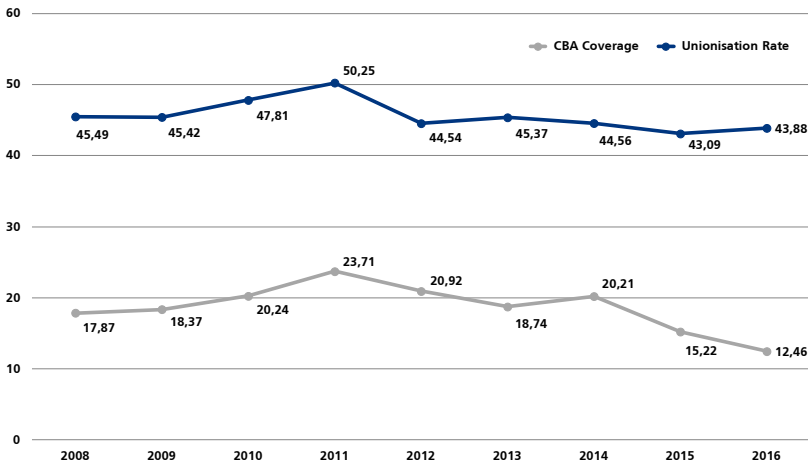
(see figure 3). However, the proportion of female union members has increased from 48 per cent in 2008 to 54 per cent in 2016. Although the female share is now dominant, the proportion of female union leaders at both local and national level remains below 30 per cent (Interview with the Organising Department of VGCL, 2016). Unionisation rate in the private and foreign-owned sector was only 33 per cent in 2014, much lower than the union density of 76 per cent in state-owned enterprises. Because the Vietnamese government is gradually »equitising« state-owned enterprises – and this will be reinforced by the upcoming free trade agreements that may create a more level playing field between state-owned, private Vietnamese and foreign enterprises – pressure on the VGCL is growing to learn how to organise in non-state enterprises.

While the unionisation rate seems to plateau in the past 5 years, the collective bargaining coverage dropped from 23.7 per cent in 2011 to 12.46 per cent in 2016 (see figure 3). According to the Organising Department of VGCL, this may be attributed to the fact that the 2012 Labour Code requires all collective bargaining agreements to provide better-than-law provisions, which automatically nullified a large number of collective bargaining agreements which simply copied the law (Interview with the Organising Department of VGCL, 2016).

The centralised structure of the VGCL is rather complicated, with branches in all 63 provinces, in districts, larger cities and so on. In addition there are sectoral trade unions in 22 sectors subordinated to the VGCL, enterprise unions in huge state conglomerates directly under the VGCL in Hanoi, Federations of Labour in industrial zones and so on. All this makes industrial action and representation of unions in important industries quite difficult. There is for instance a Vietnam National Union of Textile and Garment Workers (VNUTGW) under the VGCL, operating as a sectoral trade union. As such, the organisation was only established in 2007 because it was previously part of a larger general union. Its membership is about 130,000. About 80 per cent of its membership comes from the state-owned VINATEX conglomerate and only the remaining 20 per cent are in private Vietnamese companies, nearly none in the FDI segment. However there are hundreds of other textile and garment enterprise unions that are not in the constituency of the VNUTG, but affiliated directly to the VGCL through district or provincial chapters. Trade union representation in the textile and garment sector, therefore, is fragmented and divided



Figure 3: Unionisation Rate and Collective Bargaining Coverage, 2012–2016



Source: VGCL's data base, 2017

among various provincial federations of labour and the VNUTGW with no coordination. This makes trade union representation in the textile and garment sector – one of the most important industries in Vietnam – fairly ineffective.

4.3 Union Finance

The VGCL has four official sources of revenue:

- (i) *Union dues*: in principle, each union member pays 1 per cent of their basic wages as union dues. However, in many companies, union dues are not collected or paid at a flat rate⁶ to make union membership more attractive to workers. The enterprise union keeps 60 per cent of union dues and transfers 40 per cent to the upper-level union.

⁶ In 2013, for instance, garment companies in the southern provinces often collected VND 10,000 (0.5 dollar) for each union member. Some other companies claimed that they paid union dues for workers.



- (ii) *Union tax*: each company organised or not, pays 2 per cent of its basic wage bill (not including allowances, fringe benefits, bonus and overtime) as union tax. The enterprise union (if the company is organised) keeps 65 per cent of the union tax and transfers 35 per cent to the upper-level union (district or IZ union). If the company is not organised, the upper-level union (district union or union in charge of an industrial zone) keeps 65 per cent of the union tax to cover activities such as dispute settlement, collective bargaining and propaganda campaigns for workers of that company. The unused fund will be retained and transferred to the enterprise union of the company once established (VGCL 2014).

The provincial trade union uses all revenues of union dues and union tax from its branches to cover its regular expenses. If the total annual revenues exceed the total annual expenses by more than 10 per cent, the provincial trade union is required to transfer an amount ranging from 0.5 to 5 per cent of total revenues to the national union (the larger the revenue, the higher the rate of upward transfer). In case the total annual revenues are lower than the total annual expenses of the provincial trade union, the VGCL will provide financial support to cover the shortage of funding.

- (iii) *State budget*: The trade union activities supported with state funds (national and local levels) include: (a) covering budget deficits (in case the revenues from union dues and union tax are not enough) to cover the trade unions' regular tasks, as laid down in Article 27 of the Trade Union Law; (b) staff training of the national union and national industrial unions; (c) union infrastructure development projects (on a case by case basis); (d) any other non-regular tasks assigned by the Party/government (Government of Vietnam 2013).
- (iv) *VGCL-owned enterprises*: six hotels (3 and 4 star hotels), two publishing houses, two newspapers, two universities and one vocational training centre. These enterprises submit a part of their profits to the VGCL. The proportion of profit submission decided by the VGCL varies depending on the enterprise (Government of Vietnam, 2004).



A rough estimate of annual union revenues from union tax and union dues alone, if using the Region 4 minimum wage (the lowest minimum wage level) in 2015 as the base wage (the minimum wage in Region 4 is VND 2,150,000 /person / month) is:

- total revenue from union tax = $(2,150,000 \times 2\%) \times 35\% \times 11.3$ million workers⁷ $\times 12$ months = 2,040.780 billion dong/year (or approximately 92 million USD);
- total revenue from union dues = $(2,150,000 \times 1\%) \times 40\% \times 7.9$ million union members $\times 12$ months = 1,630.560 billion dong/year (or approximate 74 million USD).

However, according to VGCL officials, the rate of union fee and tax collection is low and the exact numbers are confidential, even inside the trade union system. A VGCL informant estimated the rate of union fee collection to be roughly 40 per cent.⁸ Collection of union tax in the private sector has been extremely difficult. The regional unions in some provinces have signed cooperation agreements with the local tax authorities to collect union tax via the tax collecting system. Information about the actual revenues from all of the four sources is not in the public domain.

4.4 Political Affiliation of the VGCL to the Communist Party of Vietnam (CPV)

The historical background of the VGCL and its long-lasting alliance with the ruling party granted it a special position in the political regime. It is one of the socio-political organisations subordinate to the Party-controlled »Fatherland Front«.⁹ In addition, the special role and status of the Vietnamese trade unions as the sole representative of all workers in the coun-

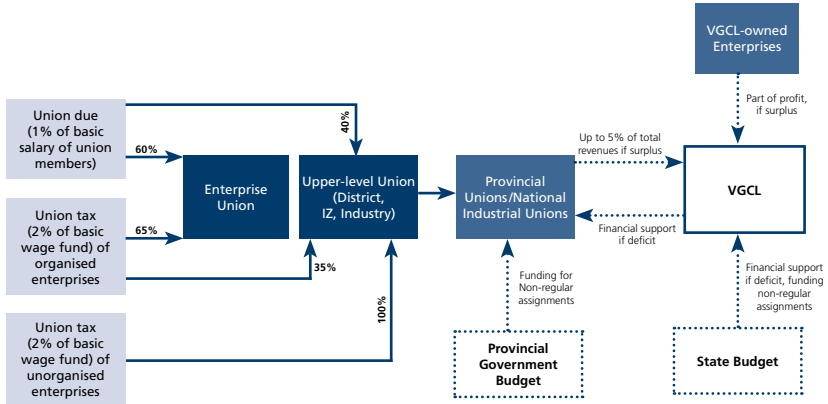
7 The World Bank estimates there are 11.3 million wage-earning workers with labour contracts in Vietnam working in government, state-owned enterprises, FIEs and POEs (World Bank 2015).

8 Interview with Nguyen Van Binh, VGCL's Legal and Policy Department, October 2010.

9 The Vietnam Fatherland Front is an umbrella group of pro-government »mass movements« in Vietnam and has close links to the Communist Party of Vietnam and the Vietnamese government. It is an amalgamation of many smaller groups, including the VGCL, Youth League, Women's Union, Peasants' Union and Veterans' Union, among others.



Figure 4: Structure of Trade Union Finance, Vietnam



Source: Developed by the authors based on government and VGCL regulations on union finance (updated by December 2015).

try is underlined in Article 10 of the revised State Constitution of 2012. In the process of constitutional reform there had been attempts to submerge the trade unions, like all the other mass organisations, under Article 9 of the Constitution covering the Fatherland Front, which may have led to the possibility of workers setting up unions that are not necessarily affiliated to the VGCL. But the VGCL leadership managed to sustain its special political position within the framework of the constitution as the only national union organisation. However, the trade union did not use its power to obtain, for instance, the right to strike mentioned in the Constitution.

The VGCL chairman has a seat on the powerful Central Party Committee and each of the key union officials at national and local level is given a Party position. The national union reports directly to the Central Party Secretariat (*Ban Bi thu*) and submits their major plans and strategies to the Party leaders for approval before they are publicised (Clarke et al. 2007).

In terms of personnel, at both the national and local levels, the Party has the determining voice in the appointment of key union personnel. For instance, the appointment of provincial and district union staff must be approved by the provincial and district Party organisation committee. As a socio-political organisation, a large number of union officials



at upper levels are regarded as public servants and paid by the state. According to the VGCL's organising department, by 2014 there were 7,000 union officials from district to national level, including 3,000 core unionists who were paid by the state and 4,000 recruited by the VGCL and its branches on labour contract basis. The remuneration for these 4,000 unionists comes from union dues and the union tax. There are also 300,000 voluntary union cadres who work mainly at the workplace level and get paid by their own employers.

As part of the political system, the trade unions have to perform various tasks assigned to them by the Party committees. The Federation of Labour (FOL) of Dong Nai province, for instance, reported that they were required by the Dong Nai Party Committee to organise traffic safety campaigns, anti-drug programmes, even family-planning propaganda programmes for workers (ILO 2010). In the 2008 Resolution of the Central Party Committee, the trade unions were required to recruit new Party members among the workers.

The VGCL unions also rely on its political position at various levels to facilitate the implementation of their basic functions, such as establishing enterprise unions. The traditional and most common method of organising enterprise unions is for the upper-level trade union officials (district or industrial zone level) to visit the unorganised workplaces to persuade the employers to set up an enterprise union. If the employers refuse to cooperate, the upper-level unions may threaten to request the tax authority or labour inspectorates to visit the companies. One employer, for example, complained:

I told the district union officials that workers in my company did not want to form an enterprise union but they threatened to ask the tax authority to withdraw my company's right to issue invoices. I had no other choice.

FWF Country Report 2015

In other words, the trade union system is not only subordinate to the CPV in terms of personnel and budget, but also relies heavily on this political alliance to carry out its functions. On the other hand, the CPV regards the trade union system not only as a labour representative organisation but as an extended arm to perform various non-union tasks that the party assigns.



4.5 Union Representation in the Workplace

The fundamental implication for industrial relations institutions of the economic transition from a command to a market economy is the shift from a state-managed system, in which employment conditions were fixed by law, to an interest-based approach that enables labour-management negotiations to determine employment terms and conditions (Clarke et al. 2007). The state-socialist system that guaranteed lifetime employment and cradle-to-grave welfare benefits for workers has been replaced by profit-driven enterprises that pursue a cost-based competitive strategy. Workers' interests that used to be the concern of the state are now voiced inside the company on the basis of wage levels, workers' productivity and business profitability. The enterprise union structure in state-owned enterprises was streamlined, with part-time officials replacing full-time unionists at the lower levels.

Despite the legal changes in the early 1990s which laid the regulatory foundation for labour-management negotiations in the workplace, the labour relations practices of state-owned enterprises remain largely unchanged. Collective bargaining, handling of grievances and settlement of labour disputes have been adopted by state-owned enterprises merely as formalities, without having any practical impact on labour-management relations (Do 2011). Particularly, the company unions at state-owned enterprises have not changed their traditional socialist approach and have become even more dependent on the Party management. In other words, the labour relations processes in state-owned enterprises are not substantially different from the practices in the socialist command economy, despite a different labour-management relationship, which has been officially promoted by the state. Trade unions in the state-owned enterprises still focus on the traditional role of the unions in the socialist system to provide all kinds of welfare benefits (sports competitions, holiday arrangements and so on) and contribute to output and productivity drives in the company.

Foreign-invested enterprises (FIEs) and domestic privately-owned enterprises (POEs) represent a »greenfield« for the application of the new labour relations system. However, enterprise unions that are often dominated by high-ranking managers operate as an »extend-



ed arm« of the personnel department in the interest of the company and provide the stamp of legitimacy for management decisions. Consequently, the lack of proper worker representation by the union contributes to the denial of workers' right to negotiate with management on employment terms and conditions. Workers are not consulted about collective agreements, which mainly replicate the minimum legal requirements. The wages of rank-and-file workers are arbitrarily set by management, mostly at the minimum wage level so as to minimise their labour costs.

5. Is a New Area of Trade Union Reform Approaching?

5.1 Scope and Impact of (Wildcat) Strikes and Labour Activism on Labour Relations and Trade Union Reform

During the war period and later in the command economy, the legitimacy of the socialist trade unions was not founded on their ability to advance members' interests, but the propaganda of the party-state policy and management of welfare provisions (Chan and Norlund 1995; Clarke and Pringle 2007). Despite the later economic reform and the promulgation of the new union and labour legislation in the early 1990s, the unions have done little to change their policy and practices to redefine their role as representatives of workers. Such reluctance to change has primarily been attributed to the fact that the union's political legitimacy has been secured by the protection of the Party at the national and regional level. In the past decade, however, the legitimacy of the party-led unions was challenged first and foremost by informal worker activism at the firm-level, including wild cat strikes.

Wildcat Strikes

There were 5,722 strikes in Vietnam between 1995 and 2014 (VGCL 2015). The incidence of strikes was around 100 per year from 1995 until 2004 and increased sharply from 2005 with the first wave of strikes in the southern provinces. Strike incidence in Vietnam has been influenced primarily by rising inflation and the consequent lowering of real



wages. For instance, when inflation reached double-digits in 2008, the number of strikes peaked at 720; then in 2011 when the inflation rate increased again after slowing down in 2009 and 2010, the strike number reached a record 993 (figure 4).

Over 70 per cent of strikes occurred in foreign-owned companies, while 24 per cent were in private domestic ones; state-owned enterprises had almost no strikes. Over 64 per cent of strikes happened in the southern industrial areas, especially Ho Chi Minh city, Binh Duong and Dong Nai. In terms of industries, garments and textile were most affected by strikes – 37 per cent – followed by footwear and wood processing.

Another noteworthy feature of (wildcat) strikes in Vietnam is the fact that 70 per cent of them occurred in unionised companies (*ILO IR Project 2011*), but without the participation of the VGCL. This fact itself indicates that enterprise unions have been ineffective in representing workers in negotiations with employers and partially explains the explosion of wildcat strikes since 2000.

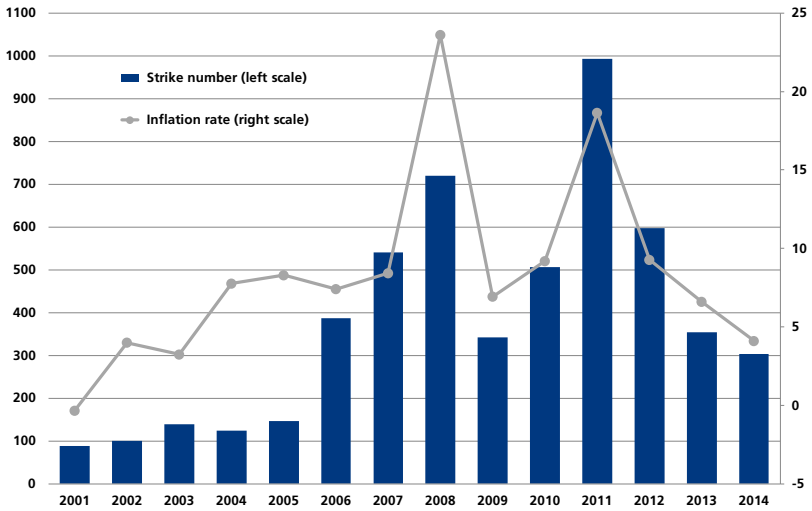
None of the strikes so far followed legal procedure and none was led by the trade unions. However, wildcat strikes have become the most important instrument for workers to bargain for higher wages and better working conditions.¹⁰ According to the ILO's 2011 survey, employers accepted all the workers' demands in 90 per cent of strikes. One important reason that wildcat strikes have been successful is the local authorities' (and the VGCL's) approach to settling strikes. Strikes are usually settled by a strike taskforce composed of the local labour administration and the upper-level union that collects workers' demands and then persuades employers to accept them. Strikers are normally not punished and often get paid for the strike days.

While the enterprise unions have played no role in organising (wildcat) strikes, the upper-level unions have been active in settling disputes via the strike taskforces. However, the upper-level unions usually rely on their political power to pressure the employers to accept workers' demands rather than taking strikes as opportunities to negotiate with employers on behalf of the workers.

¹⁰ Although these wildcat strikes usually occur on the level of individual companies, they have an impact at least on neighbouring companies in industrial zones, since labour mobility is very high and the employers in such cases tend to follow their peers.



Figure 5: Strike Incidence and Inflation Rate, Vietnam, 2001–2014



Source: VGCL Strike statistics and World Bank Economic Indicators.

Union Reactions to Wildcat Strikes

In view of the upsurge of informal worker activism, the national union recognised the weakness of primary unions, but blamed it on the dependence of union officials' salaries on the employers, while denying the need to reform the union system. The then-VGCL chairwoman, Cu ThiHau, called for additional allowances for the enterprise union leaders to overcome this problem:

It is true that primary union leaders were not able to lead strikes but the main reason is because they are also employees who are paid by the employers. If they organised strikes, they would be dismissed by the employers (...). The Labour Code should be revised so as to provide [primary] union leaders with financial support so that they can be independent of the employers.

VnExpress, 8 January 2006

The pressure for union reform until recently came from non-union sources. The ability of rank-and-file workers to organise strikes, many



of which involved tens of thousands of workers lasting for over five days without the leadership or support of the trade unions has caused employers and provincial governments to question the legitimacy of the official trade unions as representative organisations.¹¹ The heat of labour activism and the ineffectiveness of primary unions in representing workers have also become a concern for the national government. In a closing remark at a meeting on 17 August 2006 with ministers and leaders of strike-hit provinces, the prime minister clearly stated the need for the VGCL to strengthen their representation at workplaces:

The VGCL should promptly propose appropriate measures to improve the quality and effectiveness of enterprise unions. Also, it is important for the union organisation to provide training and appoint more professional union officers to industrial-processing zones, strengthen training in labour law and coordinate with other agencies to settle collective labour disputes in enterprises, especially the foreign-owned ones.

Government Office 2006

Some senior Party officials perceived the ineffectiveness of primary unions in representing workers as a direct threat to the representation monopoly of the VGCL. Professor Luu Van Sung, Director of the Ho Chi Minh National Political Institute, the CPV's major think tank, stated bluntly:

Trade unions are responsible for protecting workers' interests. If negotiation with employers fails, the union must organise a strike. If the union cannot perform this function, I am afraid that other forces will take over the task.

Lao Dong, 26 May 2008

The Party leaders had reason to be concerned about the »other forces« that might challenge the VGCL's representation monopoly. On 20 October 2006, the Vietnam Independent Union was established in Warsaw, Poland by nine Vietnamese dissidents with the mandate of »representing Vietnamese workers' interests in compliance with the Vietnamese Constitution« (BBC News, 29 October 2006). On 17 January 2014 and

¹¹ For studies on the organisation of wildcat strikes, see Tran 2006; Do and Van den Broek 2013; Tran 2013.



with explicit reference to the ongoing negotiations on the Trans Pacific Partnership Agreement (TPP), the Free Viet Labour Federation was founded in Bangkok as a coalition consisting of the Viet Labour Movement, the Vietnam Independent Union and the Committee to Protect Vietnamese Workers. However, this group is more of a political advocacy group rather than a genuine, membership-based trade union.

Although a trade union monopoly is central to the Party policy on labour relations, different factions within the CPV are divided over how the union system should change in response to labour activism. The more conservative group believes that non-union labour activism in the non-public sector shows the weakness of the Party itself in this area. In 2008 President Truong Tan Sang said:

For a long time we were more interested in economic growth than developing political organisations at enterprises (...) This is not only the union's responsibility. All the political systems have to get involved to urgently find out breakthrough measures so that we ourselves will lead strikes or we do not strike but resolve disputes through negotiation so as to prevent other forces to take advantage of workers.

Lao Dong, 21 July 2008

In other words, workers walked out not because of weak trade union representation but the lack of the Party's presence in private enterprises. Thus it is the responsibility of the whole political system, not just the unions, to address labour activism. The most important measure is to extend Party membership among the workers (Central Party Committee Resolution 20, issued on 28 January 2008).

The government and more reform-minded leaders in the Party, however, urged the VGCL to change into a real representative workers' organisation. Directive 22, drafted by the Ministry of Labour, Invalids and Social Affairs (MOLISA) in 2008 and issued by the Central Party Committee read:

The VGCL must develop specific plans to reinforce, develop and reform unions in enterprises so that the union organisation becomes the real representative of workers' rights and interests and ... propose appropriate measures to provide training and incentives to union officers at enterprises.

Para. 6, Directive 22, issued on 5 June 2008



In contrast to what President Truong Tan Sang advocated earlier, the focus of the Directive 22 is to improve the capacity of enterprise unions. The Directive also emphasises that the aim for the unions is to become »the real representative of workers' rights and interests«, which implies the trade unions' lack of a representational role.

The fact that the Central Party Committee issued two legislative documents that point in almost opposite directions in terms of addressing labour relations issues in the same year provides evidence of the profound factional differences within the party state.

5.2 Internal Attempts of VGCL to Reform

5.2.1 Traditional and New Approaches to Organisation at the Enterprise Level

The VGCL admitted the weakness of enterprise unions and has made several attempts to improve them. For instance, the VGCL organised various training courses for enterprise union chair people and recently revised the Union Charter to allow for bottom-up organising. In the bottom-up approach, the upper-level unions are encouraged to work with workers (instead of employers) to persuade them to set up unions at workplaces. The objective of the bottom-up approach is to establish unions run by workers rather than by management, so as to strengthen the unions' representation capacity. These unions »formed from below« will still have to join the VGCL as this is laid down in the current law.

However, the implementation of this approach is hindered by the VGCL's major efforts to extend its membership.¹² The upper-level unions are under political pressure to extend membership by the ambitious targets set by the VGCL, which urges them to adopt the traditional organising approach rather than the bottom-up one.

The bottom-up organising approach is nevertheless one strate-

¹² Each year the VGCL aims to extend its membership by 1 million. This target is divided among various regional and sectoral unions. Reaching the recruitment target is an important factor in assessing the union's performance at the end of the year.



gy of the VGCL to get closer to the workers and to gain their trust and confidence and thus legitimacy. It was initiated in 2011 in private companies in Hai Phong, Binh Duong, Dong Nai, and Ho Chi Minh city. What is new is that trade union organising is conducted by the immediate upper-level trade unions approaching workers outside the enterprises' premises and outside working hours, which goes against the traditional approach of union officials persuading employers to set up unions. While talking to workers of targeted enterprises in order to learn about their working conditions, the union officials try at the same time to select focal workers who can influence other workers to join trade unions (Trinh 2014). Leaflets about trade unions are distributed to the workers. Other services such as legal aid, sports and entertainment activities, are organised to improve relations between immediate upper-level trade unions and the workers (VGCL 2011). Once the upper-level union receives the application letters of at least five workers¹³ a decision to set up the enterprise union is issued. Members of the temporary executive committee for the new trade union are voted in directly by the trade union members and officers help to organise meetings for members on trade union operation. Only after all this has been put in place are the employers informed.¹⁴

The bottom-up organising approach was included in the 2013 Union Charter as the first and foremost way of organising (Article 17.1). In case not enough workers voluntarily join the union or the workers make a request to the upper-level union, the upper-level union is supposed to establish an enterprise union based on the traditional approach (Article 17.2). However, there have been few cases of union organising following the bottom-up approach. As the bottom-up approach takes much more time than the traditional approach, the local union organisers face a serious shortage of funding and personnel. Also, the VGCL applies a quota system for union organising, meaning that each local union branch must hit an assigned target of new enterprise unions and members every year, which discourages local unions from adopting the new approach (IRNet 2015).

¹³ In accordance with the 2013 Union Charter, the condition for establishing an enterprise union is applications from at least five workers to join the union (Article 16.3).

¹⁴ *Ibid.*



5.2.2 Wage Setting and Collective Bargaining

One instrument chosen by the VGCL to gain trust and confidence among workers and reduce the number of wildcat strikes is real and successful bargaining. The VGCL started to talk about its first attempts in collective bargaining from 1992 onwards after the economic opening up and transformation to a market economy in Vietnam.

But because collective bargaining and collective bargaining agreements hardly played a role, in most cases it was only a symbolic policy to rephrase the applicable law in a collective agreement. An internal VGCL survey in 2009 showed that nearly all enterprise collective bargaining agreements did not go further than the regulations laid down in the Labour Code. In other words, collective bargaining agreements have been a compilation of the existing law. Therefore, figures on collective agreement coverage provided by the VGCL are high, but do not provide any useful information. Furthermore, the survey mentioned above also showed that many companies did not observe the existing law although it has been codified additionally in a collective agreement. Without genuine collective bargaining, workers' wages are adjusted mainly in relation to state changes in minimum wages.

Even the leadership of the Communist Party of Vietnam (VCP) and the government took note of this trend with concern. In a speech at the Eleventh Congress of the VGCL in July 2013, VCP General Secretary Nguyen Phu Trong stated:

In a market economy with socialist orientation, the trade unions (...) have to engage actively in collective bargaining with employers, in the settlement of labour conflicts, the improvement of production processes and the organisation of enterprises, especially state-owned enterprises. (...) At the same time trade unions have to fight harder to build up grassroots unions in private enterprises, joint ventures and purely foreign enterprises.

VGCL 2013a

The party leadership wants the VGCL to get more involved in legal aid and collective bargaining. Therefore, the 2012 revised Labour Code extends the right to collective bargaining to non-unionised enterprises (Art. 69), giving upper-level unions (district-level or industrial zone federations of labour)



the right to represent non-union workers. Also, the 2012 Labour Code does not require enterprises to register their collective agreements at the local labour administration, as previously, although copies of collective agreements must still be sent to the labour authority for reference (Art. 75).

At its Eleventh Congress in July 2013 the VGCL decided to significantly step up the campaign to conclude more and better collective agreements, also beyond the single enterprise level (VGCL 2013b), and has made some progress since then. The VGCL has put more effort into training the staff of labour federations (provincial level or industrial zones) to become professional negotiators and train the honorary trade union officials on the grassroots level in basic principles and the legal framework for collective bargaining, membership involvement, negotiation strategies and techniques. So far, 70 experts have been trained in five modules lasting for five weeks altogether. The VGCL presidium has provided them with financial incentives and career prospects. Also at the head office level, additional staff and resources have been nominated to improve professional expertise for collective bargaining. Within the Department for Industrial Relations at the VGCL Head Office, a Division for Collective Bargaining with three staff was created.

There are signs that the merely formal character of collective agreements is gradually changing. Since the end of 2014, the VGCL has been systematically evaluating the quality of collective agreements in comparison with the law by means of an electronic databank in which all collective agreements will be stored as pdf-files and evaluated and graded based on criteria developed by the VGCL in comparison with the Labour Code (food provided for shift workers, a thirteenth monthly wage, New Year bonus, allowances for transportation, accommodation, support in case of illness, birthday gifts, organised vacations and recreation for workers, building of social facilities, additional accident insurance for workers, special care for female workers). First results from 1,010 collective agreements from all over the country and various industries up to November 2015 showed that about 15 per cent can be graded significantly better and 29 per cent better than the minimum standards stipulated by the law (VGCL 2015). However, the figures also show that about 56 per cent are scarcely better than what is laid down in the law or even just a copy of provisions in the Labour Code. A total of 85 per cent of this refers to material regulations of the agreement, while 15 per cent reflects the involvement of workers in the bargaining process and the implementation of the agreement.



Furthermore, there have been some achievements in collective bargaining at the sectoral level in recent years. The number of companies participating in an industry-wide collective agreement in the textile and garment industry (the initial target was 130 companies producing at several places) has been raised constantly, as the following figures show.

Industry-wide Collective Agreements of the Textile and Garment Industry in Vietnam

1. Conclusion: 24/6/2010 with 69/130 companies participating.
2. Conclusion: 24/6/2011 with 89/130 companies participating.
3. Conclusion: 24/3/2014 with 100/130 companies participating.

Further industry-wide collective agreements of the textile and garment industry have been concluded at provincial level, such as in Binh Duong province with 15 participating companies in 2014. Both agreements contain regulations better than the legal minimum, even on wage issues, an improvement in comparison with about 10 years ago.

The second national industry-wide collective agreement was concluded in March 2014 with 35 companies in the rubber industry, also a very important sector in Vietnam. The duration of the agreement was until the end of 2015.

Other industrial trade unions currently negotiating a sectoral collective agreement are the Railway Trade Union of Vietnam, the Trade Union of the Agricultural and Plantation Industry and the Trade Union of Construction Workers in Vietnam.

Also, other trade unions at provincial level intend to negotiate and conclude collective agreements for groups of companies with trained collective bargaining experts, for example in Dong Nai province for six Japanese automobile suppliers. Similar attempts are under way in Hai Phong and Hung Yen province. The ILO has started a pilot project on »group collective bargaining«, targeting groups of enterprises in one industry, such as tourism or automotive, but not yet sector-wide.

This development was facilitated by clearer regulations in the new Labour Law Code (Chapter V) of 2012. Article 10, Section 2 regulates the representation of employees regarding negotiation, conclusion and



realisation of collective bargaining agreements. Article 17 clarifies the function of the subordinate trade union level, as well as the representation of employees in companies without a trade union at company level. Additional administrative orders by the government create a higher level of legal obligation in collective bargaining. The structure of the collective bargaining process according to the Labour Code is shown in the chart in Annex 1.

The results in the area of collective bargaining so far are remarkable in the Vietnamese context because, as described above, the VGCL has decided to consider collective agreements as relevant only when their provisions go beyond what is laid down in the law. However, this should not divert attention from the fact that the conclusion of agreements still comes without unions demonstrating organisational strength through industrial action and protest or even the threat of strikes. Perhaps the most important obstacle to genuine collective bargaining is that strikes are not foreseen in the negotiating strategy of the VGCL even as last resort. The power and impact of official collective bargaining will always be limited and workers still have to find their own ways of bargaining.

There are additional obstacles to real collective bargaining that are not attributable to VGCL policies. Many officials – especially older ones – have difficulty understanding that the government and state-owned companies are no longer responsible for regulating working conditions, but the social partners. It still happens that VGCL staff complain that they have to learn to negotiate because they claim that, in the past, wages and working conditions were defined by the Ministry of Labour. Accordingly it is hard to mobilise resources for collective bargaining.

The lack of organisational structures on the employers' side is also a major problem for sectoral collective bargaining; except for the textile industry and some sectors dominated by state-owned companies, employers' associations that are able to negotiate do not exist.

5.2.3 Minimum Wage Policies as a Floor for Collective Bargaining

To date, the collective agreements have dealt in particular with general working conditions; wages are often still regulated unilaterally at an individual level by the employer. However, more and more collective



agreements define wages as x times the minimum wage and especially bonus payments, piece rates and other factors determining the final wage are becoming part of collective agreements.

The minimum wage is defined in the 2012 Labour Code as the lowest rate paid to the employees who perform the simplest work in normal working conditions. The Code stipulates that the wage must ensure the basic living needs of the employees and their families.

In 2013, the National Wage Council (NWC) was established in accordance with the new Labour Code. The NWC consists of representatives of employers' associations, the VGCL as the sole representative of employees and MOLISA. The tripartite council gives representatives of trade unions and employers a direct stake in minimum wage negotiations and recommendations, significantly strengthening the minimum wage setting mechanism in Vietnam.

Minimum wages in Vietnam are set for four regions, from least developed rural areas to large cities, including Hanoi and Ho Chi Minh City. In recent years – even prior to the establishment of the NWC – minimum wages have increased substantially, often by more than 10 per cent per year. However, the regional minimum wages proposed by the NWC and adopted by the government have not yet met the level of a living wage. Both the government and the trade unions calculate the living wage in large cities at about USD 190–200. The target was to raise the minimum up to a living wage by 2015, but this goal has been postponed until 2017.

On 3 September 2015 the National Wage Council suggested a minimum wage increase of 12.4 per cent starting 1 January 2016 after long and heated discussion between employers and workers' representatives in the council. While the VGCL has demanded a 16.8 per cent wage increase in order to keep on track with compliance with the living wage by 2017, the employers' association VCCI only offered 6–7 per cent in the first and 10–11 per cent in the second round. The textile employers' association VITAS maintained until the last round that the minimum wage should be increased by only 6.7 per cent, otherwise the competitiveness of the Vietnamese textile industry would be endangered compared with that of neighbouring countries. The NWC's recommendation was approved by MOLISA and came into effect on 1 January 2016 (Just Jobs Network 2015). With public sector wages being linked through a unified tariff system to the lowest level of minimum wage earners and



with many collective bargaining agreements linking wage changes to statutory minimum wage agreements, wage development relies mainly on mandatory increases by the government and not on a proper mechanism of dialogue and negotiation between employers and workers. This is hardly sustainable as government may include other considerations in their minimum wage policy which in the end may eliminate any improvement in workers' real incomes. Since 2004, the government has kept minimum wage adjustments below increases in productivity, thus contributing to an ever lower share of workers' income in value added (see figure 6 and 7). Consequently, high labour turnover rates and wild-cat strikes reflect workers' frustration.

5.2.4 External Factors Pushing for Reform

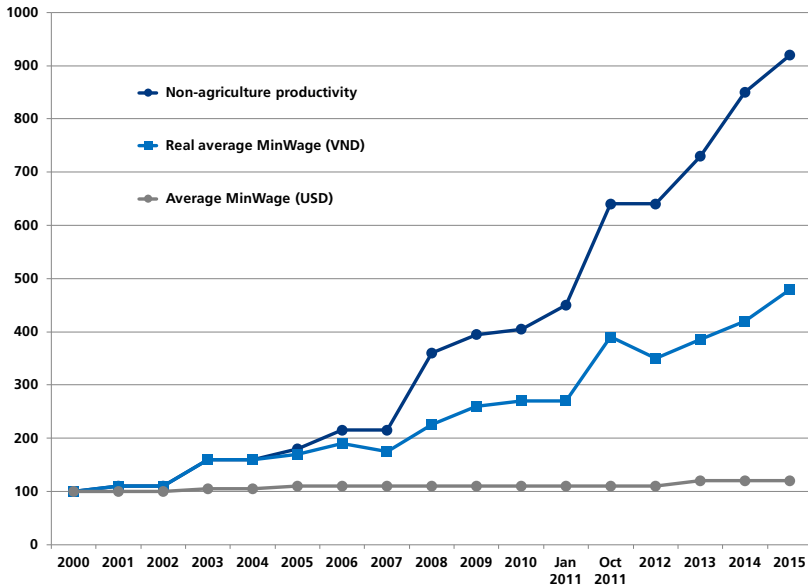
Thirty years of transition from a planned economy to a market economy have changed the system of labour relations in Vietnam, but the VGCL even in its own perception is still more of a transmission belt than a genuine representative of workers' interests. Not only the older, full-time officials are interested in good relations with the party, so as not to lose their privileges as officials. The party has also filled some leadership positions with own cadres that will remain loyal to the CPV and safeguard its primacy role.

Nevertheless, 2016 appeared to open a window of opportunity for organisational changes including elements of trade union pluralism and looser control of the Party over workers' organisations. Vietnam was negotiating several major free trade agreements with the European Union and more importantly- the Trans Pacific Partnership Agreement (TPP).

TPP under the Obama administration was a multilateral, US-led trade pact involving 12 Pacific Rim countries including the United States and Vietnam, but not China. It was part of President Obama's so-called »Pivot to Asia«, countering China's rising economic and diplomatic clout in the Asia-Pacific region. For Vietnam, it offered the possibility of getting access to strong, promising markets and building up new supply chains. In the textile and clothing industries alone, Vietnam's world market share could rise from its current 4 per cent to 11 per cent in 2024. For the government and a fraction of the party leadership, joining TPP had two more important strategic objectives:



Figure 6: Productivity Growth and Minimum Wage Increase, Vietnam, 2000–2015



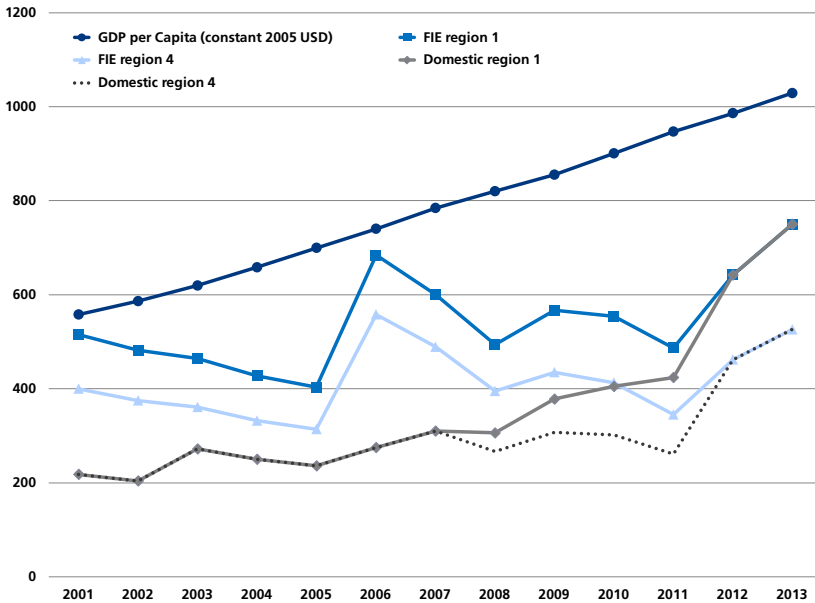
Source: Vu Thanh Tu Anh 2015.

- (i) it could have stepped up pressure for further modernisation in order to comply with TPP regulations, reforming Vietnam's institutional and legal system and reducing the privileged role of state-owned enterprises in terms of access to land, credit, public procurement and subsidies;
- (ii) it would have included Vietnam in a political and economic alliance that could deter China, its increasingly assertive neighbour in the north.

The negotiations of the TPP and US-Vietnam Consistency Plan on Labour were wrapped up in November 2015. The reforms that the government of Vietnam committed itself to under the Consistency Plan with the United States were far-reaching and significant. The most important changes included allowing the establishment of unions at enterprise, industry and regional levels that are not forced to affiliate to the VGCL but can register with a »competent government body«. The potential compe-



Figure 7: Real Minimum Wages and GDP per Capita, Vietnam, 2001–2013



Source: Do and Tom 2015.

tition with non-VGCL unions once the TPP came into effect had already urged some VGCL leaders to move closer to workers, while detaching themselves (partially) from the Party’s patronage and intervention.

Still in 2016, the VGCL had proactively taken the first step of submitting an official request to the Politburo to grant its own organisation autonomy in personnel appointments and separation from non-union tasks assigned by the Party. According to Mai Duc Chinh, Vice Chairman of the VGCL:

if the VGCL is not given the autonomy to decide its own personnel and free the system from non-union tasks assigned to us by local Party committees, we will lose this battle the first day the TPP comes into effect. It is like throwing us into the sea with our hands and legs tied.¹⁵

¹⁵ Mai Duc Chinh’s speech at the MOLISA-ILO Conference »The Future of Labour Relations in Vietnam«, 2 December 2015 in Hanoi.



Immediately after taking office, President Donald Trump withdrew the US from TPP. Though the CPV had vowed to continue its process of international integration, including the ratification of relevant ILO norms just a few days before US presidential elections, after the demise of the TPP, in spring 2017 the draft labour code that would have allowed for trade union pluralism was withdrawn. The reason given was that the urgency of changing the code was not so pressing anymore and the National Assembly needed more time for a more comprehensive reform of the code that had only recently been revised in 2012.

This is also in line with continuous pressure from the European Parliament demanding from Vietnam a clear roadmap for the ratification of the outstanding ILO conventions as a precondition for the ratification of the Europe-Vietnam Free Trade Agreement (EVFTA) scheduled for late 2018 or early 2019. Currently, the Ministry of Labour is working on a new draft labour code with substantial revisions that is supposed to be presented to the National Assembly in 2019. It is not clear in how far this new law will provide for independent trade unions. What seems to be very clear however is that since about the middle of 2017, the VGCL leadership is clearly opposing any attempts to allow the emergence of rival workers organisations.

6. Conclusion

The trade unions in Vietnam emerged from a labour movement that united the first generation of industrial workers against French employers. The labour movement's early sympathy with international communism and alliance with the VCP have driven the trade unions towards becoming more of a political organisation since the 1940s. The economic reforms and especially the rise of informal labour activism have put increasing pressure on the VGCL to transform itself into a real union organisation.

A range of initiatives have been launched by the Party and the VGCL since the late 1980s, but with little success. The fundamental obstacles to this transformation include, first, the VGCL's affiliation to and reliance on the party-state in terms of finance, authority, personnel and planning. The VGCL faces a dilemma: if it chooses to become truly representative of its members, it must become independent of the Party, which also



means letting go of all the benefits and authority it currently enjoys. On the other hand, if it wishes to retain its political power, it can hardly become a real union organisation. Second, the whole system of the VGCL is not adapted to the new approach of focusing on representing members rather than implementing the Party's directives. The resistance of local VGCL branches to the bottom-up organising approach is evidence of the mismatch between the traditional and the new approaches.

The Vietnamese government's commitment to labour reform in Free Trade Agreements (EVFTA and CPTPP, the potential successor of the TPP without the US) are another major pressure on the VGCL to reform. The prospect of non-VGCL unions being established at enterprise, industrial and regional level has urged the VGCL leadership to speed up their internal reform, starting with the autonomy of the union in terms of personnel and planning. But there are no signs that the current VGCL leadership is challenging the dominance of the CPV.

The changes from within in combination with external pressure may change the institutional framework of trade unionism in Vietnam. But it will probably not lead to a significant political change, as happened in Poland with *Solidarność*. The VCP has little reason to oppose the labour chapters in Free Trade Agreements which are supposed to protect workers' rights and welfare in the first place. But the Party will most likely ensure that any labour union established will only serve economic purposes, namely to protect workers' rights and economic welfare and not turn into a political organisation. The Party and its security apparatus will find a way to »legally« constrain independent unions within certain boundaries and to prevent them from being exploited politically.

However, trade union reform is at least currently a perceivable trend and together with political reform, the trade union system will probably move in a direction that allows for the involvement of labour NGOs, independent labour activists and independent enterprise unions. The VGCL will reform to become less bureaucratic and more accountable to its members. The VGCL executive is already looking to various international experiences, for example, in Russia and central and eastern Europe, as well as Indonesia and Singapore, to develop a strategy that will secure the leadership role of the VGCL in an evolving labour movement environment. Thus, during the transition period laid down in the TPP, attempts will be made to find ways of securing the VGCL's trade union monopoly and, above all, the financial privileges linked to it.



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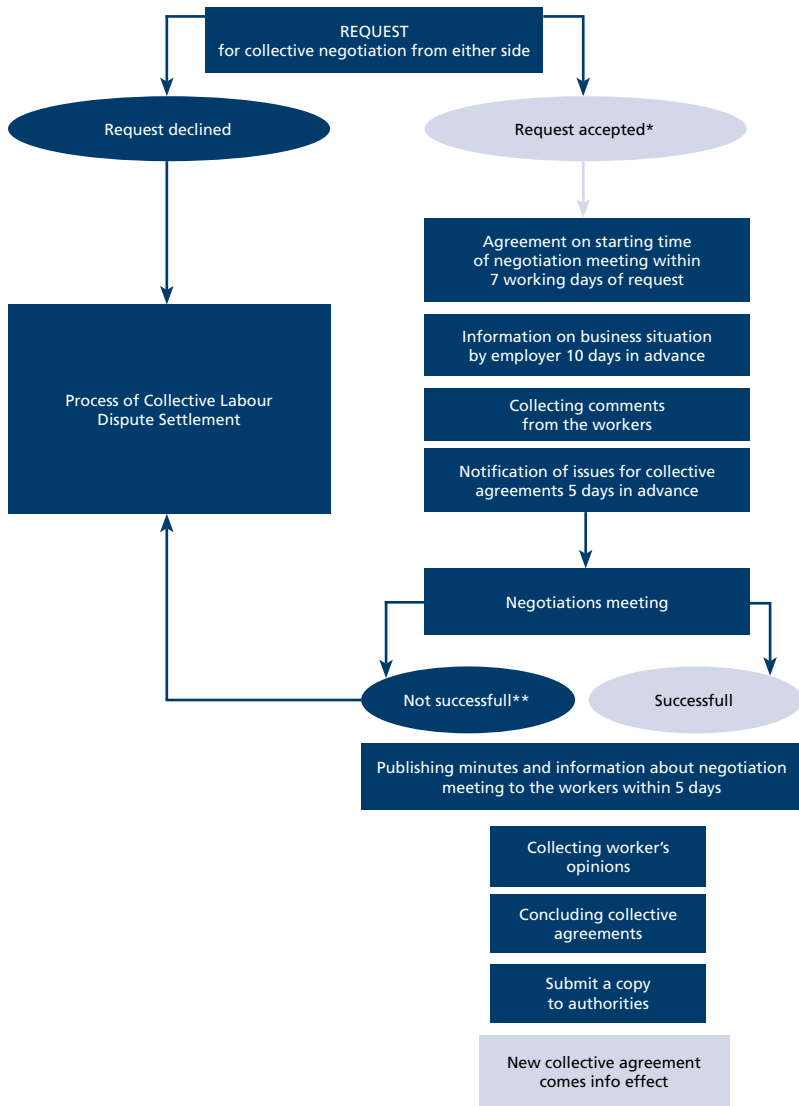
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Annex 1: Legal Procedure for a New Collective Bargaining Agreement (according to the Labour Code 2012)



Notes: * In case one party refuses bargaining or does not conduct the bargaining within the time-line indicated, the other party has the right to initiate the procedure to request labour dispute settlement. ** Instead of the process of labour dispute settlement either party also may request to continue the negotiations. Source: FES Hanoi.



Trade Union Pluralism in Vietnam – Coping With Informal Associations

Wolfgang Däubler

1. Unitary Trade Unions – Interest Representation?

The Vietnamese legal system implements the principle of unitary trade unions. At the lowest level there are company trade unions, generally referred to in English – somewhat euphemistically – as »grassroots trade unions«. At city or district level, sometimes at the level of so-called »production zones«, too, there are associations with corresponding organisations from other companies. On top of that stand the trade union organisations at provincial and national level (for details see Hien 2015: 263 ff).

Trade union membership is voluntary. From 2008 to 2016 trade union membership rose from 6.7 million to 9.6 million (Schweisshelm / Chi 2018: 119). Taking into account the 18 million or so workers in the formal sector, that makes a trade union density of around 50 per cent. This needs to be put in perspective in two regards, however. On one hand, there are around 35 million workers in the informal sector, who, as far as one can tell, are pretty much inaccessible to unionisation. On the other hand, even in the formal sector membership is very unevenly distributed. While in state-owned companies and the public sector – which together employ just under a third of all workers – around 76 per cent of employees are unionised, in the private sector the figure is only 33 per cent (Schweisshelm / Chi 2018: 119). More than a third of firms have no trade union branch (cf. VGCL 2017: 18).

In contrast with membership growth, collective agreement coverage fell from 23.7 per cent in 2011 to only 12.5 per cent in 2016. This is linked to a new method of calculation: while before the amendment of the Labour Code in 2012 all collective agreements were taken into account – that is, even those that merely meet the bare minimum criteria laid down



in the law – in the meantime only those collective agreements are included in the statistics that surpass the statutory threshold. They award, for example, a thirteenth month's wage, a bonus on the occasion of the Tet festival, extra accident insurance, travel cost subsidies and similar benefits (Schweisshelm/Chi 2018). These are all company agreements, with the exception of the textile industry, where individual industry agreements may also be found, which likewise exceed the statutory minimum.

The significance of a trade union organisation for individual employees does not lie primarily in improvements in wages and working conditions. The trade union organises sports competitions, assigns vacation resorts, visits the sick and provides emergency assistance; it also provides gifts on special occasions, such as the birth of a child. People having problems with their boss can turn to the trade union, which with a word in the right ear can defuse the situation or at least help arrange a transfer.

Trade union members appoint a trade union committee, the number of whose members depends on the size of the company. The chair of the committee is usually a member of the management, not infrequently the personnel manager or their deputy. Experience shows that such »labour directors« are unwilling to offend their management colleagues. Thus they are hardly likely to be outspoken, with more far-reaching measures out of the question.

The situation is rather different for full-time trade union personnel at higher levels. The VGCL has two press bodies that do not pull their punches. For example, if pregnant women are required to put in a 70-hour week until shortly before they are due to give birth it is reported, naming names (Tran 2013: 198). Top-level functionaries are clearly committed to raising the minimum wage to a level that would enable people to live a decent life. However, over the past 20 years it has not kept pace with productivity (Schweisshelm/Chi 2018). Trade union spokesmen cannot convert their words into actions, however, because they lack effective leverage. In Germany they would rather be known as lobby organisations. Political institutions look on work stoppages as a form of disloyalty, which not only carries personal risks for those involved, but also jeopardises any chance of making progress on the issues in the future. Also in the realm of legislation, although the trade unions have an important voice, they are often unable to assert themselves, even on important issues.



2. The Alternative World of Strike Action

In 1986 »Doi Moi« commenced, the transition to market economic structures. There have been wildcat strikes since the early 1990s (Chi 2017: 1052) and statistics have been collected since 1995. Strikes invariably occur at individual companies, with the number of participants varying between 200–300 and many thousands of employees (VGCL 2017: 3; Tran 2015: 288 ff). In the period 1995–2005 there were around 100 strikes a year. In the subsequent period, because of rising inflation and the failure of the minimum wage to keep pace with the cost of living the number of work stoppages increased. The number of strikes peaked in 2011 at 993 (Schweisshelm/Chi 2018: 129). More recently, between 2013 and 2016, there were 1284 work stoppages, around 400 strikes a year (VGCL 2017: 3). There were fewer strikes in 2017 but they were longer and more bitter. The total number of strikes between 1995 and June 2016 was 6282.

All these strikes were illegal under Vietnamese law (VGCL 2017: 20). The Vietnamese Labour Code does recognise the right to strike, but provides for tight restrictions: only »grassroots trade unions« have this right and can exercise it only after first exhausting mediation and arbitration proceedings and even then only if more than 75 per cent of the workforce vote in favour (50 per cent since 2012). However, given its proximity to management the company trade union is particularly unsuitable to organise a strike; even if the numerous procedural hurdles did not exist the right to strike would be purely theoretical. As a result, the workers are left to fend for themselves when it comes to organising strikes, operating outside the legal structures of the Labour Code.

Around 70 per cent of strikes took place at FDI firms, with just under 30 per cent in the Vietnamese private sector. Less than 1 per cent occurred at state-owned companies (Chi 2017: 1058). Generally speaking, strike action befalls a company where there is strong dissatisfaction with working conditions. This is often preceded by attempts to obtain redress through petitions in which the grievances are cited, usually without success. On the employers' side, investors from Korea, Taiwan and Japan are most frequently affected. This is because they tend to stick closely to cost guidelines issued by head office or because they are averse to negotiation, which – as they see it – would cause them to lose face. As a rule the preparation and organisation of work stoppages take



place below the employers' radar. They proceed by word of mouth and in people's homes. People may also take their cues from role models, but at least until 2010 such people were unwilling to operate out in the open. Such strike leaders tend to be particularly experienced workers or group leaders (Chi 2017: 1061). Strikes of this kind have taken place not only in the industrial belts around large cities, but in 40 of Vietnam's 63 provinces (VGCL 2017: 8).

Strikes generally last one or two days; only in exceptional cases do they last any longer. One morning the workers turn up at the factory gates, where they find placards calling for a strike and certain demands waiting for them. It is not possible to find out who hung them up. In these circumstances, usually no one starts work. Strike breakers are rare and do not feature in reports; as a small minority they risk being ostracised by the other workers. The press is usually informed in advance and reports – generally sympathetically – on the strikers' demands and on the course of events (Chan / Siu 2015: 314 ff).

In such a situation the »grassroots union« is usually nowhere to be seen. Individual strikers or the top management inform the higher level trade union, which then dispatches a task force of two or three people to the company affected to negotiate with the employer. In some instances a representative of the administration or the Party comes, too. As soon as something has been achieved the waiting workers are informed, usually on placards; at the same time, they are requested to resume working. If the strikers find the outcome acceptable they return to work. On the other hand, if they reject the compromise they remain in the factory courtyard or in the street – a kind of voting with their feet. In this case further negotiations are needed, until an acceptable agreement is reached.¹

The police generally turn up during negotiations, but there are no documented cases of them intervening against the strikers. Rather the purpose of their presence is to protect the strikers from groups of punchers hired by the employer.

According to an ILO report, in more than 90 per cent of cases strikers' demands are met in full (Chi 2017: 1058). Another report puts this

1 On the other hand, there are cases in which the strike begins once the working day has already started and the workers walk out or simply »down tools« in a sit-down strike. There are also instances of working to rule.



figure at 80 per cent. There are no reports of work stoppages in the wake of which everything remains as before. »Retaliatory measures« against strike leaders or against people suspected of such are only mentioned in reports produced by foreign organisations; nothing of the kind is to be found in the comprehensive and critical Vietnamese reporting (Schweisshelm / Chi 2018).

After a strike has occurred in one company, over the following couple of weeks there are usually work stoppages in neighbouring firms, too. Preparations for such actions are generally less intensive. From time to time a strike is avoided by simply adopting the outcome of the first. As regards employers from the same country they are usually in agreement from the outset, particularly concerning a uniform wage level; if a company deviates from that and has to give ground, the others tend to fall in line (see the case studies in Chi 2017: 1061 ff).

There is an informal network of strike organisers in the same region (Chi 2017: 1052 ff). How intensive this might be and whether there is any interaction between strikes is hard to say. It is noteworthy that in individual companies strike organisers tend to remain active after industrial disputes as interest representatives and in some cases cooperate clandestinely with official trade union representatives (Chi 2017: 1061). Sometimes – as case studies have shown (Chi 2012: 17 ff) – the employees can exert effective influence over working processes.

3. Peaceful Coexistence Between the Two Forms of Interest Representation?

Strikes that bypass the trade union and are arranged informally between employees at different companies are also familiar from other countries. In Germany one might mention the so-called September strikes of 1969 (see most recently Achten 2017) and similar actions in 1973, although subsequently the emphasis in interest representation was almost exclusively on trade union collective bargaining and works councils. What is special about Vietnam is the juxtaposition of »docile« official trade unions and ostensibly illegal, informally organised strikes since 1995 (in other words, around 23 years). All those involved expect labour relations to have this dual structure and that wildcat strikes are likely in the foreseeable future. This suggests that it would be a good



idea to look more closely at what can no longer be considered new actors, namely strikers, and the »division of labour« between them and the official trade unions.

What are the reasons behind the fact that strike action so often occurs without trade unions? One cause that suggests itself is that the official system of trade union interest representation in accordance with the Labour Code is not working; the relevant guidelines simply bypass the real interests of those involved. There is a lot of truth in this, as others have pointed out. On the other hand, this approach cannot explain the wide variation in different economic sectors: why do 70 per cent of strikes take place in FDI companies, over 29 per cent in Vietnamese private companies and less than 1 per cent in state-owned companies, even though the official system is just as flawed? Furthermore, there is nothing to indicate that conditions in Vietnamese private companies are generally better than in those dominated by foreigners. Things may be different in state-owned companies; especially from the period before »Doi Moi« there are reports that workers were more closely involved in decision-making on work organisation than after the economic transformation (Beresford/Nyland 1998: 69–70). Whatever the case may be, there are many other countries in which official structures are also malfunctioning without it resulting in comparable mass strikes.

Under these circumstances it makes more sense to look at what the strikers have in common, which to some extent serves as a proxy for membership of the same organisation: originating from the same region or even the same place creates a bond of trust, as well as opinions about which colleagues are more forward-looking. That particularly applies where – as in most firms in the industrial belt around Ho Chi Minh City, Hanoi and other cities – migrant workers from rural areas predominate. Typically 70 to 80 per cent of them are women aged between 20 and 30 (Tran 2013: 183), which also creates common ground. It has been claimed in the Vietnamese literature that migrant workers from places with a revolutionary tradition have played a particular role in spreading militancy (Tran 2013: 184). It is also worth mentioning that most protest actions have taken place in the Cu Chi district, which was noted for its belligerence during the Vietnam War (Tran 2013: 212).² It should be kept

2 Even today the largest tunnel system built by the Vietcong can be visited here, which was never discovered by US troops.



in mind that these militant actions have taken place beyond the bounds of the law. Vietnam has a long tradition of a legal sphere divided from an informal domain outside legality. When sabotage began to be perpetrated against French industry over 80 years ago (Tran 2013: 119) of course there could be no question of faithful compliance with legal norms. Furthermore, circumventing state regulations under the planned economy between unification in 1975 and the emergence of market-economic structures in 1986 can clearly be categorised under this heading, too.

The varying frequency of strikes in individual sectors can perhaps best be explained by differing attitudes on the part of management – one might suspect that given the conditions in South Korea, Taiwan and Japan the management has little sympathy for the sensitivities of Vietnamese workers. National solidarity may also have played a role. In the extensive survey of strikers conducted by the VGCL an open commitment to strike aims was dominant at FDI companies, while in the case of strikes at Vietnamese companies they were more of a background consideration; reference was made to »coercion« by others, who had made the respondents participate (VGCL 2017: 17 ff).

4. A New Form of Industrial Relations?

The dual structure described here has existed in Vietnam for around a quarter of a century. For people who primarily have legally established institutions in view the strikes and their organisers represent a kind of second-class reality. What is decisive for them is that the VGCL has a merely fictive right to strike and is able to represent the interests of dependent employees only verbally and after the manner of a lobbying organisation, although with little practical impact. Here we shall attempt to break through this one-sided view and raise the question of the extent to which the dual structure contains open spaces that are far from self-evident and that one would seek in vain in many European legal systems.

In the course of just under 25 years of »illegal« strikes a network of informal interest representatives has formed that is sometimes active even outside strike situations. They do not represent a trade union organisation in the traditional sense, with an executive board, sections and subsections or officials along the lines of an industrial company. No one receives any payment for their activities as interest representatives, ei-



ther. Their efforts for the sake of employees' interests – and thus also for their own interests – are rather »just something one does« in Vietnam, although to be sure some take it to heart more than others. It can be assumed that there is a certain turnover among workplace strike leaders, and that some will be better than others, and some remain tireless while others give up. But pursuing common interests in better pay and working conditions is so deep-rooted among Vietnamese workers that there is always someone coming along who is able to get other people on board, too. An organisation of this kind has the inestimable advantage of being largely immune to repression. No Korean manager has ever been able to catch a strike leader; it would be a waste of time even trying.

At present and for the foreseeable future, however, there are certain bounds that as a rule cannot be overstepped. Each strike is confined to a particular company, notwithstanding the fact that in a given region someone leads the way and others follow. As long as the network continues to function they have got the territory covered. However, not all the companies are supposed to be paralysed at the same time.

Strikes are concerned with wages and working conditions. Another frequent grievance is unlawful conduct on the part of the employer. According to a VGCL inquiry in 2016 40 per cent of strikes were legal disputes – such as unpaid overtime or health and safety violations – while 26 per cent had mixed goals, for example, aimed at asserting rights and also improving the status quo. Also, 31 per cent were purely conflicts of interest, such as demands for higher wages (VGCL 2017: 14). On top of that MOLISA estimated that 90 per cent of work stoppages were caused by rights violations on the part of the employer (mentioned in Tran 2013: 117). There is no need here to go more deeply into the distribution between conflicts concerning rights and those concerning interests – no one disputes that both are legitimate reasons for strike action.

Because strikes take place in a realm that has not yet been juridified there are no binding rules concerning their conduct. They can be announced, simply »happen« or come right out of the blue; it does not really matter. No quantitative limits are discernible either – it seems that common sense dictates that no pressure is exerted to secure deals that would go beyond the company's means. No one wants to put their own job in jeopardy.

In recent years there have been two instances in which the traditional bounds of strike action have been overstepped.



One case, in April 2016, concerned a change in pension insurance. Under existing legal regulations someone who left the workforce could have their contributions paid out, thereby renouncing a pension in old age. Many migrant workers from rural areas exercised this option, returning home after ten years of hard graft to start a new life. This was attractive not least because the employer paid around 70 per cent of the contributions and over ten years they could accumulate a tidy sum. In order to safeguard provision for old age, however, the government urged the parliament to change the law; henceforth such pay outs will be permissible only once the pension age has been reached, thereby frustrating the lifeplans of many workers. This led to the first multi-company strike for decades, in which around 150,000 workers participated. The demand was simple: overturn the new law. The government gave in after two days and the parliament rescinded the law shortly afterwards (Chi 2017: 1065). Sanctions against strikers were not seriously considered; it would only have poured oil on the flames. In our view this was a political strike about a social policy issue, of a kind recognised by Italian law but not in Germany.

The second case occurred in 2014 and was quite different. Because of the dispute concerning the Spratly islands in the South China Sea relations with the People's Republic of China were not the best. The latter had built an oil platform in the Vietnamese portion of the South China Sea, which was considered a provocation. In response young motorcyclists appeared in front of many firms flying Vietnamese flags mounted on iron bars. They called on the workers to down tools and to come to demonstrations »against China's actions« held in the nearest large square. Most workers complied. When the factories were empty the motorcyclists came back and smashed everything to bits with their iron bars; three factories went up in flames. The government apologised to investors and promptly compensated them. This action was unprecedented. It is difficult to reconstruct how it transpired. VGCL's analysis of the strike talks of »reactionary elements« (VGCL 2017: 3) at work. On the other hand, it is astonishing that not a single perpetrator was identified and apprehended.

Neither occurrence has been repeated. To that extent the prevailing rules of the game have remained in place. The upshot of these rules is that employees have the option of striking about wages and working conditions without running a significant risk. Usually, they are still paid while they are on strike. It is up to them how far they go with their



demands. They therefore have a fair amount of freedom to strike, even though they have no formal »right« to strike.

Such phenomena are rare in the annals of labour law, but they are not unknown. In the United Kingdom before the legislation adopted in the 1970s strike action was protected in comparable fashion. There was no legislative guarantee for collective action but a kind of indemnity from certain norms subject to sanctions: involvement in a joint action was no longer classed as »conspiracy«, which was a punishable offence and subject to liability for damages. To that extent these were generally referred to as »immunities« from the rules of the Common Law, which made it possible to conduct collective disputes (Wedderburn 1986: 29 ff).

In Vietnam, strikers are de facto released from the rules governing violations of labour contracts. They are not dismissed or liable to pay damages or work extra hours. In practice they experience no interruption of pay as a result of strike action. The British »immunities« were legally along the same lines, although there are important concrete differences: the exemptions typically pertained to the trade unions as organisations rather than to informal worker collectives, although such existed. Furthermore, in Britain these exemptions were expressly legally standardised, while in Vietnam it is more of a case of reality on the ground. After around 25 years, however, one might think that some sort of customary-law character could be conferred on them.

5. Division of Labour or Rivalry?

In reality there is a kind of division of labour between the two forms of interest representation: the less conflict-ridden everyday issues and the distribution of benefits are undertaken by the official trade union, which also may dole out harsh criticism. It can also offer legal protection and since recently has been able to use the courts to compel employers to pay their social insurance contributions. As soon as it comes to applying pressure in the workplace, however, it is time for them to leave the field to the informal networks mentioned above, which duly pursue higher wages and improvements in working conditions. Laying aside one's legal spectacles, however, this is a fairly gratifying state of affairs for dependent employees; although it has its shortcomings there is no real reason for fundamental changes.



This view is not shared by the official trade unions and many foreign advisers, however. In 2017 the VGCL produced a report on strikes, of which it clearly takes a dim view. Supposedly, work stoppages not only damage firms economically and impair the investment climate, the social order and security, but are also against the workers' own interests (VGCL 2017: 5). They are not forthcoming as to why this should be the case, however. The reports not only regard strikes in a negative light but purport to show how things really are. The fact that the trade union dissociates itself from strike action at the outset may have something to do with the fact that it still considers itself to be the comprehensive representative of dependent employees (see Hien 2015: 263 ff). However, this claim is refuted by the reality of work stoppages more or less every other day. At least among less understanding top officials this provokes a sense of helpless rage; but the truth is that no one is happy if one is shown up. However, this did not prevent the abovementioned report from making the perfectly reasonable demand of passing on only the less conflict-laden issues to the grassroots trade union and entrusting the organisation of strikes to the higher level of the union (VGCL 2017: 27). This is somewhat reminiscent of the division of labour between works councils and trade unions in Germany (except for the fact that there are no informal networks there). The upshot is that the VGCL accepts the fact that the networks exist alongside it. For some they are just a necessary evil. Others in negotiations with the employer side can try to exploit this state of affairs by making the point that the employer may be better off heeding their demands because otherwise unrest is likely to break out on the shopfloor.

6. The Problem of Trade Union Freedom

The existence of a kind of »shared« interest representation did not enter into it when Vietnam signed the »side agreement« to TPP. More precisely it committed itself to permit the founding of trade unions that did not have to belong to the VGCL but could form a rival organisation or operate on their own account. However, it all came to nothing, along with the TPP as a whole once US President Trump got involved. Nevertheless, the ratification of various ILO conventions is currently under consideration, including Convention No. 87, which guarantees the free-



dom to organise trade unions. Here the problem arises of whether its provisions are in play by virtue of the fact that the network of interest representatives has been performing its role of militant actor in Vietnamese labour relations for 20 years without challenge. Does ILO Convention No. 87 restrict freedom to form trade unions to legally established organisations? The recognition in principle of so-called wildcat strikes as a form of trade union action (ILO-Digest recital 545) seems to suggest otherwise because they are generally held by unofficial groups in other countries, too. The fact that a state-supported organisation with monopolistic claims can line up alongside free representation of interests is illustrated by the chambers of labour in Austria and Luxembourg, to which the ILO has to date raised no objections.

Under these circumstances it would ultimately be at the discretion of the Vietnamese legislator whether it permits other »official« trade unions alongside the VGCL. It's impossible to tell at this point what the outcome would be if interest representation was allowed to run on more than one track. Even foreign support for new rival organisations is conceivable, which presumably would lead to heated internal disputes.

7. The Role of the Party

Article 4 of the 2014 Vietnamese Constitution enshrines the leading role of the Communist Party of Vietnam. It lays down the direction in which the country is supposed to develop. For present purposes it is worth noting that the Party has a deciding vote on appointments to key positions within the full-time apparatus of the trade unions (Chi 2017: 1056).

Even those who are too far away to be able to follow Vietnamese developments in detail will not find it too much of a stretch to acknowledge that it is hardly likely that strikes – which have been going on for 25 years on a substantial scale – would be tolerated without the consent of the Party. Otherwise at the very least a number of repressive measures would have been taken; after all, the legal system provides for a range of options to that end. Furthermore, Taiwanese investors made representations to the Vietnamese government with the aim of getting them to take effective measures against the strikers on pain of withdrawing their capital (Chan/Siu 2015: 302), but evidently without discernible success (Chan/Siu 2015: 330). On the contrary, there are re-



ports that the local authorities tend to support striking workers (Chi 2017: 1059), as evidenced not least by the presence of the police during the strike. There have also been official declarations. In 2008, for example, the then state president Truong Tan Sang stated:

For a long time we were more interested in economic growth than developing political organizations at enterprises. This is not only the union's responsibility. All the political systems have to get involved to urgently find breakthrough measures so that we ourselves will lead strikes or we do not strike but resolve disputes through negotiation so as to prevent other forces from taking advantage of workers.

Lao Dong 2008

This exhibits an extremely nuanced attitude to strikes. On one hand, according to the state president they indicate a lack of political organisation and thus political failure. On the other hand, they cannot really be held in check. Rather a more politically conscious handling of these conflicts would result in »we« – that is, the Party – leading strikes or that solutions would be found via negotiations. The idea that the Party would conduct a strike itself is surprising to say the least. It is consistent with something the prime minister said shortly afterwards, to the effect that if he was a Vietnamese worker he would have gone on strike much earlier and much more often (Däubler 2015: 103). It is not that the Party really forms strike committees – although who knows whether and, if so, how deeply embedded it is in the networks – but it is clear that at least some of its leading figures have a lot of sympathy for the strikers and therefore have no intention of taking repressive measures against them. However, what one might think would be the obvious move of affording workers the same sort of autonomy as employers is not on the agenda. It is enough to keep the power of capital in check to establish a counterbalance in the form of representatives of employees' interests. This partial balance is enough to give the government sufficient leeway as regards macroeconomic policymaking.

Vietnam's industrial relations system is quite distinctive. The prominence of informal networks means that it could not be transposed to other societies. The response of the political authorities to work stoppages leads one to conclude that the system is adaptable. For many this may be an unusual prospect.



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Trade Unions in Russia – Between Survival and Subordination

Rudolf Traub-Merz and Elena Gerasimova

1. Introduction

Russia's economic and social development since the dissolution of the Soviet Union has been marked by extreme fluctuations. The transition from a centrally planned economy to a market economy led to the destruction of productive forces hitherto unknown outside wartime and saw Russian GDP collapse by 40 per cent (between 1991 and 1996) and wages by 68 per cent (between 1991 and 1999). The phase of general economic and social retrogression was followed by an equally remarkable economic upswing, which was accompanied by wages increasing significantly faster than GDP. It was only in 2006–2007, however, that both economic indicators again reached the base level from which reforms had proceeded. Interrupted only by the global finance crisis of 2008–2009 the Russian economy appeared to have set out on a path of long-term growth and in early 2013, leading figures of the regime made public statements implying that the Russian economy would for many years expand above global average grow rates and that the country would constantly climb up the international economic rankings. At the end of that very year, however, stagnation set in and ended the »miracle«. Shortly thereafter, oil prices tumbled, dealing the economy a second blow. Ever since, the Russian economy has meandered between years of low growth and recession with no return to lasting growth in sight.¹

¹ For a more detailed picture of these three phases of economic and social development, see the chapter by Traub-Merz on »Russian trade unions and wage developments« in this volume.



The crisis of the 1990s was most clearly expressed in the consumer and heavy goods industries, whose output halved, on average; in some manufacturing branches, however, the decline was as much as 80 or 90 per cent. The recovery that set in around 2000 was not owing to a resuscitation of manufacturing but an oil price boom, which furnished the country with a massive inflow of rent income from resource extraction and exportation. Gifted with »unearned« income from world markets, much of the new revenue was invested in lifting the consumption level of the urban middle classes, reconstructing the industrial-military complex and the expanding state administration. However, little was spent on modernising the private economy. Fortified with financial power state policies ended the transition to a market economy and, by taking control of »strategic« sectors, moved towards a state-led accumulation model.²

Oil revenue in Russia set in motion the same authoritarian tendencies as can be observed in other oil economies. It filled the coffers of the central state, which brought the »recalcitrant« provincial political elites into financial dependency and finally ended their »autonomy« by centralising power.³ In Russia this came to be known as »vertical power«. The rental income furnished the political executive with the means to marginalise opposition forces and to turn political parties and the parliament into docile instruments for exerting power.⁴

When urban protests against electoral manipulation occurred in 2011 and 2012, and shortly thereafter the economy relapsed into stagnation the political executive moved power control to a new level. From the beginning of the third presidency of Vladimir Putin (2012–2018) the Kremlin began with the expulsion of civil society. Non-governmental organisations with the temerity to express opposing views were threatened with criminal sanctions or deregistered, while political opponents saw their civil liberties restricted or their livelihoods destroyed. A wide societal discourse on a new post-oil development path for Russia appears unlikely to emerge.

The history of Russia's trade unions has to be seen in the context of these economic and political tendencies. Russian trade unions have

2 For a discussion, see Traub-Merz (2015) and the various chapters in Traub-Merz (2016).

3 Gubernatorial elections were abolished in 2004. Thereafter, governors were appointed directly by the Kremlin.

4 With the exception of the communist parties, all political parties represented in the parliament today can be seen as creations of the Kremlin.



always been challenged to either organise opposition to the unfolding of undemocratic political tendencies and to press their own positions strongly or to adapt to the political status quo and play the role of fellow-travellers, even a pillar of the political regime.

This chapter analyses the role the trade unions have played in Russia since transition set in in the late 1980s. In Sections 2–4, an overview of union rights is provided, followed by an analysis of how union pluralism in Russia operates and how collective bargaining is implemented. Section 5 takes up the issue of the extent to which trade unions have been able to break away from the Soviet past by using the strike weapon as a means of interest representation. From there, the chapter moves to the core of the analysis (Section 6), namely trade unions in politics, focusing primarily on the majority union wing Federation of Independent Trade Unions of Russia (FNPR). The chapter then turns to the role and significance of alternative unions (Section 7). A summary compares trade unions in Russia with regard to the extent to which they represent a departure from the Soviet past and have become a vehicle for workers' interest representation.

2. Trade Unionism in Russia – Short Overview

Trade unionism in Russia has undergone far-reaching changes since departing from its party-state capture during Soviet times. This process has been expressed most clearly in the legal sphere. The state has renounced the idea of using unions as a transmission belt to exert control over workers and society and instead has opened up space for them to organise their affairs autonomously. No legal instruments or formal mechanisms of political subordination are in place any longer that might be used to compel unions to act as quasi-state organs and the extended arm of the regime.

2.1 Autonomy from the State

The autonomy from the state is set out clearly; certain »legal rights« have been granted to unions to enable them to conduct their affairs. Freedom of association, including the right to create new trade unions,



is guaranteed by the Constitution of the Russian Federation.⁵ The Law on Trade Unions, Their Rights and Guarantees⁶ (hereafter, the Law on Trade Unions) lays down the norms and regulations on which trade union independence is based. Most important, the Law on Trade Unions states that unions in pursuing their activities are independent of the executive and local authorities, from employers, but equally from other associations (unions, associations), political parties and other public associations. Unions are neither accountable to these bodies nor can they be controlled by them.

The Law on Trade Unions and the Labour Code of the Russian Federation (Trudovoy Kodeks Rossiyskoy Federatsii, hereafter, the Labour Code)⁷ are the main laws that regulate the legal grounds for establishing trade unions and provide the legal foundations for their activities. Russian legislation on trade unions largely complies with the ILO standards on freedom of association.

2.2 Organisational Pluralism

In granting unions independence from the state, employers and political parties, closed shops are banned and legally nobody can be coerced to join unions. Equally, the legal framework gives workers the right of choice and to opt for union membership according to preference. The principles of trade union pluralism extend to all organisational stages, including the plant level, at which unions directly compete for members.

Trade union pluralism in Russia has developed into an organisational divide, which strongly reflects its political history. In terms of their origins, unions can be grouped into traditional and alternative unions. Traditional unions existed during Soviet times, owed their status and structure to the support of the regime and managed to remain intact during the transition period after 1988. The majority are grouped together under the FNPR (the Russian acronym for the Federation of In-

5 Art. 30 of the Constitution of the Russian Federation. Adopted on 12 December 1993.

6 Federal Law on Trade Unions, their Rights and Guarantees, 12 October 1996, No. 10-FZ. Sobraniye zakonodatelstva, 15 January 1996, No. 3, para 148.

7 Sobraniye Zakonodatelstva Rossiyskoy Federazii of 7 January 2002, No. 1, Item 3.



dependent Trade Unions of Russia), which is the successor to the Soviet VTsSPS (All-Union Central Council of Trade Unions).

Alternative unions⁸ owe their existence to the new political and legal environment, some of them emerging already from workers' struggles over wages and working conditions in the final years of the Soviet Union. Wherever these new unions emerged, they faced the wrath of traditional unions, with whom they competed for members, resources and influence. Most of these unions have linked up in the KTR (Confederation of Labour of Russia). The political-organisational rivalry between traditional and alternative unions became the defining feature of Russian union pluralism from its inception.

2.3 Return of State Interference and Illiberal Tendencies

The legal principles of autonomy and self-organisation were put in place in the early years after the dissolution of the Soviet Union, when the political mood was largely carried by the will to replicate »Western norms« and to adjust domestic laws to international democratic standards. In later years, in particular after 2000, amendments to labour legislation ceased to be inspired by this »liberal« approach of providing unions with »additional rights« and instead became more restrictive, either inserting new definitions into laws, adjusting operating clauses or simply changing the practices of state offices when dealing with union affairs. Russian trade unions did not hesitate to complain to the ILO's Committee on Freedom of Association – particularly in 2003, 2004 and 2010 – and the ILO's Committee of Experts on the Application of Conventions and Recommendations has raised issues concerning freedom of association in Russia in its reports since 2003. The illiberal tendencies, however, were not reversed.⁹ Russia has moved from liberal to authoritarian labour relations.

⁸ The term »alternative unions« has been selected instead of »independent unions«, because FNPR's new name already includes the term »independent«.

⁹ The main problems to which the trade unions have referred are state interference in the establishment of trade unions and the conduct of collective bargaining; other complaints include the narrowing down of the right to organise by opening up space for alternative forms of representation in cases where trade unions already exist; numerous complaints have also been raised with regard to the right to strike and the lack of effective protection against trade union discrimination. For more on this, see: Lyutov and Gerasimova (2015).



3. Structure of Trade Unions

3.1 Organisational Dualism and Democratic Principles

At the top of the traditional unions is the FNPR. It was established in May 1990 as successor to the Soviet VTsSPS, and by default inherited the socialist trade union's culture, its organisational fabric, a vast membership and a huge amount of assets, mostly sanatoria, holiday resorts and hotels.

The FNPR is structured in terms of organisational dualism.¹⁰ Unions are either based in industries and link plant unions to branch structures or have a territorial outlay, follow the state administration and run from municipal (city and district) and regional level.¹¹ Branches and regions are united at the federal level in the all-Russian central organisation (figure 1).

Overall, FNPR has 122 affiliated trade unions, of which 42 are sectoral or branch unions, and 80 regional organisations (figures for 2013).^{12,13} With this broad-based membership, FNPR covers the majority of economic sectors, as well as most of the 83 regions. FNPR is particularly well presented in large companies and in the public sector.

At the top of the alternative unions is KTR (Confederation of Labour of Russia), the second largest trade union federation, claiming some 2 million members.¹⁴ Created in 1995, it unites the bulk of the »new« trade unions, growing from the workers' activism of 1988–1993 (Ashwin and Clarke 2002). KTR was soon confronted with an organisational split, which led to the establishment of the All-Russian Confederation of Labour (VKT) in the same year. For more than a decade, KTR and VKT existed in parallel, before in 2011 the split was overcome, and the united Confederation of Labour of Russia (KTR) was re-established. KTR in-

10 The organisational dualism is inherited from Soviet times when the sector or branch principle followed the division of the economy into ministries, while the territorial outlay of unions copied the party-state structure, which allowed unions to be controlled at all levels.

11 Article 6 of the FNPR Charter. Available at <<http://www.fnpr.ru/n/250/10720.html>>.

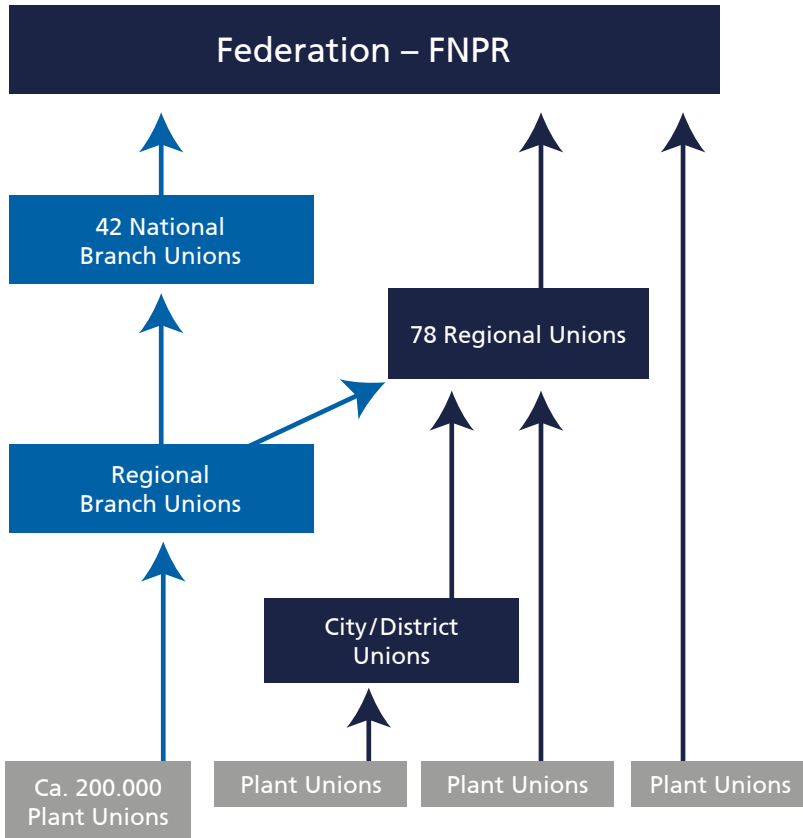
12 Official website of FNPR. Information on FNPR data posted on 5 March 2013. Available at: <<http://www.fnpr.ru/n/252/4890.html>>.

13 Five all-Russian trade unions do not hold membership but cooperate with FNPR on the basis of agreements.

14 Official website of KTR. Available at: <<http://www.ktr.ru/about/org/>>.



Figure 1: Organisational Structure of FNPR



cludes more than 20 member organisations, covering transportation, manufacturing, mining, construction, food sector, the service sector, small and medium business, culture, education and health care.¹⁵

¹⁵ Member unions of KTR include Russian Trade Union of Seafarers, Russian Trade Union of Dockers, the Russian Trade Union of Maritime Transport Workers, Interregional Trade Union of Pilots, Federal Trade Union of Air Traffic Controllers (FPAD) of Russia, Interregional Trade Union of Railway Workers, Trade Union of Metropolitan Moscow and Union of Flight Personnel of Sheremetyevo Airport. In the manufacturing sector, KTR members include the Interregional Trade Union »Workers Association«, Interregional union »New Trade Unions« (»Novoprof«), Interregional Association of the Trade Union »Protection of Labour« and others. Affiliates in the public sector include Interregional Trade Union of Education Workers »Teacher«, Interregional Trade Union »University Solidarity« and Trade Union of Health Workers »Action«.



The organisational outlay of the alternative camp differs in two regards. KTR has no territorial structures and in particular, no regional unions. Union business at the regional level thus becomes a monopoly affair of FNPR structures. Furthermore, KTR is based on membership of plant unions and skips the branch principle. This can be ascribed to the fact that the total number of affiliates is rather small and KTR feels competent to handle plant union affairs directly.

While there are significant differences in terms of history, the governance procedures of the two camps are similar. »Formal democratic principles« are applied by all unions and work in the same manner, be it KTR or FNPR. Congresses are held at fixed intervals (KTR four years; FNPR at least every five years) and have the competence to select the president and members of the council and executive committees. They decide on the duties of the statutory organs and the programmes they are supposed to follow.¹⁶ The two camps do not even differ in terms of finances for solidarity action: both KTR and FNPR invest part of their revenues in a fund that provides solidarity support to members during strikes and in cases of unfair dismissal.¹⁷ Both union camps have their trade union activities written into statutes and usually follow due process.

3.2 Decentralisation and Revenue Sharing

During the Soviet era, the relationship between different union layers was based on forced affiliation, subordination and strict discipline. Even though leaders were elected from the bottom up, election preparation committees supervised by the Communist Party controlled candidacies and ensured that – generally speaking – only loyal people were able to get through. None of this applies any more. Affiliates are now free to recall their membership from a central body, subordination is substituted with discussions and decisions are jointly taken by vote during congresses.

16 For KTR, see its charter. Available at the KTR official website at: <<http://ktr.su/about/doc/doc2.php>>. For FNPR, see its Charter at the FNPR official website: <<http://www.fnpr.ru/n/250/10720.html>>.

17 Democracy. Organizing. Civil rights. Programme declaration of KTR. Available at: <<http://ktr.su/about/doc/doc1.php>>.



KTR affiliates have followed democratic principles from their very beginning, but FNPR unions were shaken when transition set in. Previously embedded in a rigid top-down regime, the arrival of pluralism served the lower strata on a silver platter the opportunity to empower themselves at the expense of higher-level unions. This gave way to a downward shift of power and the decentralisation of unionism.

The shifting down of power and the autonomy affiliates were granted to rewrite their statutes and to influence decision-making in congresses received its greatest expression in the sharing of revenue between the various layers. At the end of the 1980s and early 1990s the vast majority of unions adopted policies to keep 65 per cent to 80 per cent of fees¹⁸ collected at local level. Some 20–35 per cent was transferred bottom-up, of which 1–2 per cent are listed in territorial or regional associations of unions and 3–6 per cent reached the union federation at the top.^{19, 20}

Time and again, FNPR asked its affiliates to reform the flow of revenue between the layers. In 2011 the VIIth FNPR Congress adopted a Resolution on financial discipline,²¹ which called on all unions to transfer not less than 50 per cent of collected dues to higher unions and to fulfil their financial obligations. In recent years the FNPR leadership has intensified the discussion to reform the relations between the union layers, to return elements of centralised governance and to build a uniform charter for regional and branch unions and uniform rules to be used in the conduct of elections. The key issue of increasing the share of dues for the top structure was turned down by delegates at the 2013 congress.²²

18 See, for example, trade union dues. Part 3. Website of FNPR newspaper *Solidarnost*. Available at: <http://www.solidarnost.org/articles/articles_2295.html>.

19 Trade union dues. Part 3. Website of FNPR newspaper *Solidarnost*. Available at: <http://www.solidarnost.org/articles/articles_2295.html>.

20 Trade unions do not fall under regulations set up for non-government organisations and they are not forced to provide access to their financial affairs. As neither FNPR nor KTR (voluntarily) publish annual budget-expenditure accounts, much of union funding remains a secret; it is usually difficult to ascertain the accuracy of figures leaked to the public. According to a report in the daily *RBK* (29.4.2016), total revenue for all FNPR unions from members' fees in 2015 was some 68 billion roubles, of which the central body in Moscow received a paltry 140 million, an insignificant 0.2 per cent of the total, and substantially less than its entitlement.

21 Available at FNPR website among documents of the VII FNPR Congress at: <<http://www.fnpr.ru/n/2/15/289/6204.html>>.

22 On this debate, see: <http://www.fnpr.ru/n/2/15/302/8729.html>. See also: Resolution of VIII Extraordinary FNPR Congress from 29 October 2013, »On Amendments to the Charter of Federation of Independent Trade Unions of Russia«. Available at: <<http://www.fnpr.ru/n/2/15/302/8644.html>>.



3.3 The Real Estate Factor

The ownership of real estate allocated to VTsSPS during the Soviet period has been a bone of contention from the beginning. Alternative unions maintained that the properties were never built from trade unions' dues but from social security and state resources and therefore either belong to the state or should be shared by all unions on equal terms.

Exclusive ownership of the enormous property holdings²³ provided FNPR with resources that gave its affiliates a competitive edge over the alternative camp. Dividends from holdings could be used to finance offices, staff and operations. Large quantities of property were sold in the 1990s, when high unemployment and low wage levels threatened the revenue base of all unions. Above all, the control of access to thousands of holiday facilities provided an opportunity to give hundreds of thousands of affiliate members preferential vouchers, thereby giving them a strong reason to remain a member and not go over to the alternative camp.²⁴

The property ownership of trade union holdings is complex and intransparent. The majority of assets after 1992 were not transferred to the central body but, on a territorial basis, handed over to the respective regional unions. Neither the central body nor its regional structures are directly involved in asset administration, but have established dozens of enterprises for the purpose. Krajsowprof alone, the regional FNPR structure for the district of Krasnodar, appears to have registered 74 subsidiaries over time to manage its business activities (RBK 2016).

The financial benefits that flow from union assets have been deliberately shrouded in mist. As no law demands financial transparency, the administration of union holdings has become the object of wide speculation about illegal transactions, personal enrichment and tortious political interference. FNPR has never sought to scotch rumours of financial wrongdoings by allowing independent accounting firms to audit its books and has never been able to put an end to assertions

23 FNPR took ownership of union property located on the territory of Russia, »including 690 tourist bases, 813 sanatoria, 277 administrative and social buildings, 657 sporting and physical cultural facilities, 113 training and education establishments, 20 construction organisations and 79 buildings in the course of construction« (Ashwin and Clarke 2002: 90).

24 I. Fedyushina, What is trade union property and how it works. Website of FNPR newspaper *Solidarnost*. Available at: <http://www.solidarnost.org/thems/20years-of-FNPR/20years-of-FN-PR_7395.html>.



that its revenues from real estate dividends far exceed its income from members' fees, a point that can be used to argue that FNPR should be considered a estate agency at least as much as a trade union.

Not publishing figures on the profitability of its subsidiaries and not informing the public about the extent to which the regional and central structures finance themselves from dividends make FNPR vulnerable to criticism about its unclear agenda²⁵ and the extent to which a »business organisation« can represent workers' interests.

3.4 Membership

FNPR unions have experienced a dramatic loss of union members over the past 25 years. Having at one time encompassed nearly the whole labour force of 60 million (1993) the figure is currently down to some 20 million. Around two-thirds of employees have withdrawn from FNPR unions, an average annual decline of nearly 2 million. The decline was strongest in the years 1992–1999, when 3 million members left each year, and continued thereafter, dwindling by 1 million every year between 2002 and 2015 (figure 2).²⁶

Withdrawal from FNPR did not swell the ranks of the alternative unions, however. The alternative unions witnessed an organisational boom in the early years, reaching some 2–3 million members but thereafter faced stagnation and today struggle to keep their membership at the earlier level. Even though FNPR is confronted with dramatic losses, it has kept its organisational lead against its union rivals.

The dramatic decline in membership can easily be explained in terms of political, legal, social and economic reforms. Membership was kept artificially high during Soviet times, even though forced membership did not exist *de jure*. But providing unions with the role of administering social welfare, including allocation of houses, and giving them veto power in individual labour disputes implied much personal and material harm to anyone who dared to opt out. The restructuring of

25 A. Shershukov, Remembering the future. The problem-oriented analysis of the quarter-century of FNPR. Website of FNPR newspaper *Solidarnost*. Available at: <http://www.solidarnost.org/articles/Vospominanie_o_buduschem.html>.

26 See, for example, the report of the President of FNPR Shmakov during the VIII Congress of FNPR in 2013: Available at: <<http://www.fnpr.ru/n/2/15/302/8729.html>>.



the social security system and the political and economic reforms that abolished the unions' role as transmission belt for the ruling party, giving way to the emergence of a private sector economy, put an end to the »political bondage« of unions and employees. Under the new dispensation employees had a free choice in rejecting membership while unions, at least in the private economy, were suddenly confronted with employers and management who saw less or no need to maintain a cooperative relationship with them and in many cases acted to destroy them.²⁷

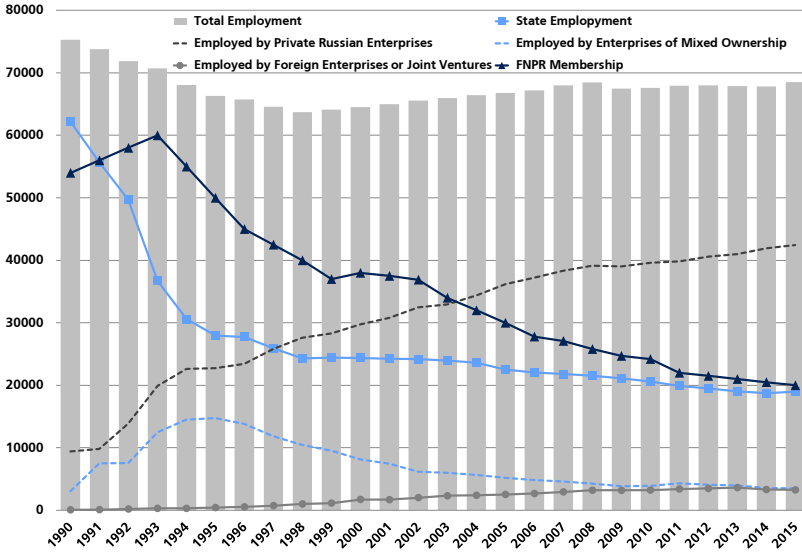
No detailed sectoral or branch breakdown of union membership is publicly available, but an educated guess provides some insight into union density. It is certainly true that the privatisation of large state companies and the emergence of small-scale private companies – including the substantial growth of an informal sector – pulled the rug from under the unions and many parts of the private sector today are union-free. Public administration and state companies, which escaped privatisation for whatever reason, were less likely to engage in an anti-union struggle and in areas with strong state influence, survival of unions mostly did not pose problems or was a simple continuation of practices from the past. Employment trends in the state and private sectors thus may be seen as a plausible hint concerning the presence and strength of unions.

Employment by the public administration or fully owned state corporations went down from 62.2 million (82.6 per cent of total employment) in 1990 to 19 million (27.7 per cent) in 2015. At the same time, employment by private Russian enterprises shot up from 9.4 million (12.4 per cent) to 42.5 million (62 per cent). There are some 3.5 million employees (5.1 per cent) working for enterprises with mixed ownership, including some state investments, while another 3.3 million (4.7 per cent) were employed by foreign companies or joint ventures, which linked foreign investors with the Russian state or private Russians (figure 2). It may be safe to conclude from these figures that in 2015 employment in the public sector and in enterprises over which the state exercised full or part control lay anywhere between 20 and 25 million. This corresponds to joint union membership for FNPR of »above 20 million« (statement on FNPR website) and 1.5–2 million for KTR.

²⁷ For a discussion of the reasons for FNPR's membership decline, see »From the VII to the IX Congress of FNPR (2011–2015)«. Available at <http://www.fnpr.ru/pic/verstka_1.pdf>.



Figure 2: Employment by Type of Ownership and FNPR Membership, 1990–2015



While average union density is around 32 per cent we may cautiously conclude that in state companies and public administration, union density is 80 per cent or higher, while in the private sector, it is 20 per cent or lower.

4. Collective Bargaining

4.1 Collective Bargaining: Scope and Coverage

Collective bargaining, in principle, takes place at plant, sectoral, regional, inter-regional or national level.²⁸ There is a large number of agreements but data on coverage or the content of collective bargaining are scarce or non-existent. The Ministry of Labour or the Federal Office of Statistics do not publish figures and FNPR engaged in a sim-

²⁸ There are two terms in Russian for collective agreement: »collectivniy dogovor« (collective contract) for agreements at local level, and »soglasheniye« (agreement) for other collective agreements, signed at higher levels.



Table 1: Collective Agreements concluded by FNPR Unions (as of 2015)

Organisational Level	Number of Agreements
National level	6
Federal Sector/Branches	63
Regions	80
Regional Sector/Branches	1.367
Plant Level	135.913

Source: Resolution of FNPR Executive Committee of 18.05.2016, available at: <<http://www.fnpr.ru/n/2/15/187/12686.html>>.

ilar informational blackout on collective bargaining for more than two decades, only recently starting to provide some simple data analyses on what is happening at plant level.

FNPR statistics count the number of agreements but do not disclose how many employees are covered. This appears to be a political decision, as such figures should be easily available from their affiliates. In not collecting or publishing such figures, FNPR is taking a policy stance to intentionally keep the public in the dark on the scope of coverage.

The ILO has calculated employee coverage, which may be more an educated guess than an authoritative figure, amounting to around 22 per cent (ILO 2013: 2).

4.2 Collective Bargaining: Structure and Meaning

The content and form of collective bargaining differ depending on the level. To date, no national employer's body has been established that is duly mandated to conclude binding collective agreements on behalf of its membership. The same holds for the regional and inter-regional level. Bargaining at territorial levels thus often takes place in a »bilateral set-up« of union representatives and public authorities, lacking the presence of duly mandated employer representatives. Universal coverage usually poses no challenge. Much of what is contained in »negotiated« agreements does not bind either party to strict implementation.



There are hardly any consequences to be feared if one side decides to ignore them. To some extent one may say that the emptiness of its content is the base for its wide coverage. Such bargaining is in most cases meaningless, except with regard to the adjustment of minimum wages (see below).

Sectoral bargaining hardly differs. In about half of all branches, no employers' association has been set up or duly mandated. Where bargaining agreements are concluded nevertheless, agreements are full of clauses of a general nature and have a merely declarative character. Implementation of clauses with material implications is made dependent on the availability of financial resources. Only a few sectoral agreements have any provisions on wages. Just three sectoral agreements in 2015 made statements on the correlation between the fixed and the variable parts (bonus payments) of salaries,²⁹ none makes any conclusion on wage indexation and none has any provisions on wage differentiation.

The plant level may be seen as the real location for collective bargaining. Here, union pluralism is confronted with Art. 37 and Art. 43 of the Labour Code, which determine that there shall be a single collective agreement for any plant and that such agreements shall cover all employees, irrespective of trade union membership. To link union pluralism to a unified bargaining unit and to apply it to all employees irrespective of trade union membership, in 2001 the Labour Code laid down a procedure which has been challenged by smaller unions – mostly from the alternative unions camp – as it provides larger unions – mostly FNPR affiliates – with an inbuilt power to exclude rival unions from participating in bargaining. At the plant level trade unions have the right to engage in collective bargaining if they together have at least 50 per cent of all employees as members. If membership is below this threshold bargaining rights go to the employees, which can be articulated at an assembly of (all) employees. This assembly may mandate one of the competing unions or select a group or individual to exercise the right of collective bargaining.

The real challenge arises when union membership is above 50 per cent but spread between different unions. In this event, the law foresees

²⁹ This refers to coal mining, the chemical industry and agriculture, for which the fixed parts of the wage are set at 70 per cent, 65 per cent and 70 per cent, respectively. See: Resolution of FNPR Executive Committee of 18.5.2016 No. 4–5; <http://www.fnpr.ru/n/2/15/187/12686.html>.



a joint bargaining body in which all the unions meet and, according to their relative strength, have to agree on a joint position. If no agreement is reached, however, the position of the largest unions automatically holds and the largest union receives the single mandate for bargaining.

This procedure provides the power base for »majority unionism« and has the potential for discriminating against newly established structures, thereby cementing the status quo and marginalising »minority« unions. The FNPR leadership insisted on this »majority clause« before agreeing to the reform of the Labour Code in 2001, which took a number of rights from workers. FNPR unions, with their inherited membership usually at an advantage in a plant, thereafter were quite willing to use this clause, not to come to a joint bargaining position but to exclude union rivals from participating in bargaining.

No data are available on the content of collective agreements and it is not possible to establish the relevance of collective bargaining for wage fixing. The fact that neither the Ministry of Labour nor the Federal Office of Statistics or even the unions provide any insight into the contents of agreements leaves the public guessing about what happens at union–employer meetings.

4.3 Minimum Wage – Role of Unions in Setting Levels

While good reasons exist to doubt the relevance of collective bargaining in wage fixing,³⁰ minimum wage adjustment provides an alternative avenue for trade unions to influence wage levels. This is the case especially in the public sector, where in many places there is a rigid wage scale, with remuneration defined as a multiple of the bottom. Lifting the bottom level with minimum wage adjustment could help to raise up other levels.

Minimum wage fixing by the government has been in existence since 1993. The Labour Code stipulates that there shall be a uniform minimum wage which covers all employees and that the level shall be fixed by federal law, taking into consideration that the minimum wage cannot be lower than the subsistence minimum, which is determined quarterly in reference to a defined consumer basket and some additional expenses.³¹

30 See Traub-Merz in this volume.

31 Article 133 of the Labour Code.



Table 2: Minimum Wages in the Regions, 2015

	Above Subsistence Minimum in the Region	Below Subsistence Minimum in the Region
Public Sector	7	27
Private Sector	17	46

Source: FNPR information on the minimum wage in regions of the Russian Federation as of 1 April 2016. Available at: <<http://www.fnpr.ru/pic/452.doc>>.

In 2007 the regions were granted the right to top-up the national minimum with an additional regional minimum wage.³² The regional minimum is not to be fixed by the regional legislature, but negotiated by the regional social partners, including the regional FNPR. As a rule, the regional minimum wage covers all employees in a particular region, with the exception of public employees paid from the federal budget (these employees are covered by the national minimum wage). However, regional social partners are free to set special minimum wage regulations for employees in a particular sector or district or to exclude a category of employees from coverage.

Looking at how the national minimum wage has fared over time in comparison with the national subsistence minimum, a devastating picture emerges. The minimum wage did not reach the subsistence level even once, sometimes being set four or five times below what is also called the poverty line (Gerasimova and Bolsheva 2015; Lukiyanova and Vishnevskaya 2015). The government ignored what was legally laid down as an anchor, asserting that fixing the minimum wage not lower than the subsistence level is merely a long-term goal.

The introduction of a regional add-on to the national minimum had some positive effects. The number of regions that approved an additional wage component increased over time and in 2013 reached 51 out of 83 regions. But even the combined minimum wage remains below the subsistence level in a majority of regions (see table 2). Considering further that many regions exclude whole sectors and other categories of employees from its benefits, the coverage further declines and the overall effect of regional minimum setting remains modest. In most cases the com-

32 Article 133.1 of the Labour Code.



bined minimum wages remain far below the subsistence or poverty line and cannot act as a solid anchor for wages. No matter how much trade unions participate in regional minimum wage setting, their impact on wage fixing is marginal (for more on this see Traub-Merz in this volume).

5. Unions in Labour Conflicts

Conflict articulation should be seen as the real point of departure from unionism under the Soviet regime. Then, labour interests were assumed to be congruent with the interests of the socialist party state and no legal or institutional provisions were deemed necessary to provide regulations for collective labour disputes. Conflicts were thought to exist only at the level of individual employment relations and here, union representatives were indeed given a strong role to play. Any (individual) labour conflict first had to pass through a local body, where union representatives de facto exerted a veto power and no employee could be dismissed without their approval. Even though there was a right of appeal before a court judges assumed the »ruling of the union« to be superior and rarely overturned their decision.

5.1 Individual Labour Conflicts

Regulations on individual labour disputes have undergone several reforms since 1992. The unions have lost their veto right in cases of dismissals,³³ but have managed to retain a role as a player in disputes.³⁴ In cases of employment contract disputes, unions can initiate the creation of a parity-based Committee on Labour Dispute Resolution.³⁵ The decision of the Committee shall be binding on both sides but it can be appealed before a court.³⁶ Importantly, taking the committee route is no longer mandatory

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³³ Except in some cases of dismissal of elected trade union representatives.

³⁴ See: Lyutov and Gerasimova (2015), 195–197; Gerasimova and Bolsheva (2015), 329–334.

³⁵ Article 384 of the Labour Code. The Commissions can investigate the majority of individual labour disputes, except disputes on unfair dismissals, illegal transfers to a different job, cases involving employees' personal data, cases on discrimination and employers' illegal refusals to employ applicants.

³⁶ Articles 389, 390 of the Labour Code.



and employees are entitled to apply directly to a court. The opening up of an alternative channel for dispute resolution has greatly weakened the role of unions in (individual) labour disputes. Even though we have no proper statistics, there is evidence that a large majority of employees take their complaints directly to a court. The number of dispute committees in enterprises has decreased significantly and today only a few still exist.³⁷

Unions have reacted to this sidestepping of the committees and are trying to reclaim some role in dispute resolution by acting as a »procedural plaintiff« in the interests of the employee. They are entitled to submit a suit to the court and act as the employee's solicitor. However, they no longer have »monopoly representation« rights and have to »compete in the open market« with private attorneys.

5.2 Collective Labour Conflicts

Dealing with collective labour disputes and positioning themselves in relation to the right to strike and the practice of striking has been a major challenge for both unions and the state.

During the Soviet regime, strikes remained isolated cases mostly due to the ruthlessness with which they were suppressed. This changed in the second half of the 1980s, when *glasnost* relaxed political control and *perestroika* led to economic liberalisation through enterprise and labour law reform. When the hard core of social relations in the Soviet Union was challenged, in particular with the reforms contesting both the guarantee of employment and social welfare, massive collective action broke out. The strike wave of the mine workers, which in 1989 crossed Soviet territory from Kuzbass to Donbass, was triggered by bread-and-butter issues and interest representation, but contributed to the fall of Gorbachev.

Where did Soviet trade unions stand in these labour conflicts? Equipped with the ideology of defending workers' interests from above they always followed the party line. Not a single case has been reported of trade unions engaging in collective action. When spontaneous

³⁷ Where they exist it is usually due to trade union insistence. And in these cases employees quite often use them to lodge complaints.



strikes occurred, local unionists may have sympathised with workers and sometimes went over (Rossman 1997; 2005), but union leaders never did so, knowing that this would be their downfall. The best thing they could do was to pacify striking workers with promises to take up grievances in higher places, or just ignore such events and leave it to the police or the military to end them.

The time for union action certainly came with *glasnost* and *perestroika*, when repression of »antiparty behaviour« was scaled down. But the VTsSPS (All-Union Central Council of Trade) leadership and their regional and local structures spoke out against striking miners, who then moved forward to establish autonomous unions outside the official structure. The VTsSPS's apparatus had grown too big and felt threatened in an uncertain new political environment where unions had to struggle against state policies. The strikes did not reform the union machinery bottom-up but rolled out a platform on which new unionism could emerge.

Workers' activism and strike action were the fault line along which the labour movement split during the transition period. The alternate unions played the role of a »solidarity organisation for conflicts« from the beginning as many of them owed their genesis to the establishment of strike committees. FNPR unions, on the other hand, were confronted with worker activism not due to its own mobilising strategies but to the actions of other unions.

The 1990s did indeed see quite a number of disputes leading to strike action. During the first decade of the Russian Federation the number of strikes ran from a few thousand to more than 17,000 in one year (Gerasimova 2014; Traub-Merz in this volume). This is hardly surprising as the purchasing power of wages was cut by half between 1992 and 1999. The fact that only some 1–2 per cent of the workforce participated in these stay-aways gives reason to ask whether these protests reflected a high level of resistance, mounted by labour and led by trade unions – or whether the level of activism shows more the dominance of workers' quiescence and a fatalistic submissiveness in the new socio-economic environment.³⁸ Looking at official statistics, the period after 2000 differs markedly. With the exception of 2004–2005 work stoppages dropped substantially, going

³⁸ There is a wide debate in the literature on how to assess labour protests in Russia. See, for example, Ashwin and Clarke 2003; Ashwin 1999; Robertson 2011; Mandel 2001; Mandel 2004; Crowley 1997.



down to single digits. According to official records, Russia has become a »strike-free country« in recent years.³⁹

Several reasons explain the »cut« in collective labour disputes after 2000. That year marks the beginning of the oil price boom, which year-by-year improved the flow of export revenues to the state budget and provided the basis for economic growth. Real wages went up, the employment situation improved and the reasons for taking strike action may have lost some urgency.⁴⁰

The year 2001 marks another turnaround in that the new Labour Code included a repressive strike law. Since then, procedures imposed on the initiation, declaration and conduct of strikes have become increasingly complicated, to the extent that they hardly can be legally applied anymore (Gerasimova 2014). Unions have been stripped of the right to declare a strike, which has been given to the assembly of all employees in an enterprise. Stringent requirements have been set for a quorum of all employees (not of union members) to provide a union with a mandate for bargaining. Another employee assembly is required later to declare an end to negotiations with the employer and call for a strike (with the support of two-thirds of the delegates). A series of other challenging steps also must be overcome.^{41, 42}

With formal dispute resolution blocked in every practical sense and becoming inaccessible, collective dispute resolution in Russia is increasingly »going underground«, thereby leaving those trade unions behind whose officials could easily be harassed by officials or even threatened with criminal sanctions. The Centre for Social and Labour Rights (CSLR) has monitored labour protests for a number of years. Its reports confirm that the real number of collective disputes is much higher than what is officially recorded and that most labour conflicts happen out-

39 ROSSTAT recorded only single digit number of strikes for all years from 2006 to the present. Federal Service of State Statistics (ROSSTAT), Rossiyskiy statistical anual, 2014, available at: <http://www.gks.ru/bgd/regl/b14_13/Main.htm>; Socio-economic situation in Russia. 2015, p. 230. available at: <http://www.gks.ru/free_doc/doc_2015/social/osn-12-2015.pdf>, accessed 28 February 2016.

40 This argument is rather weak as strikes more often than not have procyclical features and rise during an economic upswing (see discussion below).

41 See, for example, Gerasimova (2012a; 2012b; 2014); Lyutov (2014).

42 Furthermore, the right to strike is prohibited for many categories of workers that should not be subject to such restrictions under international labour standards. Some categories of workers who earlier enjoyed the right to strike (railway workers, air traffic controllers) are now deprived of it and have to seek informal means to defend their interests.



side the official procedure. From the unions' point of view, the picture is bleak: about half of all labour protests occur spontaneously and arise from grassroots labour activism. Local trade unions participate in only about 43 per cent of protests, but mostly in disguise to avoid prosecution for their leaders (CLSR 2016). Russia confirms the tendencies in other countries: applying rigid controls drives dispute resolution into informality. It does not excise grassroots labour activism but weakens the role of established trade unions.

6. Trade Unions in Politics – Between Survival and Subordination

Judging from the locus of employment and the fact that a majority of workplaces nowadays can be found in the private sector one may conclude that the role of the state in industrial relations is dwindling and Russia is on the way to some sort of market-based labour relations. In other words, that the state is arranging for an unlevel playing field which puts unions at a disadvantage but otherwise leaves it to employee-employer relations to settle employment affairs. Such a view is false, in two respects. Firstly, when Putin moved into the Kremlin, the liberal economic tendencies of the 1990s were soon suppressed and many economic sectors become state-led again. In areas defined as strategic, such as oil and gas extraction and exporting, some other minerals, banking and the industrial-military complex, which has been largely rebuilt over the past 15 years, the state has resumed a commanding role. Employment directly under state control (public administration and state companies) may not make up the majority of workplaces overall, but if workers in mostly small private enterprises are excluded, it does. And the state's influence reaches beyond that. The top management of a number of large private companies maintain intensive shadow relations with the political leadership and may call for state protection if labour disputes occur inside their enterprises. Clearly, FNPR unions operate within an industrial relations framework that is largely state-dominated.

Secondly, trade unions form by far the largest component of an organised civil society, and represent the only segment apart from the conservative Orthodox Church, which count their members in the high millions. While they may be weak in collective bargaining, their organi-



sational capacity and their means of communication could nevertheless make them the rallying points of protest articulation and resistance to the ruling regime. Subjecting the workers to subordination through unions has been a dominant feature of Soviet rule, clearly indicating the constant fears of mass protests challenging the regime's continuity. Neutralising trade unions, holding them under close supervision and including them as allied forces is a power strategy of all illiberal regimes. Destabilising them organisationally or threatening them with destruction is part of this game, if unions dare to step out of the regime's embrace and become the platform for regime opposition. No conflicts of any sort challenge the survival of a regime as long as they remain in local isolation and do not spread like bushfire through the country. When local grievances are linked into a wider framework and then lifted onto a national platform a regime may come under challenge.

Much of the relationship between trade unions and the Yeltsin and Putin government can be analysed through this kind of lens. FNPR has to date hardly ever provided support for affiliates to engage in a conflict and to mobilise for solidarity action against »unwilling employers«. Regardless of the devastating social situation that existed particularly in the 1990s, and no matter how few concessions it received for its cooperation, FNPR always raised the banner for social dialogue with the ruling power and in general subscribed to an understanding that the central union body's duty is to concentrate on lobbying the political executive and the legislature or, going one step further, to enter into a political alliance with the ruling party. Organising mass protests and altering Russia's course of development never came on its agenda.

6.1 FNPR during Transition – In Search of a Modus Vivendi

During the early years of transition »survival« was at the top of FNPR's agenda. In the early 1990s, forecasts predicted a continuing decline if not collapse of traditional unions and strong growth for alternative associations. Such negative forecasts drew on the fate of another huge Soviet membership organisation, the Komsomol (All-Union Lenin Communist Union of Youth). Without any fight for survival, the Komsomol Youth Movement disappeared overnight when the Soviet Union collapsed and nothing remained of the once proud 40 million-member organisation.



Against all odds, FNPR remained alive and its survival strategies are a strong feature of Russia's transition and post-transition history.

Transition confronted FNPR with several contradictions: engaging on the side of members in defending employment and wage interests was likely to lead to conflict with public authorities, who were pushing for social and economic reforms. Its bureaucracy had never learned how to engage in collective disputes, and siding with workers against the state would have brought strike leaders and popular grassroots representatives to positions of prominence and to challenge the old guard. But not reforming its role and avoiding all conflict with public authorities was again a bad choice. It carried the danger of an exodus of rank and file members, making the union a hollow organisation living on generosity from the state which it had to please.

It is wrong to assume that at the beginning FNPR had a clearly laid-out strategy for survival. Much of what it did was a spontaneous response to a changing environment and initiatives by others and it rather played a reactive game than become an agent of reform itself. Its relation to the state was of central importance in determining its chances of survival. Gorbachev's reforms had forced FNPR to set up its own legal structure in March 1990, thereby separating it from the VTsSPS and at the same time, cutting its links to the Communist Party. The coup against Gorbachev (August 1991) saw FNPR standing on the sidelines declaring support for neither the beleaguered government nor the plotters. This inertia proved advantageous. Boris Yeltsin, who emerged from the failed coup as the new president of Russia, did not consider a ban on FNPR (whereas he did for the Communist Party), but instead set up the Russian tripartite commission for the regulation of social and labour relations in 1992,⁴³ giving FNPR nine out of 14 labour seats. In recognising it as the primary social partner and elevating its status against other unions Yeltsin opted against the organisational vacuum which might have arisen from a break-up and allowed FNPR to retain many powers and functions. This included control over the disbursement of social insurance funds, the right to veto dismissals and automatic deductions from employee wages.

43 Decree of the President of Russia of 24 January 1992 No. 45 on the creation of the Russian Tripartite Commission on the Regulation of Social and Labour Relations [Ukaz Prezidenta RF »O sozdanii Rossijskoj trehstoronnej komissii po regulirovaniju social'no-trudovyh otnoshenij«].



Cooperative relations with the Yeltsin government were short-lived, however. Economic and social reforms generated shock waves among the labour force and with an inflation rate above 2000 per cent in 1992, wages plummeted. FNPR on several occasions called for an end to price liberalisation and market reforms and joined opposition forces in demonstrating against Yeltsin. During this period there were signs of a revival of state-union relations during the latest years of Gorbachev's rule but with the poles reversed. FNPR (occasionally) protested against state policies, while (some of the) alternative unions now allied with the government, and instead of calling for an end to the reforms demanded that they be deepened (see below).

The 1993 assault on the Moscow »White House« – the parliament building – by government troops, termed a coup by the executive, became a watershed for the political future of Russia. It also had a strong bearing on the future of FNPR. When FNPR, under the leadership of Igor Klochkov, called for the defence of the White House, Yeltsin reacted immediately. The same day as the union issued a resolution against his policies, he passed a presidential decree stripping it of its right to control and dispense social insurance funds and other benefits. With the stroke of a pen, the union lost 100,000 functionaries, who overnight became state employees of the Ministry of Social Welfare (see Ashwin and Clarke 2002; Ashwin 2011). Following his victory in the White House showdown, Yeltsin went a step further. He prepared a legal draft that threatened to nationalise FNPR's Soviet assets and to end mandatory transfer of union dues, both of which were likely to pitch unions into further financial misery, perhaps even lead to their collapse. Under immense pressure, FNPR hurried to call for a union congress, removed Klochkov from the leadership and replaced him on 11 October 1993 by Mikhail Shmakov, who has remained in the post since then. President Yeltsin appears to have accepted the change in the union leadership as a willingness on the part of FNPR to enter into a more friendly relationship with his government and never introduced the bill.

6.2 Coping with Mass Discontent – The Protests of 1996–1998

The relationship between President Yeltsin and FNPR went through different phases in later years. In the years 1996–1998, unpaid wages



reached unprecedented levels and in 1998 Russia was further hard hit by the global financial crisis. Mass protests sprang up, culminating in demonstrations in which (according to FNPR claims) 15 million people took part on 5 November 1996, 20 million on 27 March 1997 and 25 million on 7 October 1998 (Ashwin and Clarke 2002: 51–52). FNPR appeared to be at odds with Yeltsin again, calling for his resignation in an open letter. However, support from within the unions was hardly forthcoming, as regional trade unions had their own axes to grind and FNPR criticisms remained rather symbolic than a real challenge to the president.⁴⁴

Robertson's study (2011) on the conflict dynamics of the period 1996–1998 provides insights into the role of unions in labour conflicts and politics during this period. »Although a broad range of people participated in protests, most participants were acting as members of local groups with locally specific identities, and (...) they were often participating in only loosely organised wildcat protests largely independent of one another« (Robertson 2011: 55).

Protest demands were usually »rights-based«, calling for the upholding of the law (payment of what is due) rather than »some sort of radical change« (p. 59). Even though the non-payment of wages emanated – in the case of the public sector – from the centre, the protests »coded the demands for wage arrears as an issue of localisation« (p. 63).

Although millions participated in the protests, the trade unions were largely absent. Strikes generally occurred spontaneously and there was hardly any network with which they could be linked to form a national protest. Instead of unions, many strikes were initiated by employers and enterprise managers. While employers in the private sectors saw hardly any reason to join work stoppages, the top management in state companies pushed for rallies and stay-aways in the hope of attracting subsidies from the central authorities (p. 65).

Robertson's study is of particular interest in regard to the role of regional authorities and their »protest alliances« with regional unions.

⁴⁴ Critical voices were raised within FNPR affiliates, speaking out strongly against the government and the FNPR General Council reacted to demands by FNPR member organisations for Yeltsin to resign. (Ashwin and Clarke 2003: 52). Yeltsin's rule looked ever more fragile, the elections of 1999 were around the corner and the (re-established) Communist Party appeared to have a chance to win. It was in these uncertain circumstances concerning who was likely to seize power that FNPR spoke out publicly against government policies and demanded change, although without mobilising in favour of a different course.



Regional governors, in particular those in poor standing⁴⁵ with the central government, used regional unions to initiate or support local protest to exert pressure on Moscow for more resources. »Regional labour unions have tended to be incorporated into the political machines of governors« (Robertson 2011: 97–98), acting »as an extension of the regional administrative apparatus«, to some extent resembling the »transmission belt« of Soviet times. For regional unions, »this role as part of the vertical chain of command in the Russian state was welcomed as an opportunity to strengthen authority over their own lower-level union organisations, and for building a new kind of democratic centralism« (p. 77).

Despite the large number of participants, overall, the protests did not scale up into a national protest movement that could be sustained in accordance with social or political demands. Whereas the strikes of the 1988–1992 years rolled out a platform on which new trade unions could emerge, the protests of 1996–1998 had no organisational consequences. Unions helped to diffuse workers' discontent and in doing so, squeezed out more militant alternatives (p. 78).

The geographical pattern also shows that while unions may belong to a »united structure«, they hardly act in uniformity. Regional unions are embedded in regional public authorities and contradictions between the different layers of state administration are closely reflected in inter-union conflicts.

6.3 Authoritarianism, Union Pluralism and Subordination

During the 1990s FNPR traded its organisational survival for »non-antagonistic« relations with the Yeltsin regime, but maintained some autonomy and was able to switch its allegiance whenever it saw the government challenged by strong opposition forces. Since Putin assumed the presidency in 1999, authoritarianism has returned into the relations between the state and society and political liberalism has been curtailed. Public space for expressing discontent has narrowed and the state au-

⁴⁵ During Yeltsin's period in office regional governors were directly elected, which allowed them to develop a power base independent of the central government. In 2004, Putin abolished gubernatorial elections and, by nominating governors himself, instigated what came to be known as vertical power.



thorities have brought forward repressive instruments to prevent protests or clamp down on protesters.

FNPR reacted to these authoritarian tendencies by moving closer to the state. The early Putin years still saw a stick and carrot game, in which FNPR could still bargain for advantages by withholding dissent; after 2004, when direct gubernatorial elections were abolished and political power turned into so-called vertical power, disapproval of state policies in FNPR ranks was barely forthcoming.

The »new momentum« for FNPR in balancing organisational interests with political pressure from the top became manifest in the adoption of the new Labour Code in 2001, which basically turned out to be an onslaught on union rights. FNPR and alternative unions in unison at first objected vehemently to the reforms, which led President Putin to support a rival candidate as new head of FNPR, to be elected at the next congress. Just as occurred in 1993, FNPR gave in to the proposed reforms,⁴⁶ upon which President Putin withdrew his support for the rival grouping. Regime support was »sweetened« for FNPR when it managed to have a clause on »majority unionism« inserted in the new Labour Code (see Ashwin and Clarke 2003: 68–71). The legal instrument to keep competing unions at arm length and prevent them from entering the bargaining arena served to maintain FNPR dominance but was a bad deal for employee representation in industrial relations.

The »deal« reconfirmed the message that supporting the administration »pays«. However, by trading a de facto strike ban for a clause favouring »union hegemony« FNPR finally handcuffed itself, as from then on it was scarcely in a position to diverge from the regime. Under Yeltsin, FNPR had maintained at least some room to manoeuvre; under Putin, subordination became the order of the day.

6.4 The Protests of 2005

The monetisation law, which replaced benefits in kind for a range of items, such as free urban public transport, was the cause of the last major social protest movement in Russia for many years. The outcry was particularly strong in Moscow and St Petersburg and brought millions

46 Alternative unions maintained their objections.



of people to rally against the withdrawal of the last remnants of the social benefits granted under Soviet times.

In the end the protests failed. Even though payment for benefits in kind had to be provided locally, the rebuilding of the »vertical« power structure had already become so strong that local authorities did not dare to object to the central power and strongly pushed for implementation.

The protests did not find a platform for organisational consolidation. In most cases they remained local and were organised in isolation from each other (Robertson 2011: 177). Unions, again, were not the initiators and their role was hardly felt anywhere.

However, a new instrument was used to calm protests. Public authorities began to use the resources of the state to mobilise counter-demonstrations in favour of reforms. Public employers and senior personnel in state holdings were called on to publicly show support for the government and to provide transport and meals. The »war of numbers« served its purpose of intimidating protesters and made it clear that when the chips were down the regime would not hesitate to use state resources to clamp down on discontent.⁴⁷

6.5 Election Protests and the Aftermath – Clamp-down on NGOs and the Role of FNPR

Whereas the protest of 2005 may be called the first large-scale challenge to the policies of the Putin government in economic terms, the white ribbon protests of 2011 and 2012 represented the first major opposition that was political in nature and explicitly called for regime change.⁴⁸ Most of the demonstrators came from an urban middle-class

⁴⁷ The authors could not find evidence on an active role on the part of the unions in mobilising for »counter-demonstrations« in 2005 nor could they find evidence on their resistance to it.

⁴⁸ Starting in December 2011 and continuing into 2012 and partly 2013 many cities experienced mass protests against the erosion of democracy, focusing on fraud on legislative election day on 4 December 2011 by the ruling party, United Russia, and the return of Vladimir Putin for a third term as president. Hundreds of thousands of demonstrators called for »fair elections«, the annulment of the election results, the resignation of the head of the election commission and an official investigation into voting fraud. Some demands went further and called for freedom for political prisoners. There were no social demands, such as higher wages, better employment, social housing or improved pensions. The protests were »purely« political and in the end demanded voters' right to decide on who should lead the country.



background and their calls were for democratisation and modernisation, not for higher salaries or better working conditions.⁴⁹

There may have been some inertia within the Kremlin administration at the beginning, but soon it began to respond to anti-government protests by simultaneously organising »pro-government« rallies.⁵⁰ From the middle of 2012 onward, when Putin had comfortably returned for his third presidency, the regime responded with more state repression. It set in motion its parliamentary machinery to legally clamp down⁵¹ on protesters and NGOs, press freedom was curtailed and critical voices were criminalised as »foreign agents«.

During these protests, traditional unions publicly declared themselves to be pillars of the regime. In state enterprises in heavy industry, in particular the military-industrial complex, local unionists made it known to President Putin that they were waiting for his call to come down on these elements and to drive out protesters from public spaces.⁵²

The central FNPR saw itself as a member of a ruling alliance. Earlier in May 2011, FNPR had affiliated itself to the All-Russian People's Front (Russian acronym ONF), established on the initiative of Vladimir Putin

49 The social composition of demonstrators differed markedly from previous large protest gatherings. A majority of participants had a higher education and came from households that had prospered during the economic (oil) boom years and benefited from income policies under Putin. The protests can be seen as a call by the middle class to follow a »Western liberal model« and a »Western development path«, with modernisation of the political system as a pre-condition for economic and technological progress. There were hopes in opposition circles that the protests would build into a large-scale challenge to the regime and Russia's own »colour revolution«, which some already called the »snow revolution«.

50 First supported by the youth organisation *Nashi*, which is publicly funded, other organisations rallied for the support of United Russia and the government, such as the Patriots of Russia, the Pensioner Union of Russia and the Russian Union of Afghanistan veterans, many of them reflecting a patriotic or nationalist political spectrum. The largest »counter-demonstration« may have been the »anti-orange protest« held in Moscow (Poklonnaya Hill) on 4 February 2012, with 50,000 to 150,000 people participating.

51 The legal clampdown on the opposition came at a time when the protests had lost most of their steam and were no longer a challenge to the regime. Putin had returned to the presidency with a convincing election victory. With some concessions to the protestors, a return to the status quo ante would have been possible.

52 See, for example, »Workers rally behind rattled Putin«. News.com.au 29 January 2012. Available at: <http://www.news.com.au/world/gorbachev-laments-russian-crisis/news-story/069d-1da7f703d60f84a86dc5eaf61bcf> (accessed on 26 May 2017). The Guardian: »Putin addresses tens of thousands at Moscow rally«. The Guardian, 23 February 2012. Available at: <https://www.theguardian.com/world/2012/feb/23/putin-addresses-thousands-moscow-rally> (accessed on 26 May 2017).



as an instrument to establish one-party rule in case the existing parliament had to be dissolved because of the electoral protests.⁵³

When the protests were under way, FNPR took sides. On 21 December 2011 the Executive Council of FNPR declared its support for Putin as President; on 24 January 2012, the Executive Council adopted Resolution No. 1–3 on the participation of FNPR affiliates in events to support Vladimir Putin’s candidacy.⁵⁴ It obliged affiliates to conduct election campaigns in the regions. For example, FNPR affiliates organised actions in more than 20 cities on 11 February.⁵⁵ In Moscow, representatives of the sectoral union of education workers officially requested school teachers to join the demonstration in support of Putin.⁵⁶

FNPR’s declaration of support was unequivocal, as were the actions of many affiliates. Indeed, FNPR never objected to the introduction of repressive laws, accepting as a matter of circumstance ever more state control of civil society.

During the period when demonstrations against the regime were still going on and the legal machinery to clamp down on demonstrators and NGOs was not yet in place, President Putin instructed the Labour Ministry to change the Labour Code and introduce works councils. In his famous May Decrees of 2012⁵⁷ he called for the creation of works councils to broaden workers’ participation in management and requested a draft law on works councils by 1 December 2012. Trade unions of all colours argued strongly against works councils, which they saw as competition to their own activities. Some even feared the collapse of plant unions as elected works councils were likely to possess more legitimacy with the workforce and even trade unionists might be tempted

53 Leading figures who got involved included FNPR president Mikhail Shmakov, leader of the sectoral union of coal-miners Ivan Mochnachuk, the leader of the sectoral union of railway workers Nikilay Nikiforov and the leader of the Sverdlovsk regional federation Andrey Vetlugskih. See official website of the All-Russian United Front: <<http://onf.ru/structure/ruk-ovodstvo-0/>>.

54 Resolution of FNPR Executive Council No. 1–3 Available at: <<http://www.fnpr.ru/n/2/15/187/6782.html>>.

55 »In cities of Russia actions to support Putin took place«. Actual comments, 11 February 2012. Available at: <http://actualcomment.ru/v_gorodakh_rossii_proshli_mitingi_v_podderzhku_putina.html>.

56 Teachers are requested to participate in the meeting. Gazeta.ru. 30 January 2012. Available at: <<https://www.gazeta.ru/social/2012/01/30/3980237.shtml>>.

57 Decree of President of Russian Federation of 12 May 2012, No. 597 on measures of state social policy.



to jump ship.⁵⁸ When the Labour Code was finally amended in May 2013, the union fears turned out to be a storm in the teacup, as the »new« works councils were nominated advisory bodies with no rights to make recommendations on social affairs (Lyutov and Gerasimova 2013). The president's political message to the unions was unequivocal, however. Stick with me! There are many ways of destroying trade unions, even without conflicting with international labour conventions.

7. Alternative Unions – Final Take-off or Settling for a Niche?

7.1 Alternative Unions – From Strike Action to Premature Political Alliances

The radical workers' protests that erupted in 1989 laid the foundation for alternative unions to evolve as a means to organise workers' interests independently of both the Soviet state and the Soviet trade unions. For them, there was no longer a top-down command channel to make the union leadership follow directives from the political executive. In cutting the link with the state, union leaders had to carry the mood of the workers or risk loss of members. Within the framework of employment relations, they opted for protests, using strikes as their main weapon.

In the early years of transition this new form of unionism experienced spectacular growth, with new unions gaining millions of members within a short time. But the initial indications that this growth would continue and they would soon outmanoeuvre FNPR, which for its part was doomed to collapse, were not borne out. After 1993, what had begun to look like a complete overhaul of workers' representation in Russia slowed down. FNPR survived the early years of transition and managed to retain its lead organisationally, making the alternative unions play second fiddle.

The way in which, both union wings settled with Yeltsin and the manner in which Yeltsin used them in his own power game were decisive in balancing their future relations. Challenging Gorbachov for the

58 Personal communication.



leadership of the Soviet Union made Yeltsin a »natural political ally« of the alternative unions, which he courted and which indeed lent their strength for his rise. But when Yeltsin was elected by popular vote to the newly created post of President of Russia in June 1991, he did not proceed to ban FNPR, as he did the Communist Party in November 1991. His power base remained too shaky and he looked for supporters wherever they might be found to enable him to govern against an ever more unaccommodating Russian Supreme Soviet. In offering FNPR a majority of labour seats on the board of the newly established Tripartite Commission for the regulation of Social and Labour Relations, in 1992, he essentially elevated it to become his primary social partner, deeply disappointing the alternative unions, which had expected otherwise.

Despite this rebuff, the alternative trade unions did indeed side with Yeltsin in his conflict with the Russian Supreme Soviet, whereas FNPR adopted a wait-and-see policy, siding with the Supreme Court in the 1993 White House showdown (see above).

By siding with Yeltsin the alternative unions created two contradictions that contributed to their stagnation thereafter. Yeltsin never honoured the implicit bargain he struck by providing the alternative unions with organisational benefits. FNPR was allowed – after its dramatic turnaround during its extraordinary congress in November 1993 – to keep its vast assets in their entirety and to remain the dominant union voice in dialogue with employers and political authorities. Yeltsin, in the end, preferred a barely reformed FNPR to the alternative unions, whose loyalty he may never have fully trusted and whose organisational weight could not rival the traditional union wing.

Furthermore, the price the alternative unions had to pay for supporting Yeltsin's economic reform programme was tremendous. Many trade unions leaders showed a strong naivety in believing that the dismantling of the socialist Soviet economy with tools such as price liberalisation, free currency exchange and privatisation of property would automatically lead to the speedy establishment of a market economy and the social harm would soon be replaced with gains. In arguing for economic and political stabilisation, opposing wage claims as »inflationary« and condemning strike action as anti-government, the leaders of the alternative unions tried to turn back the tide of their own organisations and brought about deep divisions in the independent workers'



movement.⁵⁹ The alternative unions got caught in the classic dilemma of workers' organisations siding with the political executive during economic downswings. Arguing for wage restraint to maintain the alliance with the regime eroded the trust of its members when the cuts in real wages set in.

The alternative unions never recovered from their misguided support for a failing reform policy. They struggled to remain alive organisationally and even though they managed to come together to form the Confederation of Labour of Russia (KTR) in 1995 their attractiveness as a new form of interest representation had largely disappeared. Their financial situation remained miserable, having no access to rental income from asset ownership. On top of that, striking in large state plants during crisis years became ever more quixotic, as management often welcomed the opportunity to close down production and services in order to cut costs. Most workforces preferred deals to keep their jobs and accepted pay cuts, which made an adversarial approach to employment relations less attractive.

At the very time the economy ended its downswing and Russia entered into its oil boom years, with promises of a better environment for organising and bargaining, the alternative unions were dealt a huge blow. The new Labour Code of 2001 equipped its union rival with a de facto monopoly of representation for enterprises with an FNPR presence, and from then on, trade union leaders organising strikes risked criminal prosecution. While the Labour Code closed the legal door to organising activities in enterprises with established FNPR affiliates, the oil boom nevertheless swung the pendulum to some extent back in favour of alternative unions and provided them with a new terrain for their activities, this time with the arrival of transnational companies.

59 »The independent workers' movement was now deeply divided. While pressing the workers' claims politically, the dominant position was one of support for the Yeltsin programme, opposing excessive wage claims as inflationary, and strike action as anti-government. In September 1991 the leader of the most militant Workers' Committee, that of the Vorkuta Miners, denounced a strike of surface workers for the restoration of differentials as anti-Yeltsin and anti-Russia. The leaders of the Independent Miners' Union took a similar position in the run-up to its conference in December, opposing wage claims and strikes in the name of economic and political stabilisation. The leadership of the trade union federation Sotsprof was firmly committed to Yeltsin (and in Moscow to Popov), with its leaders having important advisory roles, and opposed Strike Committees and strike action in favour of peaceful collective bargaining, while its primary groups were moving in the opposite direction, taking an increasingly militant line and showing growing discontent with the centre« (Clarke and Fairbrother 1992: 9).



7.2 MPRA – Signal for a New Beginning?

Foreign capital had been reluctant to invest in Russia in the 1990s, but when GDP growth rates picked up after 1999, many international investors flocked to the now booming economy. In 1999, foreign-invested enterprises employed 1.1 million workers; by 2008 this had almost trebled to 3.2 million. Where transnational corporations merely bought shares in state-owned companies, they usually found established FNPR affiliates and accommodated themselves to their role in enterprise employment relations. However, where they opened new outlets, employment relations had to be built afresh and new unions had a better opportunity to establish themselves as representative bodies.

Auto manufacturing became the key sector in which the Russian government – outside the military complex – pushed for a reindustrialisation strategy in earnest. In 2005, the Russian government subscribed to a classical import-substitution policy, leading to a rush on the part of all the major global players to establish local automotive manufacturing units to avoid being locked out of the lucrative domestic markets (Traub-Merz 2015). It was the automotive branch that became the key target of alternative unions to organise interest representation, for several reasons:

- During the years 2000–2008, Russia was one of the fastest growing automotive markets and foreign investors were always short of skilled labour.
- The newly arriving companies mostly settled for 100 per cent foreign ownership. New unions could organise the workforce on a level playing field with FNPR affiliates, even at an advantage because traditional unions were not used to representing workers without support from the management or the state.
- Globally, automotive manufacturing (excluding the supplier industries) is one of the sectors with the highest trade union density, making workers' interest representation via unionisation a normal factor in employment relations.
- Companies such as Volkswagen, Ford, Renault and Peugeot, together representing about 30 per cent of global production, tried to



build a strong presence on the Russian market. They had concluded international framework agreements with global union federations and had signed commitments to not prevent local trade union organising initiatives.

- Local organising initiatives could call for support from trade unions at the transnational corporations' headquarters, as well as from European works councils, which could commit the transnational corporations' central management to intervene with the management of the local subsidiary if it exhibited anti-union behaviour and tried to block organising initiatives.

The new momentum for alternative unions is closely connected with the Interregional Union of Automobile Workers (Russian acronym MPRA) and the labour struggles at the FORD plant in Vsevolozhsk near St Petersburg, and the Volkswagen plant in Kaluga. Having been a dormant affiliate of FNPR since Ford opened its plant in 2002, in the summer of 2005 the plant union suddenly burst into life,⁶⁰ mobilised for wage increases and applied techniques such as warning strikes and a week-long »Italian strike«, which did not directly contravene the Labour Code's restrictive clauses. Eventually, Ford was forced to first sign a recognition agreement with the union and to open collective bargaining. In early 2006 and again in 2007, the union had to back off from their calls for a full-scale strike due to court injunctions. In November 2007, the union finally managed to receive the green light from the court and declared an open-ended strike, which in the end lasted for 20 days and ended with a compromise 20 per cent wage increase, double what the management originally offered (Greene and Robertson 2010: 82; Kagarlitzky 2007a; personal communication).⁶¹

60 On the account of the leader of the union, Aleksei Etmanov, this wake-up call is related to a visit by some Russian unionists to Brazil, where they were confronted with »real union interest representation«, which they implemented after their return home (personal communication from Aleksei Etmanov).

61 »The ITUA-VKT, an affiliate of the IMF, reached a collective agreement with Ford Motor Company that generated concrete results for workers at the plant located in Vsevolozhsk, outside St. Petersburg. A majority of workers voted on January 29 in favour of accepting the negotiated settlement that includes pay increases and additional benefits following a historic 20-day strike, the longest in recent Russian history. Improvements include wage increases that range from 16 percent up to 21 percent for the lowest paid workers. As a result, on average factory workers will earn more than RUR 25,000 (USD 1,030) per month with starting



Some saw the labour conflict at the Ford plant as a watershed in that it led to the first open-ended strike since the new Labour Code came into force and one that the authorities did not squash. Its significance for the automotive sector became immediately visible when rallies in support of the Ford workers were held, such as in the Renault Autoframos factory in Moscow, which later resulted in another strike there for wage increases. It also resonated in other sectors, for example, in labour conflicts among the dockworkers at the St Petersburg seaport or at Heinekens and the Russian postal service (Kagarlitzki 2007b).

The MPRA strategy at the Ford plant provoked FNPR and its sectoral affiliate, the Allied Automotive and Land Machinery Union (ASM),⁶² as well as its enterprise affiliates at Avtovaz and other Russian manufacturer of vehicles, trucks and land machinery, in two regards. Wage increases through strikes meant that the FNPR investment in social dialogue at enterprise level bore less fruit. But more than that, MPRA pursued an expansion strategy, pushing for organisational rivalry at both enterprise and branch level. As an interregional association of unions, it provided solidarity and also expanded into enterprises deemed to be FNPR »territory«. The strategy of »attacking« FNPR affiliates in their home bases become obvious when MPRA accepted Edinstvo, an alternative union inside AvtoVaz, as a member.⁶³

monthly pay of RUR 19,000. The collective contract also includes a long-term saving programme with equal participation of payments from the employee and the company, other improvements in compensation and terms and conditions of work, as well as a better vehicle purchase plan for employees.« Ocnus.net, 21 February 2008; available at: http://www.ocnus.net/artman2/publish/Labour_9/Ford_Workers_in_Russia_Achieve_Significant_Gains.shtml (visited 27 May 2017).

62 According to the official website of ASM, its membership is 500,000. See <http://profasm.ru/index.php/o-profsouze> – information from the ASM official website.

63 Edinstvo was born out of a strike at AvtoVaz in 1996, when the »jewel of Soviet manufacturing« was close to collapse and wages could no longer be paid. In later years, Edinstvo's membership declined substantially from 3,000–4,000 at the beginning to below 1,000 around 2007 (personal communication). Its organisational strength never came anywhere near that of the gigantic AvtoVaz union, which in 2013 claimed a membership of 70,000 (albeit including retirees and students). Edinstvo could hardly mobilise more than a few hundred employees out of a workforce that in 2007 still numbered 129,500. When Edinstvo was accepted as member, it became a net beneficiary of MPRA solidarity and appears never to have contributed any dues to assist MPRA's financial survival. Around 2015, its membership appears to have fallen to only 50–100 (personal communication). In accepting Edinstvo as a member, MPRA deepened its animosities with FNPR affiliates without gaining organisational benefits (for a more positive view on Edinstvo, see Greene and Robertson 2010: 85).



The Volkswagen (VW) plant in Kaluga started production in the autumn of 2007 and in 2009 employed 1,800 employees. Output in 2009 was just short of 100,000 units and capacity was available to produce 150,000 cars a year. VW became the second pillar on which MPRA built its struggle for a new unionism in the automotive sector. The employment environment for Volkswagen corresponded to the situation in St Petersburg. With regional unemployment low,⁶⁴ demand for vehicles booming and skilled labour difficult to attract, management from the beginning was sensitive to any sort of labour protest that might lead to work stoppages.

With a fairly young workforce,⁶⁵ who had little memory of the chaotic years of the 1990s and a dormant ASM which did not try to establish a base for itself, building an alternative union appeared to be a fairly simple exercise. Despite being part of the VW concern, which has signed an International Framework Agreement and claims good relations with trade unions in all subsidiaries, the local management did not recognise the emerging plant union, however. In 2012 the VW union had reached some 1,200 members,⁶⁶ but remained below the legal minimum of 50 per cent of the workforce.

The »legalistic« approach of the VW management was turned around, and success came to the union when Benteler, a key Volkswagen supplier in Kaluga nearby, was confronted with a two-day strike, which threatened to interrupt production at VW. Assessing the mobilising strategy of its own union and the likelihood of a strike in its own plant, in 2012 VW finally concluded a collective agreement (Hinz 2017; IndustryAll 2012).

Ford and Volkswagen were the success stories on which MPRA tried to build its advancement in the sector. On 23–24 November 2013, MPRA held its third congress, representing 3,750 members, of whom 3,075 – or 82 per cent – came from its affiliates at Volkswagen and Ford. The congress made decisions on controversial issues to which strong objections had been raised in the run-up to the event. Three key decisions emerged from the congress, which proved to be a watershed for the future of the association. The congress changed its name from

64 In 2012, Moscow had an unemployment rate of 0.5 per cent.

65 A majority of employees were below 30 years of age.

66 Union membership represented about 25 per cent of the VW workforce in Kaluga.



Interregional Union of Automobile Workers to Interregional Trade Union Association (Russian acronym still MPRA), clearly indicating that it would expand beyond the automotive branch and organise enterprises in other sectors as well. The flow of member dues would be redirected. Whereas the affiliate hitherto had kept 50 per cent of the revenue, with the other half going to MPRA, regional offices were now to be established, receiving the bulk of dues (80 per cent), with the remainder going to MPRA. Affiliates would not retain funds at collection points, but receive financial support from the regional offices. Finally, collective bargaining would no longer be a responsibility of the enterprise union, but be carried out by the regional structure, in close cooperation with the affiliate. It was hoped that taking bargaining beyond the scope of the enterprise would establish uniform employment conditions within a region.

The idea of building multi-employer bargaining units as an intermediate step to creating branch-based bargaining was premature and turned into an organisational disaster. The Ford plant union disapproved the congress conclusion and when no compromise could be found, it split. The minority group remained with MPRA, while a majority of about 80 per cent set up a new plant union with no affiliation. The expected jump forward ended in a roll backward. At the end of 2014, MPRA membership had declined to 2,600.

The »rosy« years for bargaining ended in the closing month of 2014, when oil prices began their steep decline and the Russian economy entered into recession. Organisational contradictions had already slowed down the growth of MPRA before the oil price collapse set in, but when it happened, it struck the automotive industry hard. Domestic production halved from 2013 to 2015, and without exception the car manufacturers struggled for survival. Companies reduced the number of shifts, cut their workforce and General Motors even shut its plant in St Petersburg. Union resistance against cuts in real wages was difficult to organise as at many manufacturers the management welcomed strike action to reduce labour costs. Despite all the cost savings, car manufacturers remained deeply in the red and headquarters were forced to provide subsidies for the survival of their subsidiaries. With no recovery of turnover in sight, unions could bargain for »early retirement packages« and separation fees, but expanding membership was out of the question.



7.3 Pro-cyclical Striking, Grassroots Activism and the Limited Scope for Independent Unionism

The years 2006–2008 and 2010–2013 may be seen as fortunate periods for organising workers in alternative unions. The economy was in growth mode, unemployment was low and foreign investors were keen to join the booming markets in Russia. To some extent it is true that strikes during these periods may ultimately be called »pro-cyclical«, given that in years of economic upswing labour becomes more proactive and uses its improved bargaining power to obtain wage increases. Unions in Russia, one could argue with Greene and Robertson (2010), followed the conflict pattern in many OECD countries and ended the »deviant« conflict behaviour of the 1990s.⁶⁷

The hope that a pro-cyclical strike pattern would breathe new life into independent unions was short-lived. The number of labour conflicts (see table 3)⁶⁸ hardly qualifies the period as a »strike wave«. While it is true that the strikes that were union-led emanated from alternative unions and not from FNPR affiliates, most labour conflict was not union-led at all, but arose out of spontaneous labour activism at grassroots level. These spontaneous workers' actions mostly did not lead to the establishment of lasting workers' associations, as had been the case in the early transition years. Strike committees or other forms of protest coordination usually dissolved when an agreement with the employer was achieved.⁶⁹

The automotive industry may be seen as a positive case of »pro-cyclical« and union-led strike action, but during the period 2008–2015, the auto industry witnessed only some 92 labour conflicts out of a recorded total of 1,877.

67 They strongly argue Russia's reversion from a »counter-cyclical« strike pattern in the 1990s to »pro-cyclical« behaviour in the second half of the 2000s.

68 The reference is to the collection of data on labour protests by the Center for Social and Labour Rights (LSLR), which is independent of the official recording of labour statistics. Data are obtained mainly from media reports. While this method does not provide a full picture, it does include conflicts that do not follow due procedure and thus do not qualify for being recorded by the National Office of Statistics.

69 It is interesting to note that most of these protests in one or the other way could be called »illegal« as they did not follow established procedure. However, in most cases the police were not called in as most employers had not followed the Labour Code either, for example, by failing to pay wages and employers were more interested in coming to an arrangement outside the courtroom.



Table 3: Labour Protests, Russia, 2008–2015

Branch of the Economy	Labour Protests	%
Other industries	1562	83.2
General engineering (except automotive)	223	11.9
Automotive industry	70	1.2
Automotive production: supplies and equipment		
Total	1877	100

Source: CLSR, Monitoring of Labor Protests 2008–2015. Available at: <<http://trudprava.ru/expert/analytics/protestanalyt/1588>>.

The dominant picture even during the »favourable« years of conflict articulation remains one of spontaneous walk-outs and a low presence of unions in initiating or resolving labour conflict.

Why did independent unionism in Russia never prosper? Certainly, FNPR and its affiliates mostly played the game of keeping alternative unions at arms length while not engaging in conflict articulation themselves. It is equally true that restrictive legislation serves to prevent labour activism at plant level from growing into associational power when union leaders can easily be silenced with the threat of criminal sanctions. It should also come as no surprise that workers, after having been confined to state-led Soviet unionism for many decades, are reluctant to entrust trade unions with the task of representing their interests.

There is, however, a further argument that has to be brought into this picture and which is easily overlooked. From the second half of the 2000s onward, wage development in Russia became public sector-led, driven not by collective bargaining but by the Putin government. It was the regime that for many years ensured that wages grew faster than GDP (see Traub-Merz in this volume).

When government pushes wage growth⁷⁰ the comparative advantage of a conflict-oriented labour strategy diminishes and the attractiveness

⁷⁰ Under conditions of a low unemployment rate, the wage-push by the Russian government for the public sector and state-controlled enterprises »forced« the private sector to follow suit.



of alternative unions is reduced. As long as the government wage push endured, its political affiliation with the Putin regime did not endanger FNPR, in terms of either its agenda or its operations. Under such circumstances, while the organisational benefits of workers' siding with alternative unions may be evident in branches such as auto manufacturing, they were not so obvious in sectors with a strong state presence.

8. Summary

The trade unions are without doubt the largest non-government organisation in Russia,⁷¹ even though their membership of around 70 million at the time the Soviet Union dissolved has settled at some 20 million today. Their history is in many regards unique and during most of it, they were confronted with an adversarial political environment, making workers' interest representation a challenge. From the time they saw the light of the day in the 1880s and 1890s, they were forced to operate under such diverse regimes as the Tsarist tyranny, Bolshevik Soviet communism and finally in Russia's mixed market/state economy, whose political system has been transformed from a liberal-democratic model at the beginning of the transition to authoritarian rule today. The circumstances under which trade unions sought ways of representing worker's interests could hardly be more extreme.

Notwithstanding the ever-changing legal and political conjunctures for their operations the history of Russia is marked by a common failure of trade unions during all periods to establish themselves in real autonomy from either political-party or state supervision. In a contrasting juxtaposition to capitalist societies, trade unions have never located themselves inside the working class but have acted on what they deemed to be workers' interests by providing protection or guidance from above.

Since its inception trade unionism in Russia has been characterised by state intervention to prevent the emergence of autonomous organisations that take into their orbit grassroots labour activism. Unions have nearly always failed to link organisationally to existing local labour struggles and to raise them to a higher level able to challenge the socio-economic fabric of the ruling regime, if not the regime itself.

71 Excluding the Orthodox Church.



Windows of opportunity to build autonomous associational power existed when state control relaxed, but soon enough the state returned to its »all-embracing« strategy, ensuring the subordination of unions and making them serve the needs of regime stability. Delinking trade unions from local labour struggles and guaranteeing their organisational survival beyond the interests of their membership is the dominant face of this history.

Russian unions have diverged from the dynamics of trade union transition in the former Warsaw Pact countries. When national independence returned after the dissolution of the Soviet Union, trade unions in these countries could to some extent reconnect to a different past. Many had enjoyed longer periods of organisational autonomy before the Second World War and were able to build on organisational knowledge and union practice from these times.

Connecting »back« to a different past was never an option in Russia. From the outset, trade unions and labour struggles existed in separation. When workers' collective actions emerged in the 1880s and 1890s, trade unions were already banned and existed as »clandestine organisations«. The pre-communist years saw a peculiar labour situation: strikes were widespread, but membership of trade unions was largely non-existent (Albert 2017). The peculiarities did not end here. Trade unions were not set up autonomously but founded by political parties and acted as »party organs« even before the Bolshevik revolution (Deutscher 1950; Lozovski 1920).⁷² During the revolutions of 1905 and 1917, unions were mere »onlookers«. The removal of the ban filled their ranks with millions of members, but workers exercised organisational power not through unions but through factory committees and Soviets. It was only after the revolution, through the merger with factory committees, »half moderated and half enforced« by the Bolsheviks, that trade unions gained workplace representation, providing the organisational groundwork for their establishment as a transmission belt.⁷³

72 »This peculiarity consists mainly in the fact that the establishment of the workers' political party in Russia preceded that of the unions (...) Moreover, the political (Social-Democratic) party initiated and founded the trade unions« (Tomsky 1927; similar Deutscher 1950; Lozovski 1920).

73 The years 1922 and after may be seen as a different period, when Lenin ordered the building of autonomous unions as in capitalist countries. But this was only nominally the case, as the Bolsheviks kept close control of trade union leadership.



The ways in which the Soviet state exerted control varied. Stalin went furthest in making trade unions organs of the state, while under Khrushchev and Brezhnev, unions became separate entities again and party-state control was exerted through control of the union leadership. But until the Soviet Union dissolved, unions never enjoyed the right to engage autonomously in labour relations.

The years 1988–1992 were the first in which labour activism on the ground was able to build associational power. But these alternative unions sacrificed their newly won autonomy by prematurely affiliating with the Yeltsin regime. Their anti-communism made them support the socially catastrophic reform policies that eroded the trust of many of their members and ended organisational expansion. The Yeltsin years may not be seen as a period of political suppression of alternative trade unionism, but the regime entered into an alliance with the FNPR majority union wing, granting it privileges for not supporting opposition forces and diverting potentially dangerous local grievances into »non-harmful« forms of labour protest. This period may best be described as uncoerced subordination of trade unions for bureaucratic survival.

With the emergence of Putin, authoritarianism and control mechanisms were tightened. State oversight of unions has not returned to the Soviet model in terms of legal form, but rather in terms of function. The regime has provided FNPR with a de facto monopoly on workers' interest representation in many sectors of the economy in exchange for given up any form of mobilisation against government policies. Alternative unions can be kept marginalised by either FNPR majority politics or, where FNPR is too weak, by open state repression. Russia today in many respects practices a union model from the past: workers' grassroots activism remains detached from efforts to gain associational power. Conflict articulation remains local and it is the duty of the trade unions to assure that workers' power does not enter a larger arena from where it could challenge the policies of the ruling regime.



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Russian Trade Unions and Wage Development¹

Rudolf Traub-Merz

1. Introduction

There is a lot of uncertainty in finding an answer to the question what role trade unions in Russia played in setting the level of wages. The problem is partly statistical. Wage figures published by Rosstat are relatively undifferentiated and the statistics office is not concerned with evaluating collective bargaining agreements. Furthermore, Russia does not conduct annual industrial censuses, from where data on the size and structure of companies could be drawn and linked to paid wages. From official statistics it is not possible to compare wage levels between union-organized and non-union enterprises. Trade unions do no step into this data vacuum neither. The Federation of Independent Trade Unions of Russia (FNPR, Russian acronym) with a claimed membership of 20 million looking predestinated for this job, has hitherto not presented a methodologically convincing analysis of the outcome of bargaining, which mostly takes place at plant level. Neither from official data nor from trade union sources is it possible to calculate a trade union premium.

Not much knowledge has been produced either by way of comparative microeconomic research. The few case studies hitherto conducted find some arguments as to higher wages in companies where collective bargaining agreements prevail;² if company size, sector specificities and

1 This chapter should be read in reference to the chapter of Traub-Merz and Gerasimova in this volume. The political arguments on why Russian trade unions behave the way they do are presented there.

2 See e.g.: Bizyukov, P. (2004) with a survey on nine enterprises in three regions.



ownership differences are taken into consideration, however, the positive relation becomes unclear or vanishes.³

This chapter analysis wage dynamics in Russia from a macro-economic perspective. Section 2 looks at the relation between wage changes and unemployment, and tries to establish the trade-off between them. Section 3 deals with the link between wage development and collective action. Can conflict articulation be linked to wage dynamics and to what extent has strike behaviour become pro-cyclical with the upswing of the economy. Section 4 takes up the problem of the two-tiers wage system at enterprises where a significant part is not fixed in labour contracts but consists of flexible components of premium and bonus payment and tries to clarify the role the trade unions are playing herein. Section 5 takes a look into the regions, where minimum wages are not fixed by law but through bargaining between trade unions and public authorities and asks what impact is discernable by the presence of unions in wage adjustment. A sector-level wage analysis is provided in Section 6 which finds evidence of a public sector-led wage dynamic after 2000. Section 7 looks at wage trends since the recent economic crisis broke out in 2014 and tries to establish an understanding, if wage changes follow previous pattern or if anything new is discernable in their dynamics. The chapter closes with a short summary of the findings.

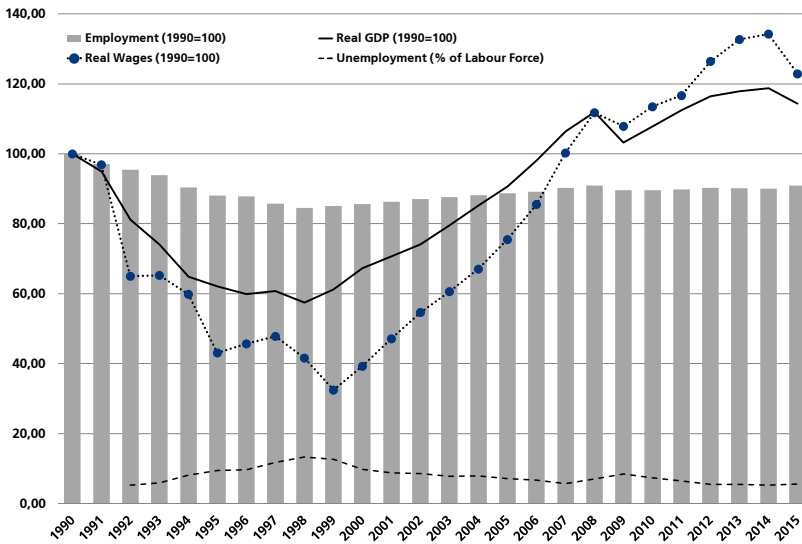
2. Wages and Unemployment: a Trade-off?

Average real wages in Russia have witnessed an extreme down- and upswing since 1990. During the transition crisis from 1990 to 1999, wages fall by an incredible 65%, much stronger than the GDP did (-40%); after 1999, the opposite happened and wages recovered faster than the GDP increased. Both wage phases and their interrelation with unemployment are characterized by specific economic circumstances. When

3 On the ISITO- survey of 1998, Ashwin and Clarke (2002: 260) find: »Overall, from the rather limited data available, it does not appear that the presence of a trade union organisation makes a significant difference to the wages and working conditions of employees. This does not mean that Russian workers do not need trade unions, but only that the trade unions have to be more effective in organising their members in the workplace and pressing their demands on management.«



Figure 1: Development of GDP, Real Wages, Employment and Unemployment in Russia: 1990–2014



Source: Rosstat; authors calculations.

the GDP nosedived in the 1990ies, unemployment more than doubled from four million (1992; 5,2%) to nine (1998: 13,3%). If however a low elasticity is assumed between GDP and employment, unemployment should have gone up much further, say to 20–25 millions. The Russian labour market during the transition crisis reacted with a disproportionately high reduction of real wages and a fairly low decline in employment (figure 1). This remains valid even when calculated in labour hours (Kapeljuschniko and Gimpelson 2011). Of course, not much is said on the productive use of work time.

When economic growth returned after 1999, the relation turned around. Wages increased ahead of the GDP, while employment growth remained marginal (figure 2).

Clearly, enterprises in the 1990s desisted from making employees redundant when business started to fail. This is true for those which remained under state control but as well for freshly privatized companies. The number of employees were less of importance when wages could be cut easily. There was no need to cut payment to employees nominal-



ly. Inflation did the game and all what was needed was to keep nominal wage increases below the growth of consumer prices.⁴

When recovery occurred after 1999, many enterprises still commanded over an underemployed workforce. They could easily increase output with available personnel capacities. Only few firms had to look for new employees.

This pattern of labour market reaction repeated itself during the crisis of 2008–09. Whereas the GDP went down by 7,8%, employment declined by 1,5%: real wages took again a heavier beating by declining 3,6%. Not modifications in employment but real wages are the primary factors for crisis adjustment in the Russian labour market.

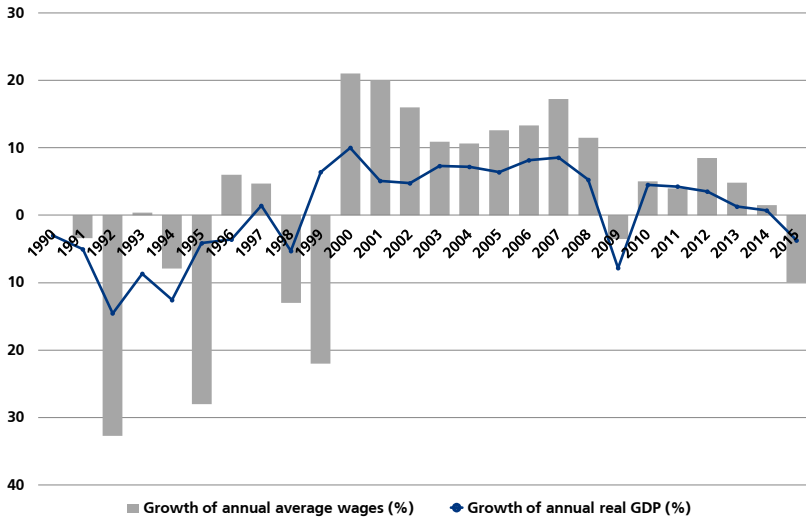
If the labour markets reacts in a tradeoff between wages and employment and favours the latter, this has to be related to an institutional framework which produces employment rigidities while allowing wages to fluctuate largely unconstrained (Gimpelson and Kapeljushnikov 2011: 16). In Russia employment rigidities are a result of state intervention which makes it difficult for enterprises to lay off part of the workforce in times of crisis. Even after two and a half decade since the beginning of transition, the Russian state maintains a legitimacy tradition to the Soviet Union, which during its time claimed superiority to Western capitalism by emphasizing the right to work. Today's Russian labour law still shows a social orientation by maintaining rigid regulations against termination of labour contracts. During economic crisis, state officials put pressure on state enterprises and even private companies to desist from slashing jobs. State enterprises on their side have been used for decades to the concept of »labour hoarding« – and the call for subsidies if this becomes too costly – and do not see anything wrong in keeping »unneeded« staff under conditions of low work activities.

Whereas the lower flexibility of employment reflects strong state presence in labour relations the higher (downward) flexibility of wages must be related to trade unions and their low capacities to resist. Trade unions in the 1990s were unwilling or unable to resist wage reduction and to secure a wage floor. This explanation however, leaves us still guessing, why wages were going up faster than the GDP during the boom years. Could this be linked to an improved labour demand which

4 The CPI in 1992 increased by more than 2,000%. In many years, inflation rate was in the range of 30–50%.



Figure 2: Changes in Real Wages and GDP 1990–2015



Source: Rosstat; World Bank, Development Indicators 2016.

allowed trade unions to engage in strong collective bargaining and support their calls for high wage increases with the use of collective action?

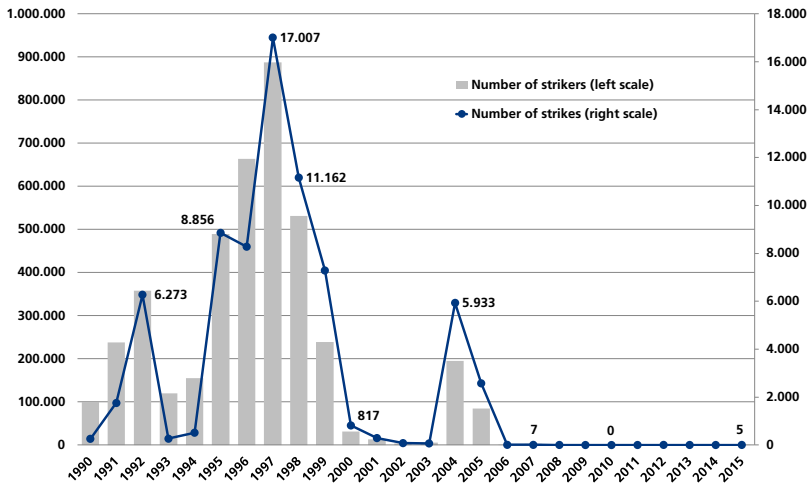
3. Wage Development and Collective Action

Indicators for the behavior of trade unions in wage bargaining can be won from statistics on labour conflicts. Official strike figures in the period 1990–2015 show two disparate faces: During the 1990ies, a high number of work stoppages occurred, culminating in some 17.000 strikes in 1997. The years from 2000 onwards, with the exception of 2004 and 2005, provide a contrasting picture. Collective action as a weapon for struggling for members' interest has largely become absent (figure 3).

The numbers of strike incidences in the 1990ies lose some of its vibrancy, when the figures on participants are added. The 17.000 work stoppages in 1997 saw only some 900.000 workers or 1,3% of the total labour force joining collective actions. Huge differences in the occur-



Figure 3: Strike Incidences in Russia: 1990–2015



Source: Rosstat.

rence of work stoppages between the first and second decade and the general low number of strike participation need some explanation.

Why were work stoppages prominent in the mid of the 1990s? Which sector was in the lead? The first guess could point to union actions during the early transformation years to prevent restructuring of the economy and in particular, the privatization of state companies. A high presence of strikes in mining and industry would then to be expected. Table 1 compares incidences of work stoppages between two sectors which are important to understand labour dynamics of the 1990s, namely mining/industry and education. The statistics are indeed revealing. There is an extremely strong prominence of education as an arena for labour conflict. Indeed, in both decades (1990–1999; 2000–2009) the education sector accounted for more than 90% of total registered collective actions. The producing sectors of mining and manufacturing, thought to be the battle ground for trade unions if they hoped to insert their views on economic policies, is a far distance behind. In 1990, still during Perestroika, miners were still in the front, as they were in the two previous years. Thereafter, militancy in mining and manufacturing died down and during the whole of the 1990s, a mere 3,6% of collective action emanated from there.



Table 1: Strike Incidences according to Sectors in Russia 1990–2009

	Number of strikes	Mining/ Industry	Education
1990	260	199	7
1991	1,755	324	1,177
1992	6,273	63	4,929
1993	264	176	0
1994	514	209	279
1995	8,856	220	8,555
1996	8,278	527	7,396
1997	17,007	272	15,610
1998	11,162	228	10,587
1999	7,285	21	7,131
1990–1999	100 %	3.63 %	90.30 %
2000	817	7	789
2001	291	4	280
2002	80	2	59
2003	67	4	46
2004	5,933	4	5,658
2005	2,575	1	2,478
2006	8	3	0
2007	7	3	0
2008	4	1	0
2009	1	1	0
2000–2009	100 %	0,31 %	95,17 %

Source: Rosstat.



The key battle field for labour conflicts in the 1990s was not on transformation policies but on the non-payment of wages. Arrears in salaries cumulating into several month pay became a massive labour practice between 1996 and 1998 (figure 4). While it happened in the private economy as well, the public sector was affected particularly and it was mostly teachers and health personnel who went on strike to demand payment. This lies behind the »high« number of strikes in education which also comes down to a counting procedure. Instead of counting a national action as a single strike, each work stoppage in a school is counted as an incidence of its own.⁵ When central government finally enacted payments to ministries and the regions, and authorities settled on most of the arrears, the number of strikes faded.

From the statistics we can conclude that the 1990ies was not a period when Russian trade unions subscribed to collective action as a means of defending rights. Leaving education and health sectors aside an average of 154,000 workers or a mere 0,23% of the workforce went annually on strike despite the fact that wages lost 65% of their value. Trade Unions did not stand up against the tide of wage collapse nor did they act against the privatization of state companies or the restructuring of enterprise. Individual cases notwithstanding, the overall picture is a landscape with unions in non-acting mood. In many cases, they even accepted illegal practices by employers as a »fate of the day«. Only labour in education and health showed some resistance to wage deterioration.

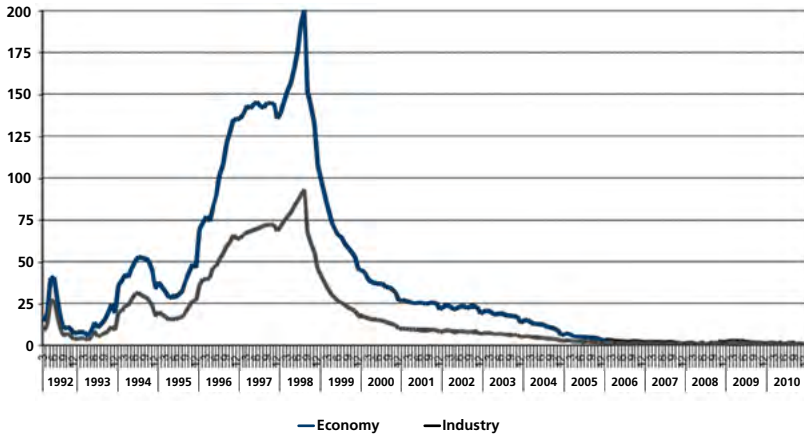
The picture of »non-pressing unions' is confirmed for the period after 2000. Wages picked up without support from collective action. The crisis of 2008–2009 found unions in a dormant mode and not a single work stoppage occurred. From the official strike statistics we can conclude, that wage development in Russia in no regards can be related to militant unionism.

The low level of strike incidence after 2000 is certainly related to the enactment of a new restrictive Labor Code in 2001. While it did not fully outlaw the right to strike it made the use of it so cumbersome that

5 »Leaders of the Trade Union of Science and Education Workers reported that 437,000 teachers, about a tenth of the total, took part in strike action (Jan 1996 – RT). Educational establishments were affected in 66 of Russia's 89 administrative regions. In numerous cities, education and science workers demonstrated outside government offices.« Green left weekly, Russian teachers strike for wage pay-out, Wednesday, January 29, 1997.



Figure 4: Wage Arrears deflated by CPI, 1992–2010 (March 1992 CPI=100)



Source: Gimpelson and Kapeliushnikov 2011: 33.

trade unions were hardly able to cross the threshold, anymore. Since 2001 and with the legal amendments which followed in later years, Russia has not de jure but de facto put in place a ban on strikes, allowing authorities to confront strike instigators with the penal code.⁶

The »cyclicality« or better »non-cyclicality« of strike patterns in Russia should be mentioned here as well. Russia appears not to follow the mostly »pro-cyclical« strike pattern in many OECD countries where trade unions usually become more offensive during times of economic upswings.⁷ The statement stands that the bargaining position of unions usually improves, when labour shortages arise and enterprises can forward higher wage costs to consumers with some ease. This »pro-cyclical« strike pattern can hardly be discerned in the case of Russia, if we rely on official statistics. Here, the argument to the benefits of strikes could equally be turned around. One may claim that when the economy turned into upswing after 1999, wages even moved ahead and were growing faster than the GDP (figure 2). Why going on strike when the wage benefits are provided anyway. The causes for labour conflicts thus evaporate.

⁶ See as well Traub-Merz and Gerasimova, in this volume.

⁷ See on this issue in particular: Greene and Robertson 2009.



Two more arguments should be added to this debate on labour conflicts and wage dynamics. The first deals with the reliance of official strike records. When the labour law inserted severe legal restrictions on strikes after 2001, workers began to express their grievances outside officially provided channels which are not recorded in official statistics anymore. Russia experienced what is the case in other countries, which implement overregulated procedures in conflict resolution: workers activism is not prevented but becomes informal and in a legal sense illegal. The Center for Labour and Social Rights (CLSR 2016) has started to document informal labour protests since 2008 from where some conclusions can be drawn, the most important of which is that the overall picture is not changing fundamentally. An annual number of 300–400 conflicts does not catapult labour protests to a level where it would qualify for a designation as »pro-cyclical«. And the figures are certainly too low to see in them a significant driving force for the high wage adjustments after 1999.

But there is a second point which deserves to be mentioned here. Hitherto, we have worked with the assumptions that strikes are initiated by trade unions and strike incidences are indicators for union militancy. This is however mostly not the case in Russia. The CLSR survey points to the fact that where labour protests occur, trade unions are usually not in the forefront. Conflicts are usually initiated by workers grassroots activism with unions moving into protests only later (if at all) and trying to gain a role as arbitrators, which call both sides, the management and the workers to compromise. This divide between unions and labour protests can not only be argued from a fear of joining illegal protests. Even the strikes of the 1990ies were mostly not initiated by workers but were spontaneous grassroots actions and unions, in particular those linked to the FNPR, played more a role of preventing the scaling-up of labour protests than of using them for the improvement of the workers lot.⁸ Strike statistics in Russia lastly reflect more the militancy of labour at the grassroots and not the behavior of trade unions, in particular the FNPR and its affiliates which have remained in the tradition of the Soviet Union and see themselves more as an arbiter than a party in conflictive labour relations.

8 See Traub-Merz and Gerasimova in this volume. See also: Robertson 2011.



Table 2: Composition of Wage Bill, 1995–2009

	Tariff	Regional allowances	Extra payments, premiums & bonuses	Other payments
1995	53.0	15.8	28.2	3.0
1998	52.4	14.9	27.3	5.4
2000	49.2	15.1	32.7	3.0
2002	50.1	14.1	32.9	2.9
2005	47.8	14.2	35.1	2.9
2007	49.2	12.1	35.6	3.2
2009	52.5	11.4	33.3	2.9

Source: Gimpelson and Kabeljushnikov 2011: 8.

4. Wage Bargaining at Enterprise Level: the Two-tiers Wage System

The Russian wage system is based on a two-tier system: the first tier is fixed in labour contracts while a second tier consists of flexible components of premium, bonus and extra payments. This second tier is considerable large and can make up a third of the national wage bill (see table 2). For certain sectors, it is even higher (Gimpelson and Kapeljushnikov 2011: 8)

This second tier is not an invention of the new market economy of Russia but an inheritance of the Soviet Union as well. In addition to the standard wage payments which were fixed in the national wage tables of Gosplan, companies then were granted some space for maneuvering in producing above the given quota and sharing some of the additional output between management and employees. The second tier then and now fluctuates according to the business condition of the enterprise and provides the management with a lot of discretionary power to the variable wage component.

Linking a significant proportion of the wage to the performance of a firm has two consequences: it makes the employees sharing the risk of



the markets without becoming co-owners and it allows management to adjust wage bills without taking into consideration protection clauses of labour contracts or collective bargaining agreements. Such practice automatically circumvents trade unions. Trade Unions which want to have an impact on wage development instead of leaving it to market forces or the management should try hard to reduce variable wage components and instead, increase fixed parts which fall within their role in setting wages. Unfortunately, we do not have figures to compare the size of the flexible wage components in organized and non-organized enterprises. However, the national tendency of an increase of the variable elements of premiums and bonuses between 1995 and 2009 indicates again that trade unions were unable or unwilling to stand against the liberalization of wage fixing and to turn wage policies of public and private employers into a union co-determined arena.

5. Wage Bargaining and Minimum Wage Fixing: the Regional Approach

Minimum wage (MW) policy by the state is another policy which emanated from the Soviet Union and was continued into the 1990s. Connecting to the previous practice, the country applied a national uniform minimum wage which was modified with regional coefficients to reflect adverse climate conditions and the need of low-populated areas to attract additional labour supply. The modifications for regions were set by the center.

In 2007 Russia moved from a MW wage fixing machinery under central state dominance (Government proposes, Parliament adopts) to a new model with two major amendments:

- (1) a federal tripartite commission received the task to first recommend on MW adjustments before Government would agree and forward the joint proposal to parliament for legislation. In its practical operation this insertion of tripartite consultation is not a dramatic turn away from the past as the Government remains free to accept joint proposals and is unlikely to do so, when its own representatives in the tripartite body vote against recommendations by unions and private sector employers.



- (2) The MW fixing was split into a two-tier approach. Whereas the center still fixed a national-wide minimum, the relevance of regional coefficients was reduced and instead, the regions were given the liberty to top the national minimum with a regional minimum. The fixing of the »additional« regional minimum is done via tripartite negotiations. After the social partners reached consensus – no majority vote is accepted – the administration announces the new level.

One may argue that the second layer, the regional mechanism, has greatly enhanced the negotiation role of the trade unions (their regional structures) for three reasons: (a) in many regions no regional employers association exist and negotiations on MW adjustment comes down to bilateral agreements between trade unions and regional government; (b) while the national minimum may be too low to act as a wage floor, the supplement with a regional minimum may move the lowest wage level closer to the average wage and thereby, helps to contain the wage spread; (c) no legislature is needed for adoption.

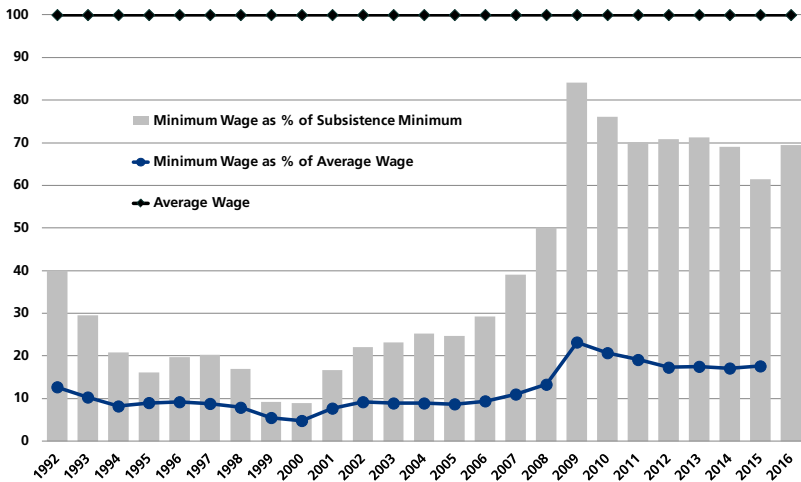
How did trade unions impact on the setting of the MW fixing? The national MW received a legal anchor in the Labour Code of 2002 which put the MW at »not lower than the subsistence minimum« (Art. 15).⁹ The »subsistence minimum« in Russia is seen as poverty line which implies that according to the Labor Code, the MW should at least prevent the emergence of a working poor even in cases of economic crisis. However, the same legislation states that the operational implementation of the MW clause shall be left to a special legal act which however, since today has not seen the light of the day.

If we compare the national MW to the national subsistence minimum and the national average wage a devastating picture arises (figure 5). The MW did not reach the subsistence level in a single year. In the 1990s, the MW was fixed at levels which were 4 or 5 times below the poverty line. 2009 saw a significant increase to 84% (see below), but even then, the Government stayed short of what had been agreed in the Labor Code. Thereafter, the MW was on a downward path again.

⁹ Art. 133, Labor Code 2002. »The minimum wage amount is established simultaneously on the whole territory of the Russian Federation by the federal law and it cannot be lower than the amount of the cost of living of an able-bodied person.« An English version of the Labor Code 2002 is available at: <http://www.ilo.org/dyn/natlex/docs/WBTEXT/60535/65252/E01RUS01.htm>.



Figure 5: National Minimum Wage as % of National Subsistence Level and Average Wages 1992–2016



Source: Rosstat.

If we take the Kaitz-Index (MW/average wage) of 40 % and higher as a level from where the MW exerts a dampening effect on wage inequality, the Russian labour market falls short on this account as well. In the 1990s, the Kaitz index nosedived from 13 % (1992) to a dismal 5 % (2000). Clearly, when the MW falls faster than the average wage, a trap door opens, no wage floor exists anymore and the wage spread increases. The MW recovery in the 2000s was rather limited and the highest point of »its climb« is to 23 % only, significantly below from where the MW becomes relevant to the general wage trend.

Why were MWs set at levels where no employee could survive from such a dismal salary? Pay statistics show that between 1996 and 2005, only around 2 % of all workers mostly from the public sector received a salary at this minimum. A key reason for fixing the MW so low was its link to the Unified Tariff Scale (UTS) which was used for all government levels (federal, regional and municipal). As the UTS was built into a tightly linked wage grade system, any increase at the bottom implied a similar raise at all higher groups (Lukiyanova and Vishnevskaya 2015: 11). Consequently, ministers of budget affairs kept ministers of Labour advising to set the MW at the lowest possible



minimum. MW policy was thus the strategy to deteriorate pay in the public sector.

2009 was a special year in that the MW was doubled in one stroke and a large group of public employees received substantive salary increases. But even this remarkable occasion in the Russian history cannot be referred to a strong trade union bargaining engagement; it happened in the midst of the global financial crisis and reflects the Russian government's commitment and its membership to the newly founded G20 which during its first summit in November 2008 in Washington had agreed to save the global economy from imminent collapse with a coordinated stimulus package to bolster aggregate demand. This historically unique intervention in Russia did indeed prevent average wages from declining more than the factual 3,6% at a time, when the GDP dropped by 7,8%. The salary push in the public sector was instrumental to keep poverty from increasing during the crisis years. When the »G20 rescue action« ended and public debt returned as a global concern MWs in Russia started to decline again.

The second reason for setting national MWs low emanates from large regional differences in economic development. A Kaitz-index of say 20% will increase to 40% or more in regions where the average pay is only half of the national average or lower. It therefore makes sense to set a national MW at a fairly low level and to allow regions to top it up according to their specific conditions. And here trade unions have a stronger say insofar as the MW fixing is done through negotiations.

Not much research has been done on the economic realities of regional MW setting. The few studies come to the conclusions:

- Federal employees posted to the regions are excluded from receiving a regional mark up on MW;
- The number of concluded regional MW agreements varies according to the gap between national and regional average. When regions have a lower regional average wage they shy away from topping up on the national MW. Where the regional wage level is above the national average (Moscow, St. Petersburg, regions with resources for exports), more regional MW agreements are concluded.



- When the national Kaitz-index goes up, the number of regional MW agreements decline, and vice versa.
- Hardly any region implements a regional MW with a policy for comprehensive coverage. In many cases, the regional MW applies only to the private sector, making the whole exercise »largely populist because the majority of low-paid employees work in the public sector« (Lukiyanova and Vishenskaya 2015: 25).
- The overall effect of regional MW settings is modest. In 2013, the regional unweighted average Kaitz ratio was 24% (Lukiyanova and Vishenskaya 2015: 19), compared to the national ratio of 17%. 25% appears to be the orientation line for rather prosperous regions such as Moscow and St. Petersburg, as well (Gerasimova and Bolsheva 2015: 338).

While it may be true that the reform of 2007 and the establishment of a two-tier approach for setting the rates had some positive effects. But even when both components are taken together the MW still remains far below the poverty threshold and does not act as a solid anchor for wages. No matter how strong trade unions may have argued and »pressed« for higher minimum wages behind doors in so-called negotiation rounds. Success was not on their side. Important in this context: public demonstrations, campaigns, and member mobilization as means to threaten the other side and win concessions were not part of their strategy. Their role in MW fixing may best be called »begging in vain«.

6. Public Sector-led Wage Growth after 2000

A look at differences in sectoral wage increases sheds more light on wage dynamics in Russia. When oil revenue began to fill public coffers state policies assured that wage increases in the public sector (public administration, education and health) were increased faster than the private sector (table 3). Having lost touch to private sector development in the 1990s, the public sector started a catch-up after 2000.

Table 3 discloses two trends. As shown earlier, the general wage level was lifted above the growth rates of the GDP. But more important in



Table 3: Index of Real Wage Growth by Sector (2000 = 100)

Sectors	2000–2008	2000–2014
Agriculture	329	430
Mining & Mineral Extraction (incl. Oil & Gas)	214	240
Manufacturing	259	300
Construction	269	269
Transport & Communication	246	278
Public Administration, National Security & Defence	301	378
Education	349	501
Health	374	489
All Sectors	297	353
Growth of GDP (real)	216	257

Source: Wage figures from Rosstat; GDP and Inflation from Bank of Finland (BOFIT Russia Statistics); authors calculation.

the context here is the fact, that the state controlled sectors (public administration, education, health) witnessed wage increases substantially above those which the private economy, in particular manufacturing, construction and transport & communication¹⁰ was ready to pay. Average wages in education and health in 2014 were still some 20% below the national wage level. But the large increases since 2000 allowed them to halve this gap.

In terms of wage adjustments the public sector was clearly in the lead and the private sector had to follow. This public sector wage pull pushed even private sector wage increases above productivity development and increased unit labor costs (ULC). But as Russian companies did not compete on international markets with manufactured goods, the growing ULC had no effect on export potentials.

10 There are state enterprises in all three sectors but the private economy prevails here.



Wage increases in the public sector ahead of the private economy can only be explained with political factors. The key political project in the aftermath of 1999–2000 was to stabilize the workability of the state machinery and to regain legitimacy for the new electoral regime under President Putin. Pushing wages above productivity increases certainly helped. Wage policies after 2000 were primarily a power securing strategy for the Putin regime and certainly not a high wage growth strategy, driven by trade unions. And it could continue as long as the oil bonanza lasted.

7. The New Crisis of 2014–2016

A paltry 1,3% growth of the GDP in 2013 had already send strong signals of the end of the economic upswing when the oil price decline struck from the mid-2014 onward, aggravated by financial sanctions imposed by the West on Russia for its Ukraine politics. Since then, the Russian economy meanders between stagnation and recession with no clear sign, when recovery may set in again. The crisis is still in the stage of unfolding and many parameters remain unclear, in particular to the question, if government is implementing a new economic policy concept linked to import substitution and domestic market development or merely sitting it out and waiting for oil prices to rebound. Some effects on wages and employment are however already discernible:

In 2015 GDP went down by 3,7%, real wages by 9,1% and employment by about 2%; quite clearly, the labour market retreated into its »traditional« adjustment modus again, wages bear the brunt while employment security remains the key concern.

Having managed a successful wages and employment policy in 2008–2009, the question arises why a similar strategy was not implemented this time again. Not only did government accept that the minimum wage (in real terms) declined even more than the general wage level, pensions which were indexed to the inflation rate were allowed to deteriorate as well. The argument of securing regime legitimacy through improving safety nets and wage levels appear not to hold anymore in this new crisis.

The reason for not copying the 2009-intervention is best explained by the nature of the new crisis. It is multifaceted, as it is linked to low



investment into the modernization of enterprises, a demand slump, with no clear signal after three years, that rising oil prices will set in and a (foreign) political issue, which prevents Russian companies from accessing capital markets in the West. A demand-led strategy may not work before new capacities from import-substitution have been built.

The crisis strategy in 2015 was built on prioritizing the survival of state companies to the interests of employees. State companies including banks had taken huge loans from capital markets in the West which cumulated to more than 600 billion US dollars in 2014. Instead of using foreign currency reserves built up in sovereign funds for securing wage levels, funds were provided to large state companies to repay foreign debts.¹¹ Social policy had to retreat behind financial requirements to keep state enterprises in business.

And trade unions? Not to be seen in acting against wage decline. In political discussions, trade union representatives of FNPR, during 2015 still belittled the wage crisis as being much smaller than in 2009 even though the downward pressure was three times stronger. The regime called on trade unions and company management to give priority to employment security and to accept wage cuts.

8. Summary

Russian trade unions according to their own figures today still claim a membership of some 20 million and a union density of 30 % if related to the total labor force. If the informal and small scale sector is excluded as employment conditions here are very unfavorable to union organizing activities as in any country, the density in Russia is likely to balloon to 80 % and more for the large scale sector. Surveys on the spread of collective bargaining are not available but an ILO guess puts coverage at some 32 % (ILO 2015: 2).

While high union density and bargaining coverage are indicators to assume a strong role of trade unions in determining industrial relations and influencing wage setting, this is hardly the case in Russia. Real wages have witnessed a yoyo-ride since transition set-in from a planned

11 Foreign debt of the enterprise sector declined by some 300 billion US dollars in 2014 and 2015.



to a market economy and they have »outclassed« GDP-development by far on both, the negative and the positive side. Nothing like a productivity-oriented wage policy has been in place at any time. During the transition crisis of the 1990s, neither trade unions nor the government were able or interested to set a wage floor. In the absence of institutional factors to moderate the downward trend, wages plummeted by 65% below their value in 1990.

The recovery after 1999 lifted wages beyond the growth rates of the GDP in nearly every year. But this »wage jump« was not due to the actions of trade unions which were using the momentum of the economic upswing for an offensive labour struggle against employers but rather the regime's wage policy, which lifted public sector salaries to higher levels, forcing private employers to follow with some distance. This is not to say that trade unions did not play any role in this game. The largest umbrella body, FNPR, which presents some 90% of organized employees is engaged in parliamentary lobby work through an election alliance with »united Russia«, the leading supporter of President Putin in the Duma. But no »bargaining« occurred in the public sector which could attest to any relevance of unions in wage setting. Above all, FNPR in more than a decade never mobilized members for a campaign in higher wages through the means of demonstrations, boycotts or strikes.¹² The overall result of our macro-economic analysis speaks a clear language: Whether economic boom or crisis, Russian trade unions cannot be seen as a relevant factor in wage setting.

A vote of warning should be added to this general gloomy picture of trade unions in Russia. A trade union premium in enterprise level bargaining can only be established through micro-economy comparisons of wage levels between unionized and non-unionized enterprises as well as by longitudinal analysis of labour struggles in single companies. There were indeed exceptions »to this rule of union non-relevance in wage setting« in the private economy where alternative unions made some gains in foreign owned enterprises, in particular the automotive

¹² Working merely through the means of dialogue and engaging in meetings behind closed doors does not even convince members as successful strategies for gaining influence. Opinion polls on the trust of the general population and members on trade unions constantly confirm: trade unions are seen as important for the protection of social rights but Russian trade unions are not trusted. The figures of the WIZOM poll in 2008: 84% expect trade unions to defend the right of employees but only 4% of employees contact unions, when they see their rights violated (Russland-analysen 2009: 22–28).



industry. Here, organized labour has certainly set its marks in labour relations and improved working conditions for the workforce.¹³ The question however remains as to the extent to which single success stories were able to trigger similar developments in the whole sector or even crossing into others. For the automotive sector, the union achievements proved to be temporary, when the economic crisis which set in 2014 hit the sector hardest.

It is astonishing that in a large economy of the kind of Russia no single study of some magnitude has been done in more than a decade to look into issues of wage bargaining. Industrial relations research currently is at a low. As long as we do not get sufficient evidence from a significant number of enterprise level studies, we depend on sectoral and macro-economic wage analysis to conclude on trade union impact in wage setting. And from these sources it has to be concluded that trade union influence in wage setting beyond some exceptions cannot be detected. Wage development in Russia takes places as interplay between market forces and regime policies with trade unions being largely onlookers.

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¹³ On alternative unions and their role in collective bargaining see the Traub-Merz and Gerasimova in this volume.



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Trade Unions in Ukraine: History, Structure and Challenges of Workers' Representation

Rudolf Traub-Merz and Lyudmyla Volynets

1. Introduction

Ukraine is a young nation-state brought into being by the declaration of independence on 24 August 1991.¹ Release from Soviet control and the pursuit of its own development path have been fraught with difficulties as the country faced a three-fold transition: to shift from a command economy to a market economy, to create the pluralistic basis for a democratic polity and to consolidate its fragile territorial independence in its own nation-state. Reconciling these »development challenges« from the inception proved hard in view of a society with weak or no civil structures and without a new political class at hand to lead the way into the future.

In the general political enthusiasm for independence nationalism was framed on »territorial integrity« putting economic value creation into a second priority. Institutional restructuring of the economic system was slowed down, allowing the former Soviet nomenclature to survive almost intact and take up the levers of power once more. Under the conditions of political pluralism the nomenclature however, ceased to act as a united political class. The country continuously faced serious problems of both levels of separation of powers: between the Rada parliament and the presidency and between the centre and local structures, which caused frequent changes of government (seven governments in the first six years).

¹ Apart from the brief period between 1917 and 1922, when the region was temporarily released from the Tsarist Empire, before being re-integrated in the Soviet Union by the Red Army as a socialist republic, Ukraine had never enjoyed political autonomy. From 1918 to 1939 western Ukraine was Polish, but integrated in the Soviet Union after the Second World War. There was sporadic resistance to Soviet rule in western Ukraine up to 1947.



Ukraine has developed politically as something between a democracy and an autocracy (Franzen et al. 2005: 33). Whereas a pluralistic institutional framework has been established, a corresponding pluralistic culture lags behind and office holders have frequently used illegal means to avoid replacement in elections. Over the years Ukraine has experienced serious civil rights violations, including murders, attacks and the intimidation of journalists, members of the political opposition and independent trade unions.

To date, hopes of economic prosperity and social security have not been fulfilled either. Ukraine is the worst economic performer² among the former Soviet republics; today its GDP is well below its starting level. With the miners' strike (1993–98), the »Orange revolution« (2004) and EuroMaidan (2013–2014) the country has experienced three major political conflicts in which civil society groups called for a change of course and brought about change of government. There was no fundamental realignment of the political economy, however. The interference of external forces exacerbated domestic tensions and led to armed clashes. With the annexation of the Crimea by Russia in 2014 and the military conflict over eastern Ukraine the country became a bone of contention between Russia and the West. Ukraine's development faces a rocky road ahead.

Ukrainian trade unions were in the vanguard of developments only in the early years of independence. They soon split into a conservative majority tendency committed to the Soviet legacy and new radical associations, which tried to organize workers as an autonomous force. The rivalry prevented them from providing a counterforce to oligarch domination. The trade unions were not only victims of the economic and social crisis. The leaders of the conservative majority line by and large accepted a peace accord trading a waiver on resistance against antisocial reforms for political protection and organisational self-preservation. In putting themselves at the disposal of the ruling elite mobilising members and struggling for a change in economic and social direction became a secondary interest – at best.

The chapter begins (Section 1) with a short overview of Ukraine's transformation into a semi-privatised market economy in which the separation between political office and private entrepreneurship large-

2 Depending on the year in question, Moldavia and Ukraine contest last place.



ly failed and an oligarchy became dominant. Thereafter (Section 2), it discusses the formative processes of the Ukrainian trade unions and their transition to pluralism, followed by an analysis of the emergence of rivalries and causes of conflicts between them (Section 3). In Section 4, the analysis focuses on collective bargaining and considers the extent to which trade unions were a factor in determining fluctuating wage levels. The ways in which the unions managed their political relations and their consequences are shown in Section 5. Finally, in Section 6, the chapter looks at new legal and economic trends that may become important for the future of trade unions under conditions of territorial uncertainty, empty state coffers and pressure from foreign donors for an austerity programme.

2. Ukraine's Transition from Command to Market Economy – For the Benefit of Oligarchs

The restructuring from a command economy to a market economy took place under trying circumstances. The turmoil of Russian reforms created havoc in export sectors and financial markets of the country and Ukraine had to cut its economy off from the rouble zone and create its own currency,³ although only after Russian hyperinflation had already afflicted Ukrainian markets.

Economic reforms were enacted in an erratic manner. They focused first on liberalisation of prices and trade in goods, while many economic activities initially remained under the control of the state. Just like its Russian neighbour, Ukraine tumbled into a hyperinflation with price increases of 2000 per cent in 1992.

The privatisation of state-owned enterprises⁴ happened in two phases (for example, Aslund 2002). During (mostly) voucher privatisation (1994–1996), managers of state enterprises⁵ and former party cad-

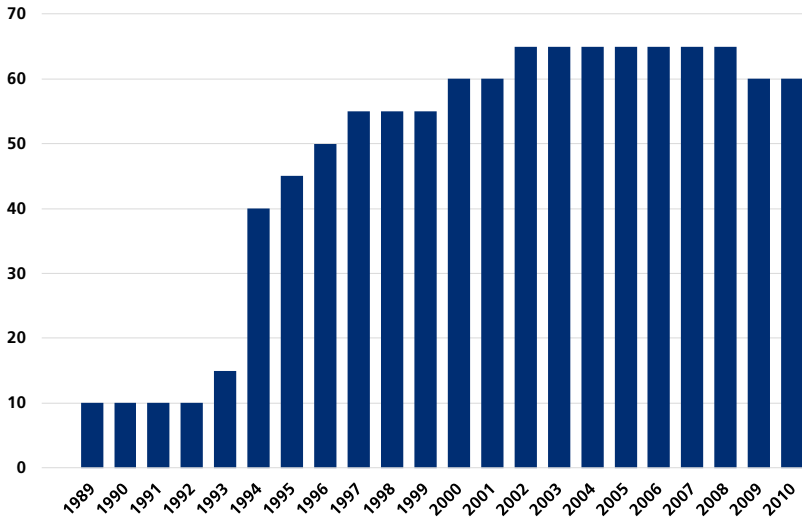
3 Ukraine first introduced a transitional currency the karbovanets and then in September 1996 shifted to the hryvnia.

4 Even though laws to that effect had been passed in the spring of 1992 the programme, after an initial launch, was halted due to the resistance of politicians and the lobbying of »red« directors.

5 A majority of »red directors« were first against privatisation (see footnote 3) but later came to support it. »The evolution of the »red directors« lobby could be readily seen by 1995–1996, by which time it had given its support to a »state directed transition« (Kuzio 1998: 25).



Figure 1: Private Sector Share in GDP in Ukraine



Source: EBRD, Transition Indicators 2012.

res who had amassed wealth in the first years of trade and price liberalization by then had moved into strategic business positions and seized control of newly privatized enterprises. The second phase of privatization (2000–2002) saw the selling of public property to strategic investors, mostly wealthy locals who had amassed wealth in previous years.

The new owners of state companies turned into oligarchs, merged business interests with political office, organized bottlenecks in access to information and markets and had their primary business aim in seeking economic rents.⁶ These reforms for »markets without competition« did not transition Ukraine into a competitive capitalist economy with political office separated from private entrepreneurship. Instead, the

⁶ Information on the entrepreneurial activities of MPs was made public on 20 April 2000: »364 People's Deputies of Ukraine receive official income from commercial structures. Parliamentarians head 202 enterprises and are founders of 473. Overall, People's Deputies have a direct or indirect relation to the economic activities of 3,105 enterprises«, Razumkov Center (2002). The most serious predatory enrichment has been in the energy sector, where over the years different oligarchs have captured huge rents from highly subsidized gas prizes. The gas business was possibly the most lucrative of all. Aslund calculates for recent years that »people close to Yanukovych [when he was president – author's note] thus made a fortune of some 2.5 billion US dollars a year« (Aslund 2014: 5).



country was transformed into an economy in which oligarchs use political office for private ends.⁷

Despite the jostling for pieces of it, the state economy was only »half« turned over to private control. Strong forces in the Rada, in particular from the communist faction and in circles of the bureaucracy and state enterprise management, stood up against specific privatization projects. With a share of 60 per cent of GDP (figure 1), the private sector in Ukraine remains smaller than in other »transitioning economies«, where its share is usually around 70–75 per cent. This is more pronounced for the large-scale sector, where the Ukrainian state still may have ownership of 50 per cent or more of enterprises.

3. Trade Unions: Transition to Pluralism⁸

3.1 From Soviet Urkprofrada to FPU

At the onset of the transition process, the Ukrainian branch of the AUCCTU⁹, Ukrprofrada, existed as a monopolistic trade union association with a total membership of 26.6 million. In addition to nearly 100 per cent of all workers and students, membership included ministry heads and employers (heads of enterprises, organisations, ministries and agencies).¹⁰ This expressed the Soviet understanding of a labour collective as all-embracing and including representatives of the top management. In addition to trade unions with their own Ukrainian

7 The inequality that evolved from dismantling the command economy was even more pronounced than in Russia, which is usually taken as an already extreme case of private enrichment during transition. For 2008, it was found that »the total worth of the wealthiest 50 Ukrainians is 112.7 billion US dollars, as much as two annual Ukrainian state budgets« (Kuzio 2008).

8 This section on pluralism deals with FPU and independent or alternative trade unions only and ignores a special group of yellow unions where managers and unionists at company level have continued the former »socialist alliance« but stay outside of FPU. While they influence industrial relations at plant level they play no importance beyond.

9 The Soviet AUCCTU (All Union Central Council of Trade Unions) was subdivided into regional chapters, including the Ukrainian Republican Council of Trade Unions (Urkprofrada). Urkprofrada included 19 trade unions, embracing workers of the enterprises subordinated usually to republican ministries and agencies.

10 The legal term »employer« had been absent in Ukraine until 1998 when the Law of Ukraine on Employers' Organisations was passed; later, it was clarified in the Law of Ukraine on Employers' Organisations and Their Associations (2012).



chapter, a number of sectors (particularly in the military and defence complex, railways and others) had no local union presence but were organised in central trade union committees in Moscow.

On 6 October 1990 *Ukrprofada* held its constituent congress and adopted the Declaration on the establishment of the Federation of Independent Trade Unions of Ukraine (originally called FNPU and re-named two years later the Federation of Trade Unions – FPU). The FPU announced its secession from the AUCCTU and proclaimed its independence from public authorities, parties and party movements. It replaced the doctrine of being the »school of communism« with its new motto of protecting the socio-economic rights and interests of Ukrainian citizens (Federation of Trade Unions of Ukraine 2002: 574).

The restructuring happened in bits and pieces and lacked direction. Extraordinary congresses had to be called and there were constant changes in the leadership, sometimes triggered by public pressure. During the second (extraordinary) congress (21 November 1992) the FPU came up with its first political document – the Programme of Trade Unions of Ukraine – which outlined the new strategic foundation for trade unions: Separation from the state which was called »degovernmentalisation« of trade unions and cooperation with the state on parity terms; the end to democratic centralism; and a move to interest politics including collective bargaining.

Calling itself its legal successor, FPU transferred to it all the fixed assets and property handed over to *Ukrprofrada* by the Soviet state (amounting to approximately 3 billion dollars). Thus, FPU became one of the richest collective property owners in the country (Budzan 2002; Shangina 2001).

Giving up on democratic centralism changed the organizational fabric and empowered lower layers of unions. Candidates for leadership posts could no more bet on the intervention of the Communist Party but had to canvass for votes and play to the interests of delegates from sectoral, regional or large enterprise unions. The new voting power became a key issue in setting up the new flow of finances. Delegates from lower structures easily asserted their interest in retaining the majority of collected funds at the primary level. With around 90 per cent of dues outside their reach, the FPU became, on one hand, a suppliant for more generous support from below and, on the other, became more dependent on other sources for funding, such as income from asset management.



The process of reforming the FPU was fraught with contradictions. The leadership was not prepared to renounce the Soviet tradition of organisationally embracing both, wage earners and employers making the former understanding for labour-collective unionism to prevail. Instead of calling itself a workers' interest representative party, the FPU clung on to the understanding of itself as referee between management and employees in labour disputes. In the course of transformation only small changes were made and in the end the apparatchiks were victorious. Ukrprofrada's top echelon managed to preserve itself, and neither the staff nor the self-declared mandate of the new trade union centre changed significantly.

3.2 From Strike Committees to New Trade Unions

Beyond the restructuring of Ukrprofrada a second departure in the formation of trade unions emerged from workers' activities, which commenced in the late 1980s during Gorbachev's *perestroika*. It evolved from spontaneous protests and found organisational expression in strike committees, which later developed into new bodies, which due to its different origin may be called independent or alternative trade unions. There was no law on trade unions at that time, so these new structures formed independently from government or state influence and acquired legitimacy and recognition through the scale of their collective action. Membership consisted of workers only and no longer included state officials or representatives of enterprise management. This second phase of new Ukrainian unions from its inception formulated its policies separately from the concerns of the state or enterprise management and subscribed to a conflict-based approach to representing members' interests. The Independent Trade Union of Ukrainian Miners (NPGU) became the most outspoken of these new organisations and was influential in forming new trade union policies in the first years (see Section 4).

Structurally dispersed independent trade unions had been consolidated in the early 1990s and coordinated their activities in the Free Trade Union Association (KVPU). As newly formed unions, however, they lacked a common understanding of how to engage in politics as a collective. Soon it became evident that a united vision of how this



unionism should look and a clear decision on which strategy to pursue were lacking. When some members mobilised for a general strike in January 1994 »which aimed to oust the prime minister at the time« (Volynets 2015: 117) others withdrew and thus ended the first period of the KVPU. With some 90,000 members, the KVPU was reborn in 1998, again with the NPGU as the driving force (Volynets 2015: 117–118). They were joined by locomotive engineers, metro workers, pilots, aviation dispatchers, textile workers and air engineers. Medical and education workers followed later (see Casale 1999: 320–321).

3.3 Union Affiliation and Membership

Ukrainian trade unions, from the beginning, were confronted with two challenges: competing unionism and an overall decline in membership. Pluralism confronted enterprise as well as sectoral unions with several options: join or stay with the already existing FPU as an affiliate; close ranks with other unions and build a new confederation; or stay on your own and avoid membership of a national body. Issues of affiliation were not restricted to the early years but have been going on ever since. While larger unions showed some stability in standing by their early decision on affiliation, the overall number of unions always changed with the coming and going of small occupational trade unions, such as the unions of football players, taxi drivers, sports trainers, circus artists and even gambling business workers. »Trade union« was not a legally protected trademark, as it were, and could easily be blurred in terms of both name and essence, as happened in the case of the trade unions of farmers and land-share owners, and even the entrepreneurs' trade union.

While the large number of organisations¹¹ gives the impression of significant fragmentation, a look at federations and confederations with a national profile provides a different picture (see table 1 for 2012). There are just five federations or confederations with more than 150,000 members. Within this group the FPU is by far the dominant force, claiming around 90 per cent of overall union membership.

11 As of 20 January 2015 177 all-Ukrainian trade unions and trade union associations were registered with the State Registration Service of Ukraine.



Table 1: Trade Union Membership in the Ukraine, 2012

Name	Membership	Affiliates
Federation of Trade Unions of Ukraine – FPU	7,800,000 (1.1.2013)	43 all-Ukrainian Branch unions, including: <ul style="list-style-type: none"> • 498,700: Mining & Metallurgy (1.1.2013) • 319,700: Coal mining (1.1.2013) • 1,960,200: Education & Science (1.1.2013) • 1,072,000: Health (1.1.2013)
Federation of Transport Trade Unions – FTTUU	735,242 (21.9.2011)	Eight all-Ukrainian branch unions of which four also affiliated to FPU: <ul style="list-style-type: none"> • 495,800: Railway Union (31.12.2012)
Confederation of Free Trade Unions – KVPU	181,600 (1.1.2012)	10 all-Ukrainian branch unions: <ul style="list-style-type: none"> • Mining/Railways/Transport • Education/Health
Association of Autonomous Trade Unions – AATUU	204,124 (27.4.2012)	Eight all-Ukrainian branch unions: <ul style="list-style-type: none"> • Transport/Food & Processing Industries • Science/Military
All-Ukrainian Trade Union and Trade Union Association »Unity«	153,562 (20.4.2012)	Four all-Ukrainian branch unions <ul style="list-style-type: none"> • Police/Prison • Energy Sector/Seafarers
Others	1 million (estimate)	
Total	9,5–10 million (estimate)	

Note: Includes only union structures with more than 150 000 members and a seat on the National Tripartite Socio-Economic Council (NTSCC).

Notwithstanding the merits of the KVPU's bottom-up organising approach, after restructuring the old Soviet approach retained its dominance. The FPU did not just survive but managed to stay in the lead organisationally.

Nevertheless, while keeping its dominance the FPU did suffer most from membership losses. Starting with 26.5 million – which it inherited by default – by 2012 it had lost nearly 70 per cent (an average loss of 700,000 each year).¹² Most of those who left did not transfer to other organisations but renounced trade union membership completely. The FPU losses are the decisive factor explaining the overall decline in trade union membership to around 10 million members in 2012.

¹² Figures on trade union membership for the year 2001 are given in Razumkov Centre (2001: 6).



However, trade union membership of nine to ten million workers is still significant. Taking out the informal sector, where trade union membership is nil or negligible and calculating density only in reference to formal sector workers, the share is some 40 per cent (table 2), higher than in many Western countries. Ukrainian trade unions have managed to remain the largest civil society organisations in the country and if they can mobilise their membership they have the potential to strongly influence social and industrial relations policies.

Table 2: Trade Union Density (formal sector; %)

Year	Gross Union Density
1998	75.0
1999	73.2
2000	66.9
2001	63.5
2002	59.2
2003	54.6
2004	53.3
2005	50.6
2006	48.5
2007	45.8
2008	42.1

Note: Trade union members incl. students; percentage of workers.
Source: UNECE (2010: 220).



4. Trade Union Rivalry and Labour Conflicts

Based on the differences with regard to the origin and establishment of their organisations and their different approaches to conflict articulation as a basis for worker interest representation, the two trade union centres found themselves in competition, which manifested itself many times in open conflict. Only later, especially after the bitter lessons of Euromaidan (see Sections 5 and 6) did they establish some cooperation on the national level. The use of the former Urkprofada assets and the forms of involvement in collective bargaining were two arenas in which the inter-union conflict expressed itself particularly.

4.1 Trade Union Assets – A Bone of Contention from the Outset

There are no complete records on the annual revenues of trade unions and it is not possible to establish a full picture of how Ukrainian unions finance themselves. However, newly established unions did not have other sources of finance than membership dues and international support, while the FPU was in a class of its own. Even though the Resolution of the Supreme Council of Ukraine of 4 February 1994 »On property of all public organisations of the former Soviet Union« declared such assets to be state property, the FPU managed to take control, not sharing it with other unions.¹³ Income from property became a source of union funding only for the FPU.

The acquired property became a bone of contention¹⁴ between the FPU member organisations and other Ukrainian trade unions. First, it

¹³ In February 1990, there were some 957 assets owned by Soviet unions with a total value (then) of 171.3 billion roubles (Zhukov: 151). »That included, initially, besides the many trade union buildings, hotels, sanatoriums, children’s holiday camps and recreation homes, as well as many buildings in the best tourist or inner city locations« (FES 2013: 5). In 2006, the FPU appears still to have owned some 55 to 60 per cent of these inherited assets, including 18 enterprises and six joint stock companies. The FPU owned 25 per cent of all sanatoriums in Crimea and further assets included: construction boards, design institutes, higher and specialised upper secondary schools, industrial complexes and printing houses, with an estimated commercial value of USD 3.8 billion (Zhukov 151).

¹⁴ The ITUC suggested to the FPU in 2005, as a condition of membership, that it reach agreement on assets with the KVPU (FES 2013: 5). The application was received positively but no arrangement has yet been reached between the two unions on assets.



gave the FPU and its affiliates a huge financial and capacity (for example, education facilities) advantage and provided the means to outdo their union competitors; second, the assets provided a substitute for coordinated policy or a common vision and could be used as plaster for keeping members and affiliates united. Vouchers for discounted holidays in FPU tourist facilities or subsidised access to offices or education facilities were a strong incentive for affiliates to stay with the FPU and not to move to an alternate union centre with no resources.

Thirdly, it compromised the FPU's legitimacy as an independent union. The legal ambiguity of its ownership claim made it vulnerable to political influence from the state authorities, including law enforcement bodies, which could at any time challenge the independent activities of the Federation and its member organisations with the threat of »disappropriation«.¹⁵ By holding onto it, the FPU by choice put itself into a dependent relationship with the government (Kovalenko 2006; Martemyanov 2011; Shangina 2001), giving away its right to radical criticism or critical actions.

Other sources of finance included the administration of the social fund, which until its replacement with new social insurance schemes continued – as during Soviet times – to be administered by the »majority« unions, which nearly always were FPU affiliates. The unions received a certain percentage of the funds they handled.¹⁶

Again in keeping with the Soviet past, the trade union law of 1999 reintroduced a special wage tax for the benefit of unions. It made it compulsory for employers to pay a sum of not less than 0.3 per cent of

15 The »property issue« indeed became an ever-accompanying factor in the relations between the FPU and the government, as well as a continuous factor affecting the effectiveness of the Federation's leaders, its secretariat and all member organisations. The FPU later concluded that it should not just hang on to its assets, but further expand into business activities. The management of such business, as well as the work to defend its ownership against legal and political challenges, consumed a large amount of its leaders' time and energy. In 2011, an internal FPU Presidium report on the activities of its enterprises and economic partnerships concluded that »the FTUU [FPU-RT] structure does not meet the management needs of Ukrprofzodorovnytsia and Ukrproftur holdings, whereas the procedures of preparing, considering and making decisions as regards the management of the Federation's property take up much of the time of the FPU leaders, all member organisations and office staff«.

16 »Practically until 2001 the main source of financing for member organisations of the FPU was social insurance funds managed by trade unions, unlike independent trade unions. A considerable share of those funds was used to cover the costs of staff wages, the upkeep of facilities and acquiring union equipment. Incomplete data indicate that trade unions of the FTU [FPU-RT] and the federation itself were using social insurance funds to cover between 60 and 70 per cent of their administrative expenses« (Zhukov 150).



total wages to the unions, to be used for cultural, sports and other social activities. The sharing of these funds was not clearly regulated and in multi-union enterprises the management had a strong say in deciding which union to favour.

4.2 Trade Union Rivalry, Power Resources and the Unbroken Hegemony of Traditional Unionism

The legal framework¹⁷ that Ukraine established on the advice of the ILO was a key requisite for collective bargaining. While it created a four-tier system that allowed bargaining at national, sectoral, regional and company levels, it was the company level that mattered most. Here, unions bargain not for members but for employees as a whole.¹⁸

In multi-union enterprises, unions are requested to form a joint bargaining chamber and to come up with a joint strategy. As decision-making is based on proportional representation, majority unions are empowered to dominate smaller unions.¹⁹ The model has an in-built propensity to strengthen larger unions and even legally entitles them to keep smaller rivals outside collective bargaining.²⁰

Lyudmyla Volynets (2015) has shown that FPU and its affiliates used union conflicts and its legal and economic power resources to remain the dominant union force. »The denial of access to collective bargaining (...) is precisely the strategy that RUCs [FPU unions – the Eds.] have pursued in order to win inter-union conflicts« (Volynets 2015: 233). In a country in which courts are not independent and pluralism cannot rely on protection from a corresponding legal culture, FPU majority unions are usually able to exclude the »new radicals« from collective bargaining.²¹

¹⁷ Collective Agreements Law (1993; amended 1996, 1997, 2008).

¹⁸ Above enterprise level, unions bargain only for enterprises that are members of an employers' association. A provision for extending a bargaining agreement to non-member companies across a sector was not included and indeed still does not exist.

¹⁹ If the combined membership of all unions is below 50 per cent, the bargaining right reverts to the collective of employees, who decide how to proceed. It may pick a minority union or set up its own bargaining committee.

²⁰ If an enterprise union refuses to participate in a bargaining chamber due to its marginal role, it forfeits the right to represent workers in collective bargaining.

²¹ Only in cases in which the traditional trade unions had few members and bargaining rights reverted to the workforce did alternative trade unions manage to engage in collective bargaining.



Material resources, especially the recreation and leisure facilities that are usually not in the ownership of enterprise trade unions, but rather the branch, regional or national trade unions, although they can use them, could be used as carrot and stick. Sending workers to recreational establishments became a strong incentive for membership and a substantial threat to those wanting to leave (Volynets 2015: 229ff). Leisure activities and discounted holidays were thus set against more vigorous bargaining for higher wages and a significant number of workers tried to take advantage of both. They supported alternative unions in times of conflict, but did not renounce membership of traditional unions, or at least resumed it later on in order to regain access to material benefits offered only by the traditional unions (Volynets 2015: 222–227). Bargaining gains always benefited employees as a whole, while material support from particular unions was restricted to members. New unions thus may have been able to win conflicts with support from workers but were less successful in winning their membership.²²

Interference by management in union affairs in many cases was an additional power resource for traditional unions. It is obvious that management would support non-conflictual industrial relations and assist traditional unions in retaining or gaining the upper hand against rival »uncooperative« unions. Such support included the provision of additional funds and bargaining only with traditional unions, even though the legal right was granted to all. Discriminatory interventions also included misuse of automatic wage deductions, with membership fees not transferred to radical unions; the outright threat of criminalising individual union activists; or even the dismissal of members. In many cases, management support for traditional unions was well known to all employees and individuals were aware of the possible risks involved in membership of a »disapproved« union.

Finally, traditional enterprise unions existed inside an established organisational network of sectoral, regional and national unions, whose leaders had been union officials during Soviet times and since then had retained intensive contacts with bureaucrats and politicians, who were themselves part of the Soviet nomenclature. Both groups shared a

22 »Even though many workers benefited from the success of ITUs [alternative unions] and turned to them for assistance when they were dissatisfied with the quality of representation provided by RUCs [traditional unions], the ITUs' inability to provide discounted holiday vouchers led workers to maintain their RUC membership« (Volynets 2015: 226).



common view of »harmonious industrial relations«, with close management–union cooperation. When alternative unions in the 1990s pushed hard for higher wages and were ready to engage in strike action the authorities came to the rescue of traditional unions by adjusting the law on dispute resolution (see below), which in most regards prevented strikes from happening or allowed union activists to be criminalised.

Of particular interest is the case of privatised enterprises, in which there was more chance that a new management would be installed outside traditional networks and a direct profit–wage relationship could become the baseline for trade union activities. However, the particular form of Ukraine’s privatisation generally gifted enterprise ownership to people with political connections, to the exclusion of outsiders. Privatisation for the benefit of oligarchs brought no fundamental changes to industrial relations at the enterprise level. The same applied to the few cases in which privatisation resulted in foreign ownership. Here, unions »turned to lobbying the State Property Fund of Ukraine (SPFU), which was responsible for privatisation, to include larger welfare-related payments [than those laid down in the law] in the purchase and sale agreement as the union’s condition for (...) privatisation« (Volynets 2015: 224), thus ensuring them a continued role in managing employees’ social affairs.

4.3 The Miners’ Strikes in the 1990s and the Government Clampdown

A look at some key events in the mining sector provides another insight into the problem of rivalry between unions and the use of divide-and-rule tactics by the government to clamp down on independent unionism.

The mineworkers were the first and over a long period the most important group that used work stoppages as the main means of pressing their interests. The dynamics of their protests explain much of union development amidst political and market reforms. Those of their protests that reached beyond a single enterprise can be grouped into two phases:²³

²³ On this see Heiko Pleines 2006: 36ff. Pleines also mentions the period from 1999 as a phase of single protests with different aims.



- (i) mass strikes in response to the economic crisis (1989–1993);
- (ii) mass strikes in response to the reforms of the state economy (1995–1998).

The mass miners' strikes at the end of the 1980s in Ukraine, Russia and Kazakhstan were undoubtedly protests against the crisis in the Soviet planned economy. The work stoppages that paralysed all large Soviet coal fields were not in protest against the existing mode of production; nor did they demand – although they did contribute to – the end of Soviet rule (Friedgut and Siegelbaum 1990). Since Stalin mine workers' earnings had been almost double the average. The protests were rather attempts to protect a privileged status. Because the official Soviet trade unions did not back or even hindered the strike action, the formation of independent strike centres led to trade union divisions.

In 1993 there were more mass strikes in Ukraine's coal fields, coordinated by the newly founded NPGU. In order not to lose any more members the former state Trade Union of Coal Industry Workers (PRUP), now part of the FPU, this time joined in. Although initially the strikes were purely wage strikes – the demand was for wage indexation to inflation – their character changed when a new alliance of interests was formed. The mine workers obtained the support of mine directors and even the political leadership in Donets when they adopted the demands for state coal subsidies. With their new call for coal subsidies they were no longer fighting against company management for a share of profits, but alongside them for handouts from central government.

Success²⁴ in this »common struggle« increased the pressure on central government to push ahead with reform of coal mining. When the Kuchma government wanted to implement a programme worked out with the World Bank to close numerous pits conflict resumed. From autumn 1995 to spring 1998 the miners defended their jobs and also, with their blockades of streets and railway lines, repeatedly paralysed public transport, too.²⁵

In summer 1998 the government broke the resistance of the mine workers by driving a wedge between the trade unions. »The moder-

24 Success can be measured by the fact that the subsidies for mining were doubled from 600 million US dollars in 1992 to 1.2 billion US dollars in 1993 (Pleines 2006: 9).

25 The PRUP did not participate in these support actions.



ate PRUP was persuaded by concessions to disengage from protest. Trade union leaders were given government posts, including the position of deputy minister for coal. The leader of the PRUP became an MP and later joined the parliamentary faction ›Regions of Ukraine‹, which was close to the president« PRUP also received additional state funding for trade union activities« (Pleines 2006: 36–37; Dodonov 2002).

The more radical NPGU was subjected to state repression, including sustained pressure on leading unionists and harassment and persecution of their families and union members. Strike leaders were criminalised. These acts of sustained pressure contributed to the significant loss of members suffered by the NPGU.²⁶ While the conservative PRUP defected to the government camp, the NPGU sought for support from the political opposition.²⁷

The defeat of the miners' strike in 1998 had various causes. The collaboration of the unions with the directors of collieries created a common interest in blocking restructuring and in sabotaging investment for the purpose of modernisation and lower production costs. The unions did not see or closed their eyes to the corrupt practices in management circles, which rerouted government subsidies for coal mines to private ends instead of investment (Fonkych 2000). Trade union rivalry, too, facilitated the government's divide et impera tactics. As a consequence the unions came to understand that alone they could do little and so started to look for supporting partners in party politics.

The miners' strike was the background for the Law on Dispute Settlement passed in 1998. The law banned strikes in 23 sectors, including the judicial system, the military, government administration and the

26 »First, state-controlled prosecutors launched criminal cases against the strike leaders of 1996, pronounced some guilty and conditionally sentenced them to several years in jail. Second, the government has also resorted to intimidating workers' leaders before strikes, and some of their protest actions were stopped through police action and violence, leading to several hospitalisations of miners. And third, the government (...) transferred funds to the Trade Union of Coal Industry workers to buy gifts for the coal miners who had been killed and the Ministry of Fuel and Energy issued an order calling for the transfer of part of the revenue from the sale of coal to the union to finance coal miners' vacations in sanatoriums. As a result, the union is negotiating with the government about wage arrears and providing political support, in exchange for some benefits« (Dodonov 2002).

27 In summer 2001 the NPGU entered its candidate for the Parliament on the list of the political block of Yulia Tymoshenko; NPGU president Michael Volynets became a member of her caucus in the Rada.



police. Strike restrictions also apply with regard to transport, nuclear energy and energy (FES 2012: 4; 2013: 7). For sectors in which collective action is still legal, complex procedures were prescribed that had to be followed before a strike could be called. Conciliation and mediation became mandatory, consuming several months. Thereafter, a vote had to be organised and either a majority of all workers in an enterprise or two-thirds of a labour conference – which the union had to prepare – had to be obtained. According to the ITUC, the act sets an »excessive« representativeness threshold for »holding lawful strikes« (ITUC 2014). More restrictions were included with regard to the level or scope of strikes including a statement that federations and confederations cannot call strikes.

The miners' strikes were also used as a pretext to apply excessive civil or penal sanctions if workers and unions were involved in unauthorised strike actions. »The Criminal Code provides that organised group actions that seriously disturb public order, or significantly disrupt operations of public transport, any enterprise, institution or organisation and active participation therein, are punishable with a fine of up to 50 monthly minimum wages or imprisonment for a term of up to six months and, in particular, in respect of industrial action« (section 293, Criminal Code) (ITUC 2014).

4.4 Strike Dynamics in the 1990s and Thereafter

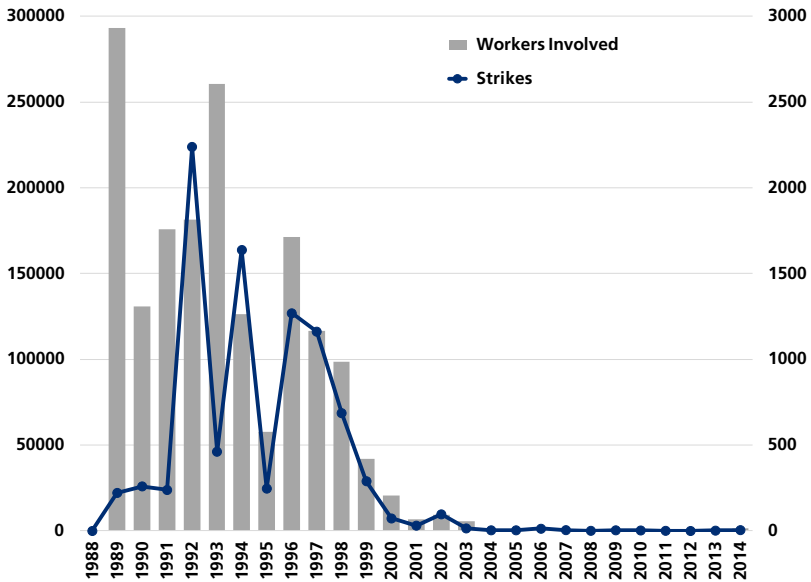
The dynamics of trade unionism in Ukraine can be viewed through the history of strikes. The majority of strikes in the 1990s occurred in two sectors: mining and education (Razumkov Center 2001: 19). Both sectors were part of the state economy and in the 1990s Ukraine saw hardly any work stoppages in the private sector. Furthermore, work stoppages were called by the new trade unions, whereas the FPU and its affiliates usually²⁸ did not resort to strike action.

The first statistical records are from 1989, when mineworkers in the Donbass triggered a first strike wave in 222 enterprises, mostly in

28 »The two exceptions were the Trade Union of Workers of the Coal Industry (PRUP), which was forced to act under the pressure of the spontaneous miners' movement, and the Trade Union of Education Employees and Scientists« (Razumkov 2001: 19).



Figure 2: Strikes in Ukraine 1988–2014



Source: ILO Ukraine 1989–2008 strikes and lockouts in: www.laborsta.ilo.org/STP; Ukrstat.org (Statistical Information: Labour Market).

mines. Nearly 300,000 workers joined in. This first year stands out as the peak year for the whole period 1988–2014. The 1990s saw work stoppages in thousands of enterprises (1992: 2,239 strikes) but despite the deepening social chaos the number of workers participating in work stoppages decreased. Even those years that were »conflict intense« according to the statistics (see figure 2) are »not really impressive« in absolute terms. The 260,000 workers who went on strike in 1993 represented a mere 1.3 per cent of the 20 million employees in total. After 2000, we can actually talk of a mostly strike-free Ukraine.

In the aftermath of the clampdown on miners' protests in 1998, strikes rarely happened again. Even though in 1996 the country had adopted a Constitution that laid down the fundamental rights of trade unions and in Article 44 guaranteed the right to strike, labour dispute resolution thereafter was positively authoritarian. One after the other the law makers removed workers' rights and introduced a restrictive system under which, not de jure but de facto strikes were banned.



5. Collective Bargaining and Wage Setting

5.1 Collective Bargaining: High Coverage and Low Content

In Ukraine, collective bargaining at higher levels (national, regional and sectoral) has never taken off in a meaningful way as it has always been confronted with problems of legitimacy and significance. The representativeness of those who bargained and their selection has been contested time and again²⁹ and these challenges have contributed to its insignificance. At national level³⁰, the outcome was usually nothing more than jointly signed lists of policy recommendations which remained on paper, with no further consequences. Insofar as they contained statements on wage issues these were mere suggestions to be taken into consideration by the parties further down the line, which were often ignored. Where it affected workers paid from the state budget, no legal instrument would make national conclusions binding on the parliament and there were no consequences if the Rada, in adopting the annual budget, just ignored any clauses in the agreements (Zarko and Mihes 2012: 18–22).

Sectoral agreements are »binding on the members of the signatory parties« (Zarko and Mihes 2012: 22), but looking at the 93 agreements in existence in 2011³¹ contradictions arise everywhere. When agreements become binding reluctance mounts on the employers' side to reach agreement on substantive issues. Many sectoral accords are full of clauses of a general nature and remain agreements of intent. They have a declarative character or make the implementation of clauses with ma-

29 See, for example, the »objection concerning the nomination of the employers' associations of Ukraine« to the ILO conference in 2008 when a submission by 15 of the registered 17 employers' associations of Ukraine claiming a total membership of five million was rejected as the ILO did not find proof of the correctness of the membership claims (ILO 2008: 4/28-9).

30 The first ever agreement at state level was concluded on 30 April 1991 in a bipartite round between the Council of Ministers and the FPU (ILO 2012: 17), while the first state-level collective agreement involving employers (the Ukrainian Union of Industrialists and Entrepreneurs) was concluded in 1997 (ILO 2012). Since then, others have followed. In 2002–2003, some 99 agreements existed, while in 2010–2012 the figure had increased to 203 (Zarko and Mihes 2012: 19).

31 »Twenty were in industry sectors, 10 in transport, 14 in construction, three in communications, seven in the agro-industrial complex, 10 in the defence complex and 29 in the non-production sphere (health care, science and education, culture, and public administration)« (Zarko and Mihes 2012: 29).



terial implications dependent on the availability of financial resources. Moreover, they are »overburdened with provisions duplicating statutory norms« (Zarko and Mihes 2012: 29) and if specific rates are fixed, such as minimum hourly wages, the rate is usually set so low that hardly any member company would have a problem accepting them.

Many sectors do not have an employers' association³² at all and where they do exist »the largest enterprises in the sector are not members (...) or do not grant powers to bargain on their behalf« (ILO 2012: 14). Unclear rules on company affiliation and sectoral delimitations further weaken bargaining. Overall, sectoral bargaining focuses on the public sector³³ and is concluded mainly on a bipartite basis between public authorities and trade unions.

Regional agreements³⁴ do not offer a different picture from national or sectoral bargaining. While in a few cases they may have some bearing on pay, in general they do not become a significant factor in determining wages and working conditions for regions.

The key bargaining arena between unions and employers is the enterprise level. There is remarkably high coverage of workers with company agreements (figure 3). Whereas in the 1990s, the share was between 60 and 70 per cent, it has grown since then to above 80 per cent, falling off somewhat in 2014 to 75 per cent.

These high figures need some explanation. Collective bargaining takes place only in the formal sector, which has been shrinking (to 15.7 million workplaces in 2014). Over the years, the figure of employees covered remained fairly stable at between nine and ten million and thus the growth in (relative) coverage reflects more the shrinking number of workers employed in the formal economy than the inclusion of more enterprises.

The overall coverage of some 38 per cent (2014) in total employment and the high coverage of around 75 per cent in large-scale employment is still fairly good by international comparison. We do not have separate figures for collective bargaining coverage for the private and the state

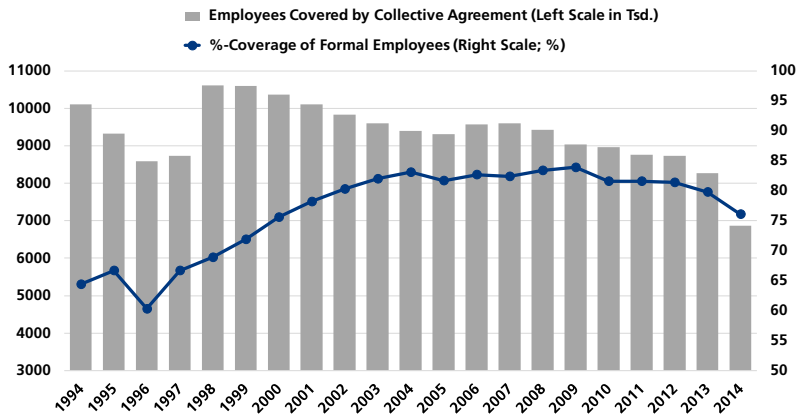
32 In 2004, only 10.3 per cent of employees worked in enterprises that belonged to an employers' organisation. This figure had increased by 2008 to 27.3 per cent (UNECE 2010: 220).

33 In 2010 »out of 92 sectoral agreements signed in Ukraine, only 20 were concluded with the involvement of the association of employers' organisations« (ILO 2011: 61).

34 Of which 29 were in existence in December 2011 (Zarko and Mihes 2012: 29).



Figure 3: Collective Bargaining Coverage in % of Employees in Formal Employment: 1994–2010



Source: ILO (2011) Decent work country profile: Ukraine. Geneva; Zarko and Mihes 2012; Ukraine-Analysen 47/2008: 16.

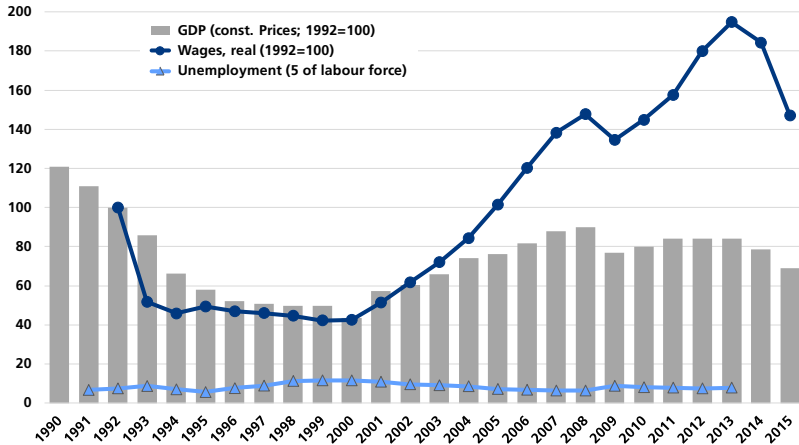
sector but can conclude³⁵ that collective bargaining takes place primarily in the state sector, whereas the informal sector and two-thirds of the formal private sector remain uncovered.

Beyond the scope of coverage, what matters more is the substance of the agreements. No research has been done to calculate the trade union premium by comparing wage levels in enterprises with and without a collective agreement. But an analysis of the content of company agreements for 2007 appears to indicate that bargaining at enterprise level is as meaningless as it is at regional, branch or national level: »collective agreements mainly restate legal provisions as in 70.8 per cent of them the wage scales are the same as stipulated by law; indeed, in only 26.6 per cent of agreements are wages higher. Incredibly, 2.6 per cent of agreements set the

³⁵ An educated guess based on simple arithmetic can be made as follows: employment in state administration, health and education is around four million (according to ILO statistics). If we add an estimated two million working in state-owned commercial enterprises, we arrive at a total of some six million state employees or 29 per cent of total employment for 2013. Assuming for them collective bargaining coverage slightly above the average (we assume 80 per cent) we get 4.8 million state employees under collective bargaining. In 2013, the total number of such employees was some 8.2 million, which would leave us with 3.4 million for the private sector. Taking off from the total private sector of 14.4 million (20.4 minus six) 4.8 million for the informal sector, we arrive at 9.6 million formal private sector employees, of whom 3.4 million or 35 per cent are probably covered by collective bargaining.



Figure 4: GDP, Wages and Unemployment in Ukraine, 1990–2015



Source: World Bank-WDI; Ukrstat.org; ILO; author's calculations.

tariff coefficient at a lower rate than stipulated by law and 5.6 per cent of agreements envisage lower tariff coefficients than those of the sectoral agreement». Overall, »employers' additional expenses caused by collective bargaining amounted in the same year to only HR 283 per year (the equivalent of 20 euros per worker)« (Volynets 2015: 103-104).

5.2 Wage Trends: From Collapse to Recovery

If one takes the development of GDP as a benchmark the restructuring of the Ukrainian economy can only be described as a flop. While the U-shape is a well-known phenomenon for economic development in transition economies, in the Ukraine the GDP never returned anywhere near to what it was at the onset of reforms. In 2013 it was almost 20 per cent lower than its level of 1992 and 30 per cent lower compared with 1990. In almost every comparable time period over two decades the former command economy presented better economic results than since the country became independent (figure 4).

The development of real wages falls into three periods: the economic reforms of the first decade led to social collapse. From 1992 to 2000



real wages fell by 60 per cent. In the first few years they fell even faster than GDP. The transition to the »new economy« had no mechanism in place which could act as a wage anchor.³⁶

A particularly notable feature of this period was the development of unemployment. Although it rose substantially from 1992 (7.5 per cent) to 2000 (11.6 per cent) it was far outstripped by the precipitous decline in wage levels. Clearly, the labour market had reacted to the development of the economy with a trade-off between wages and employment. The lower flexibility of employment reflects the strong state presence in labour relations,³⁷ whereas the higher (downward) flexibility of wages has to be related to the absence of two mechanisms that could have secured a wage floor: the insignificance of statutory minimum wages and trade unions, which were unwilling or had little capacity in the 1990s to resist substantive wage reductions.

In the economic recovery in 2000–2008 real wages picked up, at first slowly, but from 2001 more rapidly than GDP. In 2005 they returned to the initial level of 1992 and then pursued an upward trend. They continued to rise after 2009 although the economy started to stagnate from that point on.

Since 2014 wages have again gone downhill. Real wages have been falling even more markedly than GDP. This renewed slump is related to Russia's annexation of Crimea and the armed conflict in eastern Ukraine.

The huge development gap between real wages and GDP may to some extent not reflect economic reality but be due to a statistical anomaly. Going back to Soviet times, wages were always paid in two parts: the first tier was laid down in the labour contract and a second tier was made up of flexible components, such as premium, bonus and other extra payments. This second tier consisted partly of so-called »envelope payments«, which were not put in the books, no taxes or social contributions were paid on them and they fluctuated according to the business condition of the enterprise. Naturally, we have no proper statistics to cover these grey payments, but it is plausible to assume that in the 1990s, envelope payments made up a higher share in total wages and that their significance was reduced in the 2000s. Such anti-cyclical behaviour on

36 The Law on the temporary halting of income indexation was passed, dated 9 December 1992 (Volynets 2015: 96).

37 Political instructions to the public sector and state enterprises not to shed labour and a labour law, inherited from Soviet times, which made it difficult to terminate labour contracts.



the part of envelope wages are likely to have raised wage payments in the first decade of transition to a higher level than what was recorded in statistics and to have dampened them thereafter. However, we have no reason to assume that such payments off the books were made in such a magnitude that it would fully neutralise our statistical findings.

The fact that real wages grew more rapidly than GDP over a long period and thus also more rapidly than average productivity is astonishing. Given the fact that there was no wage strike, the lack of substance of collective agreements and the cooperativeness of most trade unions this cannot be explained in terms of an aggressive collective bargaining policy. The turn in wage development from 2000 is rather to be attributed to the government's minimum wage policy and the fact that workers and their family members, in a situation of political conflict (the fraught re-election of President Kuchma and civil society protests in 2004 and 2013), were a strategic group of voters that had to be pacified with high wage increases.

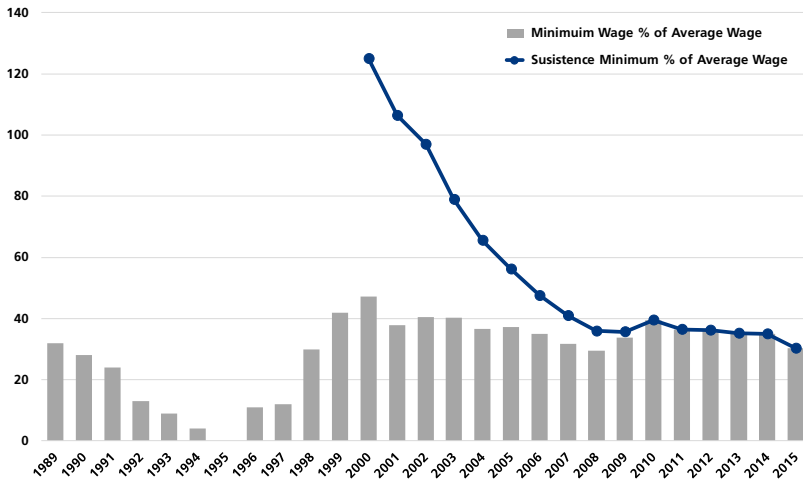
5.3 Minimum Wage Legislation and the Political Cycle

Minimum wage policy³⁸ developed into a key wage policy tool in the period starting in 1998. Following the argument that a minimum wage rate set at 40 per cent of the median wage or higher acts as a solid wage floor anchor (Van Maarten, Gregory and Schulten 2015), Ukraine is an exceptional case within the group of former Soviet republics as the only country with a substantive minimum wage policy. While after 1990 it first followed Russia and others in allowing the minimum wage to erode to levels of 10 per cent or lower, in 1998 through 2000, it turned around and increased monthly minimum wage rates several times to more than 40 per cent of average wages (figure 5). This even underestimates its relevance because the median wage, usually used as reference, is lower than the average wage and thus the minimum wage may actually have been set at 50 per cent of the median wage in 2000.

38 Minimum wage legislation had been established in the Soviet Union and was continued thereafter through the whole history of Ukraine. When it was set in the 1992 decree on wages, a basket of goods needed for subsistence was used as a reference for its calculation. This is supposed to act as the floor for wages paid to the lowest occupational grade in an enterprise. Even though the subsistence level was deemed to be its bottom line, in reality this reference was hardly recognised and for most of the year it was fixed by parliament well below this poverty threshold.



Figure 5: Legal Minimum Wage and Subsistence Minimum as a Percentage of the Average Wage



Source: Ganguli and Terrell (2005: Appendix Fig.1d) for data 1989–1999; <http://index.minfin.com.ua/index/wage> (Data on minimum wage and subsistence levels 2000–2016); authors' calculation.

There are two ways in which the statutory minimum wage directly impacts on the general wage level. In the public sector, with its rigid unified tariff system, all wage groups rise accordingly if the bottom wage class, made up of minimum wage earners, receives an upgrade. The private sector is not bound to this rigidity but many if not most collective agreements, instead of containing their own wage classes, merely confirm the statutory minimum wage as base payment (Zarko and Mihes 2012). When minimum wage increases are publicly announced, employees of private enterprise expect similar percentage adjustments across all wage groups, as if still working in state-owned enterprises.

The minimum wage policy in Ukraine is also exceptional in its timing. GDP growth rates picked up only in 2001, as did real wage growth (figure 4). Minimum wage rates however, were substantially upgraded two years ahead of the economic return to growth. Similar intervention to augment minimum wage rates above average wage increases occurred in 2002, 2005 and 2009–2010, albeit on a smaller scale, as minimum wage rates had already reached a high level.



To avoid misunderstandings, wage levels in the 1990s fell to an extremely low level. Average wage earners could not even cover the basic goods needed for survival from their salary and had to augment their income with subsistence farming or other forms of work. The strong increase in the minimum wage between 1998 and 2000 still kept those who depended on it at a salary level below the subsistence or poverty line. But by increasing faster than the GDP and by pulling higher wage groups indexed to it along, it lifted an ever growing number of wage earners out of poverty. In 2010, the government finally fulfilled the legal demand that the minimum wage should not be lower than the subsistence minimum and thereafter minimum wage adjustments kept pace with changes in living costs. The overall impact on poverty alleviation was tremendous. Whereas in 2000, 87.4 per cent of all Ukrainians still lived on cash incomes below the subsistence minimum, this figure had been reduced to 8.4 per cent by 2013.

But why did the government suddenly turn around and make minimum wage policy a key instrument in pushing wages up? No study has been done to link the debates in the National Tripartite Social Partnership Council (see below) and the conclusions in the National Tariff Agreement to the fixing of minimum wage rates by the legislature. Similarly, no study has looked into the relationship between minimum wage policies and electoral cycles and the strategies of office holders for staying in power. Political stalemates between government alliances and the opposition camp do offer unions a strategic window for »exerting social pressure« if they are able to mobilise their membership and offer members' votes against promises of minimum wage increases. But such trade-offs can also be organised without unions as intermediaries. By announcing it as its own initiative the government may be able to sell it without any reference to union influence.

There were certainly calls from FPU and other groups to increase minimum wage rates and some of these calls were even supported with (soft) forms of protests, such as demonstrations during weekends. Even though no single rate lift may have occurred without unions calling for it, no single minimum wage adjustment followed a collective bargaining approach based on unions' flexing their muscles and threatening a withdrawal of labour. The minimum wage increases in 1998 were still of a different nature and can be related to the clampdown on the mine workers and the need to pacify labour. But thereafter, the capacity of



labour to challenge government policies declined and there is no evidence to link the minimum wage policy in later years to radical FPU or national union campaigns.

There is, however, a lot of plausibility in linking the new minimum wage policy to the ongoing political power struggles in the country and to explain it in terms of internal elite rivalries and therefore to the political and electoral cycles. 1998 was not only the year of »taming« labour protests with a split strategy of unleashing repressive labour against radical unions while providing material support to the more conciliatory traditional unions. It was also the preparatory year for presidential elections in 1999, which Kuchma may have lost against a united opposition but managed to win narrowly in a second round.

His re-election marked a turn towards authoritarian politics with attacks on opposition groups and the media. Activists were criminalised and journalists intimidated. The disappearance and killing of journalist Georgiy Gongadze triggered the mass protest campaign »Ukraine without Kuchma«, which ended in a showdown between protesters and the police in March 2001. The protests never died down thereafter and returned with more force during the »Orange Revolution« in 2004, when millions protested against election fraud (Onuch 2014: Chapter 3).

The best option available to explain the radical changes in minimum wage policy is not a sudden awakening of the labour movement but an offer of a »social contract« from President Kuchma to a majority of impoverished Ukrainians to stick with him in return for new state policies to improve their social lot. Even after the Orange Revolution Ukraine remained deeply split into equally strong political camps and each government was tempted to win over parts of the electorate with minimum wage policies. The 2005 minimum wage increases can certainly be seen as an »electoral gift« of the new Yuschchenko/Timochenko government to their voters.

The 2009–2010 minimum wage increases brought additional international policy components into the minimum wage policy arena. When the government increased the minimum wage in 2009, the IMF suspended its lending programme, which had included a clause on forfeiting minimum wage increases. However, the government was able to use the political window from the worldwide call of the G20, which during the global financial crisis 2009 had advised the implementation of expansionary fiscal policies.



6. Trade Unions in Politics

At the outset of the transition the FPU unions legally separated themselves from state and party and established their organisational independence. This did not result in a real separation, however. Trade union attempts to influence politics were shifted to the institutionalised tripartite social dialogue, informal influence and the attempt to obtain their own mandate in parties and parliament. The rivalry between the trade unions found expression in all these areas.

6.1 Social Tripartite Dialogue

Trade unions advancing their interests by means of political lobbying was certainly no departure from Soviet times. They were used to playing an advisory role and continuing this tradition was the easiest way to identify a role and attain recognition in the new environment. This was made possible under the new guise of »social partnership«. Powerful strike actions by labour groups in the early years were strong arguments to convince state representatives of the advantages of talks in a »peaceful forum«.

In February 1993, the President of Ukraine established the first ever »National Tripartite Social Partnership Council« (NTSPC). It included 22 representatives of each of the parties. Interestingly, 12 out of 22 places – or just over half – on the trade union side belonged to representatives of trade unions not affiliated to FPU.³⁹ Being accepted as a member of the NTSPC thus meant being »granted« national status and recognition.⁴⁰

The NTSPC was reformed into the National Tripartite Social and Economic Council (NTSEC, 2005) and acquired independent status pursuant to the Law on Social Dialogue in Ukraine (2010). Similar councils were established in all 27 regions of Ukraine. It is only from this point on that »social dialogue« can be seen as a tripartite arrangement

39 It was on the basis of a non-formalised »internal agreement« among Ukraine's trade union centres that the Declaration on Solidary Actions of Trade Union Associations was signed in October 1992.

40 While at first sight, the NTSPC looked like a tripartite institution, employers' associations hardly existed and the body was of more symbolic than real relevance. See Footnote 9.



to facilitate consensus-building. Since then, unions through their participation⁴¹ in the NTSEC can claim to have become influential as »advisers« in the budget process and able to raise their voice at all stages of the drafting of the state budget.⁴²

With the reform of the social security system and the establishment of social insurance funds in the late 1990s a structure was created which opened the door for trade unions to administer social funds. Representation here was subject to competition between unions as work was paid and could be used to obtain union revenues. FPU gained a monopoly and was the only structure to financially benefit from it.

The involvement in national consultation on social and economy matters and the establishment of a trade union joint representative body does not imply that unions were always or mostly satisfied with their role in tripartite social dialogue or the results of it. In the opinion of trade union representatives frequent changes of government and, in many cases, an open disregard of trade union proposals on labour matters by government authorities could routinely be observed. For instance, minimum wage increases were implemented without recommendations from unions and unions' views on a more liberal code for collective dispute resolution were ignored. Despite recurrent failure to see their proposals implemented there was never a collective withdrawal from tripartite dialogue by union representatives to jointly press for a stronger union role; nor was there a joint national campaign by unions to mobilise for stronger assertiveness in tripartite fora. The NTSEC, however, made it necessary for the FPU and KVPU to work together to jointly formulate trade union positions. Whereas previously public statements were usually confrontational, in the late 2000s the consensus-building in the NTSEC forced the two national centres to seek common union positions. Union criticism of the proceedings and results of social dialogue had to be reduced to a form of »individual deviant behaviour« articulated in public or in front of members with no collective action to follow it up.

41 Unions in the NTSEC have established a Joint Representative Body in order to coordinate their activities and positions.

42 Having got used to being heard in social policy matters, trade unions (particularly FPU and KVPU) even pressured the International Monetary Fund (IMF) to accept dialogue and consultations with them. To this end, they organised picketing of the IMF representative office in Kyiv and took part in a direct teleconference bridge between the IMF's central office in Washington and its representative office in Kyiv.



6.2 Trade Unions, Political Parties and Political Protests

Building Election Alliances

At its extraordinary congress in 1992 the FPU proclaimed neutrality in relation to political parties. However, its leaders have rarely stuck to this obligation and hid their party-political manoeuvring behind the rhetoric of lobbying for the socioeconomic interests of the members and the general population. They soon started, just as unionists from other workers' organisations did, to forge electoral alliances with political parties and obtained for some of its officials candidacies in single constituencies or, later on, in party lists. The parliament of 1994 included seven elected trade union members of parliament, including the President of FPU, as did the Rada of 1998 (Razumkov Centre 2001: 17).

Besides the efforts to lead its own organisation in electoral alliances and to ensure MP status in the Verkhovna Rada there were initiatives to found a trade union party. When in May 1998 the FPU was deprived of the right of legislative initiative it decided to form its own trade union political party, the All-Ukrainian Party of Workers (AUPW).⁴³ However, the party project (Ott 1999: 15) proved to be a disaster. Not only did other union leaders not join and instead signed cooperation agreements with other political parties, but FPU's own affiliates supported not one but 11 different parties. In the end, AUPW collected a mere 0.79 per cent or 211,000 votes (Razumkov Centre 2001: 37-8), less than 2 per cent of FPU's claimed membership.

The devastating defeat at the polls in 1998 did not lay to rest trade union plans to establish a workers' party and new initiatives were started here and there. Nevertheless, it proved that union members did not have »political trust« in their leaders and did not vote for parties just because their leaders demanded it. In many cases, the electoral cooperation with political parties (usually pro-government ones) resulted in fierce internal debates and conflicts inside the trade unions. Because Ukrainian political parties are deeply split not along ideological lines but in terms of business and regional interests, trade unions – in particular their regional structures – in many cases were not ready to back the election stand taken by national leaders. Not being able to deliver

43 VPT – Vseukrajins'ka partija trudjaš ych (All-Ukrainian Workers' Party, Leonid Vernyhora).



trade union votes as a block, union leaders were usually co-opted to political parties only as junior partner and hardly managed to have a say in party politics.⁴⁴

While unions never managed to forge a united block, the involvement of their leaders in party and electoral affairs weakened the representation of labour interests and contributed to organisational instability. The majority of the FPU's former presidents resigned against a background of controversy related, not least, to the FPU's political party position.

The Case of Oleksandr Stoyan

The most remarkable instance is the FPU presidency of Oleksandr Stoyan (1992–2005). Before his career as a unionist, he had been a senior consultant to the first President of Ukraine, Kravchuk, who installed him as president of FPU.⁴⁵ In violation of the FPU statutes, which demanded the separation of union and political office, Stoyan secured for himself the status of MP in the Verkovna Rada and always stayed close to the party and the president.⁴⁶ For most of his tenure as FPU president, he was a key loyalist to President Kuchma.⁴⁷ During the campaign against Kuchma's re-election in 1999 he openly declared: »I will be frank. I, as a trade union leader, have to compromise with the President and the government and call upon my colleagues not to cut straight from the shoulder. As soon as we breathe a word about the President's impeachment the next day we will be bereft of everything« (Razumkov Centre 2001: 31).

44 One important exception: the NPGU pushed for the extension of miners' rights and benefits and succeeded in getting the parliament to adopt the Law on the Prestige of Miners' Work which provided for a set of additional social guaranties for miners.

45 During the Soviet party-state period, the union presidents used to be installed by the Party. By installing the first President of the FPU the national president merely continued previous practice, thus showing the failure of the separation of the union and political office.

46 Stoyan was originally a candidate on the list of the opposition Batjkiwtschina. In parliament he rapidly switched party blocks.

47 »Stoyan himself has repeatedly undermined national labour protests, for example, by announcing last-minute »breakthroughs« in negotiations with the government that never materialised. He also opposed the FPU's participation in the campaign to demand Kuchma's impeachment over the Gongadze affair (...) On his fifty-fifth birthday, the government awarded him the medal »For Services Rendered« third class« (Mandel 2004: 184).



His career was characterised by u-turns. When President Kuchma brought about the fall of Viktor Yushtshenko's government in April 2001 Stoyan found himself temporarily »in the wrong camp«. After threats from the presidential palace that he would be deselected at the next FPU congress, he renounced Viktor Yushtshenko, whom when still prime minister he had characterised as having the best trade union policy, and returned to the new government camp (Kuzio 2013: 48; Kyiv Post 2002).⁴⁸ Kuchma's scandal-fraught departure from politics forced him into a new alliance. Shortly before the election of 2004, he announced the FPU's electoral alliance with the governing Party of Regions and their candidate for presidency, Victor Yanukovych.⁴⁹ When its »election victory« was overshadowed by accusations of fraud and the »Orange Revolution« broke out, Stoyan opposed it and publicly appealed to the President of Ukraine to prevent protests on the streets. This action prompted so much worker outrage that Stoyan was forced to flee.⁵⁰

In this first uprising of Ukrainian civil society against the oligarchy the trade unions were split. Trade unionists were certainly among the demonstrators and the KVPU released statements and mobilised its members against election fraud.⁵¹ As institutions, however, unions

48 On the Ukrainian government's web portal the following could be read on 6 December 2002: »Following the meeting, the participants gave a joint press conference. Head of the Ukrainian Trade Union Federation Oleksandr Stoyan announced his intentions to join the parliamentary majority in the Verkhovna Rada to strengthen cooperation between the cabinet and trade unions. »Now I, as Head of the Trade Union Federation, have no reasons to oppose the new coalition government in the first days of its activity, I have to work with it and it will be so for that reason«, Stoyan said.« http://www.kmu.gov.ua/control/en/publish/article?art_id=40348 (accessed 22.12.2015).

49 »The Ukrainian trade unions were going to support candidate Viktor Yanukovych. This decision was reached at the meeting between the Head of UTU Oleksandr Stoyan and Mr Yanukovych. Stoyan also stressed his assuredness that Viktor Yanukovych together with the UTU would be able to work out initiatives concerning Ukraine's social development. The main subject of the meeting was how to rise social cash benefits and payments. Two years previously Oleksandr Stoyan had decided to support Yushtshenko and was second on the party's list at the parliamentary elections. Lately, Stoyan left the »Our Ukraine« faction, allegedly because he was afraid of losing his position as head of the UTU and joined the faction »Rethiony Ukrayiny«, led by Yanukovych. The government, trade unions and employers are going to work-out and realize a social strategy for Ukraine.« Institute of Mass Communication 9.11.2004. Internet: <http://olden.imi.org.ua/en/node/34782>.

50 After resigning as President of the FPU Stoyan was rewarded with a list place with the Party of the Regions in the 2006 Verkhovna Rada elections.

51 For instance, when miners and members of other KVPU-affiliated trade unions came to demonstrate on the Maidan, the members of the independent medical workers' unions arrived and provided medical treatment on the spot.



played no significant role during the Orange Revolution. This became obvious when Yushchenko, through the »committee of national salvation«, called for a nationwide political strike to protest against the stolen victory. Even though some unionists participated in the committee in an individual capacity, the call for a political strike turned into a party political affair with trade unions having no say.

FPU Presidencies in Troubled Waters

When the Yushchenko/Timochenko block took power dark clouds came over the FPU. The new government threatened to nationalise trade union assets. The FPU ditched its president Stoyan and tried to navigate the new political tide. With a »concept of development« his successor Alexander Yurkin (2005–2008) announced about a change of direction and portrayed the FPU's trade union activities hitherto as disastrous. »Trade unions passively resist massive violations of workers' rights ... which causes the dissatisfaction of common union members with the activities of the elected bodies of trade unions and their directors and undermines the authority of trade unions in society« (Zhukov 2011: 151). In a five-year plan a socioeconomic reform programme was agreed that, among other things, demanded substantial wage rises. Now the hostility in the trade union camp was to be exchanged for cooperation. »Notably, for the first time in history, the FPU committed itself to establishing cooperation with trade unions outside the FPU« (Volynets 2015: 115). A joint »coordinating council« was established to reach agreement on the relevant positions.⁵²

The »peace accord« did not last long, however. President Yurkin resigned in 2008 after his vice-president had been caught offering a bribe (Volynets 2015: 115). In November 2008, the FPU Council (not the congress) elected Vasyl' Khara, Party of Regions MP and President of the Donetsk regional council of trade unions, as the new FPU President. Due to procedural violations the organisational controversies besetting FPU have since kept escalating. Three years later, in March 2011, the congress finally confirmed his presidency, but just six months later Khara

52 »FPU even agreed to provide KVPU with several offices in the main trade union building« (Volynets 2015: 123) in order to reduce political tensions concerning the one-sided use of inherited trade union assets.



resigned. Khara's daughters and FPU leaders were caught appropriating the assets of various FPU holiday resorts (Kommersant Ukrayina, 14 September 2011; Mirror Weekly, 14 September 2011, 8 November 2011).⁵³

The next FPU President, Kulyk, reinforced the compliant and politics-oriented position of the FPU and suffered the same fate as his predecessors. Just two years after his appointment by the FPU Council Kulyk had to resign for taking a »wrong« position during the Euromaidan events.

His successor, Grygori Osovyi was elected by the Council in June 2014 and was confirmed by the congress almost one and a half years later (24 March 2016).

The Euromaidan and Trade Unions

For unions, the Euromaidan, which lasted from November 2013 to February 2014, was in several respects a repetition of the Orange revolution, although this time with more far-reaching consequences. Again, the unions were publicly not at the forefront of the protests⁵⁴ even though the KVPU leadership was on the side of the protesters and early on declared its support for the pro-European forces, while both KVPU and FPU members participated in the protests as individuals. This time, the FPU Presidium never openly declared its position, waiting to see which side would win out. Not only was the leadership reluctant to declare a stance, but the affiliates and regional structures were also split. Many FPU officials – in particular those from large enterprises in eastern and southern Ukraine – were in support of the government camp and saw the Euromaidan as a possible coup attempt by rightist groups. Essentially, the coal and steel belt with its intense trade relations with Russia was in favour of a Russia-friendly foreign policy. In cities in the east and south local trade unionists of FPU affiliates joined demonstrations against the Euromaidan. But many regional branches declared support for the protest movement

⁵³ Khara did not resign on the grounds of his responsibility for corrupt practices. Instead, he explained in his written statement that he could »no longer lead the organisation, in which the majority of middle and lower level [union] presidents are chronically idlers, professional betrayers and provocateurs (...) glued to employers« (cited from Volynets 2015: 116).

⁵⁴ Trade union participation in the Maidan protests was far behind that of other civic organisations and generally negligible. Cf. Centre for Society Research (n.d.), Statistics from Maidan protest events: participants, geography, violence. Internet: www.cslr.org.ua.



and in sectors with a strong pro-government stance among the unions one finds the NPGU branches demanding pro-EU policies. Against the background of these turbulent developments, the national leadership (including the FPU Presidium) mainly lay low. Obviously, it had learned from previous experience and was not prepared to make strong public statements, as long as the outcome of the political battle was still not clear.

The exception was then-President Kulyk. Whereas the FPU Presidium and regional union branches decided to make their buildings and offices available to the protesters and Euromaidan participants, Kulyk officially asked the General Prosecutor to retake the FPU's buildings by force. He went public with this statement on various national TV channels on 30 November 2013, just a few hours before the protesters in the FPU building were attacked by special police, leaving many casualties. On 5 December 2013 the Presidium of the FPU published a statement that it had dismissed Kulyk from the position of FPU President. Furthermore, the FPU took this opportunity to confirm its neutrality in relation to all political forces.⁵⁵

The Euromaidan also led to heavy financial losses for FPU. It lost two large union buildings in Kiev and Odessa, burnt down by security forces and right-wing groups, respectively. The Odessa case ended tragically when some 40 persons lost their lives. When the Crimea was annexed by Russia, the FPU lost all its sanatoriums there – some 27 in number – which according to some estimates were responsible for around 40 per cent of FPU revenues (Meuser 2015: 6).⁵⁶

7. New Challenges to Unions

Labour Law Reforms

Three major legal reforms may have a serious impact on the framework of industrial relations, as well as on trade union rights and operations. Participation in national tripartite dialogue forums was long not based

55 See the FPU statement at: <http://www.fpsu.org.ua/nasha-borotba/2839-7777> (last visited 5 May 2016).

56 Due to the difficult financial situation many unions were forced to reduce their staff. According to personal information, some 500 staff employees were dismissed in 2014. Their total number as of 1 January 2015 was down to 7,366.



on clear selection criteria and access was granted in relation to a variety of ad hoc decisions and political favours. The Social Dialogue Act, passed by the Rada on 23 December 2010, established a detailed catalogue of selection criteria for both unions and employers. Using the ILO term »most representative« the law stipulates that in order to gain entry to the Tripartite Council at national level a union should meet three criteria, namely,⁵⁷ a trade union association should:

- (i) have all-Ukrainian status and at least 150,000 members;
- (ii) have members in the majority of administrative and territorial units of Ukraine;
- (iii) include at least three all-Ukrainian trade unions as members.⁵⁸

In all, five umbrella bodies were granted the designation »representative union«.⁵⁹ The law establishes a bureaucratic control, which emphasizes size and territorial spread and will make it difficult, if not impossible for newcomers to gain access. Granted entry to the »official round« does come with some privileges, such as participating in international events. Whether the new control mechanism is of any importance will depend on the role of the tripartite dialogue. To date, bargaining above the enterprise level has remained mostly insignificant, and fixing the minimum wage has remained a prerogative of the Rada, which could consider union recommendations or ignore them. If this practice continues, being excluded from such tripartite rounds entails only that the status of representative union has not been granted.

57 Similar criteria are to be employed for access to tripartite structures at the regional and local levels. At the sectoral level, trade unions and their associations should have all-Ukrainian status and affiliate at least 3 per cent of the labour force of the relevant sector. At the territorial level, trade unions and their associations should be of regional or local status, be established on a territorial basis and affiliate at least 2 per cent of the labour force of the relevant administrative and territorial unit. Allocation of voting rights among different unions is proportionate to the number of workers employed at the enterprises affiliated to the employers' organisations in question, but ensuring at least one representative from each representative union and each employers' organisation.

58 Two unions, including the KVPU, went straight to the ILO to complain that »the newly adopted Law on Social Dialogue in Ukraine impedes the establishment of workers' organisations by setting high representativity criteria« http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO::P50002_COMPLAINT_TEXT_ID:2912587. Most parts of their complaint were rejected and the ILO argued that the new law meets its democratic criteria of representativeness.

59 FPU, KPvU, Association of All-Ukrainian autonomous trade unions, Federation of the Transport Workers' Unions of Ukraine and Association of All-Ukrainian Unions and Union Associations ›Unity«.



The recent initiative for a change in the Law on the State Registration of Legal Entities and Individuals may have similar intentions, but more dramatic consequences. Hitherto, unions have had to go through a simple procedure to be registered. The new bill seeks to increase the number of documents to be submitted by applicants from three to 14 and increases the discretionary power of the registration office. Most importantly, unions do not enjoy legal protection before the process is concluded, while employers are immediately informed about an impending registration. With early information going to the employer's side, all gates are open for repression of those who want to set up the new union. The ITUC in a letter to the Rada protested against the draft legislation and called it »a clear violation of Article 2 of the ILO Convention on Freedom of Association and Protection of the Right to organize, No. 87«, which grants workers the right »to join organizations of their own choosing without previous authorization«. ⁶⁰

Further liberalisation trends can be observed in the law-making process surrounding a new Labour Code. A new Labour Code to replace the Code of Labour Laws (1971) ⁶¹ has been under discussion in the National Tripartite Social and Economic Council for years. As far back as 2001 the participating unions formed a strategic alliance as a Joint Representative Body of All-Ukrainian Trade Unions and Their Associations and have been trying for 15 years – in vain – to reach a common position for a new draft version. In 2013, Olexsandr Stoyan and Yaroslav Sukhi, both from the Party of the Regions, submitted a draft Labour Code, the drafting of which had been supported by Vasyl Khara, then FPU President. Although the Labour Code is supposed to be taking Ukraine along the European road, and its supporters have called for Ukrainian citizens to be granted visa-free travel to the EU as a condition of its adoption, the document is primarily an attempt to increase working time for the formal sector and to reduce employee protection clauses. Employers' rights of dismissal and restructuring are strengthened and the probation period of employment extended to six months (cf. Dudin 2015; Ford 2015; Lauterbach 2015). Short-time working would not be limited and »endless renewals« would be permitted. ⁶² No

⁶⁰ Letter from ITUC General Secretary Sharan Burrow to the Chairman of the Verkhovna, in: Ukraine Solidarity Campaign, 24 July 2015: www.ukrainesolidaritycampaign.org.

⁶¹ The Labour Code of 1971 has been frequently amended but has never been replaced *in toto* with a new law.

⁶² For a detailed presentation of the draft law and its relation to ILO conventions, see ILO 2016.



proposals are included that would strengthen the collective rights of unions in organising, bargaining or striking. There is substantial dissent on the labour front about the new Labour Code. KPVU and others have come out strongly against it, while FPU appears to back its envisaged reform.

*Falling Wages and the Chances of Building Joint Labour
Protest Platforms in the Aftermath of Euromaidan*

The annexation of Crimea and the ongoing war in the east of the country has cast Ukraine into a catastrophic social and economic situation. The economy, already buckling under the weight of massive corruption and mismanagement, now has to shoulder the devastating consequences of lost territory and the ongoing war. In the two crisis years 2014 and 2015, GDP declined by 6.8 per cent and 12 per cent, respectively, whereas real wages fell by 7.5 per cent and 20 per cent. Minimum wages no longer function as a wage anchor. Although nominally unchanged, inflation has eaten away their purchasing power and in 2015 they were down to 29 per cent of average wages.

The state is no longer in a position to finance social and economic expenditures from internal funds and relies on massive external help from the United States, the European Union and others. Aid comes with strings attached, however, targeting political and labour market reforms and Ukraine is likely to be forced into a similar austerity programme to those forced on crisis countries in Southern Europe.

In the aftermath of the Euromaidan, FPU is under pressure on several fronts:

- substantive losses in membership⁶³ and assets weaken the financial base and the strategy of satisfying affiliates and members with monetary benefits;
- external actors have become a strong factor in deciding Ukraine's future economic and financial course, whereas unions do not have much say in the policies of the new government;

⁶³ Losses in membership due to the annexation of the Crimea and the war in the east may add up to 20 per cent. Private communication from an insider.



- a return to »party politics« may not provide any social advantages and members and affiliates may insist on social outcomes instead of political rhetoric and promises;
- the unions face the consequences of an economic austerity programme, where wages and other labour costs will be depressed and labour law further deregulated.

Under pressure from foreign donors and with less room to manoeuvre for the government, being »politically linked« offers fewer advantages. With the flight of Yanukovich to Russia and the organisational pressures it faces, FPU has to learn to operate without the financial and political clout as it had in the past.

The disassociation from political affiliation offers an opportunity for union cooperation. No high-ranking trade union representative is an MP in the current parliament. The freezing of wages and the withdrawal of social benefits make FPU criticism of government policies a »must«. On several occasions, the FPU leadership has walked to the Rada to protest against new laws. The announcement by central government in early 2016 that it would cease to fund vocational schools nationwide and regional government's refusal to take over this duty may become a threshold event as one of its members is preparing for a first legal strike. There are also indications that rivalry between trade unions is calming down and joint protest actions to keep the social situation from further deteriorating may become easier. While there is some hope that, for the first time, a united trade union front could emerge, this is far from sure. With many of the first generation of Ukrainian unionists still in position, there is also the chance that history may repeat itself, that already weakened unions return to intra- and inter-organisational struggles and that the hope of a joint approach to securing labour rights and wage levels may recede again.

8. Conclusion

When Ukraine stepped out of Soviet control and, by winning political independence, started its transition to a new society, the trade unions, like other pillars of the former regime, faced either collapse or adjust-



ment to the new environment. They had to cope with the loss of official state sponsorship, an image tarnished by their association with the authoritarian communist past and competition from newly emerging unions which to many, at least at the beginning, gave hope of a complete overhaul of labour relations.

Despite these existential challenges, FPU, the legal successor to the Soviet Urkprofrada, and its affiliates not only survived the transition but managed to remain organisationally hegemonic in representing labour. They were able to gain control of vast material resources from Soviet times, handed over to them as a »monopoly« inheritance and used them to stabilise membership and organisational capacity. They affiliated to political networks and were able to use these for political protection in exchange for keeping out of labour protest and pacifying workers under conditions of declining wages and working conditions. FPU never used labour mobilisation as a key resource for union power. It continued to act as it had during communist times, stayed away from mobilising members for class or interest policies and thus served those who depended on labour quiescence.

FPU has been characterised as »a largely conservative organisation« (Kubicek 2004: 29) and its reforms as »cosmetic«. It has not gone beyond organisational restructuring (Kabalina and Komarovskiy 1997) and has never achieved a clear demarcation between itself and employers, as well as with the state. Its controversial leadership, political stance and commercial activities made it difficult, if not fundamentally contradictory, for the Federation to challenge government and employers on labour law reforms and wage development. FPU can rightly be called a »legacy union« (Maydom et al. 2014). Or in the words of David Mandel: »The response [to the collapse of the Soviet Union] was to exchange subservience to management and to the state in the name of ›socialism‹ for subservience to management and to the state in the name of ›social partnership‹« (Mandel 2004: 71).

The introduction of organisational pluralism did away with the legal monopoly of FPU and in the early years of independence newly established trade unions, emerging in the »classic way« from strike actions and organisation based on member mobilisation, offered an alternative path of labour interest representation. But from the middle of the 1990s onward, there were increasing indications of a large-scale failure to replace FPU affiliates as the dominant voice of labour. Independent unions



were forced to struggle on several fronts; at enterprise level they were confronted with an alliance of company managers and conservative union rivals, while at political level, law makers, state bureaucrats and state security personnel challenged their actions with restrictive labour legislation and criminal prosecution. The defeat of the mine workers' strike in 1998, the steamrolling of unions in labour conflicts by means of repressive legal instruments and FPU's reluctance to engage in solidarity action may be seen as the key chain of events that turned the tide against independent unionism. Since then, radical unions in Ukraine have lived on the fringes of labour organisation, remaining alive in a few branches but not in a position to challenge the hegemony of FPU.

The events of 1998 were a watershed in a second respect. Struggles within the political elite made elections a decisive tool for hanging on to or capturing political office and opening up opportunities for rent-seeking activities. Even though labour organisations never managed to deliver members' votes en bloc, rival political factions offered improved income opportunities for workers' electoral support. Minimum wage policies became an instrument of political campaigning and wage development became linked to the electoral cycle. After 1998, Ukraine emerged as the only former Soviet republic with a minimum wage policy, which served as leverage for general wage increases above GDP growth. Workers were treated as a strategic electoral group and pacified with monetary benefits. Under conditions of restrictive labour laws, minimum wage policies became the driver of state-led wage development. The trade unions' capacity to drive wages through collective bargaining was non-existent and not needed.

There are strong indications that state-co-opted unionism does not have a future in Ukraine and 2014 might mark the beginning of a new phase. In the aftermath of the Euromaidan, Ukraine's economy slipped into a deep economic and financial crisis and its future depends to a large extent on foreign aid and strings attached by foreign donors entailing economic and labour market reforms. The government is no longer in a position to grant favours for electoral support and the era of minimum wage policies as a solid anchor for wages may be over. Furthermore, the unions, too, have suffered due to the political upheavals surrounding the annexation of the Crimea and the hybrid war in the east, with substantial losses in assets and membership. Continuing with union policies similar to those of the past may no longer be an option



for organisational survival. But major challenges lie ahead. The conservative FPU and the more radical KVPU and others have to overcome their rivalry and form a joint union platform to pull politically in the same direction and to substitute minimum wage legislation with collective bargaining. If they succeed, collective bargaining could for the first time in Ukrainian history become the tool for wage setting. If they fail, organisational marginalisation is their likely destiny.

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The Long March – Trade Unions in the Political History of Poland

Jan Czarzasty

1. Trade Unions before the Transition Process

As the Second World War ended, union pluralism – which used to be very advanced – was briefly restored in Poland, and a non-union institution of employee interest representation, works councils (*rady zakładowe* in Polish), was created in 1945 (Czarzasty et al. 2012; Kloc 1991). Following the consolidation of its power by the Polish United Workers' Party (Polska Zjednoczona Partia Robotnicza, PZPR) – the »Communist Party« – in 1949, all trade unions were massed together in the Association of Trade Unions (*Zrzeszenie Związków Zawodowych, ZZZ*) under the control and supervision of the Central Trade Union Council (*Centralna Rada Związków Zawodowych, CRZZ*), and transformed into Leninist unions, amounting to what became known as a »transmission belt« passing on decisions taken at upper levels of the party-state administration to the shop floor. The unions also performed the tasks of a social welfare agency, being responsible for a variety of employee benefits, ranging from housing to sports and cultural activities. At central level, CRZZ was legally and practically subordinated to the PZPR Central Committee (and its Politburo), while at company-level, the Basic Party Organisation of PZPR enjoyed a »leading role« over all social organisations, including trade unions (Pravda 1986: 133). Sectoral union structures were linked to specific branches of economic administration.

That Poland's working class did not meekly conform to authoritarian rule is indicated by periodical outbursts of grief and anger. In 1956 the autonomous movement of workers' councils (*rady robotnicze*) emerged (later suppressed and subordinated to workplace-level party



organisations). In 1970 strikes in the shipyards in Gdańsk and Szczecin met with a violent response from the state, resulting in at least 40 deaths. In 1976 a nationwide wave of protests (escalating into riots) against the government's decision to raise food prices and subsequent repression of the workers prompted dissident intelligentsia groups to offer support to the persecuted, which laid the foundations for the anti-communist alliance, cutting across class divisions.

That is why the strike in the Gdańsk shipyard in the summer of 1980 was no novelty as far as relations after 1945 between the workers and the so-called »workers' state« are concerned. However, no one could have predicted the impact of the strike, which would balloon into a broad-based protest movement. The authorities at that time were not prepared to use violence and accepted the demands of the strike committees to legalise autonomous unionism. NSZZ »Solidarność« in August 1980 (official registration spring 1981) became the first trade union in a Warsaw Pact country not controlled by a communist party. Its membership reached 9.5 million in 1981, one-third of the workforce.

The rise of NSZZ »Solidarność« led to the disintegration of the model of industrial relations that, up to that time, had largely resembled those of other central and eastern European socialist countries. »Solidarność« was built as a »general workers' union«, that is, a unitary organisation with the company-level units being key parts of the organisational structure, and the upper levels being arranged into territorial and sectoral layers. In view of the huge success of the alternate centre, the authorities disbanded CRZZ in 1980 but left sectoral and enterprise-level »official« union organisations in place. Two rival union structures competed for workers' membership. In addition, the Act on State-owned Enterprises of September 1981 created workers' councils (*rady pracowników*), which would be elected by all staff members in state-owned enterprises. Workers' councils were equipped by law with considerable power, including the right to appoint general managers.

Solidarność from the beginning was not just a trade union but an organisational framework for a broad anti-Soviet social movement, including political activists associated with the Catholic Church and members of the independent social movement (Touraine et al. 1984).



The foundations of pluralist and decentralised unionism in Poland were laid down in the 1980s. The introduction of martial law on 13 December 1981 ended the legal existence of »Solidarność« but did not lead to a full restoration of the previous model of central control. Workers' councils continued to operate and in 1982 the government, under military direction, launched a process of »union renewal«, whose direction was determined mainly by a desire to minimise the risk of another »Solidarność«-like working class rebellion. For that reason, the new organisational structure of Polish trade unions was intentionally established at enterprise level, with upper level structures (sectoral and national) being considerably weaker and no control right invested in them. In 1984 the All-Poland Alliance of Trade Unions (Ogólnopolskie Porozumienie Związków Zawodowych, OPZZ) was established, a new umbrella organisation without top-down command over enterprise-level unions. In 1988 OPZZ-affiliated unions joined the wave of strikes inspired by the then still illegal political opposition (in substantial part composed of underground »Solidarność« networks embedded in workplaces) that swept aside the government of Zbigniew Messner and eventually opened the way for the roundtable talks. Workers' strikes had smoothed a path for trade union pluralism and were instrumental in bringing about the transition to political democracy and a market economy in Poland.

2. Take-off of Economic and Political Transition in Poland and the Role of the Trade Unions

2.1 Trade Unions and »Shock Therapy«

Trade unions, in particular »Solidarność« (formally reinstated in spring 1989, but de facto recognised by the government as a political partner already in the second part of 1988), were among the main actors in the roundtable negotiations. Standing over against »Solidarność« was OPZZ, participating in the talks as part of the government camp. Within a special working group (the so-called union sub-table) representatives of OPZZ and »Solidarność« discussed, among other things, the future trade union model, with strong emphasis on the matter of union representation at workplace level. While OPZZ favoured the »one work-



place/one union« concept (the representative union to be elected in a general ballot), »Solidarność« opted for pluralism at workplace level, and when its view eventually prevailed, company trade union pluralism became yet another characteristic feature of trade union development in Poland after 1989.

Following the semi-free parliamentary elections in June 1989, and the ensuing formation of the first non-communist government led by Tadeusz Mazowiecki in September, economic »shock therapy« was implemented in 1989/1990, posing a dramatic challenge to trade unions: on one hand, they were in favour of dismantling the command economy in order to destroy the power base of the communist system, but on the other hand they were fully aware of the painful social consequences arising from structural reforms. Both major national-level organisations refrained from contesting the reforms. Furthermore, »Solidarność« decided to »spread an umbrella«¹ over the government, implicitly endorsing the reforms. The economic policy direction of the Mazowiecki government was diametrically opposed not only to the agenda of the original »Solidarność« movement of 1980–1981 but even to the positions presented by the opposition camp during the round-table talks (Gardawski 2009). As eminent Polish economist Tadeusz Kowalik (2009) put it, Mazowiecki (whose knowledge of the economy and economics was limited) »wanted to go to Bonn« for advice (that is, to imitate the German *Soziale Marktwirtschaft*), but his Deputy in charge of economic affairs, Leszek Balcerowicz – known for his neo-liberal and monetarist inclinations and chosen for the job not because of his political influence (of which originally he had none), but for his professional skill – »bought him a ticket to Chicago«.² Trade unions fell into a trap of contradictory expectations and demands, being caught between the Scylla of *realpolitik* (supporting the string of governments backed by the post-Solidarity political milieu, which operated under various party banners) and the Charybdis of working class collective interests, jeopardised by the radical reforms. Interestingly, »Solidarność« did not face that dilemma alone, as OPZZ also had to cope with

1 »Spreading an umbrella« over the reforms was a rhetorical figure intended to turn public attention away from the fact that the union was becoming too weak to effectively challenge the neoliberal course of reforms in 1989–1990.

2 The economic reforms received significant support from Western experts tied to international financial institutions, personified by Jeffrey Sachs, then working at Harvard University.



it, albeit for different reasons, namely the fear of being labelled the brakeman of the reforms.

2.2 Towards Tripartism

The tactical support the leaders of both »Solidarność« and OPZZ gave to the shock therapy created internal tensions and brought to the fore disagreements between leadership and grassroots. This manifested itself in a flight out of trade union membership (Solidarność's membership went down from 2.2 million in 1991 to 1.5 million in 1993) and a wave of industrial action led by company-level unions and peaking in 1992–1993. In order to appease the workers, the government, trade unions (OPZZ, »Solidarność« and seven independent organisations) and the Confederation of Polish Employers (Konfederacja Pracodawców Polskich, KPP) signed the Pact on State-owned Enterprise in the Restructuring Process (February 1993). That was a fundamental event for Polish industrial relations, for at least two reasons: first, following the conclusion of the Pact, the signatories formed a central-level tripartite body, the Tripartite Commission (*Komisja Trójstronna*)³, and second, the Pact is the only case of a successful nation-wide social pact concluded after 1989.

As a number of authors claim (for example, Iankova 2003; Gardawski 2009), launching the Tripartite Commission triggered a move from a pluralist system of industrial relations towards neo-corporatism, with the social partners, with their institutional engagement, entering the process of deliberative democracy. However, other authors assert that the system was statist (or state-centred) (for example, Bechter, Brandl and Meardi 2011) behind a façade of tripartite bodies (for example, Ost 2000, 2011).

2.3 Trade Union Pluralism and Political Party Affiliations

»Solidarność« was never merely a trade union, but always an organisational frame for political activists as well. After 1990 it was basically confronted with three options: (1) withdrawing to focus on union

3 Tripartite Commission for Social and Economic Affairs (Trójstronna Komisja do Spraw Społeczno-Gospodarczych).



business and engaging in political lobbying only if workers' interests were concerned; (2) remaining a broad organisational platform from which political parties could emerge and use the platform to influence party politics; (3) building a political party of its own and participate in elections. As we can see, »Solidarność« did actually move through all three options, with frustrations arising from one form of political engagement becoming the inducement to try the next. »Solidarność's« political dance led to trade union pluralism being transformed into party political clashes.

The first stage began in 1989 when »Solidarność« held patronage over civic committees (*Komitety Obywatelskie*), from which a multitude of parties (referred to as »post-Solidarity«) stemmed. In 1997, »Solidarność« went a step further by moving to the centre of a broad coalition, Solidarność Electoral Action (*Akcja Wyborcza Solidarność, AWS*), which won the parliamentary elections. Thus, »Solidarność« via AWS became the senior partner in a coalition government. In 2001 AWS suffered a massive electoral defeat and the union retreated from parliamentary politics, although in the following years (2005, 2010 and 2015) it officially backed presidential candidates of the conservative Law and Justice party (*Prawo i Sprawiedliwość, PiS*).

OPZZ, being the »post-communist« confederation, initially adopted a wait-and-see stance towards market reforms. However, it moved into party politics as well by becoming a founding member of the Democratic Left Alliance (*Sojusz Lewicy Demokratycznej, SLD*), a major left-wing party. SLD was the senior partner in the ruling coalitions in 1993–1997 and 2001–2005. Thus, until 2005 »Solidarność« and OPZZ were members of opposing political camps and not able to pull together on issues of common workers' interests.

In the late 2000s OPZZ followed »Solidarność« in also distancing itself from party politics, mainly due to the electoral decline of SLD. Disillusionment with the political entanglement of the two major national-level unions was a key factor behind a trade union split and the establishment in 2001 of the Trade Union Forum (*Forum Związków Zawodowych, FZZ*), a confederation formed by independent unions and a number of organisations which had turned away from OPZZ. FZZ from its very beginning declared its distance from party politics and indeed, the political party clashes of unions in those years were the real cause of the emergence of Poland's third confederation.



3. Trade Union Adjustment to the New Political and Economic Situation

3.1 Between Politicisation, De-Unionisation and Organising

In the early 1990s there was a deep political cleavage in the Polish union movement: on one hand, there was the anti-communist »Solidarność«, on the other hand, OPZZ, bearing a stigma as a post-communist confederation. The conflict was further amplified by a dispute between the two organisations over an unsolved problem of union property confiscated by the authorities after martial law and granted to the former »official« confederation (Gardawski 2009: 486).

Both major unions took an ambiguous stance towards the economic changes, especially neoliberal »reforms«, whose path was laid by the shock therapy of 1989–1990. At the central level, the general direction of transformation was not contested, but at the branch level, specific sectoral interests were defended against government policy (in particular, regarding restructuring and privatisation), often by coalitions encompassing unions and management. Furthermore, at the enterprise level, the unions frequently stood up against restructuring initiatives. The indecisive approach of the unions towards the market economy reflected the inconsistent and ambivalent, but largely market economy-oriented vision shared by the majority of Polish workers; approval of loss-making enterprises going bankrupt was coupled with a lack of tolerance of unemployment (Gardawski 1996).

In the 1990s Poland, similar to the bulk of post-socialist central and eastern Europe, witnessed labour demobilisation. Workers' quiescence (Crowley and Ost 2001) manifested itself in the rapidly decreasing number of strikes. After anti-reform industrial action intensity had peaked in 1992–1993, the annual number of strikes began to fall and has remained low, with only brief periods of mobilisation in 1999 (mostly due to teachers unions protesting against education reforms) and later between 2006 and 2008, during the post-accession phase of swift economic growth (for details, see Ostrowski in this volume). Following the establishment of the Tripartite Commission in 1994, »transformative corporatism« (Iankova 2003) emerged.

Interestingly, the level of unionisation was not particularly high even at the beginning of the 1990s. Since then the Polish trade union



Table 1: Trade Union Density in Poland (%): Survey Data

Year	1987	1991	2000	2002	2007	2008	2010	2013	2014
Trade Union Density	38 %	28 %	20 %	18 %	14 %	16 %	15 %	10 %	12 %

Source: Wenzel (2009: 540) based on the Public Opinion Research Centre (CBOS) data series. Data on 2002, 2007, 2010, 2013 and 2014 based on the reports of CBOS no. BS/55/2003; BS/21/2008, BS/109/2010, BS/62/2013, 106/2014.

movement has had to cope with the challenge of a constant decline in membership, albeit at an uneven pace.

There were two phases of rapid loss of members: first, between 1990 and 1993, and second, in the early 2000s. The former is explained by either working class disillusionment with trade unions seen as unable and unwilling to actively articulate and represent labour interests (Wenzel 2009) or privatisation (Gardawski et al. 1999). The second phase was due to the coming to power of »Solidarność« after the 1997 parliamentary elections, which is often identified as giving the deunionisation process new momentum (Gardawski et al. 1999). The threat of deunionisation and its potential consequences was recognised relatively early, because already in 1993, »Solidarność« with the support of the US AFL-CIO began to experiment with the American organising model (Czarzasty, Gajewska and Mrozowicki 2014), defined by large, sector-oriented organising campaigns carried out by professional union organisers. In the subsequent years, the union engineered its initial organising campaign in the private sector (retail networks), and set the example for other unions, including an OPZZ affiliate, the Confederation of Labour (Konfederacja Pracy, KP), which began to implement their own variety of organising model at the turn of the new century (Ostrowski 2009). While organising efforts have not reversed the overall de-unionisation trend, they have nevertheless produced compensatory effects as far as membership is concerned, not to mention successful capture of numerous bridgeheads in the private sector, such as retail networks, banking and financial services or security and cleaning services (Czarzasty, Gajewska and Mrozowicki 2014).

Due to the lack of administrative or comprehensive empirical data on trade union membership in Poland, for many years the only source



Table 2: Declared Union Membership in Adult Population (+18) (%)

Month	03	04	06	12	03	09	06	03	05	07	07
Year	1990	1991	1992	1993	1994	1995	1996	1999	2000	2001	2002
NSZZ Solidarność	15	10	6	5	5	6	5	5	4	3	2
OPZZ	6	6	6	3	5	3	3	3	3	2	2
FZZ	–	–	–	–	–	–	–	–	–	–	–
Other	1	3	4	2	4	2	3	3	2	3	2
Total	22	19	16	10	14	11	11	11	9	8	6
Month	10	09	09	02	11	12	07	03	04	05	03
Year	2003	2004	2005	2006	2007	2008	2010	2012	2013	2014	2015
NSZZ Solidarność	3	3	3	3	2	3	3	2	1	2	2
OPZZ	2	2	2	1	2	2	1	2	2	2	2
FZZ	1	1	1	1	1	1	1	1	1	1	1
Other	2	2	3	2	2	2	2	1	0	1	1
Total	8	8	9	7	7	8	7	6	5	6	6

Source: Wenzel (2009:540) based on the Public Opinion Research Centre (Centrum Badań Opinii Społecznej, CBOS) data series; CBOS report no. 66/2015.

available were public opinion polls by the Public Opinion Research Centre (CBOS). Only in 2015 did the Central Statistical Office present a detailed report on unionisation based on a module study on a large sample, which revealed the picture of unionisation in Poland to be actually somewhat better than the one outlined in the CBOS data series (union density at 17 % level). According to CBOS, between 1990 and 2008 trade unions in Poland lost 70 per cent of their members. »Solidarność« remained the biggest organisation, followed by OPZZ, with FZZ ranked third as the smallest nationwide confederation.

Since the 1990s industrial relations in Poland have been deeply affected by the deterioration of collective bargaining, especially at the



sectoral level, a phenomenon present in the majority of CEE countries (with minor exceptions, such as Slovenia or Romania) (see Ghellab and Vaughan-Whitehead 2003). The atrophy of sectoral agreements has to some extent been compensated by the establishment of sector-level tripartite committees (Trójstronne Zespoły Branżowe, TZB). Interestingly, the first TZB had been created in 1992, prior to the establishment of the national Tripartite Commission. TZBs have retained autonomy over against the Tripartite Commission (not recognised by the relevant legislation), and have become a venue for »corporatist bargaining«, in which employees and employers often joined forces against the government, especially when government restructuring programmes were implemented throughout the 1990s in the run-up to Poland's EU accession (Gilejko 2006).

3.2 EU Integration

The trade union movement in Poland firmly supported the idea of European integration and Poland's EU accession. Their institutional involvement began with the launch of the PHARE Social Dialogue Project (1992–93) (Iankova 2002: 108). All representative trade union organisations participated in the negotiations in the Social Dialogue Roundtable for European Integration (Okragły Stół Dialogu Społecznego na rzecz Integracji Europejskiej, OSDSE), a bipartite body founded in 2002, intended to serve as a laboratory of autonomous social dialogue. Finally, all three national-level trade union organisations eventually acquired membership of the ETUC, while »Solidarność« and OPZZ also joined the ITUC.⁴

Trade unions (like Polish society as a whole and most of the political mainstream) had substantial expectations regarding EU enlargement, which was seen as a chance to transpose the principles of the European Social Model to Poland, hence putting a stop to the corrosion of the

4 In the 1990s only »Solidarity« maintained contacts with the Western union movement. Until 2006 »Solidarity« was the only Polish member organisation of the ETUC and the ITUC (granted observer status in 1991 and full membership of both in 1996). OPZZ was admitted to the ETUC and the ITUC in 2006. Between 2001 and 2011 Forum was a member of the CESI (Confédération Européenne des Syndicats Indépendants), and since 2012 has belonged to the ETUC.



welfare state. However, they did not subscribe to blind Euro-enthusiasm and their outlook on the potential consequences of enlargement could be described as nuanced. Accession posed numerous challenges (for example, Meardi 2012; Trappmann 2013). Prior to the accession referendum in 2003, both major national trade unions reaffirmed their support for Poland's entry to the EU, but at the same time reminded people of the conditions that would have to be met so that the process would be beneficial to all parties involved. The OPZZ position approved by the Fifth Congress in 2002 states:

OPZZ supports Polish accession to the EU, seeing it as an opportunity for both Poland and EU member states, as well as the working people of Europe. This will be achieved if the Europeans maintain Solidarność as a fundamental value of the European Union.

»Solidarność«, despite its affirmative stance towards EU, expressed enlargement-related reservations even more openly than OPZZ. In its agenda adopted at the Fifteenth National Congress in 2002, one finds the following passage:

Integration of Poland with the European Union raises both hopes and worries. The most important are the problems related to the preservation of national sovereignty and identity, and fulfilment of socio-economic standards set by the EU directives and the European Social Charter. The union should firmly oppose any solutions unfavourable for employees and their families, which might be introduced on that occasion. The conditions of Poland's EU admission will have a decisive impact on the domestic labour market. [...] »Solidarność« has repeatedly drawn attention both to benefits and challenges entailed by the EU accession.

3.3 Tackling the Inheritance of the Past – Trade Union Property

Apart from divergent political views, material issues became another source of tensions and disputes between the two »historical« union organisations. The property of the former CRZZ was divided between the



two nationwide organisations in 1991 by virtue of the Trade Unions Act, followed in 1997 by an ordinance of the Minister of Labour which provided a detailed inventory of the assets that were subject to the division. The next stage in the process of resolving financial issues was completed with the passing of the Act on the Tripartite Commission for Social and Economic Affairs and the voivodship social dialogue committees stipulating that financial resources that had belonged to previous trade union centres and were acquired by OPZZ in 1985 were to be divided (after deducting cash that remained in the hands of »Solidarność« in 1981, first, and valuation of the remaining part, second) half and half between OPZZ and »Solidarność«. The issue of the Employee Holiday Fund (Fundusz Wczasów Pracowniczych, FWP), a union-controlled welfare agency from socialist times, was finally resolved in autumn 2015; its remaining assets were to be divided among the national-level representative trade unions.

3.4 From Party Politics to Union Cooperation

For the first two decades after the fall of state socialism in Poland, two major historical trade union organisations (»Solidarność« and OPZZ) had remained actively engaged in party politics. As for »Solidarność«, the union had its own party in the 1991–1993 and 1993–1997 parliaments and in 1997 Solidarity Electoral Action (Akcja Wyborcza Solidarność, AWS), centred around »Solidarność« emerged victorious of the parliamentary election campaign, subsequently becoming the senior member of the ruling coalition until 2001. The extreme unpopularity of the government (chiefly due to four structural reforms introduced in 1999 concerning health care, pensions, education and local government) prompted »Solidarność« to renounce parliamentary politics before 2001. However, the union has continued to endorse PiS candidates in presidential elections (2005, 2010, and 2015).

As for OPZZ, the confederation was among the founders of SLD, which originally operated as a coalition, and only in 1999 was transformed into a unitary political party. OPZZ-linked deputies made a strong showing in 1993–1997 and 1997–2001. From 2001 onwards, the ties between OPZZ and SLD became increasingly loose. The politicisation of major »old« trade union organisations (»Solidarność« and



Table 3: Cleavages in Polish Unionism and Union Recognition at National Level: Main Confederations

Union organisation	Type	Orientation	Political party	Recognition
OPZZ (1984)	Confederation	Left-leaning but all encompassing	<ul style="list-style-type: none"> • SLD (1993–1997) • SLD (2001–2005) • After 2006: No formal affiliation 	Yes: Tripartite Commission (1994–2015)/ Social Dialogue Council (since 2015)
NSZZ Solidarność (1980)	Unitary union	Right-leaning but all encompassing	<ul style="list-style-type: none"> • AWS (1997–2001) • After 2001: No formal affiliation 	Yes: Tripartite Commission (1994–2015)/ Social Dialogue Council (since 2015)
FZZ (2002)	Confederation	All-encompassing	<ul style="list-style-type: none"> • No formal affiliation from the beginning 	Yes: Tripartite Commission (2002–2015)/ Social Dialogue Council (since 2015)

Source: Own elaboration bases on Gardawski, Mrozowicki, Czarzasty (2012).

OPZZ) became a source of a growing discontent within the union movement, especially among the rank-and-file members, which eventually led to the establishment of the third nationwide organisation, the Trade Unions Forum (Forum Związków Zawodowych, FZZ) in 2002. In their manifesto the new confederation stated that it »is a national trade union structure not tied to any political party. Accentuating its political independence, the Forum emphasises the need for the Polish trade union movement to liberate itself from the bipolar constellation inspired mainly by ideology and historical judgements.« In line with its initial declarations, the new confederation has kept a distance from party politics. In 2003 the Forum was admitted to the Tripartite Commission.

3.5 Tripartism: Between Austerity and Union Solidarity

How did the Tripartite Commission evolve? Between 1994 and 2001 the body operated on the fragile basis of a Council of Ministers (government) decree, which undermined the Commission's mandate and influence. When the Commission was established in 1994, there were



altogether nine union organisations present in it; besides *Solidarność* and *OPZZ*, another seven independent organisations that had signed the Pact on State-owned Enterprise in the Restructuring Process participated. In 2001 the Act on the Tripartite Commission on Social and Economic Affairs and Regional Social Dialogue Commissions was adopted, giving the body a solid legal foundation. Nevertheless, the two attempts to negotiate a social pact, undertaken in 2003–2004 (the so-called *Hausner Plan*) and 2006 (the *Economy-Work-Family-Dialogue* draft social contract was presented outside the Tripartite Commission, only to »*Solidarność*«) proved unproductive. In 2009, facing the threat of a global recession spilling over into Poland, national-level social partners managed to hold swift (lasting less than two months) negotiations, which produced the »Autonomous Anti-crisis Package«, a list of 13 objectives intended to become cornerstones of public anti-crisis policy. Instead of being a turning point, the Package turned out to be a pyrrhic victory for social partners and social dialogue. Although the government transposed vast parts of the Package into legislation, both tripartite and bipartite negotiations at the central level faded quickly afterwards. Such a breakdown can be explained by two, interrelated factors: first, Poland's economy effectively withstood the worldwide recession (technically, since 2008 Poland has never experienced a fall in GDP annual growth rate); second, the public perception was that the government's main task was to combat public debt and the budget deficit. In both instances the government believed that social dialogue could hamper its policies of budgetary consolidation with a home-grown »austerity« programme and thus, around 2010, the demise of the Tripartite Commission began.

Since 2010, the government has focused on budgetary consolidation and public debt reduction as their main priorities. Pursuing those two interrelated objectives through radical cuts of public expenditure, which translated into a »pay freeze« in the public sector, and weakened the three-pillar pension system established in 1999, the government found itself on a collision course with the trade unions. The growing unilateralism of the government in the Tripartite Commission triggered a process of »rapprochement« within the trade union movement. In particular »*Solidarność*« and *OPZZ* started to overcome their historical and political cleavages. In 2013, all three national trade unions took the decision to exit the Tripartite



Commission and in September 2013 the largest street demonstration since 1989 (with well over 100,000 participants) marched through Warsaw under the joint auspices of FZZ, »Solidarność« and OPZZ. Those events marked the beginning of a two-year deadlock in tripartite social dialogue in Poland. During this period the trade union movement acted in unison and intensified bipartite cooperation took place between unions and employer organisations in an attempt to work out an alternative tripartite formula, which eventually found success in the form of a new law on tripartite social dialogue adopted in the summer of 2015.

3.6 Recent Developments: On Course Towards Neo-Etatism?

The double electoral triumph of the Law and Justice party (PiS) in May and October 2015 at first appeared to signal progress for the working class and trade union camp. Despite the new government's autocratic inclinations, strengthening the powers of the political executive and weakening the rights of the judiciary and the media, social dialogue initially went smoothly.

The President (linked to PiS, although no longer a member of the party) formally launched the Social Dialogue Council (RDS) in October 2015. The new government – enjoying an absolute majority in the parliament and with the first non-coalition cabinet since 1989 – endorsed some union demands, such as the introduction of a minimum hourly wage for persons working on the basis of a civil law contract and a return to the retirement ages of 60 years for women and 65 for men from the current 67 years for all.

However, since late 2016 Polish tripartism started to show symptoms of the old disease: state domination of social dialogue bodies. The new Trade Union Law, which unions were calling for to rebalance their power base within industrial relations was not presented by the government even after two years of intense debates.

Furthermore, political cleavages in the union movement which appeared to have been overcome since 2013, began to resurface. »Solidarność« refrained from contesting government policies even in the case of the highly controversial reform of compulsory education, which the



Polish Teachers Union (ZNP), an OPZZ-affiliate, strongly opposed. »Solidarność« had endorsed the PiS presidency and government – which resulted in some of its key legal advisers getting top positions in the Ministry of Labour – and is not keen on challenging government policies. The new general political tendency in Poland of strengthening the executive branch of power is likely to turn industrial relations into some form of neo-etatism.

4. Conclusion

Polish trade unions have travelled a long and winding road through changing times, which, in contrast to the other countries of central and eastern Europe, began not in 1989 but in 1980, with the rise of »Solidarność«. When authoritarian state socialism finally fell apart, the situation of the Polish union movement was far more complicated than in the other former USSR satellite states. First, working class representation was split into two, then mutually hostile, blocs, which reflected a deep division in Polish society, into post-Solidarity and post-communist camps. Second, Polish unions represented a case of advanced pluralism, whose roots stemmed from the explosive emergence of a mass freedom-fighting social movement centred around an independent trade union, coupled with the disintegration of official Leninist unions. Having crushed »Solidarność« in 1981, the authoritarian government, acting out of fear of a repetition of the working class rebellion, rebuilt the official unions in a bottom-up manner, giving upper level units (sectoral and national) only moderate power over enterprise-level organisations. The new, official unions embodied in OPZZ were definitely not a reincarnation of Leninist unions. An unintended consequence of that operation was the development of a network structure over which also the central administration had limited control, an effect which became clear in 1988 when OPZZ unions joined the wave of strikes. In 1989 the two national-level trade unions politically stood at the opposite sides of a (figurative) barricade, and – during the roundtable talks – worked out a compromise that further consolidated organisational pluralism in the union movement. Politicisation of major trade unions in Poland led to dramatic choices, especially in the early years of transformation, when they (with spe-



cial emphasis on »Solidarność«) endorsed radical economic reforms, whose social effects proved painful for the working class. When workers and enterprise unions challenged the reform agenda in a new wave of industrial conflicts in 1992–1993, the trade unions stood divided. Whereas both central union bodies refrained from open contestation of the reforms, enterprise-level organisations engaged in fierce protests and it was not uncommon to see »Solidarność«, OPZZ-affiliated and independent unions acting hand in hand. To keep the reform agenda alive, the government and employers agreed to the establishment of a consultative body. As a result, in 1993 the only nationwide social pact in the post-1989 history of Poland was concluded and the tripartite social dialogue was conceived in 1994.

Looking at the twenty years of the Tripartite Commission (1994–2015), one must admit that its accomplishments were modest. Undoubtedly, trade unions (and employers' organisations as well) have faced domination and unilateral policymaking by the government on many occasions, especially in the final years of the Tripartite Commission (from 2010 onwards). However, a seat in the body was a highly desirable asset for any social partner organisation, as it became an increasingly important source of legitimisation and power (symbolically, at least). In the case of trade unions, this new source of legitimacy was even more important as de-unionisation had set in. This process was propelled by the new context of a market economy but it also had specific Polish features in the way trade union competition evolved with a political party nexus.

Following the 2004 EU accession, the situation of Polish trade unions and their strategies were transformed: the competitive political party affiliations of the two major, »historical« unions (»Solidarność« and OPZZ) were weakening, to which process the rise of the third, non-political – their own words – confederation (FZZ) contributed significantly; union pluralism was slowly being transformed from competitive to cooperative. Last but not least, trade unions gradually began to regain influence in society as a vociferous critic of current capitalism.⁵

5 This model is variously called a »dependent market economy« (Noelke and Vliegaenthart 2009), »embedded neoliberalism« (Bohle and Greskovits 2012) or simply an »assembly platform« for more advanced economies (Bugaj 2015).



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From Conflict to Cooperation – Trade Unions in Poland

Piotr Ostrowski

1. Introduction

In Poland, relations between trade unions have for many years presented an example of »conflictual pluralism«. The sharing of property and resources from the Socialist era between the OPZZ and the NSZZ »Solidarność« helped to overcome their historical and ideological differences and, consequently, to strengthen cooperation in the interests of workers, including joint actions. The challenges currently faced by Polish trade unions (mainly in social dialogue), can only be met if they continue to unite their efforts.

The chapter starts by providing empirical evidence on the strength of Polish trade unions (membership, collective bargaining and social dialogue, the number of strikes and protests). It then considers the changes that have occurred since 1989 in relations between the two largest Polish confederations – NSZZ »Solidarność« and OPZZ – including their political orientation and the significance of EU accession for trade union cooperation. The final section of the chapter focuses on a new wave of trade union protests starting from 2013, including the boycott of the Tripartite Commission and measures taken to create new structures for social dialogue, which improve unions' role within those bodies.

2. State of Play: Empirical Overview

As a consequence of new legislation established after martial law was imposed in 1982 trade unions in Poland are organised at company level. Only employees of a company can become members of a



trade union. Minimum membership of a company union is fixed at 10 employees (Trappmann 2012). At the top of the organisational hierarchy, there are two large confederations, the All-Poland Alliance of Trade Unions (Ogólnopolskie Porozumienie Związków Zawodowych – OPZZ) and the Independent and Self-Governing Trade Union »Solidarność« (Niezależny Samorządny Związek Zawodowy – NSZZ »Solidarność«) and the smaller Trade Unions’ Forum (Forum Związków Zawodowych – FZZ). Three-quarters of company unions have joined one of the three confederations; the others remain independent (Fulton 2013). All three umbrella unions are members of the European Trade Union Confederation (ETUC). OPZZ and NSZZ »Solidarność« are also affiliated to the International Trade Union Confederation (ITUC).

2.1 Membership

It is difficult to estimate trade union membership precisely. State institutions do not collect any official statistics and the records of the confederations at national level – if they exist at all – are not reliable. Thus, calculations may be based on incomplete estimations and self-reported figures or survey data. Until 2015, the most comprehensive and credible survey was provided by the Public Opinion Research Centre (Centrum Badania Opinii Społecznej, CBOS) (Czarzasty et al. 2012). According to CBOS data, the Polish trade union movement experienced a dramatic decline between 1991 and 2014, when estimated union density fell from 28 per cent to 12 per cent of all employed persons (see table 1 and 2 in Czarzasty, in this volume). In 2015 the Central Statistical Office of Poland (Główny Urząd Statystyczny, GUS) for the first time in the past 25 years released a report on trade unions. According to these figures, trade unions in Poland are the second largest institution in the non-profit sector (NGO), being, at the same time, one of the most representative of civil society. In 2014, trade unions had 1.6 million members. »Individuals affiliated to trade unions accounted for 5 per cent of the adult population of Poland, 11 per cent of all those working, 17 per cent of those having an employment contract and 19 per cent of workers of companies employing more than nine persons« (GUS 2015).



Together with changes in trade union membership the labour market has been transformed radically as well, with the emergence of such things as (bogus) self-employment, civil law employment (service contracts that are not subject to labour law adopted by companies to make employment more »flexible« and to cut labour costs¹) and informal employment. It is extremely difficult, sometimes impossible for trade unions to organise workers employed on such terms (Trappmann, 2012). However, the situation of these precarious workers may change. On 2 June 2015, the Constitutional Court reviewed a motion filed by OPZZ. The court ruled that the Trade Unions Act violated the Constitution by narrowing the right to start and join unions to people with an employment contract. Following the required amendment to the law, people working on the basis of civil law contracts and the self-employed were to enjoy full rights to establish and join trade unions (Czarzasty 2015).

Despite this development, the proportion of organised workers out of those who could be organised (in particular those who are employed under a permanent labour contract, in the public sector or large former state-owned or FDI enterprises) is possibly only around 50 per cent. Still particularly strongly organised are teachers (39 per cent), steel workers (40 per cent), pilots (52 per cent), nurses (58 per cent), railway workers (80 per cent), postal workers (60 per cent) and miners (almost 100 per cent) (Trappmann 2012).

The structure of union membership is also presented in the GUS report: 24 per cent of all trade union members in Poland are in the education sector, 12 per cent in manufacturing and health care and social assistance, 11 per cent in transport and logistics and 10 per cent in mining and extractive industries, with the other sectors accounting for the rest (GUS 2015).

2.2 Collective Bargaining and Social Dialogue

Only a minority of employees in Poland (around 30 per cent) are covered by collective bargaining. Most negotiations take place at the com-

1 In the public debate trade unions use the term »junk contracts« to describe this kind of precarious employment.



pany or workplace level. The number of sectoral (multi-workplace) collective agreements is very small. At company level the bargaining takes place between the individual employer and the company level trade union organisation. This means that where there are no unions to take up the issue, pay and conditions are set unilaterally by employers. If there is more than one trade union organisation in the company, the union organisations should negotiate jointly. The agreement is supposed to be reached with all the unions in the workplace or at least (if there is no consensus between all of them) with all the »representative« unions – defined as having at least 10 per cent of the workforce in membership – or 7 per cent if the union organisation concerned belongs to one of the three nationally representative unions (OPZZ, NSZZ »Solidarność« and FZZ). If no union represents at least 10 per cent of the workforce, the agreement should be signed with the largest union in the company (Fulton 2013). Where an agreement is in force, its provisions cover all workers (members and non-members), even though it was negotiated by a trade union(s). According to the Labour Code:² »Upon a joint request of an employers' association and the multi-enterprise trade unions that concluded a multi-enterprise agreement, the Minister for Labour Affairs may – if necessary on the grounds of important social interests – issue an executive regulation extending the scope of application of a multi-enterprise agreement, or parts of it, to employees who are employed at an employer not covered by any multi-enterprise agreement but conducting the same business activity, or a business activity similar to the activity of employers covered by this agreement, established on the basis of separate law provisions concerning the classification of business activity, having consulted this employer or an employers' association indicated by it, and an enterprise trade union, if there is one at the employer.« The over-complicated procedure, which requires a joint request from both trade unions and employers, as well as the assignment of competence to the Minister of Labour Affairs rather than the Minister of the Economy are held to be the reasons why extensions and/or binding collective agreements are lacking in practice (Czarnecki 2014). Moreover, with the reform of the Labour Code in 1996, free collective bargaining was introduced, with withdrawal of the state from detailed regulation of labour rela-

2 Article 241¹⁸ §1.



tions by means of a simplified Labour Code and limitation to minimum standards (Trappmann 2012).

In addition to negotiations at company level and to a lesser extent multi-workplace level, between 1994 and 2015 a Tripartite Commission for Socio-Economic Affairs (TK) existed to bring together trade unions (OPZZ, NSZZ »Solidarność« and FZZ), employers and government. The Tripartite Commission had to be consulted on legislation concerning the labour market and had nine separate permanent working groups that looked at specific issues, including employment law and collective bargaining. The three parties were tasked with reaching agreements within the framework of the Commission, which also played a role in setting the minimum wage. The unions and the employers in the Tripartite Commission were also able to reach their own bilateral agreements (Fulton 2013).

In June 2013, all three union confederations, in a joint action, declared their dissatisfaction with the role of the Tripartite Commission and the government's ever stronger emphasis on unilateral policy-making on labour and social issues and suspended their participation. This was sparked by the government's revision of the Labour Code to make working time more flexible. The exit marked the culmination of the unions' growing disillusionment with government plans for budget consolidation and public debt reduction (Czarzasty 2015). Since then, the Tripartite Commission has held regular meetings only in a bilateral setting (employers and government). This joint union action was a significant stepping stone for intensified cooperation among the unions and soon developed into joint forms of protest (see below).

2.3 Strikes and Protests

According to the Polish Act on resolving collective labour disputes, the rights and collective interests of workers are represented by trade unions. Thus, only trade unions can legally conduct strike action. Works councils are not able to call a strike and spontaneous strikes by ad hoc groups are also not legal.

Unions call for strikes mainly at company level, whereas collective action at sectoral level is almost always limited to the public sector (for instance, health care, education, mining and postal services). Between



2005 and 2008, strike rates began to increase and involved also workers in the private sector, reaching a peak in 2008. That development may be explained mainly by the general improvement in the economic climate, marked by swiftly growing GDP, falling unemployment and deepening labour shortages caused by massive migration to the EU15 countries that opened their labour markets to the citizens of the New Member States following the 2004 enlargement. However, the previously unprecedented high rate of strikes in 2008 was due mainly to the massive mobilisation in the education section. Moreover, union organising campaigns in the private sector also contributed to the build-up of a relatively strong wave of labour mobilisation. All these factors combined to reinforce the trade union bargaining position. The 2008–2009 global financial crisis and its aftermath slowed down economic development in Poland. Since then, strike incidence has declined (table 1). In 2010–2011, the three trade union confederations and their affiliates seemed to have been more inclined to organise street demonstrations and protests against »austerity« measures than work stoppages (Czarzasty et al. 2012).

The ongoing weak economic growth, government labour policies and the crisis in social dialogue intensified protests again in 2013 and 2014. Three major actions should be mentioned in this connection.

First, in March 2013 all three representative trade union confederations and two radical unions managed to organise a general strike against government labour policies, which involved around 85,000 workers in the industrial Silesia region (southern Poland). The unions opposed plans to make working time even more flexible and to allow the number of »junk« employment contracts to increase. The unions were also trying to draw attention to the problems of social dialogue (see below). This industrial action in Silesia was the first general strike in Poland in 30 years (Mrozowicki 2013).

Secondly, in mid-September 2013 more than 100,000 Polish workers marched through the streets of Warsaw in the biggest demonstration seen in the capital city in recent decades. It was part of the »National Days of Protest« campaign organised jointly by the three national trade unions (Czarzasty 2015).

Thirdly, in January 2015, tensions in the coal-mining industry, which had emerged in the fourth quarter of 2014, escalated into a major conflict verging on a nationwide general strike (Czarzasty 2015).



Table 1: Strike Action in Poland, 1990–2013

Year	Number of strikes	Number of strikers	Strikers as a percentage of the workforce in companies where strikes occurred	Days not worked due to participation in strikes
1990	250	115,700	29.7	159,000
1991	305	221,500	41.4	517,600
1992	6,362	730,000	43.4	2,360,400
1993	7,443	383,200	55.2	580,400
1994	482	211,400	29.5	561,700
1995	42	18,100	37.6	56,300
1996	21	44,300	63.8	75,400
1997	35	14,200	42.4	27,500
1998	37	16,900	25.2	43,500
1999	920	27,100	43.9	106,900
2000	44	7,900	27.5	74,300
2001	11	1,400	32.8	33,400
2002	1	13	2.7	118
2003	24	3,000	18.5	6,500
2004	2	200	7.9	400
2005	8	1,600	33.2	400
2006	27	24,600	27.8	31,400
2007	1,736	59,900	26.2	186,200
2008	12,765	209,000	47.2	275,800
2009	49	22,400	19.6	9,100
2010	79	13,900	42.0	14,700
2011	53	18,680	32.2	26,000
2012	17	18,700	33.0	12,900
2013	93	29,300	17.2	10,100
2014	3	800	30.7	212
2015	14	19,100	63.7	108,200
2016	5	700	20.0	10,400

Source: National Statistics (GUS), 1990–2014.



3. On the Way to Cooperation

The Polish model of pluralism, which evolved after 1989 (after the »Round Table« agreement), is based on relations between the two main trade unions confederations (OPZZ and NSZZ »Solidarność«), which, at the beginning in 1989, took the form of »conflictual pluralism«. Its direct consequence was a significant and fairly rapid loss of members. The decrease in unionisation can also be observed in other post-socialist countries, but the extent of erosion and marginalisation that confronted trade unions in Poland was singular. The »external« factors that contributed to this decline (erosion of public services and the public sector, greenfield privatisation, but also the symbolic violence of the dominant neoliberal discourse) were superimposed with »internal« disputes that, in the 1990s in particular, took the form of open political conflicts. The sources of the conflict lay in the roots of the main actors: NSZZ »Solidarność« with its basis in the democratic opposition of the 1980s, and the OPZZ built after the martial law, with a license to operate from the ruling Party. It should be mentioned, however, that »Solidarność« was not anti-socialist (especially at the beginning), nor was the OPZZ just a puppet of the Party, especially in the late 1980s. Despite the fact that the chairman of the OPZZ was a member of the Politburo of the Central Committee of the Party, the OPZZ itself openly criticised the government's anti-social activities and joined strikes that contributed substantially to the collapse of the government in 1988. These protests, which in 1988 eventually led to the »Round Table« agreement between the Party and the democratic opposition, were initiated by an OPZZ affiliate, the Union of Public Transport Workers in Bydgoszcz. It is therefore not surprising that Wiesława Kozek called the OPZZ in the years 1984–1989 »an opposition inside the system« (the OPZZ confined itself to economic demands without contesting the system as a whole).

The ideological and historical controversies of the 1980s were carried into the 1990s. The treatment of the property of the former Central Trade Union Council (CRZZ, the Leninist-type trade union) and the property of Solidarność (in the period 1980–1981), which was transferred to the OPZZ after martial law, became a matter of serious contestation and was even carried into the international arena. Without consensus on the division of property, NSZZ »Solidarność«, hav-



ing been granted membership earlier on, blocked applications by the OPZZ to join the international (ICFTU and WCL – predecessors of the ITUC) and the European (ETUC) levels. NSZZ »Solidarność« gave in only after the property dispute had been solved. It must be emphasised that the property was shared fifty-fifty under the agreement between the two confederations.

The last issue to be resolved was the allocation of resources and the assets of former state recreation centres (Workers' Holiday Fund, Fundusz Wczasów Pracowniczych – FWP) that were previously run by the OPZZ. On 11 September 2015 the Act on rights to the property of the Workers' Holiday Fund was adopted by Parliament. The OPZZ, NSZZ »Solidarność« and FZZ jointly participated in shaping the provisions of the Act and agreed on the proposed division of shares in a new company that was to run the FWP in the future.

4. Political Involvement

The political party affiliations of Polish trade unions are one of the dimensions of the abovementioned »conflictual pluralism« and should be considered one of the reasons for their erosion and marginalisation (Ost 2002; 2005). Both, the OPZZ and NSZZ »Solidarność« decided during the 2000s to withdraw from direct party politics (see Czarzasty in this volume). However, recent decisions by NSZZ »Solidarność« during the 2015 elections seem to hark back to the 1990s.

Currently, the OPZZ is striving to adopt an independent attitude towards political parties. During the presidential election campaign in spring 2015, the OPZZ officially did not support any candidate, even though the Democratic Left Alliance nominated its candidate. Moreover, during the campaign before the second round of elections, the leaders of the OPZZ met with both candidates, although both were right-wing. Before the autumn elections in 2015, OPZZ initiated the process of unification of left-wing political parties (social democrats, including SLD, greens and other minor groups). But even though the meetings were held on OPZZ premises, beyond the initial meeting the leaders of the OPZZ did not engage in the process of unification.

The political involvement of NSZZ »Solidarność« was deeper, with more significant consequences for trade unions. In the period 1991–1993



an independent trade union representation of »Solidarność« was present in the Parliament (since 1993 it has been open only to political parties or electoral coalitions). Between 1990 and 1992, NSZZ »Solidarność« spread out a so-called »protective umbrella' over the neoliberal shock therapy implemented by Leszek Balcerowicz in accordance with IMF guidelines. From 1993 until 1997, the chairman of NSZZ »Solidarność«, Marian Krzaklewski, with the support of the Catholic Church, began the construction of the right-wing electoral coalition Electoral Action »Solidarity« (Akcja Wyborcza »Solidarność«, AWS). In 1997 AWS won the parliamentary elections and formed a coalition government with the party of Leszek Balcerowicz, who became deputy prime minister and minister of finance. The coalition took another neoliberal turn. The »reforms« of »Solidarność« were generally rejected by the voters. Support for the government fell dramatically, which resulted in disapproval not only of NSZZ »Solidarność« but also the entire trade union movement. In the end, AWS lost the elections in 2001. The coalition that had won the elections in 1997 did not even get into Parliament four years later. As a consequence of this defeat, NSZZ »Solidarność« shunned political activity for a few years.

After 2001, NSZZ »Solidarność« decided to support the conservative party »Law and Justice« (Prawo i Sprawiedliwość, PiS), including in the recent Parliamentary elections in autumn 2015. Moreover, during the election campaign for President of the Republic, NSZZ »Solidarność« leaders officially endorsed the Law and Justice candidates: Lech Kaczyński in 2005, his brother Jarosław in 2010, and Andrzej Duda (acting President) in 2015. Moreover, the former chairman of NSZZ »Solidarność« Janusz Śniadek was an MP nominated by the PiS for the 2011–2015 parliament.

5. The Impact of EU Accession

Polish accession to the European Union did not have a particularly strong impact on labour relations but nevertheless brought some positive outcomes. It ended OPZZ's international isolation and provided the confederation with ETUC membership status in 2006. Trade unions were able to receive European funding to develop training capacities, including programmes for sharing trade union knowledge with other European countries and at the EU level (EWCs, for instance). Participation in such projects helped unions to better understand the impor-



tance of long-term European trade union solidarity, which manifested itself when Polish trade unions supported the protests against the first draft of the EU directive on services in the internal market (Bolkestein Directive) and got involved in the ETUC demonstration in Strasbourg in 2005 on the same issue. It should be added that the Polish trade unions were heavily criticised for this involvement by Polish employers' organisations, government (Ministry of the Economy) and the media as being »against the national interest«. Crossborder trade union cooperation also helped Polish trade unions to deal with the wave of emigration from Poland after 2004. Initially, activities were uncoordinated, but later structured bilateral activities developed with national confederations and industry federations from the United Kingdom, Ireland and Switzerland, among others.³

6. Labour Legislation and Current Challenges for Trade Unions

The current labour law regime limits the participation of trade unions in structuring industrial relations, in several respects.

First, Poland's economy is dominated by small and micro enterprises: 96 per cent of all firms have fewer than ten employees and 40 per cent of all employees work at small companies (Trappmann 2012). As a company-level union can be established only with a minimum of 10 workers, the majority of workers cannot organise themselves in trade unions.

The second legal challenge is the increasing use – as already mentioned – of so-called »civil law« (»junk«) employment relations. Civil law contracts differ from work contracts in that they usually concern employment defined in terms of the completion of a specific task or product. These contracts are not subject to labour legislation and thus the trade unions have no influence over working conditions regulated on this basis. As the number of such contracts has risen rapidly, more and more companies and sectors are trying to avoid their labour law obligations and to »flexibilise« employment and cut wage costs (Trapp-

3 For instance, the OPZZ has seconded representatives to British (Unison: 2008–2012) and Swiss (Unia: 2012–2015) unions to organise Polish migrant workers. Moreover, the OPZZ maintains links with Polish organisers in Spanish (Comisiones Obreras) and Irish (SIPTU) unions.



mann 2012). The recent decision by the Constitutional Court (June 2015) that recognised that persons without an employment contract⁴ may nevertheless form and join trade unions (as set out in ILO Convention No. 87) may help to rebalance – if not level – the playing field for trade unions. The long-term consequences are not known yet as legislative amendments will have to be inserted in the Law on Trade Unions.

Thirdly, the ever more dominant position of the government inside the Tripartite Commission – which some have termed »consultative etatism« (Gardawski 2009) or »illusory corporatism« (Ost 2000) was the main reason why trade unions suspended participation in the institutional social dialogue in June 2013. This political boycott caught the government on the hop in two regards: (a) the fact that the unions were acting in consensus and (b) the extent to which unions were able to organise strikes and protests thereafter.

The initiative came from the trade unions. In October 2013 unions jointly presented their proposal for a new central tripartite body – the Social Dialogue Council (RDS) – to the employer organisations. The unions were keen to relaunch tripartism, hoping it would balance relations among the social partners and minimise the risk of government domination. They felt this could be achieved by giving the RDS its own budget, by formally situating the body within the remit of the Marshall of the Sejm (the Speaker of Parliament's lower house) and by annually rotating the presidency of RDS among the three sides. Overall, employers' organisations welcomed the union proposals, but were critical of some aspects. Talks continued through 2014, but there was no sign of interest from the government. In March 2015, at a closed summit, all the social partners finally reached agreement on the draft proposal for forming the RDS. The government formally submitted it as a draft bill to the lower house of Parliament (Sejm) on 17 June 2015, where it was adopted on 25 June (Czarzasty 2015).

The law stipulates that the new tripartite bodies must bring about the following changes:

- The RDS shall replace the Tripartite Commission and the Regional Social Dialogue Commissions (WKDS) shall be replaced by Regional Social Dialogue Councils.

4 NSZZ »Solidarność« has complained to the ILO about this trend of civil law contracts.



- The RDS shall be responsible for conducting dialogue »aimed at facilitating conditions for socio-economic development, as well as increasing competitiveness and social cohesion«.
- The RDS shall fulfil the principles of »participation and social solidarity in the field of employment relations« (this is significant, considering that the Tripartite Commission's powers are limited to the »maintenance of social peace«).
- All members of the RDS will be nominated by the President of Poland, after being proposed by each social partner (government, trade unions and employers). The nomination meeting of the new RDS was held on 22 September 2015 at the seat of the President.
- The chair of the RDS will rotate among the three parties annually. NSZZ »Solidarność« chairman Piotr Duda was nominated first chairman of the RDS. OPZZ and FZZ did not oppose on this nomination.
- The RDS will be granted a separate budget and will have a regular administration serving its needs (established by the Centre for Social Partnership).
- The RDS shall have the right of legislative initiative on all issues for which it has responsibility, which shall include socio-economic development, the enhancement of national economic competitiveness and social cohesion.
- The RDS will present an annual report on its activities to the Speakers (Marszałek) of the Sejm and Senat (Czarzasty 2015).

According to Juliusz Gardawski (2014), the changes in the institutional structure of social dialogue in Poland, initiated by all trade unions, represent a transition from a liberal market economy in the direction to a coordinated market economy,⁵ with all its consequences. Thus, unions, by suspending their membership of the Tripartite Commission (break-

5 Gardawski refers to the book *Varieties of Capitalism* by Peter Hall and David Soskice



ing with »illusory corporatism«), challenged the dominant model of neoliberal capitalism and put the Polish model of coordinated capitalism back on track. The new central-level tripartite body has greater powers than the old Tripartite Commission but has yet to start work. There are high hopes for the RDS (Czarzasty 2015), but we must wait and see whether Gardawski's optimistic view is borne out.

7. Recent Developments

The electoral victory of the Law and Justice Party (PiS) in 2015 and its right-wing political course have become a new factor challenging the cooperative mood inside the trade union camp. Having endorsed the PiS in its election campaign, many former or current activists of NSZZ »Solidarność« were handed posts in the government, including the Ministry of Labour. These personnel politics created ripple effects on social dialogue, with the boundaries between partners becoming blurred and equal treatment no longer assured. This also affects the readiness of the unions to criticise the government on its policies, as was clearly observed when the OPZZ alone – and in particular its affiliate the ZNP, which organises teachers – mounted protest actions in 2016 and 2017 against government reforms under the motto »No to chaos in education«. As if the lessons of Polish trade union history had not been learned that close political party links on the part of one union translate party rivalry into union rivalry, NSZZ »Solidarność« moved close to PiS, jeopardising cooperation with OPZZ. It is hoped that the leadership of NSZZ »Solidarność« remembers the experiences that led to the launch of cooperative union pluralism in 2013 and returns to a policy of union and workers' interests first.

8. Conclusions

New cooperation between the confederations shows that Polish trade unions have overcome part of the post-socialist legacy by leaving competitive pluralism behind them. When the government pushed social dialogue towards »consultative etatism« finally the union confederations recognised the danger and in a joint action suspended their par-



ticipation in the Tripartite Commission in June 2013. At the same time, they cooperated within the framework of the Inter-union Protest Committee, the Nationwide Days of Protest and a joint demonstration in the streets of Warsaw in September 2013. While showing their ability to organise protests, they jointly developed proposals for new rules for social dialogue.

The cooperation between trade unions in Poland is not only unprecedented, but also may be seen as the beginning of a new role for trade unions in policymaking. If the unions manage, by means of a new tripartite platform, to move into a central role for labour and social issues, they may push Polish capitalism away from the liberal model to that of a coordinated market economy (Gardawski 2014).

Polish trade unions, however, still face many challenges. First, how to organise the growing precariat? The Constitutional Court's judgment of June 2015, which recognises that people without an employment contract may form and join trade unions, means that unions will not have any excuse not to organise this group of workers. Second, trade unions in Poland will have to deal with growing migration from eastern Europe, particularly from Ukraine. We know from media reports that these workers tend to remain outside formal employment, are frequently abused and do not know their labour rights. Polish trade unions have not taken any action in this area so far. It is time that they do so.

A positive development can be noted. In 2016, Ukrainian migrant workers in Poland created their own union, with the support of OPZZ. More such developments are needed to close ranks between local and migrant labour.

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Hungarian Trade Unions from the Beginning of Transition to the New U-turn

László Neumann

1. Introduction

Among the central and eastern European post-socialist countries, Hungary stands out among the »new« EU Member States with its U-turn (Kornai 2015). The country is receding from pluralist democracy to an authoritarian regime and from a market economy towards a state-led nationalist economic management. Just as the parliamentary opposition had no hand in making these changes, neither did the social partners. Since 2010 the government has withdrawn from social dialogue with trade union confederations. This move has rendered the union confederations – who used to have a say in policy formation at the top level – almost helpless. As street demonstrations seemed to be the only way to challenge the government, unions' mobilisation capacity became an issue, especially in the public sector where other forms of industrial action are banned or union members have traditionally refused to go on strike. The failure to challenge the government in this way also highlighted other components of the trade union crisis: the critically low unionisation rate, the fragmented organisational structure, the lack of strategic alliances with political parties, the very limited workplace role of unions, the sporadic and decentralised collective bargaining and the absence of functioning sectoral social dialogue institutions. Obviously, all the elements of the current trade union crisis situation have evolved over the past couple of decades, well before the right-wing government came into power. Thus the chapter goes back to the roots, the systemic change of 1989–1990, in order to track a quarter-century of union development, with its strategic choices, promising events, failures and malfunctions.



The structure of the chapter is as follows: while the first half deals with historical perspectives, the second half sketches post-2010 developments, including unions' efforts to cope with new challenges stemming from the economic and political changes. The conclusions sketch possible future developments, evaluate positive scenarios, including chances of union revitalisation, and a possible negative consequence of government intervention, which is that the country's political-economic U-turn may also entail a return to a monopolistic, government-friendly union confederation.

2. Historical Analysis of the Transition Process

2.1 Before and During the Transition

Following the communist takeover (1948) the former craft unions were reorganised into 19 industrial branch union federations overseen by SZOT, a monolithic confederation controlled by the Communist Party. From the early 1950s, trade unions – having become a mere »transmission-belt« – no longer concerned themselves with workers' earnings and the terms and conditions of employment. Members became alienated from trade unions, which failed to serve their members in the workplace or in the community. Due to a burgeoning industrial workforce and virtually compulsory membership, official trade unions claimed almost 4.4 million members in the mid-1980s, representing about 96 per cent of all wage earners. Although during the earlier reforms SZOT had been deprived of the function of managing welfare-state institutions, it still had tens of thousands of staff and enormous assets (many office buildings, resort houses, educational and cultural facilities) at the end of the 1980s.

In Hungary, from the late 1960s onwards both the value system and the everyday behaviour patterns of workers became highly individualistic. Economic reforms offered numerous opportunities for workers in the state sector who wanted to make a better living. In the tight labour market of a shortage economy, free of effective trade union constraints, there were enormous wage differences across companies. Qualified workers could receive significant wage increases, mainly through individual actions: quitting one job and taking up a higher paying one, or by overtime work. Others found second jobs outside the state-controlled



economy. In the final stages of state socialism this private »second« economy infiltrated the walls of state factories. Privileged core workers were allowed to start up small businesses in their own enterprises, and as inside contractors bargained with management about overtime wages. In its heyday more than a quarter million employees – out of the five million-strong workforce – were involved in such in-house »businesses« (Laky/Neumann 1990). At the same time, management was paternalistic and promoted a shop-floor policy of selective wage and effort bargaining. This produced competition rather than solidarity among workers because collective actions and spontaneous organising were considered politically suspicious by the authorities, even in the last decade of communism. (Neumann 1997)

When negotiations between the Communist Party and the newly formed opposition forces on the preconditions of political transition in 1990 took off, Hungarian unions did not play an active role in overthrowing the socialist regime, apart from two confederations' marginal participation in the National Roundtable. Neither was strike activity notable during the political changes. In the course of the regime change in 1989–1990, new industrial relations institutions were created, too. Laws ensuring freedom of association and strike action were passed by the Parliament and trade union collective bargaining became a constitutional right. Independent trade unions with voluntary membership, as well as employers' organisations were set up.

During the democratic transition the labour movement underwent a series of organisational changes, resulting in a highly fragmented union structure. Altogether, six trade union and nine employers' organisations were consolidated; most of them were »reformed« organisations with some organisational roots in the socialist system, except the two »new« union confederations and one employers' association born during the political transition. The pluralistic structure on the trade union side included the »reformed« MSZOSZ, ASZSZ, SZEF and ÉSZT confederations, offspring of the former monolithic confederation SZOT, while LIGA and MOSZ were established as new grass-roots organisations in 1989–1990. Trade union pluralism meant intensive rivalry and heavy debates within the movement, particularly over the inherited trade union assets in the early 1990s.

The »old« unions maintained their company organisations, the majority of union members and union assets, while the militant »new«



unions challenged the legitimacy of SZOT's successors and sought to poach their members. A deadlock in this internecine war prompted the state to intervene. The new confederations LIGA and MOSZ, which emerged in the course of the democratic transition, relied on the support of the new political parties in Parliament, while MSZOSZ, at that time the biggest »reformed« confederation, won adherents through its staging of a nationwide strike in 1991. The First Parliament legislated that the members of »old« unions must re-register, and then in September 1992 it engineered a compromise on the distribution of union assets. The »old« confederations showed their continued strength in 1993 by winning both the elections for the newly established Pension and Social Security Boards and for union candidates in the first works council elections. Although the SZOT assets were distributed according to the election results, those assets under the control of industry federations kept on being debated until the end of the decade. The in-fighting began to calm down when all confederations were accepted internationally (by ETUC and ILO), although the initiative for a merger of confederations failed in 2000.

Nonetheless, by 2000 the vast majority of former trade union assets had disappeared, either through unclear nationalisation / privatisation channels (for example, trade union resort facilities), or through commercial transactions. Union centres had gradually sold the inherited properties in order to cover current deficits as operational costs regularly exceeded their income. During the transition the ten thousand-strong SZOT apparatus also disappeared.¹ It is worth noting that the above account does not take full-time union officers at workplace level into consideration, but their number also drastically diminished.² At bigger unionised workplaces there are still a couple of part-time or full-time union officers. This feature reflects another legacy of the socialist past: unions basically work within companies; moreover, the company (or in the public sector the institution) is the main field of union activity.

1 There is no systematic information about the whereabouts of SZOT staff in the mid-1990s; presumably some of them opted for early retirement and others found various jobs in state administration or in business. Most of the old-guard officials have retired in the previous two decades, their positions were often left unfilled and relatively few younger ones replaced them.

2 The latest decrease came with the 2012 Labour Code which cut time-off for union reps, the legal basis for creating union jobs at the workplace.



The economic changes during the transition hit unions hard in the workplace. With their formal rights curbed by the Labour Code (1992), and with their bargaining position weakened by a slack labour market, trade unions often encountered fresh employer belligerence that sometimes used newly imported, sophisticated human resource management techniques to push them further back. Although by the end of the 1990s the consolidation of the economy brought about a growth in manufacturing employment and wage increases, unions have been unable to translate these improving conditions into a rejuvenation of their organisational base.

One of the difficulties of organising was the sizable sector of small and medium-sized companies (SMEs) and the large proportion of undeclared work. Not coincidentally, trade unions lost the biggest share of members in those industries that became dominated by SMEs, for example, construction, retail, hospitality and various services. At national level, trade unions were hardly able to influence policymaking concerning privatisation, restructuring and social policy. Nonetheless, company trade unions survived in most of the larger privatised companies, both in manufacturing and in public utilities, whereas industries that remained in state ownership (transport, education, health care) remained union strongholds.

In Hungary as in other countries in the region, liberal post-socialist governments proactively reshaped the welfare state in order to pacify high-risk groups and lower their collective action propensities (Vanhuysse 2006). Indeed, when the country lost roughly one million jobs during restructuring, the 1990s did not witness any notable protest actions in the private sector in privatised companies. In these years the government maintained almost fully the welfare provisions inherited from the state socialist state. Moreover, it generously offered the escape route of early retirement for redundant workers (which later caused enormous problems in the pension budget) and sweetened the pill by issuing free employee shares for those who kept their jobs in privatised workplaces.

2.2 Post-socialist Industrial Relations before the Crisis

Under the state socialist system, almost every workplace had a company-level collective agreement, although it is well known that real employee representation was never achieved and national and sectoral ne-



gotiations did not begin until 1990. Then Hungary created a three-tier system of collective bargaining institutions. In the course of the annual bargaining rounds, following the agreement and recommendations of the national tripartite forum, employers (or their organisations) might sign collective agreements with the respective trade unions at the sectoral and company levels.

Tripartism

With the participation of the peak social partner organisations and the government, a standing tripartite forum – under different names and with varying roles over time – had been in place since 1988 to discuss the economic and social policy issues affecting workers, and to consult on legislative bills concerning the world of work. OÉT, the national tripartite forum, was the platform for national-level bargaining rounds for the minimum wage, and the body also issued recommendations for annual wage increases. The forum itself played an important role in the consolidation of the new social partner organisations: partly by settling the legal and property rights disputes of trade unions and partly by ensuring legitimacy, because only the forum's members were acknowledged as social partners. Membership of the national forum was the basis for joining tripartite bodies at international level, as well as various domestic bodies. Since the early 1990s there has been a separate consultative body for the whole public sector parallel with other sectoral, sub-sectoral public sector bodies. In the 1990s, representatives of the social partners sat in boards of social security institutions (health insurance, pension directorate, labour market fund) as well.

Tripartism secured social partner access to the highest level of political decision-making at the beginning of the 1990s, until the first major austerity package was introduced in 1995. Between 1998 and 2002 the first Orbán government reorganised the tripartite body in order to curb its entitlements, but the successor socialist government returned to its original function and institutional framework. However, the socialist-led government later also weakened OÉT, in 2004 it established a parallel body, the Economic and Social Council (GSZT), which included civil society organisations, economic chambers and other or-



ganisations. Among the functions of OÉT, minimum wage setting was a particularly important one for Hungarian unions, as it somewhat compensated them for their weakness in sectoral and company-level bargaining.

Works Councils

At company level a dual system of employee representation was set up: in addition to trade unions signing company-level collective agreements works councils were established from 1992 onward. Moreover, employee representatives who sat on boards of companies employing more than 200 participate in company level decision-making. The law requires elections for German-style works councillors in establishments employing more than 50 people, in both the private sector and the state-run service-providing institutions (health care, education.) However, in practice their penetration in such workplaces is only about 30 per cent. Works councils' rights are basically confined to information and consultation; codetermination is limited to the issues concerning utilisation of the company's Social Fund. Some of the institutions created on the models of developed countries operated even less successfully. For example, sectoral collective agreements and their extension were used only to a minimal extent, with negligible effect on working conditions; similarly, the institution of state-run mediation and arbitration was used much less than expected.

The development of industrial relations institutions was supported both by international organisations and the state. Not only was the Hungarian economy being rapidly integrated in the globalising world economy, but the country started to observe ILO conventions and recommendations, as well as EU directives well before the country became a Member State (2004). The governments needed both the input of tripartite institutions and the legitimacy they could gain from them, promoted collective bargaining at sectoral level and financially supported the activities of the social partners. One negative consequence of this policy was that a significant part of the revenues of social partner organisations came from the state, which concealed the inadequacy of their membership organisation.



EU Accession

EU accession itself did not represent a milestone in development of Hungarian industrial relations. Prior to accession, consultation with social partners was quite cumbersome, as negotiation of the conditions of accession was a government prerogative and the government was not ready to share information from the very beginning of the process. Nonetheless, finally a subcommittee of tripartite council was set up for »European Integration« (Boda/Neumann 2000). However, in retrospect, one can safely say that neither the unions nor the employers were fully aware of the magnitude of potential risks of accession (for example, competition in the internal market without entry barriers, outward migration, transposing EU legislation and regulations in different policy areas). The only notable exception was the transposition of labour law directives into the Hungarian Labour Code, especially the Directive on Organisation of Working Time. As the government intended to flexibilise the regulations referring to the EU standards, which were actually lower than the then valid domestic regulations, it evoked strong union resistance, culminating in a huge joint demonstration. Following belated discussions they were able to reach a sort of compromise (Neumann 2007b). It is worth mentioning one EU action that was directly aimed at developing industrial relations: with EU financial aid and expertise Sectoral Social Dialogue Committees were set up in 2000 in order to create the missing link between national tripartism and company bargaining. However, they could not meet their original objectives; nor did they change the bargaining structure. There was thus no breakthrough in developing sectoral social partners or in information and consultation procedures (Neumann 2008; Arató 2010).

Nonetheless, by 2005, the signs of an industrial relations crisis were already there, primarily on the trade union side. Conflicts at a high level between the six confederations created at the time of the regime change, union pluralism at the company level and demands for autonomy on the part of lower-level trade union organisations showed how deeply fragmented the movement had become. The weakness of trade unions manifested itself primarily in their shrinking membership and lack of organisational drive: trade union density had fallen to 19.7 per cent by 2001. Union density was still relatively high in the public sector (including publicly owned companies), but extremely low in the genu-



ine private sector, especially in those industries dominated by SMEs (construction, retail, hotels and catering). While representation in employers' organisations did not shrink that drastically they remained functionally weak and their membership usually did not authorise them to sign sectoral collective agreements. Despite the weakness of trade unions and employers' organisations, the ongoing operation of formal institutions gave the illusion that the social partners were important and their role was undisputable.

2.3 The Impact of the Crisis on the Trade Unions' Role

Economic problems in Hungary started two years before the world-wide financial crisis broke out. By 2006 the budget deficit and state indebtedness had grown to a level that forced the socialist-liberal coalition government to implement austerity measures in line with the convergence programme regulating accession to the European monetary union (EMU). In the autumn of 2008, the global financial crisis shook Hungary, whose economy was already slowing down since the previous year, and led to the rapid devaluation of the national currency. An IMF and ECB loan helped to overcome the currency crisis but the European economic recession spilled over and manufacturing, the most important sector of Hungarian exports, contracted. By 2009 GDP fell by 6.7 per cent and unemployment grew to 11 per cent.

The further degeneration of trade union influence from an already low level started as early as 2006 despite the traditionally friendly relations between the governing Socialist party and the major trade union confederations. During the austerity programme the national tripartite forum gradually lost its significance and its roles were taken over by other institutions, while a new social platform, meeting *ad hoc*, that was convened by the prime minister with employers' and employees' representatives, never had any intention of reaching binding agreements. Nonetheless, the tripartite forum continued to discuss government measures³ to manage the crisis. Policy consultation on economic

3 The list included the introduction of shortened working time, an extended reference period in working time accounts, central subsidy for loss of wages due to shortened working hours and for preventing layoffs and for training.



matters, however, was transferred to a newly established parity committee, between the government and business representatives. In 2008 the business community set up the »Reform Alliance« and came up with a package of economic reforms. In the new »technocratic« Bajnai government,⁴ several of the authors of these reform plans were given ministerial portfolios and the transitional government by and large implemented the Reform Alliance's recommendations.⁵ Trade unions proved unable to respond to the strengthened influence of the business lobby outside the tripartite forum. In addition, the role of the tripartite forum was also questioned by the Constitutional Court, following the President of the Republic's submission of the 2006 law on the tripartite forum for constitutional review. It declared that it was against the institution of parliamentary democracy to give social partners, whose legitimacy is vague, the right of codetermination on legislative issues such as setting the minimum wage.

During the economic crisis years of 2007–2009, confederations' relationships with the political parties also shifted. Whereas MSZOSZ, the major private sector union, and SZEF, another large public sector union, did not break their traditional ties with the Socialist Party, it became increasingly obvious that they had lost their influence on the socialist party-led government. On the other side, LIGA moved towards the political opposition and became the tactical ally of the right-wing FIDESZ. When the Socialist-led government moved another package of reform measures concerning mainly education and health insurance the opposition led by FIDESZ rejected it. These reforms were finally cancelled through a referendum which was initiated by LIGA. LIGA also staged a series of demonstrations against the austerity measures and threatened the government with a continuous strike alert of railway workers.

Despite the decreasing importance of national discussions, company trade unions continued to play an important role in fighting the crisis-perpetuated layoffs at certain companies. According to a case study, in order to preserve the jobs of the core workforce, trade unions

4 It came to power after the resignation of the government of Ferenc Gyurcsány.

5 This included the introduction of the flat-rate personal income tax, lowering employers' social security contributions, increasing employees' contributions, cancelling the 13th month pension and the 13th month wage in the public sector, freezing public sector salary scales and so on.



were willing to bargain concessions on wages and flexibility, and often managed to agree with the employer on partial compensation for loss of earnings due to shortened working hours. These accords basically served the job security of core workers, sometimes at the expense of damaging the position of the contingent workforce (for example, agency workers, employees of supply firms) (Neumann / Boda 2011). Labour economic research has found significantly lower than average redundancies in companies with a collective agreement (Köllő 2012).

3. Current Modes of Union Operations

3.1 The Politico-economic Context after 2010

With the 2010 election victory the Orbán government systematically dismantled democratic institutions and »distorted the evolved state-market symbiosis« by a series of brutal measures of state intervention. We do not have room here to go into detail about how and why this political answer, Hungary's U-turn (Kornai 2015), emerged from the previous decade's extremely polarised political landscape of Hungary. No doubt, it was exacerbated by the problems that had developed from 2006 and were laid bare by the financial and economic crisis (sovereign debt, austerity, forex credit bubble, abandoned welfare reform initiatives, very low employment rate) (Tóth et al. 2012). To briefly describe the political mood of 2010, one might say that the vast majority of voters, including the working majority, were so fed up with the former Socialist-Liberal elite that the FIDESZ's populist rhetoric, promising every stratum of society exactly what it seemed to want and pledging swift remedies for their acute grievances, won easily and at the same time induced high expectations. This radical rhetoric also capitalised on discontent with the mainstream neoliberal ideology, seemingly offering the country a radical alternative vision of recovery from the economic, political and – allegedly – moral crisis.

From 2010 onward the right-wing government with its two-thirds majority systematically removed the fundamentals of the democratic system, the checks and balances put in place in the years of transition, including the Constitutional Court, the Budgetary Council, the National Bank, the media, the data protection ombudsman, judiciary independ-



ence and the autonomy of local governments, as well as non-governmental organisations. By replacing the constitution with a new Basic Law and passing the related laws requiring a two thirds majority (such as the election law), as well as appointing their nominees in public offices for a period overarching parliamentary terms, the ruling party coalition did its best to make its power permanent. Despite the financial benefits of EU membership, it has been waging a »war of independence« against Brussels, trying to enlarge its room for manoeuvre, even at the expense of losing former allies, courting Putin's Russia and other autocratic regimes in the East. Indeed, the coalition won the 2014 election too, although it has since lost its supermajority in the Parliament.

In 2010 the right-wing government to some extent broke with former governments' economic policy based on attracting FDI into the export-oriented growth sectors (automotive, machine building, chemicals and electronics manufacturing) that had ensured an increase in GDP prior to the economic crisis. The new economic policy declared war on multinationals and claimed that it would give priority to domestic capital. For this purpose a wave of centralisation, affecting every field of governance, included the reversal of privatisation policy and brutal state intervention in markets. However, re-nationalisation (or achieving a domestic majority) in practice was limited to certain sectors: banking, energy supply, media, retail chains (mainly in food stores and tobacco – shops), in other words, to those sectors in which companies are either of direct political importance (the media) or tied to the local market, which forecloses the option of relocating to another country. It is worth noting that the preference for domestic businesses, together with other means, also gave rise to massive corruption and the exacerbation of crony capitalism. (Magyar 2015, Tóth – Fazekas 2015) In turn, the government kept on doing its best to invite and financially assist FDI in manufacturing. Moreover, the Prime Minister announced a policy of »re-industrialisation«. The latter also means assistance for manufacturing businesses by providing an abundant supply of cheap labour: reorientation of the education system (channelling pupils into vocational schools instead of grammar schools preparing them for higher education), ensuring competitiveness by keeping the wage level low and through labour legislation allowing flexibilisation of working conditions, as well as weakening collective representation of workers. The government's labour market policy also boosted the supply of cheap



labour: funds have been reallocated from unemployment benefit and training to large-scale public works (paying subminimum wages). The workfare policy also includes drastic cuts in welfare spending and entitlements, as well as cancellation of early pension schemes, especially in the police and armed forces.⁶ All in all, the Hungarian growth model basically remains FDI-driven and export-oriented. However, within its manufacturing focus, Hungary has shifted towards the dominance of »low-road« workplaces by neglecting higher education and research and development activities.

However, the policy of »economic nationalism« (Tóth 2014) has so far had very limited success in terms of revitalisation of the Hungarian economy. The country was hit hard by the economic crisis and only recently returned, more or less, to the pre-crisis level. The other post-socialist countries in the region have well outperformed Hungary. The direct reason for the slow recovery lies in the minimum level of investment activity because of the insecurity of the business environment and lack of investor trust, due to the government policy of attacking the banking sector and some groups of foreign investors. All these things have resulted in stagnating real wages, largely owing to the public sector pay freeze maintained since 2008. As to the societal impact, beyond the persistently low employment rate, these years since the crises have witnessed continuously growing inequality and alarming growth in poverty.

3.2 Organisational Features of Trade Unions

As for their organisational structure, Hungary's post-socialist unions have generally been fragmented, with weak sectoral and national centres in terms of finance and authority over their company chapters. With the splitting up of SZOT into four successor organisations in 1989–1990, the 19 sectoral federations also broke up into smaller industrial sub-associations. Partly due to new statutory requirements introduced by the 1990 Association Law (voluntary membership, representation of workers' interests as the objective of association declared in the charter of

6 Although the Hungarian government's crisis measures show a startling resemblance to those introduced by its counterparts in southern Europe, it is worth stressing that in 2010–2014 Hungary was not under pressure from the Troika.



organisation, democratic internal structures) and partly in response to grassroots pressure, the previous top-down model of administration has been turned into a bottom-up structure and company unions evolved as the base for governance within the »reformed« union confederations as well.

Even though not all company trade unions are registered as independent legal entities, they do enjoy a high degree of autonomy in the sub-sectoral federations both in terms of shaping their company-level interest representation policies and controlling membership dues. Company trade unions are free to decide which federation they want to join. Instead of a clear hierarchy, this has resulted in a complicated web of affiliations, which makes union organising, sector-wide union actions and sectoral bargaining extremely difficult.

Until 2013 trade union mergers happened only at sectoral level, at which the old industry unions had shrunk and become unsustainable (for example, agricultural and food sector unions were merged). However, in 2013 the three, allegedly »socialist-oriented« union confederations (MSZOSZ, ASZSZ and SZEF) announced a merger plan – partly as a response to the government policy of abandoning them. Then they formally created the new confederation (MSZSZ) as an umbrella body. By 2015 success had been stymied due to conflicts over personnel and financial issues. The major public sector union (SZEF) stepped out from a full-fledged merger and as a result they have been unable to solve one of the most serious problems, the long standing public / private divide between the confederations.

The existence of institutions of internal democracy (for example, elected leaders, regular congresses, financial supervisory body) is a legal criterion for registration. A union ballot is not a precondition of industrial action, although given the low strike activity it has little relevance. In practice, however, democratic channels do not function properly. Experience of the insufficient information and participation of rank and file members are quite common. Another problem is the abuse of organisations' statutes; sometimes internal fights within the union leadership translate into legal actions, for example, challenging formally democratic decision-making by reporting to the supervisory authorities, filing lawsuits by / against leaders / member organisations and so on.

Both at the confederation and the sectoral levels, the main obstacle to adequate interest representation is the lack of specialised staff. Un-



til the tripartite committees regularly worked, trade unions had hardly enough experts to fill the available positions; the same persons often participated in meetings that required very different kinds of knowledge and specialisation. Confederations have at most ten to twenty full- and part-time staff. Nowadays a confederation or an industry federation rarely has more than a dozen employees, except for LIGA, whose ranks recently swelled to 100 (see below). Therefore most union centres persistently suffer from the lack of professional experts and organisers, and a few volunteers can hardly make up for the insufficient manpower. The available staff is obviously insufficient for organising and performing interest representation tasks in the strict sense, which in Hungary also includes assistance to company unions due to the decentralised nature of organisation and bargaining.

The shortage of experts is the result of the trade unions' dire financial situation. In the decentralised union structure federations and confederations derive little benefit from membership fees. Traditionally, union dues represent 1 per cent of a member's gross earnings, but many unions reduce this rate to attract members. Sometimes competing unions undercut each other by lower or even symbolic union dues. The majority of collected dues are utilised at company level, and a substantial share is spent for assistance on occasions such as childbirth, the beginning of the school year and so on; occasionally, unions also support needy members. Allegedly, members expect such union assistance because they became used to this function of local unions in the state-socialist period. Company unions in theory are supposed to transfer 40 to 60 per cent of the collected dues to higher union organisations, but in practice a much smaller portion winds up in the union centres' coffers.

In addition to membership dues, in recent decades trade unions have raised revenue from two other sources: inherited or redistributed union assets (typically, selling real estate) and grants from public funds. All union confederations and a majority of sectoral federations have already consumed a large part of their assets. With extensive media coverage, they have sold their headquarter buildings and moved offices to smaller, sometimes rented, premises. Plummeting membership, assets and dues have forced trade unions to cut expenses and staff, including those doing interest representation work. MSZOSZ, for example, laid-off the staff in its rural interest representation network in the course of one rationalisation about ten years ago.



Since the mid-1990s unions have increasingly become beneficiaries of public subsidies, although government support for the social partners has thus far not been carried out transparently. Until 2010 public support was generally split equally between unions and employers' confederations and on each side the confederations distributed the money among themselves. The right-wing government from 2010 changed the system, which now favours one applicant only, a union-employer consortium (see details below). These funds have sometimes been earmarked in accordance with different functions, such as education, research, developing sectoral social dialogue and preparation for EU membership. Despite the earmarked nature of subsidies, it is very likely that union centres have been covering a growing share of their operational costs from government and EU funds.

The Hungarian unions are well embedded in international union networks at all levels. Confederations and sectoral federations work together in international actions and research programmes, mainly funded by the EU. It is worth mentioning the interregional (cross-border) projects, for instance, the cooperation between ÖGB and MSZOSZ, which provides migrant workers with legal assistance in Austria. At several multinational companies the European works councils include representatives of workers in the Hungarian subsidiaries.

3.3 Trade Unions' Presence in the Workplace and in Society

By now union density may have shrunk below 10 per cent.⁷ The latest survey showed 12 per cent overall density in 2009, with substantial differences across industries, size of company and ownership structure. While public sectors such as transport and postal services, energy, water and sewage, education and health care are trade union strongholds, at the other pole the construction industry, hotels and catering and private services are barely organised. In general, unions fare better in larger companies and state/municipality-owned workplaces. The latest representative population survey indicated only about a 5 per cent union density in the private sector (including state/municipality-owned companies) (Dabis et al. 2015).

7 The next round of the Hungarian Central Statistical Office's survey is just under way.



The organising activity of Hungarian unions has been very modest since the mid-1990s. Exceptions are the rare grassroots union formations and the cases of greenfield sites of foreign companies, provided that the trade union or works council of the mother company ensured a permissive environment. Notable cases are the German automotive plants of Audi and Daimler-Benz. While in principle union leaders always agree on the necessity of »organising unionism«, they cannot afford large-scale organising campaigns. Since the turn of the Millennium the confederations LIGA and, to a lesser extent, MOSZ have invented a new way of growing: they have poached members from other confederations. In the spirit of economies of scale, they did not rely on attracting individual members nor did they challenge incumbent unions at establishments; they rather targeted whole sectoral organisations to cross over. With the right-wing electoral victory, from 2012 LIGA (in coalition with an employers' association) received huge state support, among other reasons for organising purposes. Not surprisingly, it keeps on poaching large sectoral unions, which has further aggravated the long-standing divide between confederations (Tóth 2013).

The low level of employment has been a persistent problem since the restructuring of the economy in the early 1990s. A new phenomenon in recent years is the steeply growing outward migration, especially of young people, and partly of prime age workers. While this leads to skill shortages in certain trades, the unions have not been able to capitalise on the tight labour supply. The only exception was the young doctors' action (see below), which resulted in a deal that raised physicians' and nurses' wages, separating their pay from the general salary scale of public service employees. For the rest of the workforce, particularly for the low skilled, labour surplus is a prevailing phenomenon, with regard to which one cannot expect robust union action; even basic organising is minimal in the contingent workforce.

In general, Hungarian unions represent the core workforce of the formal sector, not precarious labour. This is striking, given that the share of fixed-term and temporary agency workers has been growing continuously in the past two decades, and this phenomenon has been enhanced during the recovery from the crisis of 2008–2009. Temporary agency workers are hardly or not organised at all by the user company's union. Unions claim that temporary workers cannot be organised due to their mobility and they are outside the legal boundaries of company



collective agreements. This is *de jure* true, but the Hungarian legislation that transposed the EU's Temporary Agency Work Directive into national law requires equal treatment, including wages and fringe benefits. Therefore, the user company's collective agreement is *de facto* in force for temporary workers as well. Nonetheless, interview evidence revealed that company unions' real reason for not organising might be different: the core workforce (represented by the union) considers the temporary workers a buffer, which may contribute to their job security.⁸

The workplace presence of unions is a controversial issue. Given the decentralised bargaining system, company unions enjoy a great deal of autonomy within the union organisation. However, the contents of most collective agreements are fairly weak, they rarely regulate individual wages and most agreements include meaningful stipulations only on issues specified by the Labour Code as possible fields of deviation from the law. Unions' workplace presence has long been limited by another problem: the lack of established grievance procedures in the workplace. Furthermore, the 2012 Labour Code removed unions' right to monitor working conditions; since then, works councils have taken charge of »controlling« the lawfulness of employers' operation (Nacsá / Neumann 2013). With this change in legislation, together with another one curbing the Labour Inspectorate's scope of action, unions are practically helpless when it comes to enforcing labour law and collective agreement stipulations in the workplace.

3.4 Collective Bargaining Development

Hungary has a decentralised bargaining system. The overall collective bargaining coverage fell between 2001 and 2012 – from 47 per cent to 33 per cent.⁹ Until 2012 (when the majority of public schools were centralised into one national body) two-thirds of the local collective agreements were signed by single employers in the public sector, although, in terms of employees covered, the proportions are reversed.

⁸ Source: own interviews with union officers at various levels in the recent decade.

⁹ However, another data source, the Hungarian Central Statistical Office, produced much lower coverage figures: in the 2009 Labour Force Survey respondents were asked whether their wages and/or employment conditions were influenced by any collective agreement and only 22 per cent answered positively (although a quarter of respondents said they did not know).



The highest coverage can be found in state/municipality-owned companies which belong to the private sector from a labour law point of view. While collective agreements are valid for several years (most of them are open-ended), annual agreements on wage increases are handled in separate wage agreements. There has been a dramatic decline in the number and coverage of annual wage agreements since 2001 in company-level bargaining. Only 19 genuine industry-level agreements have been concluded with employers' organisations; despite the efforts of previous governments to strengthen industry-level bargaining, there is no indication that the number is likely to increase. In the absence of meaningful sectoral agreements use of the legally regulated extension procedure is rare; since 1992 it has occurred in only five sectors. The prevailing attitude of employers is still a reluctance to join employers' associations or to authorise them to conclude industry agreements. Moreover, the 2012 Labour Code curbed unions' rights and operating conditions at the workplace – influential factors in a decentralised bargaining setting – and increased the scope of unilateral management decisions, which removes the former »incentives« for employers to conclude agreements at both sectoral and company level. The 2012 Labour Code authorised works councils to conclude quasi-collective agreements in the absence of local trade unions with bargaining entitlement, although these agreements cannot regulate wages.¹⁰

As already mentioned, the contents of collective agreements are often weak; parts of them simply repeat regulations of the Labour Code. However, another – presumably smaller – part contains meaningful stipulations with regard to the signatories' statements on wages, terms and conditions of employment and has proved to be fairly resilient. This is not just a sort of inertia; in these cases trade unions effectively bargained to mitigate the effects of the economic crisis and to fend off the negative impacts of legislative changes. Therefore, the issues regulated by these collective agreements and their provisions remained almost unchanged. It is worth noting that the 2012 Labour Code fundamentally changed the legal philosophy of contractual deviations from the mandatory conditions: now the bargaining parties may agree on anything that is not prohibited explicitly by the law, concerning the individual

¹⁰ A similar regulation was in force between 1999 and 2002, but only a few agreements were signed by works councils. The impact of the new legislation is yet to be seen.



employment relationship, even to the detriment of the employee. (The former Labour Code contained minimum standards, applying the favourability principle – collective agreements and individual contracts may deviate from the legal minimum standards only for the benefit of the employee – and enumerating the rare exceptions for negative deviations.) However, the renegotiated agreements do not indicate that the parties were able to capitalise on this possibility to the fullest extent; in many cases even the management was cautious, maintained good relations with the union and human resource management objectives took the company's reputation into consideration (Nacsá/Neumann 2013).

The bargaining approach of Hungarian trade unions is largely inherited from the state-socialist era. For union leaders, the primary responsibility of trade unions is to develop a broad framework of working conditions. While they fight for higher wages, what they bargain for is to increase gross total wages at the company level, minimum wages for certain groups of employees (such as the unskilled and semi-skilled) or broad wage tariffs that specify lowest and highest wages, and substantial wage increases for privileged groups of employees. Within this basic framework of collectively agreed wages and working conditions there are broad possibilities for management to make unilateral decisions based on the performance of individual employees, as well as to bargain informally with individuals and groups outside trade union control (Tóth 2006).

Thus the present Hungarian wage determination system, as well as the regulation of conditions of employment, is fairly decentralised and individualised by western European standards. Individual bargaining prevails, and supply and demand on the labour market is a crucial factor in wage setting. Little wonder there are sizeable wage differences across regions, industries and companies. Contrary to Western experiences, decentralised bargaining does not mean that unions have a strong presence at the workplace; »job-control« unionism is alien to the Hungarian tradition.

3.5 Collective Action

According to the statistics strike activity has been fairly low in Hungary. Between 2000 and 2009 there were 87 strike events with the participation of 172,255 workers (source: Hungarian Central Statistical Office). Roughly half of them occurred in 2006–2008 when the austerity meas-



ures were implemented by the increasingly unpopular socialist-liberal government led by Ferenc Gyurcsány. Not surprisingly, the figures have been even lower since 2010 when the strike law was changed. Between 2010 and 2014 there were only 20 incidents, of which six were warning strikes lasting two hours at most and one was a solidarity strike (source: personal communication from Erzsébet Berki).

As regards trade union mobilisation capacity it has been seen since the 1990s that employees prefer softer industrial action (petitions, public demonstrations, workers' assemblies and so on) to strike action, especially in the public sector. Nevertheless, with the amendments of strike laws in 2010–2012 unions practically have become unable to legally go on strike due to the high number of sectors declared as essential services (including the formerly strike prone public transport and postal services) or the hurdles built up by the rulings of labour courts. Moreover, a recent opinion poll showed that the vast majority of workers are not willing to go on strike, and a considerable part (43 per cent) does not even accept it as a legitimate means of union leverage, not to mention the prevailing rejection of solidarity strikes (Dabis et al. 2015). Knowing this membership preference union leaders also shy to call strikes. A nice example of such soft actions has emerged recently among social care workers. They posted selfies on the Facebook with a sheet on which they listed their job position, length of service and the miserable sum of last month's take home pay. The same sheets appeared later on their clothes during a public rally.

Union leaders tend to explain the low strike activity by workers' insecurity (»traumatised worker syndrome«), saying that they are simply afraid of losing their jobs in case of industrial actions or making their collective voice heard in any way. Nonetheless, the societal reasons are more deeply rooted in the lack of trust in unions and more generally, in the value system of workers, in which solidarity and willingness to partake in collective actions are not pronounced. In addition to the everyday general feeling of political apathy, a couple of research addressed population attitudes toward political and civic activity. According to the data series of European Social Survey (ESS – <http://www.europeansocialsurvey.org/>), in Hungary active youth participation in political institutions is getting extremely low. In 2000 one-third, in 2004 15 per cent and in 2012 a mere 6 per cent of the respondents said that they were affiliated in any way with a civic, political, church-based



or charity organisation, or a sports or cultural club or other community group. (While sport, student and leisure time organisations were the most popular, party and youth organisation membership was below the measurable level.) Civil society engagement involves a very thin stratum of active people and, over time, this is becoming even thinner. This is not a specifically Hungarian phenomenon; a low level of participation (»bowling alone«) is a general feature among the »new democracies«.

3.6 Unions and Politics, Vanishing Social Dialogue

Union-party links are quite weak or even hidden. Following some unions' fiasco of an alliance with the Socialist Party in the 1990s and partly in the 2000s,¹¹ nowadays all union confederations claim that they work independently of any political party. On one hand, the former Socialist allies can no longer rely on enthusiastic support from left-wing or liberal political parties. This parting of the ways is partly understandable, as even the Socialist Party (MSZP) aims to be a catch-all party, and thus unions and workers' issues are not highlighted in its programme any more. On the other hand, the two confederations obviously close to the current governing party FIDESZ (LIGA and MOSZ) also claim to be independent, in an effort to disguise their privileged position. What seems to be worrying is that JOBBIK, the far-right party, which achieved massive electoral success in 2010 with its populist rhetoric and huge mobilisation capacity, is ready to support and pick up unions' demands fast.

Despite the absence of clear-cut party alliances, all confederations are pursuing variations of a pro-European political stance, focussing on the European Social Model. This is not so obvious nowadays, as the Hungarian government is shifting away from mainstream European policies.

Up to 2010 the main feature of industrial relations was the functioning of top-level tripartite negotiation forums. With the landslide right-wing election victory in 2010 the second Orbán government eliminat-

¹¹ The election alliance between MSZOSZ, as well as SZEFP and the Socialist Party was first formalised before the 1994 general election, which brought the Socialists back into power. Then a few union leaders became MPs. Given the austerity package implemented by the Socialists in 1995 and the unions' failure to influence government policies to the extent that they had expected, in the following socialist-liberal governments (2002–2010) union leaders did not run for Parliamentary seats, although a couple of them got government jobs.



ed OÉT, the standing tripartite forum, and replaced it with a quarterly convened representative consulting council (NGTT) which includes – apart from the earlier members of the GSZT – churches and ethnic Hungarians in the adjoining countries. With this move, setting the minimum wage – the single decision-making right of the earlier tripartite forum – was made a government competence.

The abovementioned institutional and legislative changes of 2010–2014 were introduced by the government unilaterally, namely without any previous social dialogue and meaningful Parliamentary debate with the opposition parties.¹² The only exception was the proposed amendment of the Labour Code, when trade unions asked for expert opinions from international organisations (ILO and EU), which finally brought about negotiations with a limited set of social partners and the government was willing to compromise on a few issues (Tóth 2012). Thus the trade unions, having got used to having strong institutional power through the established social dialogue forums (most notably through the OÉT), found themselves in an institutional vacuum, and they still seem reluctant to seek alternative channels for influencing government decisions.

The situation slightly changed again in February 2012, when following the negotiations on the Labour Code (see below) a new tripartite body, the Standing Consultative Forum for the Competitive Sector and the Government (VKF), was set up to discuss employment issues on the initiative of the social partners in the private sector and state/municipality-owned companies. However, only three confederations on each side of the social partners have been invited to participate in this new body and its role and media coverage are more limited than those of the former OÉT. It is worth noting that so far the VKF negotiations have generated very few gains for trade unions. Basically the government is not willing to make any concession at the negotiation table. On occasion, it will concede ground to the demands of strong groups, either by agreeing on selective concessions (young doctors, other public sector groups), or withdrawing in the case of harsh public opposition, for instance, when a hundred thousand strong spontaneous demonstration protested against the announcement of the planned internet tax in December 2014.

¹² Some of them, for instance the amendment of the strike law, circumvented even the legal requirements of legislation, as the bills were submitted by MPs of the ruling party. This »lawful« trick was used many times by the governing coalition, which had a super majority in Parliament anyway.



The story of public sector – for example, education, health and social care – social dialogue is slightly different. Here the social dialogue institutions formally remained intact; however, negotiations have not achieved increases in the general wage-scale of public sector employees, which has been frozen since 2008.¹³ Instead, the government has engaged in selective negotiations with different groups with strong bargaining power and introduced separate wage scales and other incentives for these groups. The notable example is the case of young doctors. Similar to their Czech and Slovakian counterparts they threatened resignation and the government had to give in (Szabó 2013). In this way, weaker groups of public service employees (for instance, social workers, nursing personnel in elderly care) are systematically left out from wage rises and the government successfully divides public sector employees from their unions.

Currently, the unions still do their best to restore institutional channels to influence policymaking, so far without any success. When a new 2014 minimum wage was concluded formally in the VKF, the government promised to open up negotiations on three issues that trade unions have kept on the agenda since 2010–2012, when the government unilaterally introduced the legislative changes. Expectations were high at the beginning of a new round of negotiations on early retirement, strike law and the Labour Code. The joint proposal of trade union confederations was completed by February 2015, but after that the negotiations reached deadlock in the absence of endorsements from employer's associations insisted on by the government. Employers agreed to only a few marginal changes and the unions declared the negotiations a failure. It is an open question now, whether they are willing and able to make use of other means against the government on these issues or whether they will remain at the negotiation table without any hope of success. Nonetheless, it is unlikely they will be able to mobilise members *en masse*; on these three issues. At most they could stage some token actions (for instance, small public rallies or road blockades, which was LIGA's weapon under the socialist-liberal government).

The government's withdrawal from meaningful social dialogue poses the question of whether Hungarian trade unions are able to find

¹³ If there has been any wage increase it is due to the regular annual increase of the minimum wage affecting mainly low-skilled public employees.



alternative ways to influence policy. Since 2010 the trade unions have been squeezed into a defensive position; almost all union leaders' statements are limited to weak complaints in response to the government's offensive moves. In theory, one option would be to address the wider public, raising awareness of the problems of the working population. Signs of such action have already emerged in a couple of areas. MSZOSZ has raised the issue of working conditions in public works schemes and recently MSZSZ launched a campaign against in-work poverty (its demand is to raise the minimum wage to the subsistence minimum within three years) and public sector unions publicise the miserable wages in social services. So far they have achieved limited success. Unfortunately, there is no appropriate discourse in which to formulate the unions' position. For example, public sector unions' demands are often formulated in the language imposed by the government. Here wages lag so far behind the private sector that the very livelihoods of families are endangered: the abovementioned selfie campaign cleverly stressed the inadequate wages. However, in the union centres' statements and press releases every group of public sector employees demands a »career path« for themselves – which is government language, meaning regular promotion across wage brackets over the lifecycle, which is what a selective set of public employees has already been given. As if employees needed vague future wage promotion, not an immediate raise.

4. Outlook: Possible Scenarios

As already indicated, one future scenario is a merger of unions and the return to a single, monopolistic, government-friendly union confederation, which was characteristic of the state-socialist period. The other five confederations have recently publicly blamed LIGA for poaching their member organisations, but this is a belated and wary effort and fails to address the real problem, government favouritism. Thus the intended message hardly comes through and the opposition union forces are unable to halt this process. However, it is an open question how a »Greater LIGA« would operate, whether the expectations of federations taken over recently will be met or whether the confederation's authoritarian style with regard to internal policy will have repercussions



in the old member organisations which are used to a different position in the confederation leadership.¹⁴

Now the other group, the »Socialist-oriented« union confederations in opposition position have to fight for their very survival. What are their possible strategic choices? In this respect it is of crucial importance what the outcome of the current confederation's merger process will be. In addition, there could be a long-lasting effect of the current mobilisation campaign in the public sector. Success in this campaign could be used for an organising drive, by entering into non-union companies (perhaps by using the leverage of mandatory works council elections, as they used to do in the early 1990s), or by addressing new constituencies, first of all the precarious workforce. In a decentralised system a more inclusive bargaining strategy should offer certain gains for workers not belonging to the core workforce of the company. Furthermore, it remains open whether union confederations will be able to address broader social problems (in-work poverty, minorities, migration, education reform at various levels, pensions and so on).¹⁵ Here, they might seek cooperation with civic movements which similarly suf-

14 The first sign of such a development is already palpable: at the time of completing the report (July 2015), the focus of the media was the scandals around István Gaskó, president of LIGA. He was also president of one of the biggest member federations, VDSZSZ Szolidaritás, a railway union, although the union congress has not re-elected him for presidency recently. Since then the conflict between the president and the member organisation has escalated.

15 One recent union initiative (from VSZ, the railway union belonging to MSZSZ), has demanded men's universal early retirement, possibility after 40 years of service, similar to the government measure introduced in 2010 which allowed the same possibility for every woman. Considering gender equality the Curia (the highest court in Hungary) has given the green light for a referendum on this issue. However, it is a very controversial question. On one hand, it is a very popular move, so much so that not only the two biggest union confederations but also political parties (the Hungarian Socialist Party and JOBBIK, the far right party) have joined the initiative. The enthusiasm of trade union confederations is understandable; they have seemingly found the remedy to the long-lasting deadlock in negotiations with the government on early retirement schemes, which were entirely abolished, even in physically demanding and dangerous jobs and in the armed forces in 2010. Moreover, the unions may have found a cause to which the general public pays considerable attention. On the other hand, it is obvious that meeting the demand would endanger the sustainability of the state-run pension system, already burdened by demographic change and widespread undeclared work. Not coincidentally, the government was swift to announce that if the referendum succeeds the costs should be covered by cuts in existing and future pension payments. Obviously, the government has tried to divide pensioners and would-be beneficiaries of the initiative. The latest development (in September 2015) on this issue was that right-wing civil activists petitioned the Constitutional Court to annul the Curia's decision, referring to the principle of positive discrimination in favour of women ensured by the Basic Law. Finally, the Constitution Court was swift to do so in an extraordinary procedure, which obviously halted the collection of signatures and saved the government from embarrassment.



fer from a low participation rate and a government policy that selectively supports favoured organisations and neglects or even suppresses the rest. Almost all such actions have already emerged to some extent in the agenda of MSZSZ, the newly merged umbrella body. The question is whether it will be able to develop them into sound strategy, reaching a broader constituency and a critical threshold of public attention. However, it is likely that we can exclude one option for the near future: the politicisation of Hungarian unions. Partly because there is no viable left-wing alternative political party that could be an appropriate vehicle, partly because of the spectacular failure of the Hungarian Solidarity Movement, which tried to organise a radical civil organisation and union-based political opposition to the right wing government in 2010–2012 (Neumann 2014), and partly due to the caution of union leaders.

Postscript

János Kornai's »U-turn diagnosis« continues to be a good description of the nature of the Orbán regime into 2017, even though the Hungarian path is no longer unique in the region; Poland has followed a similar track in recent years. The ruling right-wing Fidesz-KDNP parties have further strengthened, while the left-wing and liberal opposition remains fragmented and has lost many supporters: in particular, the Hungarian Socialist Party, the former union ally, is weakened.

Authoritarianism has not shut down critical voices in society. In 2016–2017 the major challenge to the government came from various civic actions, first from the teachers' movement staging a major wave of demonstrations, strikes and civil disobedience. Then new civic actions were provoked by different government measures (applying to host the 2024 Olympics, the so-called »Lex CEU« and the legislation stigmatising foreign-funded NGOs as foreign agents).

On the economic side, labour shortages, as well as skills shortfalls are becoming a major obstacle to growth for many companies. In 2016, the government put strategies for tackling the labour shortage high on its political agenda. Several were taken up in the Consultative Forum of Industry and the Government (VKF), with negotiations finally resulting in a multi-year agreement on substantial hikes in the minimum wage and a gradual lowering of the record high Hungarian levies on wages.



After several years of stagnating real wages, they grew by 13 per cent in 2017 due to the enormous increase in the minimum wage, government measures affecting the public sector and the state/municipality owned companies and the tight labour market.

However, by 2017 the tripartite social dialogue in the VKF lost the momentum of the previous year. Instead, the social partners used other lobbying channels in which a sort of inter-confederational union cooperation has evolved. MOSZ has taken the lead in such actions, as István Gaskó, long-time president of the LIGA confederation, had to resign in February 2016. The latter development put an end to the attempt to return to a single, monopolistic, government-friendly union confederation, which had previously been regarded as a possible.

Strikes and other forms of industrial action occurred more often than in previous years. First, the abovementioned teachers' movement staged a one-day strike, then the public transport and automotive sectors witnessed two-hour warning strikes, followed by wage negotiations. Clerical staff of the municipalities on several occasions held two-hour warning or whole-day strikes. The year 2017 witnessed an unprecedented two-day strike in the retail sector, where TESCO workers demanded higher wages and a staff increase in order to ease the workload attributable to staffing problems. While public sector unions were not able to challenge government policy on the almost decade long freezing of general wage scales, sectoral, sub-sectoral or even occupational level decisions accomplished staggered salary increases. Such »career path« adjustments have been introduced for core professions in many areas in the public sector, while groups with less bargaining power were always left out. Generally speaking, the government successfully divided public sector unions organising different sub-sectors.

In the past two years tight labour markets have helped trade unions to conclude collective agreements on immediate wage hikes in flagship companies in the private sector and paved the way to government measures on significant wage increases in part of the public sector. However, it remains to be seen whether trade unions will be able to use the labour shortage to strengthen their organisation. In addition to attracting new members, strengthening inter-sectoral cooperation would be most desirable, especially bridging the cleavages between the public and private sector unions.



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Slovak Trade Unions at a Crossroads

From Bargaining to the Public Arena

Marta Kahancová and Mária Sedláková

1. Introduction

This chapter examines the transformation of trade union roles in Slovakia – from serving as the *»extended hand of the communist party«* before 1989 to their more mixed role today. On one hand, unions serve as genuine representatives of workers' interests at enterprise and sectoral level; on the other hand, they often face criticisms for being an extended hand of business interests and party politics at the national level. In any case, the combination of economic success based on market liberalisation and labour market deregulation, occurring hand in hand with the persistence of coordinated industrial relations and firmly established trade union structures, make Slovakia an interesting case for addressing union transformations in response to the challenges of transition, liberalisation, EU membership, domestic political cycles and post-crisis austerity.¹

While the transformation from state socialism did not undermine the hierarchy of trade union organisations, recent years have seen fragmentation emerging between unions focusing on traditional modes of action (collective bargaining and social pacts with governments) and unions dissatisfied with the lack of results through bargaining and now seeking other kinds of action. The latter group of *»new«* unions is more radical and uses the public arena for their actions, including protests,

¹ The chapter is based on various earlier studies, including original research by the authors and secondary literature. Data sources include OECD, Eurostat and the Database on Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts in 34 countries between 1960 and 2012 (ICTWSS, version 4.0, 2013).



demonstrations and petitions. Results obtained through action in the public arena suggest more success for trade unions than traditional collective bargaining. This trend has been increasingly important also among public sector trade unions, especially in response to »austerity« measures in the post-crisis years. While such new types of action strengthen union resources at a time of a general decline in union membership, they also undermine the traditional pillars of industrial relations, most importantly, coordinated bargaining and wage setting above enterprise level.

2. Historical Context

In the past 20 years, Slovakia has evolved into an open, export-led economy with a high share of foreign direct investments (FDI). Economic growth has been accompanied by labour market reforms aimed at liberalisation and employment flexibilisation. At the same time, Slovakia is characterised by a relatively high degree of wage bargaining coordination, related to the hierarchical structure of trade unions inherited from the pre-1989 period. This section summarises the most important historical developments that marked the formation of trade union roles in Czechoslovakia and Slovakia before and after 1989.

2.1 Trade Unions before the Transition

The Slovak labour movement developed within the larger territory of the Austro-Hungarian Empire from the late nineteenth century. As a reflection of Austro-Hungarian social diversity, trade unions were equally divided along national, political and religious lines (Docherty and van der Velden 2012). The first unions sought to gain international recognition; for example, several representatives attended the International Federation of Trade Unions conferences in 1901 and 1902 as observers. By 1913, more than 300,000 union members were dispersed in German, Catholic or Protestant unions. The number of union members had grown to 1.7 million in Czechoslovakia by 1920; and union membership reached a peak in 1928, when 583 unions had 1,738,300 members (ibid.). After the Nazi occupation, during which unions were suppressed and



subordinated to efforts to increase labour productivity, the communist takeover opened a new chapter. The Central Council of Trade Unions was formed in 1945 and from 1948 the communist federation became the sole national labour centre of which all unions had mandatory membership (Valovičová and Vrchota 2012).

In the period from 1948 to 1989, trade unions were integrated in the Revolutionary Trade Union Movement (Revoluční odborové hnutí, ROH), which was fully subordinated to the ruling Communist party (Drahokoupil and Kahancová 2015). During the 1968 Prague Spring and efforts towards political liberalisation, ROH supported organisational reforms of the socialist political order introduced by Alexander Dubček. Twelve industrial unions were divided into smaller unions and given a certain degree of independence within the ROH. However, their initiatives were suppressed after the Soviet invasion and the fall of Dubček in 1969. During the following normalisation process, the ROH's initiatives for greater independence were blocked (Docherty and van der Velden 2012).

The main characteristic of trade unions under state socialism in Czechoslovakia was their highly unified and centralised structure, through which unions served as *an extended hand of the communist party*. Their activities were standardised, controlled from above and subordinated to political power (Myant 2010). They were not able to represent the interests of workers independently and negotiations about employment relations, such as pay, were out of the unions' scope of influence. However, trade unions had formal powers over health and safety issues at the workplace and adherence to the law. In addition, trade unions often signed agreements with management at the enterprise level to encourage higher productivity, with promised individual benefits in return (Myant 2010; Drahokoupil and Kahancová 2019). With this special position in society, trade unions enjoyed almost universal membership (Myant 2010). Their roles and membership structure changed following the period of economic and political transition to democracy.

2.2 Economic and Political Transition

As one of the newest EU member states from the post-Socialist region of central and eastern Europe, Slovakia is an open, export-led economy with a high share of foreign direct investment (FDI). Economic growth



has been accompanied by labour market reforms aimed at liberalisation and employment flexibilisation.

The reform process started with the 1989 fall of totalitarian regimes across central and eastern Europe. The »triple transformation« to capitalism, democracy and a reformed nation-state (Offe 1991) laid bare a lack of competitiveness in many Slovak enterprises (Balcerowitz 1995). While the centrally planned economy was characterised by full employment with state enterprises, restructuring, privatisation, and the emergence of new firms led to double-digit unemployment rates (Myant and Drahokoupil 2011). Unemployment grew from 2.7 per cent in March 1990 to 12 per cent in March 1993 (World Bank 1994).

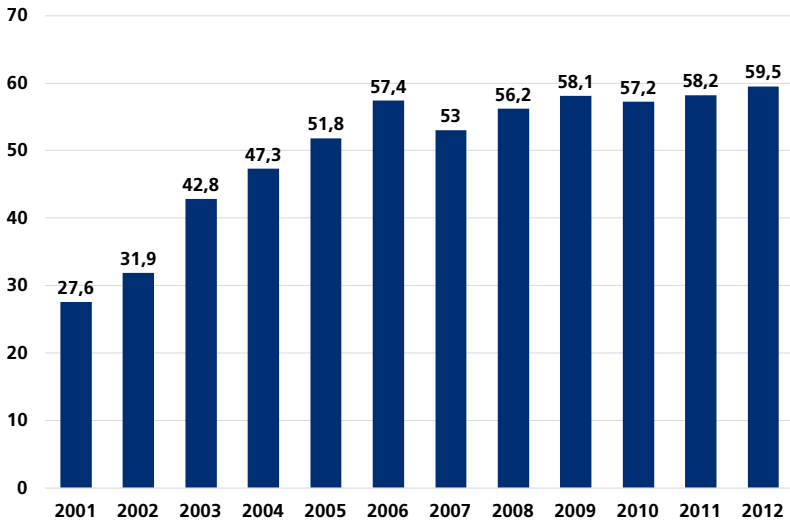
Slovakia emerged from the transition as an *embedded neoliberal country*, characterised by market liberalisation and deregulation, on one hand, and generous welfare policies and developed labour market institutions on the other (cf. Bohle and Greskovits 2012). These include labour legislation, tripartite negotiations, coordinated sector/multi-employer and company-level collective bargaining institutions, as well as employee representation at the company and sectoral levels.

In the late 1990s, after several years of the autocratic rule of Prime Minister Vladimír Mečiar, which focused on building a domestic capitalist class, Slovakia embarked on a policy turn towards attracting FDI and further market liberalisation. With the aim of achieving economic stability and employment growth, the right-wing government coalition of Prime Minister Mikuláš Dzurinda introduced wide-ranging reforms focusing on bank revitalisation, extended privatisation and FDI. A major Labour Code (LC) reform was launched in 2002, facilitating company-level bargaining and opening the door to new forms of atypical and flexible employment. These measures helped Slovakia to become an attractive host country for foreign investors in the Visegrad region.

In sum, reforms put Slovakia on the pathway to an open economy with a high share of FDI (see figure 1). In the first transition years, trade unions managed to maintain their hierarchies from pre-1989 times but sought independent societal legitimacy to overcome their association with the Communist Party. Some efforts of early governments to establish »yellow« trade unions in industrial companies failed to undermine the long-established trade union structure, and trade unions did not lose their workplace representation.



Figure 1: FDI Stocks as a Percentage of GDP, Slovakia



Source: Eurostat.

2.3 Trade Unions in Policy and Reform Processes

In the course of the early economic and political transition in the 1990s, new political elites feared possible social protests in response to painful reforms. Therefore, elites offered a *welfare contract* to trade unions, exchanging labour quiescence for trade union involvement in policymaking (cf. Bohle and Greskovits 2012). As a result, trade unions participated in the transition from the planned socialist economy to a market economy mainly through social dialogue with employers and the government without significant resistance. In the initial transition years, unions rather served as silent observers of the changing political and economic environment. Trade unions tried to avoid any substantial statements on the process of economic transformation beyond the desire that employee rights should be respected (Myant 1994). In this sense, the role of trade unions as agents of change in the transition process was marginal.

However, once unions accommodated their operations to the changing social, political and economic structures, they took a more active role in the transition process. Most importantly, unions influenced the



new legal frameworks and helped to retain a substantial level of employment protection. Protection for employees was accompanied by legal recognition of trade unions and collective bargaining (Drahokoupil and Kahancová 2019). Unions maintained important formal powers, including rights to information, consultation and codetermination (for example, of company social funds) and some control over the regulation of health and safety and overtime.

However, towards the end of the 1990s, when the right-wing government coalition continued to decrease the state's role in the economy and facilitate private entrepreneurship, the established welfare contract with trade union rights and employment protection exchanged for labour quiescence during initial reforms came under challenge (Bohle and Greskovits 2012: 246). Slovakia has seen trade unions being gradually excluded from national-level policymaking by the government (ibid.). This trend of »illusory corporatism«, where tripartite bodies formally exist but keep losing their influence, has also been observed in other CEE countries (Avdagic 2005; Mailand and Due 2004; Ost 2000; Stein 2002; ICTWSS database 2013).

The 2000s brought more turbulence and interactions between the unions' role in policymaking and interest representation in the transformed society. EU enlargement, the increasing presence of multinational firms, declining membership and fragmentation of unions due to diverging interests redirected trade union activities from collective bargaining at sectoral level to strengthening their political role and legislative influence at the national level. In this way they reinforced a legalistic or »statist« model of industrial relations (cf. Kohl and Platzer 2007) which depends on extensive use of legal provisions for regulating the role and activities of trade unions and employers' associations, as well as a larger role for political links than in western European countries.

2.4 Trade Union Adjustment Strategies in the New Political and Economic Environment

Despite the establishment of a strong legal framework with regard to trade union rights and collective bargaining, the 1990s also brought trade union disintegration, a decline in union membership and the increasing importance of plant-level worker participation (Myant 2010).



After the »Velvet Revolution« in 1989 and the collapse of the communist regime, the former Revolutionary Trade Union Movement (ROH) transformed itself into a hierarchically structured federal trade union system (Czíria 1995). Member unions formally dissolved ROH within the newly emerging congress of unions to establish a united federation of Czech and Slovak unions – the Czechoslovak Confederation of Trade Unions (Československá konfederace odborových svazů, ČSKOS) in March 1990. After the split of Czechoslovakia in 1993, the Confederation of Trade Unions of the Slovak Republic (Konfederácia odborových zväzov Slovenskej Republiky, KOZ SR) emerged as an independent national union confederation.

After years of being the transmission belt of the Communist Party, trade unions after 1989 tried to overcome the common perception of being an extended hand of political parties, despite some continuity in union personnel. Their new role required them to negotiate pay and conditions with employers at three levels: enterprise, sectoral and national (Myant 2010).

At the enterprise level, trade unions retained some strength in state-owned enterprises and public services, but suffered marginalisation in the private sector in both newly privatised and newly established enterprises (ibid.). Several significant Slovak employers – in the steel and chemical industries, mechanical engineering, energy and telecommunications sectors – were taken over by multinational companies. Some of these multinationals – for example, the Austrian and German ones – facilitated the implementation of employee participation and the functioning of trade unions at their subsidiaries in Slovakia (Tholen 2007). Being part of a multinational company allowed employees working in a subsidiary in Slovakia to participate in meetings of European Works Councils (EWC). Employees in EWCs are usually represented by the local trade union organisation (Czíria 2012).

At the sectoral level, Slovakia is one of the few countries in central and eastern Europe in which sectoral level social dialogue and collective bargaining have developed to complement enterprise-level industrial relations structures. This is closely related to the continuity in trade union structures and hierarchy organised along sectoral (branch) principles.

At the national level, the most important role of trade unions is their participation in the tripartite committee, established by the government,



employers and trade unions in October 1990. The aim of the tripartite committee was to offer a platform for consultation between the partners in social and economic transformation and to secure social peace. Although the committee serves only as an advisory body to the government without enforceable policy influence, tripartite social dialogue has been a crucial element in Slovak industrial relations in the past 25 years. A legal act regulating the functioning of the tripartite committee was adopted in 1999 and withdrawn in 2004, to be replaced by a new legal act on tripartite consultations in 2007.² The conclusion of countrywide general agreements in the tripartite committee ceased in 2000; however, trade unions strive to maintain their influence, especially on legislation, through their commitment to tripartism. Besides their participation in the tripartite committee, trade unions developed direct interaction with political parties, MPs and government representatives.

Dualism of Worker Representation

The formation of new private enterprises in the 1990s and the EU accession process in the early 2000s facilitated the emergence of other forms of worker participation besides trade unions (Myant and Drahekoupil 2011). In the context of implementing the EU directives on information and consultation and on European Works Councils, dual worker representation through trade unions and works councils was introduced in 2002. The establishment of works councils to some extent challenged the monopoly of trade unions in interest representation. The regulation of the coexistence of works councils and trade unions and of their responsibilities evolved in a political party struggle, with right-wing governments favouring weaker trade unions and shifting some of their rights onto works councils; and left-wing governments favouring the dominance of trade unions and promoting legislation to weaken the functions of works councils (Drahekoupil and Kahancova 2019). However, to date works councils have demonstrated little real influence at the workplace level, with trade unions remaining the dominant channel of interest representation.

2 Source: website of the tripartite committee – *Hospodárska a sociálna rada SR*, <http://www.vlada.gov.sk/hospodarska-a-socialna-rada-sr/>.



Political Cycles

Besides developing bargaining skills and adapting to the organisational cultures of foreign enterprises, over the 2000s trade unions continued their lobbying activities to shape labour legislation (Drahokoupil and Kahancová 2019). Political cycles left their mark on industrial relations. While right-wing government coalitions attempted to deregulate industrial relations and weaken trade union powers (for example, by complicating the extension procedure for higher-level collective agreements), left-wing governments led by the SMER party and prime minister Robert Fico signed a memorandum of cooperation with the largest union confederation KOZ SR, declared support for trade unions and social dialogue, and strengthened unions by abandoning the representativeness threshold for trade unions at enterprise level³ and enabling an *erga omnes* extension mechanism for collective agreements (Bulla et al. 2014). The extension mechanism was introduced in 2009, withdrawn after a change of government in 2011 and re-introduced in 2012. The years 2013–2015 saw the unions using this tool for the extension of collective agreements in key sectors, including mechanical engineering (and the automotive industry), steel, electronics and construction.

Impact of EU Membership

The entry of Slovakia into the EU in 2004 influenced the role of trade unions in several regards. Slovak unions became integrated into European trade union structures (Čambáliková 2014). Slovak employee representatives, usually union members, have a seat in the European Works Councils of multinational companies with operations in the Slovak Republic. These transnational bodies, and their right of access to information, have led to some pressure to improve trade union work, especially at the company level. Slovak unions welcome the opportunity to interact with foreign counterparts through European channels

3 The 2011 Labour Code amendment introduced a representativeness threshold for newly established company-level trade unions at 30 per cent of the workforce. This provision was removed by the next Labour Code amendment in 2012 (Bulla et al. 2014).



of union cooperation and consider this an important resource for domestic action.⁴

Besides this direct influence, EU membership has also influenced the operation of Slovak trade unions through various grants to support social dialogue in Slovakia and other EU member states in the region. Starting with early PHARE programmes in the period of the 2004 enlargement, support continues. The most notable recent development is the opening of the National Centre for Social Dialogue, in cooperation with the Ministry of Labour, Family and Social Affairs, funded by the European Social Fund.

Changes in Union Structures

In the course of transition, trade unions not only became a partner in bargaining on pay and working conditions, but also adjusted their organisational structures to their new roles. This involved decentralisation and operational autonomy at the enterprise level. In contrast to the centralised past, basic organisations operating at the enterprise level enjoyed freedom to affiliate with branch organisations (Myant 2010). Similar to the Czech Republic, branch organisations covering all employees within a sector remained the dominant form. This was challenged only recently with increasing trends of union fragmentation and the split of occupational unions from more encompassing branch unions, or the emergence of new professional unions, mostly in the public sector (health care and education) in response to post-crisis »austerity«.

At the national level the Confederation of Trade Unions of the Slovak Republic (KOZ SR) has remained the largest and dominant union confederation in Slovakia. Since its formation in 1990 it has continued its operations within the independent Slovak state without significant changes in its structures (Czírta 1995). KOZ SR, according to its statutes, is a voluntary association of trade unions and associations, whose aim is to defend the rights and interests of their members. The statutes highlight the democratic principle within KOZ SR with equal rights for all members,

4 For example, a recent 2014 interview of the authors with a union representative in health care revealed that unions find their bargaining power vis-à-vis employers and the government increases if they use evidence and arguments backed by European legislation, analysis or statements of EU-level trade union structures.



as well as its open and non-partisan character (KOZ 2012). KOZ SR brings together branch and sectoral trade unions from both the public and private sectors across industry, with a current membership of 27 sectoral trade unions. The second biggest confederation, the Independent Christian Unions of Slovakia (Nezávislé kresťanské odbory Slovenska, NKOS), brings together trade unions in the education, railways and metal sectors and participates in national tripartism alongside KOZ SR.

The transition to democracy also influenced decision-making processes within trade unions and internal election processes. The procedural rules for elections were integrated into trade unions' statutes, although the latter are not always easily accessible to non-members or the general public. Election to the bodies of KOZ SR is indirect and implemented by elected representatives of KOZ SR member unions. These delegates elect KOZ SR's president, vice-president, three auditors and members of the executive. The president and vice-president of the Confederation are elected on the basis of a written proposal of at least one-fifth of all members, submitted at least 30 days before the congress or at least one-fifth of the delegates present at a congress by a secret ballot. The congress can also decide to vote by acclamation. The candidate who receives the most votes wins the election, but only if they also obtain an absolute majority of all the present delegates with a casting vote. The executive is also elected by the delegates. Five members of the executive represent trade unions from the production and business sector and four members represent trade unions from public services. The same holds for the three auditors. The election mechanism is the same as for the president of the confederation (KOZ Statutes 2012).

Transfer of Trade Union Assets and Property after 1989

When the regime change happened, the assets and property of ROH were transferred to the unions' successor organisations – first, to the Czechoslovak Confederation of Trade Unions (Československá konfederace odborových svazů, ČSKOS) and after the division of Czechoslovakia to the Confederation of Trade Unions of the Slovak Republic (KOZ SR). The general rule was to divide the property between the new confederations in accordance to their numerical strength as of 31 December 1989. In early 1992, the right to property at the central level was given



to the Slovak Property, Administrative and Delimitation Union of Trade Unions. The congress of KOZ SR became the institutional founder of the unions' economic and recreational facilities. According to the new 1992 Slovak Commercial Code, these facilities had to be transferred to commercial companies. Therefore, in June 1992 the Slovak Property, Administrative and Delimitation Union of Trade Unions, together with 38 trade unions, established – as founding members – the United Property Fund of the Trade Unions and Associations (Jednotný majetkový fond zväzov odborových organizácií – JMF ZOO). At the end of 1992 JMF ZOO became the legal successor and owner of all economic and recreational facilities (Valovičová and Vrchota 2012). Similarly, after the dissolution of ROH, all financial assets were transferred to the trade unions. Since then, unions have been fully responsible for the management of these assets (*ibid.*).

The KOZ SR is not a member of the United Property Fund. In other words, union property and assets managed by JMF ZOO are separated from the political centre of trade unions, despite that both organisations currently reside in the same building (KOZ; Valovičová and Vrchota 2012). JMF ZOO's structure is currently divided into five limited liability companies, whose main source of income is real estate activities. By way of illustration, one of the five companies, SOREA sro, is currently the largest hotel company in Slovakia (Valovičová and Vrchota 2012; SOREA webpage).

According to its webpage, the main role of JMF ZOO is to offer services for member trade unions, including management of their accounts, payroll and personal administration, economic asset management, technical support and maintenance, and other support services.⁵ However, Valovičová and Vrchota (2012) claim that it is an open question how JMF ZOO's financial resources are used for KOZ's activities, particularly its sectoral trade unions and individual members. Although trade unions are not legally obliged to publish their financial accounts, some in the media have pointed out that KOZ SR should be more transparent, particularly because the majority of their financial resources were »inherited« from ROH and thus financed by general public.⁶

5 Source: JMF ZOO's webpage: <http://www.jmf.sk/index.html>.

6 Source: <http://korzar.sme.sk/c/4583020/korzovanie-co-skryvaju-odbory-o-majetku-nechcu-hovorit.html>.



3. Current Modes of Union Operation and Participation in the National Industrial Relations Structure

3.1 Social Dialogue and Collective Bargaining

Trade union participation in national industrial relations structures is firmly institutionalised and more important than in many other CEE countries, especially when compared with neoliberal states (cf. Bohle and Greskovits 2012). The industrial relations system in Slovakia is organised hierarchically with national-tripartite, sectoral (tripartite, multi-employer and bilateral) and company-level social dialogue structures. However, the impact of trade unions on policymaking depends greatly on which political party is in power. Trade union lobbying in the legislative domain and national policymaking has yielded disparate results over the past 10 years. Right-wing governments (1998–2006, 2012–2013) introduced regulations with negative long-term effects on trade unions, while left-wing governments (2006–2010 and since 2012) withdrew these measures as soon as they regained office. Within this stop/go framework, the unions have concentrated their attention on defending or shaping labour legislation. This focus reinforces the strongly legalistic character of the Slovak system, in which law and politics are crucial for the functioning of industrial relations institutions. At the same time, this union focus derives from the changing preferences of incumbent governments regarding the institutions of social dialogue, which increases trade union uncertainties at a time of declining membership.

The role of national-level social dialogue is to review, comment on and debate all relevant policy issues, especially those related to legislative proposals, and to help advise the government, without the conclusion of national tripartite agreements. The last general agreement was concluded in 2000 (see above).

Within the tripartite committee, the unions present their standpoints and point out issues of general relevance, mainly in relation to economic, social and employment policies. Despite trade union efforts to use tripartism as the most important channel of influence at national level, the results of tripartite concertation are not legally enforceable, but rather »gentlemen’s agreements«. In case of disagreement, the social partners’ views are included when governments



send proposals and draft legislation to be discussed in parliament. Although there have been several conflicts during the past two decades, including trade union criticisms of insufficient government efforts to reduce high unemployment and falling real wages, and even a trade union boycott of the tripartite committee, tensions between the social partners have not led to radical protests or industrial action (Czírja 2012).

At the sectoral level, the trade unions perceive collective bargaining as their most important task. Wages, job security and working conditions are the most important issues bargained about with employers and employers' associations. Sectoral bargaining is widespread in crucial sectors of the Slovak economy, including the automotive, steel, electronics, chemicals, construction and transport industries. The role of trade unions in sectoral bargaining is also firmly established in the public sector, where unions regularly conclude collective agreements with the government separately for public services (local administration, services of general interest, local government, selected health-care institutions and so on) and for the civil service (state administration and selected areas of local administration). The presence of major multinationals from countries with established social dialogue contributes to the stability of sectoral employers' associations. One reason why employers do not opt out from sectoral employers' associations and remain committed to sectoral bargaining is that sectoral agreements often set only minimum standards. For example, in some sectors – tourism, commerce and agriculture – the agreements contain only general stipulations, often not covering wages, to meet the diverse interests of various stakeholders in the sector. This situation facilitates the persistence of sectoral bargaining and supports the role of trade unions. At the same time, the content and regulatory scope of sector-level collective agreements are contested. In an international comparison, evidence from the ICTWSS database suggests that sectoral bargaining in Slovakia is characterised by lack of regular pattern-setting⁷ and low involvement of peak-level social partners, including KOZ SR on the trade union side. In other words, although unions find their

7 Pattern-setting refers to the role of sectoral bargaining in setting far-reaching benchmarks for wage bargaining in the economy. The term »pattern setting« is used in the ICTWSS database (see Database Codebook at http://www.uva-aias.net/uploaded_files/regular/ICTWSScodebook40.pdf).



activities at both national and sectoral level important, they remain relatively separate and vertical coordination between the national and sectoral levels is lacking.

Vertical coordination in union activities is also an issue between sectoral and enterprise-level bargaining. With regard to the trade union position in sectoral bargaining, access to enterprise-level information is often crucial; however, sectors vary in terms of the provision of such information. Some unions with better connections and sectoral-level capacities have a good overview of the enterprise-level activities of their members, while other sectoral unions have only a scattered knowledge. This points to the risk of further trade union and collective bargaining fragmentation. At the same time, sectoral union federations support the independence of their base (establishment-level) organisations.⁸

In sum, trade union roles in national industrial relations structures have clearly crystallised in the past 25 years and are firmly established. Despite the persistent importance of the sectoral principle in both trade union organisational structures and collective bargaining procedures, recent trends suggest an increasing effort of trade unions to focus their activities at the national level (to influence legislation) and the enterprise level (capacity building of union representatives in collective bargaining). This divergence leaves the future of the sectoral principle uncertain and may lead to divergence towards fragmented union structures and bargaining processes between Slovakia and other CEE countries.

Because trade unions in Slovakia concentrate strongly on shaping legislation and on collective bargaining, other forms of union action, such as organising efforts in segmented labour markets, mobilisation and industrial action, remain underdeveloped. However, there are a few exceptions, revealed by the authors' recent research. The most important activities include a shift in the unions' approach to temporary

8 Recent capacity-building projects for Slovak trade unions, supported by Norway grants, provide empirical evidence for this trend. For example, in recent evaluations of these projects, sectoral trade unions in health care, education and the food industry reported greater independence of union representatives at establishment-level in collective bargaining, and decreasing frequency of requests of support from sectoral organisations. Various projects run by Slovak trade unions funded by the Norwegian grant programme *Decent Work and Tripartite Dialogue* in the period 2012–2014 aimed to support capacity-building and training of trade union representatives at establishment level.



agency workers, from exclusion to inclusion in union strategies and efforts to negotiate on behalf of agency workers (see Kahancová and Martišková 2015). Another example is the rise of new trade unions in the public sector, namely in health care and education, which use different channels of influence from traditionally established trade unions (see Section 2.2 below).

3.2 Trends in Union Membership and Bargaining Coverage

Trade union membership, density and bargaining coverage have declined in the past two decades. Based on national data, Czírja (2012) reports a decline in union density from 30 per cent in 2003 to 18 per cent in 2008 and about 16 per cent in 2010. The ICTWSS database confirms the trend of declining union density (see table 1 and figure 2).

Table 1: Trade Union Density, Slovakia (%)

1995	2000	2005	2010	2011
56.1	32.3	22.8	16.9	16.7

Note: Net union membership as a proportion of wage and salary earners.
Source: ICTWSS database 4.0 (data code: UD).

The global financial crisis of 2008–2009 and the EU’s growth crisis in the aftermath probably accelerated the long-term trend of declining membership and density (see figure 2). KOZ SR representatives reported a loss of members in companies undergoing restructuring and facing dismissals in the past two decades. At the same time, unions reported some new members from among employees at risk of dismissal. Table 2 shows the developments in trade union membership in the 2000s.⁹

⁹ A decline in trade union membership has also been reported in the national survey conducted by the Trexima company commissioned by the Slovak government. Trexima’s Information System on Working Conditions (Informačný systém pracovných podmienok, ISPP) is based on a sample survey in enterprises covering 30–40 percent of employed persons in the economy in the relevant year. According to ISPP, the share of enterprises in the sample where trade unions were present decreased from 48 per cent in 2007 to 43 per cent in 2008, 42 per cent in 2009 and 33 per cent in 2010 (Czírja 2012).



Table 2: Trade Union Membership, Slovakia, 2001–2010

	2001	2003	2005	2008	2010
Number of members ('000)	655	576	480	379	306
Change towards the previous period ('000)	–	–79	–96	–101	–73
Density %	34	30	25	18	16
Change towards the previous period %	–	–4	–5	–7	–2

Source: EIRO Report TN0403105U on Trade Union Membership (1993–2003), Czírta (1995 and 2009a) based on KOZ SR and NKOS data.

With company-level bargaining becoming stronger, the enforceability of sectoral or industry agreements weakened and bargaining coverage declined systematically, from 51 per cent in 2000 to 35 per cent in 2011 (see table 3). The reasons include the declining trade union and employer density and the limited use of statutory extension mechanisms to increase bargaining coverage.

Table 3: Collective Bargaining Coverage, Slovakia (%)

2000	2004	2011
51	40	35

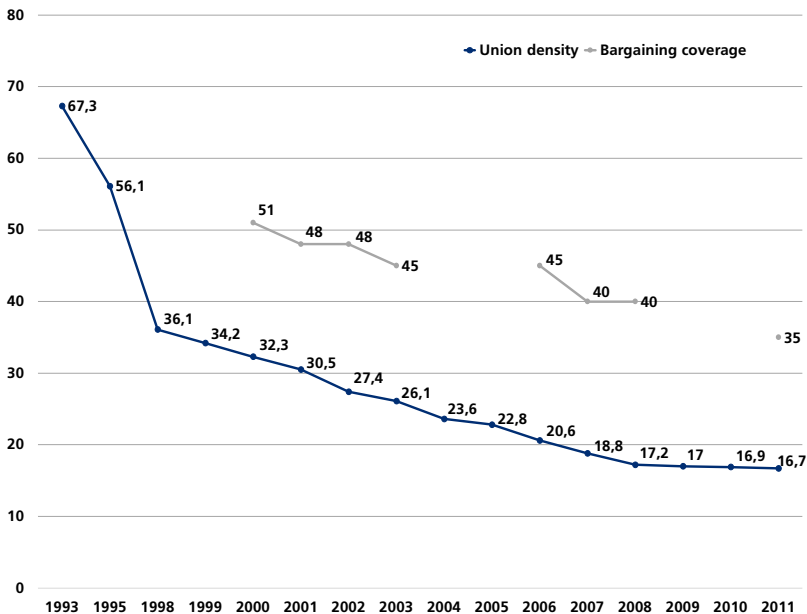
Note: Employees covered by collective (wage) bargaining agreements as a proportion of all wage earners with the right to bargaining, adjusted for the possibility that some sectors or occupations are excluded from the right to bargain.

Source: ICTWSS database 4.0 (2013), data code: AdjCov.

The declining role of unions is related to the spread of (bogus) self-employment, part-time work and temporary agency work, which undermine the trade unions' traditional representative role. For example, the construction industry is currently experiencing the scandal of a major construction company, Váhostav, which failed to pay for the services of a high number of self-employed subcontractors in contracts partly coming from public sources. This scandal feeds into debates on policy adjustments regarding decent work, working conditions, regulation of contractual relationships and public procurement procedures.



Figure 2: Union Density and Bargaining Coverage in Slovakia (%)



Note: The high density levels in the early 1990s have to be interpreted with caution in all post-Socialist countries.

Source: ICTWSS Database, version 4.0 (2013).

Mergers have been one trade union response to declining membership. Between 2008 and 2010, several unions joined their organisations to establish new bodies. As a consequence, the total membership of KOZ SR fell from 31 sectoral unions in 2008 to 27 in 2010.¹⁰

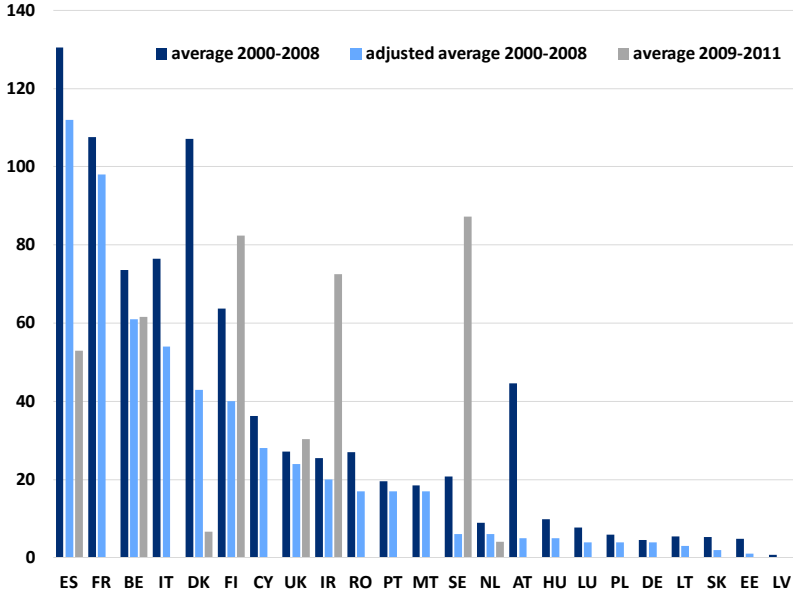
¹⁰ The trade union association Metalurg (Odborový zväz Metalurg, OZ Metalurg) became part of the Metal Trade Union Association (Odborový zväz Kovo, OZ Kovo). The Slovak Trade Union Association of Energy (Slovenský odborový zväz energetikov, SOZE) merged with the Trade Union Association of Chemical Industry (Odborový zväz Chémia, OZCH SR) to establish a joint trade union association in the energy and chemistry sectors (Energeticko-chemický odborový zväz, ECHOZ). Next, the Textile, Leather and Footwear Industry Workers Trade Union Association (Odborový zväz pracovníkov textilného, odevného a kožiarskeho priemyslu, OZ TOK) and the Trade Union Association of Transport, Road Management and Car Repair (Odborový zväz dopravy, cestného hospodárstva a autoopravárstva) merged with the Trade Union Association of Construction (Odborový zväz Stavba, OZ Stavba) and established the Integrated Trade Union Association (Integrovaný Odborový zväz, IOZ). Finally, the Slovak Trade Union Association of Societal Organisations joined the Slovak Trade Union Association of Public Administration (Sloves) in 2010 (Czíria 2012).



3.3 Labour Unrest, Militancy and Trade Union Participation in Workers' Actions

The transition period, social and economic reforms, growth of non-standard work and responses to the crisis were accompanied by very low levels of labour unrest in Slovakia. Bohle and Greskovits (2012) argued that labour quiescence in the Visegrad countries, including Slovakia, was facilitated by the welfare contract in the early 1990s in which trade unions agreed to labour quiescence in exchange for policy influence. As already discussed, trade union policy influence has been weakening for the past two decades, but unions did not overtly mobilise to pursue their interests. Figure 3 documents the development of industrial action in the second half of the 2000s in the EU, showing that Slovakia, together with other CEE countries, has among the lowest number of working days lost through industrial action in the European Union.

Figure 3: Strike Activity in Slovakia and the EU (measured as days not worked [DNW] per 1000 employees)



* 2009–2010 for AT and PL; 0 DNW (2009–2010) in AT and PL, 0 DNW (2009–2011) in EE and LT.
Source: Vandaele (2011), data sorted by adjusted average.



The economic crisis did not change the trend of labour quiescence and the low level of collective actions. However, what is noteworthy in the Slovak case is the increased number of strikes in the public sector in response to post-crisis austerity and wage freezes (Kahancová and Martišková 2016). In the education sector, trade unions tolerated wage freezes until 2011 when teachers engaged in a strike after the government failed to meet their demands in long-lasting bargaining rounds. The strike succeeded in obtaining wage increases (albeit lower than the unions initially demanded), but at the same time increased union fragmentation in the education sector (ibid.).

Next to education, public health care also saw growing dissatisfaction with working conditions and wage levels, which motivated union mobilisation for public protests and threats of resignation by doctors. The largest health-care union (Slovenský odborový zväz zdravotníctva a sociálnych služieb, SOZZaSS) remained committed to collective bargaining to demand equal wage growth for all health-care personnel. The principle of equal wage growth was broken after the 2011 protests by the doctors' trade union (Lekárske odborové združenie, LOZ) who demanded and finally achieved significant pay increases for doctors only, stipulated by legislation instead of collective bargaining.¹¹ The success of LOZ motivated the newly established trade union federation of nurses and midwives (Odborový zväz sestier a pôrodných asistentiek, OZSaPA) to launch public protests, a hunger strike and a billboard campaign against the government in 2012–2013 to obtain wage rises exclusively for nurses and midwives through legislation. In sum, while SOZZaSS favoured more traditional modes of union action, including collective bargaining, the occupational unions LOZ and OZSaPA succeeded in gaining more public attention and wage rises through more innovative union actions.

Besides the public sector, strikes and union protests also occur in industry. OZ Kovo, the metalworkers' union federation, was publicly most visible in relation to protests, demonstrations and strikes in the past five years. Strikes and protests most often responded to one of two kinds of conditions: first, individual company conditions (company

¹¹ The actions of LOZ included a campaign among medical doctors to quit their jobs if their demands were not met. This action pushed the government against the wall and produced significant wage increases for doctors, implemented gradually between 2012 and 2015. The action of OZSaPA also yielded a law on wage rises for nurses and midwives, although in 2012 it was withdrawn as unconstitutional.



restructuring, delay in wage payments, criticism of working conditions) and second, legislative changes to the Labour Code. While strikes, protests and demonstrations by sectoral and company-level unions centred most commonly on specific company cases, KOZ SR actions responded to unsatisfactory developments, most often related to (proposed) changes in the Labour Code.

3.4 Unions Representing the Rights and Interests of their Members and Recognising Opportunities for Action

Legal frameworks continue to remain a crucial resource for trade union functions. The reliance on legislation also reflects the weakening capacities of unions to negotiate better working conditions through collective agreements. Trade union actions thus focus to a large extent on defending the legal frameworks that were negotiated in the early transition years, or preventing their further erosion. At the enterprise level, a key role for trade unions is monitoring compliance with labour legislation in companies with or without a union presence.

However, Kahancová (2015) argues that despite structural indicators showing declining union capacity to represent their members' interests, union resources are not completely depleted. As a result, unions are able to mobilise and serve as relevant interest representation organisations in the post-crisis conditions in Slovakia. Several case studies provide evidence for this argument.

Migration, Skill Shortages and Bargaining in Health Care

In the pre-crisis years, public health care in Slovakia was strongly affected by the migration of medical professionals to western EU member states, causing labour shortages in domestic health care. At the same time, union density in health care was 50 per cent and employer organisation density reached 80 per cent in 2006. Collective agreements applied to about 95 per cent of public health-care employees in the same year (Czíria 2009b).

Kaminska and Kahancová (2011) studied how health-care trade unions, most notably SOZZaSS, responded to migration-triggered labour



shortages and whether their strategies produced wage increases, better working conditions and consolidation of coordinated bargaining. Their findings show that health-care unions took the skills shortage created from post EU-enlargement migration trend as an opportunity to bargain for better working conditions, which in turn helped to improve trade union legitimacy and strengthen the unions' role in society. In contrast to Poland where unions opted for strikes and public protests, the Slovak unions placed their action within the functioning bargaining system (ibid.). Only later did doctors and nurses opt for other kinds of action than collective bargaining (see above). As a result of bipartite sectoral bargaining in the aftermath of extensive migration, unions achieved wage increases for health-care employees in state hospitals amounting to 30 per cent between 2006 and 2008. Although this achievement did not help to overcome union fragmentation in health care between SOZ-ZaSS and LOZ, it consolidated the unions' role in sectoral bargaining. Union action also reinforced multi-employer bargaining in the health-care sector, which is unique in the overall trend of bargaining decentralisation across European countries. In more recent years, bargaining in health care has been undermined by further union fragmentation and union preference for militant action and public campaigns to collective bargaining (see section 2.2).

Trade Unions in Sectoral Bargaining in the Automotive Sector

Given the strong industrial orientation of the Slovak economy, the economic crisis in 2008 yielded stronger effects in production than in financial markets. The crisis brought an opportunity to intensify bargaining coordination on anti-crisis measures in the highly relevant automotive industry. Despite union dissatisfaction with employers' rejection of horizontal extensions and employer threats to opt out from coordinated bargaining, the sectoral union OZ Kovo and the employers' association ZSP (Zväz strojárskoho priemyslu, ZSP) succeeded in negotiating sector-specific anti-crisis measures. These included employment guarantees for skilled workers in the automotive industry. OZ Kovo and ZSP agreed to amend the 2008–2009 collective agreement with provisions on short-time working, the use of flexikontos and payment of 60 per cent of wages in case of lockouts. At the same time, the strong



trade union interest in maintaining sectoral bargaining overruled the unions' interest in representing workers in more precarious employment, including temporary and agency workers. As a result, the sectoral agreement for 2010–2011 directly stipulated that contracts with agency and temporary workers were not to be extended and (bogus) self-employment was to be minimised (Kahancová 2013). While these outcomes document a commitment to coordinated bargaining, the underlying union strategy contributed to widening the gap between workers with standard employment contracts and precarious workers. This asymmetry in protecting workers' interests results from a deliberate strategy of both ZSP and OZ Kovo (ibid.).

Trade Unions against Precarious Employment

Post-1990 labour market developments increased pressures for labour market flexibilisation, which in turn facilitated the growth of precarious employment forms. Some forms of precarious work resulted from legislative changes (temporary agency work, fixed-term employment), while others developed as externalities of legislative developments (for example, bogus self-employment replacing regular employment).

The Slovak trade unions generally share the goal of reducing precarious employment with unions in other countries. However, union efforts to organise precarious employees remain marginal and union action does not target precarious employees exclusively (Kahancová and Martišková 2012). Instead, unions have opted for political involvement in the national legislative process to support legislative improvements and extend protection to precarious workers. At the same time, unions engage in collective bargaining on working conditions specifically for precarious employees and monitor unlawful employer behaviour against such workers, for example, in the retail sector (ibid.). To a marginal extent, trade unions have also attempted to disseminate information on decent work in order to increase public awareness of growing precarious work and empower workers to help to reduce this trend. Despite these actions to support precarious workers, some union activities have done exactly the opposite and have deepened labour market dualisation between regular and precarious workers (see section 2.3.2 above).



Political engagement in the legislative process has been the most important trade union instrument in their efforts to address the rights of precarious workers. Union political action has been effective in obtaining political support from the leading party SMER and the government dominated by this party between 2006 and 2010 and since 2012. Dependency on political support, however, has been to the detriment of an original proactive approach to the regulation of precarious employment on the side of trade unions.

However, since 2011 the unions have revised their strategy vis-à-vis precarious employment and have developed more proactive, targeted, union-driven organising efforts to address the rights of precarious workers. Besides elaborating a strategy on precarious work at the confederation level within KOZ SR, since 2014 the sectoral union OZ Kovo has striven directly for the conclusion of sectoral agreements for temporary agency workers, who are among the most precarious categories of employees on the Slovak labour market (Kahancová and Martišková 2015a). Union efforts have been supported by employers, who – despite the fragmented structure of the employers' association in the temporary agency work sector – aim at more detailed regulation of agency work to avoid social dumping and unfair competition from several agencies operating in the sector. The shift in union strategies to extend their representation to disadvantaged groups on the labour market indicates the unions' ability to recognise new opportunities and to act accordingly, despite their structural weakening (bargaining coverage and membership trends).

4. Conclusions – Constraints and Challenges Facing Trade Unions

Similar to other post-Socialist countries, trade unions in Slovakia face a growing range of challenges to their role in society. The fall of state socialism left trade unions with no experience of systematic bargaining, no independent identity, little heritage of collective militancy and limited experience of the effective representation of workers' interests. The lack of a tradition of collective action in post-Socialist Slovakia proved to be the major challenge for trade unions after 1989. At the same time, trade unions inherited substantial apparatuses and property that gave



them the potential to assert independence and develop influence in workers' representation and policy making in the transition years (Drahokoupil and Kahancová 2019). Despite these mixed influences from the past, trade unions did manage to re-establish themselves as interest representation organisations in the newly formed capitalist system. The transition years were followed by a decade of economic growth, labour market flexibilisation and deregulation and finally the economic crisis of 2008–2009 intensified the challenges facing trade unions.

The main pillar of trade unions is legal regulation, stipulating union rights in codetermination, information and collective bargaining. However, especially in the recent post-crisis years there have been legal changes concerning union legitimacy. This in turn has pushed trade unions to a position in which they constantly have to re-establish themselves as legitimate organisations capable of representing the interests of their members and the wider labour force, engaging in social dialogue and delivering feasible collective bargaining outcomes. Facing this challenge, unions operating in an environment hostile to collective interest representation are focusing most of their capacities for action in two areas.

First, at the national level, they seek to influence legislation through their engagement in tripartism and direct political support. Through the open cooperation between the largest trade union confederation KOZ SR and the political party SMER, trade unions gained codetermination rights on flexible working time accounts (*flexikonto*), the introduction of *erga omnes* extensions to sectoral collective agreements and involvement in shaping Labour Code amendments, such as the definition of »dependent employment« (Kahancová 2013). Whenever a union-unfriendly political party regains power, such influence is neutralised, if not negated. With a pro-labour government since 2012, unions enjoy political support for their national-level actions. However, the government is increasingly coming under the influence of business interests, which leaves the political resources of trade unions in some doubt for the future. This development suggests that unions should develop a more balanced mix of resources in order to reduce their political dependence. Resources that would probably strengthen trade union legitimacy and structural power include organising new members also from more flexible and precarious parts of the labour market, developing strong international contacts with European and international



trade union federations, a more pro-active engagement in domestic socio-economic developments, and an active role in EU-wide debates within sectoral social dialogue committees and beyond.

Second, at the sectoral and establishment levels, unions consider collective bargaining, the conclusion of collective agreements and monitoring employer compliance with the law as their main functions. Despite variations in bargaining procedures and outcomes, coverage rates and trade union structures across the sectors of the economy, in Slovakia the sectoral principle still plays an important role in union structures and collective bargaining.

Another major challenge facing trade unions is the decline in organisational capacities, most notably driven by membership decline. Trade unions face difficulties in recruiting young members and members from among precarious employees in segmented labour markets. KOZ SR estimates that precarious workers comprise 15 per cent of all union members (ibid.). Such membership trends have negative consequences for union capacities and legitimacy. At the same time, capable leadership in some sectoral unions, most notably health care, yielded improvements in working conditions through sector-level collective bargaining in the mid-2000s. Besides membership decline, trade unions are worried about the declining coverage of collective agreements. In this light, trade unions welcomed the legislative change to support *erga omnes* extensions to higher-level collective agreements.

Recent years have seen fragmentation emerging between unions focusing on traditional modes of action (collective bargaining in sectors and social dialogue at the tripartite level) and unions that were dissatisfied with the lack of results through bargaining now seek other kinds of action. The latter group of »new« unions, which emerged particularly in the public sector, is more radical and uses the public arena for protests, demonstrations, petitions and campaigns to influence society as a whole. More militant action in the public arena seems to bring more success for trade unions than traditional social dialogue and collective bargaining. While such new types of action strengthen union resources, at the same time they undermine the traditional pillars of industrial relations, most importantly coordinated bargaining and solidaristic wage setting.

Finally, trade unions in Slovakia also increasingly recognise the need to adjust their internal structures to meet the above challenges. Union leadership structures inherited from state socialism have un-



dergone many changes but need to adjust further to modernise trade union operations. This includes the incorporation of young trade union professionals with international educations in sectoral trade union structures.¹²

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¹² Source: authors' observations during interviews with trade unions.



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The FDGB and Its Craft Union IG Metall in Pursuit of Self-Transformation

Wolfgang Schroeder

Before the member federations of the Deutsche Gewerkschaftsbund (DGB – German Trade Union Confederation) transferred their organisations from western to eastern Germany by institutional transfer the Freie Deutsche Gewerkschaftsbund (FDGB – Free German Trade Union Confederation) and its former craft trade unions had attempted – more or less resolutely – to transform themselves. Why did these attempts at self-transformation fail? Who were involved in these activities, what aims did they pursue, what challenges did they have to contend with and what were the consequences of these activities? The following presentation focuses on what unfolded among the trade union actors of the East German metal industry.

1. The Upheaval: From »Third Way«¹ to Accession Movement

Viewed from outside, until shortly before its political collapse the German Democratic Republic (GDR) appeared to be a relatively stable state. Behind this façade, however, the latent internal contradictions became increasingly pronounced, although not in such a way that a revolution could have been predicted. Open destabilisation leading up to the implosion of the Socialist Unity Party of Germany (Sozialistische Einheitspartei Deutschlands – SED) regime was the final outcome of a long period under a dysfunctional institutional system and a paralysed economy. The dynamics of the political process in 1989 were driven by

¹ Cf. Roctus (1999).



mass exodus and demonstrations. What was special about the political collapse of the SED regime is not revealed by a comparison with those COMECON partners – such as Hungary and Poland – in which there were both reform forces within the Communist Party and opposition groups with a long tradition and deeper roots in the population than was the case in the GDR. Because there were room to manoeuvre and avenues for exerting influence in these countries for both system-conformist counter elites and those who were critical of the system the potential also existed for self-transformation. The decisive difference, however, was the fact that people in the GDR had an alternative to their way of life constantly before their eyes, for which no particular effort had to be made to »sell« it to them because it was already part of their everyday lives: the Federal Republic of Germany. It was the key reason why collapse there was more rapid than in any other »real socialist« country. Instead of venturing a risky transformation that would not have had much to build on, people demanded »the turning point within the turning point« (*»die Wende in die Wende«*) or annexation to the Federal Republic.

Confrontation with the SED regime took place primarily on the street. The main criticisms were the lack of civil rights and liberties and the paucity of consumption opportunities. Workers went on demonstrations after work. The workplace was a subordinate place of conflict. And even when the conflict over the legitimacy of the SED regime took place there it was mainly about the replacement of the old system and less about self-transformation on the part of workforces. To that extent the mode and manner of the upheaval in the GDR should be sharply distinguished from a revolutionary model in the Marxist mould. In the perspective of what one might term a »producers' revolution« the issue was the right of disposal over the firm. By contrast, in the GDR at issue was a »consumers' revolution« (Kädtler, Kottwitz, Weinert 1997: 23). Correspondingly, the hope arising from the so-called »shortage economy« of a higher level of consumption formed the pivotal point of both individual and collective political orientations in the turmoil of the period of change. This characterisation implies not only a delimitation from the producers' revolution but also a fundamental rejection of further socialist experiments. At the same time, the concept of a consumers' revolution draws attention to the fact that it was less a positive attitude towards the Federal Republic's model of democracy that



moved the majority of people to act, but rather the expectation of being able to enjoy the material output of the West German system. Thus the upheaval in the GDR can be understood as a passive consumers' revolution. Because of reunification, no one had to take responsibility for the transformation.

2. Debates in and about the FDGB: Discontent in the Workplace

Substantial impetus for the collapse of the SED regime came from the mass exodus to the Federal Republic and the mass demonstrations in the GDR. Conversely, this does not mean, however, that workplaces had somehow become entirely marginalised. Practically all activities occurring at the borders and in the streets also found expression at the workplace level. First and foremost, primarily at the level of informal communication, but increasingly also under the spotlight within the firm. At the centre of workplace discussions was the fundamental conflict with the SED regime, which was deemed beyond reform. As political debates infiltrated the workplace general political topics in most instances took on a workplace-specific aspect, either because the workforce was exasperated (Ruppert 1996: 41) with SED functionaries there or because they complained of specific problems. A first public indication that the workplace was also becoming a venue for debates about change was the open letter written by the trade union members of the state-owned company (VEB or Volkseigener Betrieb – literally »company owned by the people«) on 29 September 1989 to then leader of the FDGB Harry Tisch (Pirker et al 1990: 16).

While the criticisms voiced on the streets were directed almost exclusively against the SED leadership, in the workplaces the FDGB leadership also came into the firing line, especially because of its function as the SED's »transmission belt«. Initially, the discontent was directed less towards the fact that the FDGB did not really represent the interests of the workers and rather against the insensitive and ritualised stigmatisation of groups of citizens and those leaving the country as »betrayers of the fatherland« or »dupes of the class enemy« by FDGB officials. How disastrously wide of the mark most FDGB officials were in their reading of the situation can be seen from the fact that they them-



selves, against the background of the emigration wave communicated by the mass media, were not in a position to take a critical look at their own failings (Pirker et al 1990). Even in policy areas in which the FDGB could not deny a certain responsibility, such as wage policy, the FDGB leader rejected the criticisms of workplace representatives and instead laid the shortcomings they were complaining about at their door, claiming that they were not really up to the job.

After the opening up of the Hungarian border on 11 September 1989 and the mass demonstrations in the context of the GDR's Fortieth Party Congress the pressure on the SED regime was becoming so strong that the SED leadership under Egon Krenz took the bull by the horns and sought a »controlled dialogue« with the populace. In parallel with this the FDGB leadership, too, launched a public dialogue with its members on 13 October 1989, both throughout the GDR via the FDGB newspaper »Tribüne« and at grassroots level in workplaces. The membership seized the opportunity provided by these newly created forums with both hands to articulate the existing dissatisfaction with SED policies and demand root and branch changes (Pirker et al 1990). The demands raised within the framework of workplace debates did not, for the time being, include calls to do away with the FDGB and the establishment of a new, independent trade union. Rather members demanded that home-made problems be addressed more critically and openly, especially the unsatisfactory supply situation and the unfair distribution of social benefits. All this is to be categorised as political protest to the extent that it culminated in the demand that all political authorities should be removed from the workplace and the FDGB should make itself independent of the SED (Kädtler et al 1997: 253ff).

Even though as late as October 1989 no direct counter-movement to the FDGB leadership was on the horizon, the latter proved to be its own worst enemy by falling in line with the SED's stance towards those ready to emigrate and demonstrators. It thus increasingly found itself the focus of popular anger. The negative image that arose from this was reinforced by revelations about the illicit personal enrichment of individual trade union leaders, as well as embezzlement by the FDGB national executive (Weinert 1997: 235). On 1 November 1989 the *Berliner Zeitung* – the district organ of the Berlin SED – reported on improper use of state resources for the construction of a new house by Gerhard Nennstiel, leader of IG Metall/GDR. On 23 November ADN



(Allgemeiner Deutscher Nachrichtendienst) reported on the Byzantine grandeur of Harry Tisch's sojourns at the state hunting estate at Eixen. On 29 November 1989 the FDGB executive confirmed that the Freie Deutsche Jugend (FDJ) had received 100 million marks from the FDGB's Solidarity Fund for its Whitsun meeting. Finally, on 7 December it was revealed that the FDGB had 2 million marks in a slush fund. To what extent these scandals were part of deliberate manoeuvring by the SED leadership – for example, to downplay its own role or even personal, as some suspect in the case of Nennstiel² – is a moot point. What matters is that these public scandals brought about a change at the top of the FDGB. This answered a widely-felt need on the part of the population to find people responsible for their poor living standards and to punish them.

The scandals provided a sounding board for the discontent with existing circumstances and the idea that something fundamental had to change (Weinert 1997: 235). Some people left the trade union, others cancelled their membership dues³ and many regarded it as confirming their opinions, but without any immediate effects on their actions. In their study of works councils Kädtler, Kottwitz and Weinert come to the conclusion that workforce pressure was not oriented towards specific employee interests, but rather driven by a desire to get the SED regime out of the workplace.⁴ This also included the fight against »red socks and cliques« that in some cases led to the resignation of unpopular BGL chairmen (BGL = *Betriebsgewerkschaftsleitung* – company or workplace trade union leadership), combine directors and leaders. In many cases the old officials had no option but to resign or were forced from office by the employees. In order to pre-empt this fate many company un-

2 Gerhard Nennstiel (born in 1946) belonged to the younger, more politically ambitious generation of individual trade union leaders (who had attended the Higher Party School in Moscow), who was expected to succeed to the throne. It was suspected that the Berlin SED district leadership was behind the campaign to discredit Nennstiel and bring Annelis Kimmel to the fore as successor to Harry Tisch.

3 »In protest against abuse of office in the national executive of the FDGB and the squandering of union dues we shall not pay our dues for the months of December 1989 and January 1990. But this does not amount to resignation from the FDGB!« (SAPMO-BArch, Bestand IG Metall: K EAW, Hoffmannstr. Abt. ÖZSF, Berlin to the central executive committee IG M 20.12.1989).

4 This evaluation is also inferable from the following statement by a works council representative: »The red cliques was the key idea at that time. And we as the works councils had been given the task of focusing on that« (cited from: Kädtler et al. 1997: 85).



ion leaderships sought democratic legitimacy by calling for a vote of confidence. In many workplaces this worked; in others, however, the BGL could no longer muster enough candidates and elsewhere a works council was elected in the course of the transition in 1989 that replaced the BGL and AGL (AGL = *Abteilungsgewerkschaftsleitung* - departmental trade union leadership) structures. In quite a few cases BGLs and works councils co-existed until the conclusive adoption of the Works Constitution Act (Ruppert 1996: 157).

Which kind of representative body the workforce opted for depended not only on the preferences and balance of power within the firm. Another key influence was the fact that the company management could encourage the establishment of a works councils and activists in the company saw this as a welcome opportunity to demonstrate that they were eager to lead the way in embracing the onrush of Western standards. Also very important were direct company contacts with West German trade unions and works councils. This included some who recommended the establishment of works councils,⁵ but also some who, on the basis of their own political preferences, called for utilisation of the, from their standpoint, more extensive possibilities of the BGL within the framework of the Labour Code. While the former dominated in the region of Leipzig, the latter were more prevalent in the Berlin region.

The upheavals that took place at the workplace level in 1989/90 were primarily politically motivated »cleansing« operations, which delegitimised not only the SED, the »workers' militia«, the Society for German-Soviet Friendship (DSF) and the Stasi, but also the FDGB as representative of the unloved system of rule. The capitulation and deselection of most BGL leaders were followed in many cases by the election of BGL members or the founding of new works councils. What form of interest representation was preferred was not the result of a substantive struggle between two hostile lines but rather the »silent« and sometimes random outcome of the particular internal constellation. This is also borne out by the fact that where BGL and works councils existed in parallel, after some initial conflicts and difficulties in establishing roles, a pragmatic division of labour could usually be found (Ruppert 1996: 157). In places where a works council had been established early on, one can talk of »demonstrative re-establishments« (Kädtler et al 1997: 86)

.....
5 This was, for example, very pronounced in the region of Leipzig.



aimed at opposing the hierarchical FDGB with a workplace alternative, without being active beyond the company level.

Workplace activities that resonated beyond the firm or even urged the formation of a new independent trade union – like the establishment in October 1989 of workplace reform trade unions in Teltow, Erfurt and Potsdam⁶ reported by the West German media – were rather peripheral phenomena. Even though initially only individuals lay behind this and no independent trade unions emerged from it, it was a further public sign of discontent with the political conditions in the workplace. The fact that there was no groundswell for the establishment of an independent union in workplaces was discovered by no less a person than Heiner Müller⁷, when, at the great rally on 4 November 1989 in Berlin, he proposed that very thing (Pirker et al 1990: 139). The lack of interest among the workers can be traced to three things in particular. First, those who proclaimed the need for an independent trade union – such as the »initiative for independent trade unions« (Jander 1996) – were a barely noticed small group dominated by intellectuals. Although these projects embodied the model of a producers' (workers') revolution, they had neither influence in the workplace nor any idea of how an independent trade union should operate on a day to day basis. Ultimately, these initiatives, which existed in the environment of highly diverse opposition groups, represented a framework for debates and the making of public statements and thus amounted to little more than a talking shop. Second, it should be noted that FDGB membership went hand in hand with selective perks, such as holidays at FDGB resorts, bonus payments and other benefits. A switch to an organisation without resources would have put an end to all this. A third key factor was that workers were not looking forward to a new GDR trade union, but West German unions.

The commitment and influence of those workplace actors who were close to the civil rights movement or regarded themselves as part of it were of central importance in the comparatively trouble-free dismantling of SED organisations and the establishment of works councils.

6 »SED aus den Betrieben« [SED out of the workplace], in: Spiegel, 30.10.1989; Gründung einer unabhängigen Gewerkschaft in Teltow versucht [Founding of an independent trade union in Teltow attempted], in: Der Tagesspiegel, 24.10.1989.

7 Heiner Müller is arguably the most important German dramatist in the 20th century after Bertolt Brecht.



Above the company level, however, trade unionists in the civil rights movement did not play much of a role. In the end it was the workplace FDGB cadres of the second and third rank who participated in the self-transformation efforts of structures such as IG Metall/GDR. Some of them were able to rise within the apparatus fairly rapidly and to become torchbearers for a renewed metalworkers trade union. By contrast, the top ranks of BGL leaders were almost entirely replaced (Jander 1996: 62).

Faithful to the model of the consumers' revolution broad swathes of the workforce participated in political cleansing in the workplace because in that way they were able to remove people and institutions that had not only been involved in the shortage economy, but had even been able to exploit it to their own advantage through a selective clientistic distribution and control policy. Larger workforces took part in the reorganisation that began as early as October 1989 in many workplaces. Subsequently, this was the case mainly with regard to nominating candidates and works council elections. The actual representative work was put in the hands of the new interest representatives, dominated by white-collar workers and graduates of universities and technical colleges (Kädtler et al 1997: 42; Bergmann 1996: 268). Representatives from among the workers' ranks played a subordinate role both quantitatively and in terms of qualitative participation.

While the broad criticisms of the FDGB concentrated primarily on abuse of power, personal enrichment, political co-responsibility and thus on the lack of independence from the SED, not to mention the selective approach to the distribution of scarce holiday places, the new actors from a white-collar milieu demanded of IG Metall rather an open, unvarnished account of the causes of the economic crisis in order to improve company performance. Higher economic efficiency was expected to arise from a higher level of responsibility in the workplace, to be accompanied by a company union (BGL) furnished with more extensive rights on the basis of a reformed Labour Code.⁸ Aware

8 »First of all, we at IG Metall have to implement the performance principle in our workplaces at a completely new qualitative level; in other words, conditions have to be created, and that must also be an IG Metall demand, with a view to the inclusive implementation of the codetermination of working people in the reproduction process and for all colleagues to participate in the profits« (SAPMO – BArch, Bestand IG Metall: Beyer stellv. BGL-Vorsitz, 21.12.1989 to the central executive committee IGM).



that the extensive mode of production of the planned economy, with its disregard for profits and costs and a politically superimposed control bureaucracy was a fundamental cause of the unsatisfactory economic performance and thus also of the shortages, they focused their criticisms on removing the hindrances on white-collar employees in order to improve efficiency and performance across the board (Kädtler et al. 1997: 117). Many white-collar employees were sceptical whether their interests could be adequately represented by IG Metall, which in turn led to their weighing up whether to form their own white-collar union.

The dismantling or reconstruction of workplace SED/FDGB institutions, as well as the reorganisation of workplace social systems took place at a time when the state structures of the GDR had more or less the character of a Potemkin village, while their counterparts in the Federal Republic, albeit not yet existing on the ground, nevertheless already determined the debate. IG Metall-West and the other DGB trade unions were still not present in workplaces when the consumers' revolution had already swept the FDGB away. Scandal transformed latent into open distrust. At the same time, there was a hope that the social securities that the FDGB co-guaranteed could be continued by the West German trade unions. The employees found themselves in an ambivalent situation. On one hand, there was the euphoria of the consumer revolution concerning the coming end of the shortage society (its symbolic cornerstones were the opening up of the Berlin Wall on 9 November 1989 and the introduction of the DM on 1 July 1990). On the other hand, there was a fear that because of the enormous economic disparities between East and West Germany an unprecedented threat to or even destruction of familiar living standards might occur. It was ultimately the euphoria of the process of reunification and the end of the shortage society it ushered in that masked the »worries about sell-out, unemployment, poverty, piecework and anarchy« (Marz 1989). The transfer of trust to the West German elite and its apparently guaranteed level of prosperity that occurred at this time also contributed to the fact that there was little significant effort to fashion new home-grown structures against the opposition of the West German elite. Together the new workplace functionaries, largely drawn from white-collar ranks, and part of the unpaid FDGB elite tried to assert the interests of the employees in the ongoing company transformation process. They called for efficient management and efficient structures of production.



Their commitment was oriented primarily towards business considerations; their trade union ambitions beyond the firm were accordingly modest, so that at the workplace level there was insufficient substance to enable the self-transformation of IG Metall/GDR from there.

3. From Upheaval to Dissolution: IG Metall in the GDR Manages neither Self-transformation nor Merger

With around 1.5 million employees the metal and electrical industry was the biggest industrial branch in the GDR (Schroeder 1996). The number of officially registered trade union members in this economic area was larger still; in 1989 it stood at 1,819,356 people, making IG Metall/GDR by far the biggest organisational unit among the FDGB's 14 sections. In the following analysis we shall look at how after the »transition« IG Metall/GDR tried to develop itself into an autonomous industrial trade union of the Western kind; the background against which these developments happened; what steps were taken; and what conflicts were fought out. In October 1989 everything seemed hunky dory in IG Metall/GDR's world, at least on the surface. Its leader, Gerhard Nennstiel, at the tenth congress of the Executive Committee, praised the fact »that the commitment to special initiatives on the occasion of the Republic's anniversary in the trade union groups and local organisations of IG Metall/GDR has had an impact and has met with strong approval«. ⁹ The GDR, Nennstiel went on, is »our homeland, established on the unshakeable unity of economic and social policy as hallmarks of socialism in the colours of the GDR«. He denied West German critics any right to propose changes in the GDR, because the fact was that in the Federal Republic the situation was socially unacceptable, so much so that »around one-third of all households in the Federal Republic are dependent on social assistance to maintain their subsistence«. The conclusion he drew from this was that the lures and instruction emanating from this society »would for us be a step back into the past, which we all know is just not possible. Because history does not repeat itself«. ¹⁰

⁹ Gerhard Nennstiel's closing speech at the 10th congress of the ZV. »Aus fester innerer Überzeugung und mit guten Gründen...« [Out of firm inner conviction and with good reasons...] in: IG Metall Informationsblatt 10/1989, p. 1.

¹⁰ Ibid.



The role of IG Metall in the FDGB could by no means be compared with that of IG Metall/GDR in the DGB. The East German IG Metall was, as already mentioned, merely a section of the FDGB. That changed only after Gerhard Nennstiel's resignation, after public accusations that he had enriched himself in the job (Pirker et al 1990: 28). Following this incident, which created something of a sensation in the slowly developing East German investigative media, the IG Metall executive decided – as one of the first leadership bodies from the midst of the FDGB trade unions – to make a very public fresh start, in terms of both personnel and substance. After the resignations of Gerhard Nennstiel and Harry Tisch¹¹ the 11th congress of the Executive Committee was held on 7 November 1989, at which a new course was set for the reorganisation of IG Metall. Against the background of a general uncertainty, which gave rise to hyperactivity in SED and FDGB bodies, the IG Metall leadership sought, in actions fraught with symbolism, to regain the trust of the members and to boost the power of the union apparatus. The dramatic challenge faced by IG Metall was described by the executive committee as follows: »In particular the instances of misuse of office, corruption, personal enrichment and other actions that have come to light in recent weeks have done nothing to alleviate the loss of trust among the members; on the contrary, they have only served to deepen it. And this loss of trust has gone so far that many seasoned trade union officials have been deselected or resigned under unbearable moral pressure«. The trade union apparatus was profoundly unsure of itself. On one hand, officials feared for their positions, which was, in the first phase of the upheavals, a real threat because of the reaction of the members to the revelations about even the slightest privileges. On the other hand, they also feared the members because the discontinuation of SED directives also took away the basis for a policy of »authoritative imposition« and they simply had no experience of confidently navigating the somewhat choppy waters that divided the interests of the organisation and those of the members or of implementing a strategy of argumentative dialogue.

The attempted renewal of IG Metall in the GDR began in November 1989. This development, which lasted until the union dissolved itself at the extraordinary central delegates' conference in Bogensee on 5–6

11 Harry Tisch resigned as leader of the FDGB on 2 November 1989; elected as his successor was former Berlin FDGB district leader Annelis Kimmel (cf. Pirker et al. 1990: 23).



October 1990, can be divided into three phases. The first phase, which ran from November 1989 to February 1990, began with the resignation of Gerhard Nennstiel, who up to that point had been leader for just under a year and had been considered by many East German IG Metall officials as both loyal to the system and a dynamic ray of hope. The beginning of the first phase can thus be dated to November 1989 because up until that time there had been no politically relevant reaction on the part of the SED and the FDGB to the debates on the future of the GDR that had already been in progress for a number of weeks at the workplace level. The first post-SED phase was characterised by the attempt to address the criticisms emerging from the workplace in order, on the basis of a new reform-socialist federation ideology, independent of the FDGB, to signal to the members that IG Metall knew which way the wind was blowing. The reactions of the union apparatus to membership pressure, however, were rather off the cuff, somewhat incoherent and by no means consistently reform-oriented. The short-term goal was to placate the members and to achieve a degree of consolidation. The newly elected leader first of all had to establish a power base within the union apparatus, which was makeshift at best. Although from the outset he counted on the support of the West German IG Metall, especially the then leader Franz Steinkühler, in order to bring about credible renewal, at least on the surface, effective public support from the FDGB and the SED/PDS had to be eschewed.

The second phase – lasting from February to May 1990 – began when it rapidly became apparent that the formation of a unified German nation-state was on the cards. From this point on, the issue was no longer how IG Metall would reinvent itself within the GDR, but rather whether and how a merger with the West German IG Metall might be brought about on the most favourable terms for the East German IG Metall officials. With the Trade Union Act passed on 6 March, the reform of the Labour Code and the call for the retention of workplace trade union leaderships (BGL) an attempt was made to continue a substantial part of state trade union activities. The agreement on protection against rationalisation measures of 6 April 1990 was aimed at publically underlining that something had already been learned about proper interest representation. The 12th central delegates' conference on 8–9 April in Bernau turned out to be the highpoint of the brief history of IG Metall/GDR as a federation relatively independent of the FDGB. The goal of the conference was



to portray the union as a successfully renewed, independent industrial trade union that was capable of acting as an authentic interest-representative organisation and thus met all the conditions necessary for merging with the West German IG Metall on an equal footing. Although there was no longer any fundamental dissent on the part of the workers, they did not set much store by the ability of IG Metall/GDR to reinvent itself, but rather put their faith in the West German IG Metall. This period ended on 25 May 1990 with a joint declaration by the two metal trade unions, which laid out the dissolution of the East German IG Metall and the absorption of its members by the West German IG Metall.¹²

The third phase – May to October 1990 – was characterised by the constant, but mainly futile efforts of the East German trade union leadership to play a substantive role in shaping the transition process. Because from May 1990 the upper hand was firmly with the leadership of the West German IG Metall in Frankfurt the interest of IG Metall/GDR officials soon focused on the question of how they could secure themselves a future career in the West German organisation. Given that it made no sense to bring all officials on board, a range of intensely individualised tactics were deployed, which led to a rather fraught situation in the union executive, in which solidarity went out the window, as a result of which at the level of collective action even minimal forms of veto power against West German IG Metall were now out of the question. The response of the union apparatus to the changed circumstances resembled the race between the tortoise and the hare. In this phase it was no longer only the central executive in Berlin, but increasingly also the districts that were expressing their positions and interests. For example, a district leader was elected in Mecklenburg-Western Pomerania even though he defied the statutory directives of the IG Metall, while some metalworkers in Saxony threatened, during the final period, ever more frequently and explicitly to establish their own organisation. Even though no institutional substance emerged from this separatist rhetoric these actions made it clear that even within the East German IG Metall there was a certain regional vitality that could no longer be ignored as a factor in its own right.

¹² Annex to the circular of 25 May 1990: »Gewerkschaftseinheit verwirklichen« [Realising trade union unity], signed by Franz Steinkühler, Klaus Zwickel, Hartwig Bugiel and Fredi Jahn (Hamburg, 25.5.1990).



4. Attempts at Personnel, Organisational and Programmatic Renewal

Following the presentation of the historical events, in what follows we shall attempt to elucidate the problems that ensured that IG Metall/East was unable to bring about sustainable renewal, whether personal or structural, as well as with regard to substance.

Attempts at Renewing Union Personnel

Until well into 1988 the leader of IG Metall was Rainer Sommer. His life and career¹³ embodied the peculiarities of the functionary elite in the GDR, between omnipotence and impotence (Lexikon 1992: 429). This included standing witness to the woes of the German labour movement, as well as a lack of response to the structural crises and functional shortcomings of the GDR. His long period of office, too, was dominated by Byzantine pretensions to such an extent that the privatisation of power came to be the defining feature of his administration. This approach was epitomised by the fact that before the commencement of his final period of office the 60 year old Sommer insisted that he be elected one more time and subsequently his absenteeism and lack of leadership were more conspicuous than ever as he sought to assuage his need to swan around on the international stage.

Gerhard Nennstiel (born in 1946), anointed Sommer's successor in 1988, belonged to the generation that missed out on the experience of fighting fascism, growing up with the GDR and its institutions. Before he became leader of IG Metall he had won his spurs as FDGB district head. On top of that, he had been considered by the cadres who mattered as successor to FDGB leader Harry Tisch and member of the Politburo. An important condition for such a career were his studies at the Higher Party School of the Soviet Communist Party in Moscow. Not surprisingly, when Gerhard Nennstiel took office there was no policy change, merely one of generations at the top of IG Metall/GDR.

13 Born in 1921 and growing up in the Weimar Republic, with a proletarian-anti-Fascist background, war experience, machine fitter and mandatory academic qualification as certified economist.



Because after Gerhard Nennstiel's resignation the symbolism of generational change was already past its sell-by date the IG Metall executive decided to underline the desire for renewal by selecting the new leader from outside the ranks of the executive committee. Because his election was to take place in concert with the grassroots committees and on the basis of competing nominations the secretariat was tasked with coming up with at least two nominations,¹⁴ in coordination with the members of the executive, the district chiefs and the most important central BGLs (Betriebsgewerkschaftsleitung – central company union leadership in combines) chairs. At the 12th Congress of the Central Committee on 26–27 November 1989 the candidates for the post of union leader were the Jena BGL chair Hartwig Bugiel and the Rostock IG Metall official Rüdiger Klein.¹⁵ The first open vote in IG Metall ended with the clear victory of Hartwig Bugiel,¹⁶ who as a citizen of both West and East Germany attracted considerable public interest. He was born and brought up in West Germany and moved to the GDR only in the 1960s.

Three groupings were involved in the attempt to reform IG Metall/ East: first, the old executive elite; second, parts of the upwardly mobile BGL elite; and third, grassroots activists from workplace level, who hitherto had not occupied any official post. Even though this categorisation cannot capture all the relevant factors – for example, regional origin, relationship with the Party and age played a role – it does give a reasonable picture of the decisive institutional arena. Between the two main groups – the elites of the union apparatus and the workplaces – there largely developed (even though in individual cases the boundaries could be rather fluid) the dynamic that shaped the internal organisational process between the transition and the end.

14 The deputy leader Joachim Pampelt and the International Secretary Werner Geistert were tasked with finding two candidates. As first choice Uwe Rosenkranz was agreed on, the IG Metall district chairman of Carl-Zeiss-Jena, one of the biggest and most important *Kombinats* in the GDR. However, he turned it down.

15 About this election the secretariat of the executive wrote: »We would like to underline here that these nominations were discussed with the workplace trade union leaderships, shop stewards or BGL chairs of the relevant workplaces and, in the case of Rostock, with the secretariat of the district committee and the chairs of the district executives of IG Metall and met with their approval. We shall address the cadre problem in accordance with the confirmed agenda« (SAPMO-BArch, Bestand IG Metall: Report of the Secretariat to the 12th congress of the executive board of IG Metall of 23.11.1989; p. 21).

16 On 26 November, 63 members of the executive voted for Bugiel and 17 for Klein (cf. *Tribüne* 15.1.1990).



Renewal of personnel did not come directly from the union apparatus nor was it dominated by the trade union leaderships of the big *Kombinats*.¹⁷ The last leader, up to his election, had no cross-regional functions in the SED, the FDGB or IG Metall. He belonged to the BGL elite, which in the final year of the GDR was supposed to ride to the rescue of the union apparatus. With the grassroots' insistence on new blood the way was blocked to the old executive elite. As a result, the old members of the management committee (*geschäftsführende Vorstand*) – with the exception of Karin Schubert – did not even put themselves forward at the 12th central delegate conference on 8–9 April 1990 and instead switched to departmental leadership positions.¹⁸ Thus with only one exception representatives of the BGL elite were elected to the new leadership positions who seemed best able to give the impression that IG Metall had undergone a sea change. Instead of the gerontocracy who usually dominated the leadership of the GDR's institutions the union was now headed by six members of the management committee in the prime of life (with an average age of 44), who were supposed to drive the renewal of the organisation with new ideas. With regard to age, experience and professional career the executive elected in April 1990 showed a considerable degree of homogeneity. However, they were hindered by their lack of experience with the political authorities of the capital, in particular when it came to dealing with their own union apparatus and its work and so the influential officials of the central executive could reasonably hope to maintain their influence.

The image of an IG Metall renewed in terms of both personnel and policy remained rather a wish than a reality: the BGL elite, who hitherto had operated mainly at regional level, were not the forces who since October had striven to push the SED regime out of the workplace. Most of them favoured rather a cautious readjustment. Those who had established works councils of their own accord and/or within the framework of the newly elected BGL favoured a complete renewal of trade union activities barely played a role in the transformation of IG Metall. Of the BGL representatives newly elected to the management executive in April only one was not an SED member and the union apparatus that

¹⁷ The really big combines, such as Carl-Zeiss-Jena, had their own district executive; smaller combines had only a central plant-level trade union leadership (Z-BGL).

¹⁸ For example, the previous deputy chair Joachim Pampelt switched to the post of departmental head of personnel and organisation.



stood behind this executive was characterised by a high degree of continuity. There were absolutely no departures – on the contrary, in the course of transferring FDGB personnel and resources to the individual trade unions the whole thing mushroomed, so that in a short period the number of employees of the central executive rose from 68 to around 120. And because the established officials had long organisational experience and thus enjoyed the requisite working relations with FDGB/SED authorities and with ministries those at this level had everything they needed to steer things in their own interest.

With regard to the mode of renewal there appear to have been few major substantive differences between members of the executive. The requirements of the political unification process and the influence of the executive of IG Metall/West led to the laying down of corresponding principles (to be weighted differently at different times). However, as soon as the substantive positions of individual executive members became known rivalries began to develop, in particular between Hartwig Bugiel and the leading officials of the union apparatus. In order to avoid having to depend on the veteran colleagues of his predecessor Bugiel fashioned his own advisory team and relied on support from Franz Steinkühler, leader of the IGMetall.¹⁹ Externally, he sought to use the tensions between the old central committee members and the new BGL representatives to his own advantage by presenting himself in public as guarantor of the renewal of IG Metall. At the 12th central conference of delegates Bugiel had to withstand a crucial vote when Karin Schubert, one of the most prominent executive committee secretaries put herself forward as chair. *Das Handelsblatt* reported as follows: »It was clear to the delegates in the vote that they had to decide between the old FDGB course of unequivocal allegiance to the SED/PDS and the line based on party-political independence espoused by Bugiel and the other reformers, who in the previous year had brought about the deposition of the old trade union leadership«. ²⁰ This depic-

¹⁹ The unity and apparent equality between Steinkühler and Bugiel were emphasised symbolically, among other things by means of photos, which were regularly featured in the communications of IG Metall/GDR up until the Hamburg resolution in May 1990 (for example, No.1/1990; 4/1990; IG Metall-update on the central conference of delegates).

²⁰ Cf. Kampfabstimmung um den Vorsitz ergibt klares Votum für Bugiels Erneuerungskurs [Crucial vote on the chairmanship gives a clear approval of Bugiel's renewal path], in: *Handelsblatt* 10.4.1990.



tion is exaggerated to the extent that things did not come to a head in this way as far as the substantive everyday issues were concerned. Although Bugiel clearly won this vote, too, the renewal of IG Metall proceeded very slowly.²¹

Summing up, in November 1989 the IG Metall executive committee was delegitimised by the public scandal to such an extent that mere recycling of the elite within the management committee was out of the question because it would send the wrong signals about renewal. The gradual exit of the executive committee heralded the hour of the BGL chairs, who were able – in the slipstream of the »new democracy« – to sidestep the successor elite of the union apparatus who were still waiting in the wings. In the last months of IG Metall/GDR the new, politically inexperienced BGL officials, who had risen to the top of IG Metall, had to contend with many minor skirmishes in order to reach a compromise with the established representatives of the central trade union apparatus. However, despite the personnel constellation that had been extended with the influx of BGL and FDGB representatives it was to some extent a closed event involving the established SED-oriented forces from which the representatives of the newly elected works councils or even the citizens' movement were excluded.

Attempts at Organisational Renewal

The self-interest of officials played an important role in the organisational restructuring of IG Metall/GDR. Their starting point was comparatively favourable because the SED/FDGB structures were discredited, but no real alternative existed. In this situation a transfer of resources to the level of the industrial trade unions seemed the order of the day in response to the criticisms articulated publicly within the framework of the workplace dialogue events. Modelled on West German conditions and the proposals of the Bernau Trade Union College on the reorganisation of trade union work (Jander 1996: 86), which had been prepared at the beginning of November 1989, there were

21 Of the 439 votes cast, with one abstention, 282 – around two-thirds – went to Hartwig Bugiel. Karin Schubert was supported by 148 delegates (Handelsblatt 10.4.1990).



demands for the dual autonomy of the industrial trade unions, internal trade union democracy, extension of the rights of individual trade unions, a law on trade unions and the convening of an extraordinary FDGB congress.

Initially, the IG Metall leadership insisted on only a little independence from the SED²² and the FDGB,²³ which in the course of time amounted to a fundamental, albeit not uncontroversial decoupling. After his first meeting with Steinkühler on 8 December 1989 Bugiel, as first chairman of the industrial trade unions, demanded full independence, including financial autonomy and free collective bargaining on the West German model.²⁴ This was harshly criticised in particular by the FDGB union apparatus: »I regard this as the first step to a split in the trade union and the task of the unified trade union that in future we as umbrella organisation will so desperately need. Our own financial administration would mean that in future we shall have poor and rich IG Metall trade unions and also high personnel costs. (...) I thus consider a central, uniform finance policy under the responsibility of the FDGB as much more effective, albeit one in which the voice and decision-making authority of the IG Metall trade unions concerning the use and application of resources must be substantially enhanced.«²⁵ The dissociation from the FDGB was also emphasised by the fact that the industrial trade union with the most members advocated reform neither in terms of personnel²⁶ nor politically, but rather deliberately made provisions for its breakdown in order to obtain a share of the assets in line

22 IG Metall proceeded very cautiously with cutting the cord with the SED in its first (November) action plan: »In order to conserve the trade unions' independence the chairmen of intermediate executive committees and leaderships cannot be members of elected party bodies« (IG Metall action plan 27.11.1989).

23 On this the spokesman of the central executive committee remarked: »We confirm the position in this action plan that we as IG Metall are in fact becoming a craft union, that is, within the FDGB, autonomous, free and independent of the state, any parties, organisations, political movements and religions, and represent the interests of metal workers and metallurgists« (SAPMO-BArch, Bestand IG Metall: report by the secretariat to the 12th congress of the central executive committee of IG Metall, 23.11.1989, p. 6).

24 Cf. Tribüne 8.12.1989.

25 SAPMO-BArch, Bestand IG Metall: Winfried Reinhard to the IG Metall central executive committee 1989.

26 Although in the »Committee on preparations for the extraordinary congress« Bugiel acted as press spokesman, and at the congress of 31.1/1.2.1990 IG Metall, with 450 delegates, was the strongest grouping, it did not submit a candidate for the chair (cf. Pirker et al. 1990, 38ff.).



with its membership, although it was unsuccessful in this.²⁷ With some delay only the transfer of FDGB personnel to the IG Metall apparatus took place, the handing over of a training facility and the assumption of IG Metall staff costs by the FDGB up to 30 June 1990. On one hand, the FDGB represented a significant negative example in relation to which the renewal efforts of IG Metall appeared in a shining light. On the other hand, it contributed to the material support for this process with its own resources.

At the 12th Central Delegates' Conference in April 1990 the IG Metall executive committee tried to stage-manage the »rebirth« of IG Metall as an autonomous industrial trade union.²⁸ At the core of this stage-management stood the adoption of its own statutes that, alongside financial autonomy, was a key symbol of the new independence. In this way IG Metall thus possessed, for the first time since the end of the 1940s, legal independence on the basis of democratic structures.²⁹ At the centre of the statutes lay the existential principles of internal trade union democracy to convert the »SED transmission belt« into an authentic interest representing organisation.³⁰

In order to ensure its viability the IG Metall leadership committed itself in particular to a long-term state guarantee and backed a trade union law that provided for a trade union right of veto in all questions that directly affected employees. In addition, the trade unions were to be consulted on all legislative decisions and they were to be given the »right of legislative initiative«. With the law passed on 6 March 1990 the right to strike was legitimised for the first time, lock-outs prohibited, the monopoly of the FDGB trade unions in workplac-

27 Concerning these issues Hartwig Bugiel remarked at IG Metall's dissolution congress at Bogensee: »Up until the dissolution congress of the FDGB on 14 September some worked towards prevention of further fragmentation. You know that we have fought to obtain the 20.1% IG Metall share from the assets of the umbrella organisation. On 14 September, however, the majority of delegates of the IG trade unions decided to leave the assets intact for the time being and to distribute them among the IG trade unions only after the settlement of liabilities. What will then be left for redistribution at present no one can say« (SAPMO-BArch, Ms. Speech by Bugiel, p. 39a, Bestand IG Metall).

28 IG Metall Aktuell, 12th Central Delegates' Conference 1990, p. 2.

29 A substantial difference from the statutes of the West German IG Metall was the fact that the workplace trade union leaderships were conceived as the most important grassroots organisations and the collection of dues was to take place directly in the workplace (cf. IG Metall-spezial, Statut der Industriegewerkschaft Metall §5, 1990, p. 4).

30 Cf. Action plan of the central executive committee of IG Metall, 27.11.1989.



es codified³¹ and, at the same time, the sporadic existence of works councils was ignored. In the public debate on the alternatives of works council or BGL IG Metall conceded that the BG leaderships had lost trust because of the FDGB's policies, that the social differentiation that already existed before 1989 was not reflected in BGL structures and, finally, that due to the expected changes in ownership structures there was considerable acceptance of the West German works council model.³² Nevertheless, with the backing of individual representatives of West German IG Metall the vote went in favour of the BGL and that with the argument of context-specific effectiveness: »What matters is, under GDR conditions and thus in the context of existing democratic and social values, to find and create the most effective forms of interest representation for the whole workforce«. ³³ Under the aegis of effectiveness not only were direct ties to the workplace interest representation of IG Metall mentioned, but also the lack of a legal basis for works council activities. The chairman of IG Metall East Berlin had this to say on this subject: »We have tried to say that we understand you and that the fact you want something new is OK, but we would also like to say that you should heed the fact that at present you cannot; the Works Constitution Act does not yet apply in the old GDR, but the Labour Code is still in place. If you have a dispute in the workplace you cannot deal with it on the basis of the Works Constitution Act, but you have to do so on the basis of the Labour Code« (Wagner 1993: 36). Presumably, the reason for the preference for BGLs as representative organs was less legal validity and issues of political effectiveness than worries about organisational and financial disadvantages. The consequence of this attitude, which in individual regions – especially Berlin – was massively supported by the West German IG Metall, was a renunciation of sustainable support for a new beginning operationally.

31 The need for a trade union law was grounded on the restrictive practices of the state authorities in relation to the trade unions: »That virtually compels the question of what means and opportunities we as trade unions have available to us, both today and in the future in order to be able to pursue and indeed protect trade union work effectively in the interest of the members. We thus call for the working out of trade union law and for legal regulations to resolve work conflicts« (IG Metall/GDR action plan, 27.11.1989, p. 10).

32 Ibid.

33 Auf der Suche nach wirksamen Mitbestimmungsformen [In search of effective forms of co-determination]. In: IG Metall. Meinungen. Tendenzen. Anregungen [Opinions, tendencies, impulses] 1/90, p. 2.



In case of conflict this could also mean that IG Metall, in workplaces in which there existed both a newly founded works council and a BGL, would support the latter (Wagner 1993: 37).

The most visible expression of the dramatic erosion of the ties between the BG leaders and the central executive committee was the diminishing willingness to pay to the executive committee the dues laid down in the union statutes. The union apparatus considered financial disclosure to be particularly important for the restoration of trust. The financial plan presented at the 12th central delegates' conference in Bernau gave the impression that IG Metall was inclined to meet this demand,³⁴ but it proved otherwise. Only four weeks later the union apparatus had to swear an oath of manifestation. On the brink of insolvency, on 11 May 1990 executive committee member responsible for finances Karin Schubert visited the treasurer of West German IG Metall to report to him on the financial crisis. The grassroots organisations gave the central executive committee only 63 per cent of the dues it was entitled to in accordance with the union statutes; liquidity could no longer be ensured for the month of July. Thus it became clear to the West German union leadership that the restructuring of East German IG Metall into an independent trade union organisation had failed (Christ 1990).

The white-collar workers who up to 1989 had been at a structural disadvantage were not only the most important actors in the organisational upheaval, but from their ranks came the often made threat that, if IG Metall did not represent their interests in a more robust manner, they would establish their own interest representative organisation or switch to the DAG (Deutsche Angestellten Gewerkschaft – German Salaried Employees' Union). From December 1989 the executive leadership responded with the demand that all employees should be treated equally. At the 12th Central Delegates' Conference a policy motion was adopted that proclaimed the formation of white-collar worker committees at all levels and laid down that they were to be represented in proportion to their share of the workforce in the BGL. To ensure that the Central Executive Committee really represent the interests of the white-collar workers it was to be advised by a voluntary committee. And virtually no programmatic contribution was complete without the remark that the

34 Presentation of the accounts of IG Metall, Annex 2; 12th Central Delegates' Conference IG Metall, 8.4.1990 (IG Metall documentation).



Table 1: Distribution of Full-time Officials in IG Metall/GDR (February 1990)

Level	Number	%
Executive committee (Vorstand)	128	22.5
Districts (Bezirke)	60	16.6
Subdistricts (Kreisgebietsstellen)	380	67.0
Total	568	100.0

Source: Material IG Metall/GDR.

principle »one shop, one union« had proved its worth in West Germany to such an extent that any separation would be a kind of crime against unity.

The restructuring of the East German trade union landscape was portrayed by the IG Metall leadership as a process of decentralisation. By that they meant a transfer of resources and responsibilities from the FDGB to the individual trade unions, resulting in a centralisation of resources within IG Metall at the level of the central executive committee. The number of subdistrict (*Kreisgebiet*) offices was reduced from 156 to 94; the number of district branches remained the same and the central office was upgraded with an increase in personnel and resources to enable it to maintain its ability to interact with ministries, employers, companies and, above all, the West German IG Metall. The number of posts in the central executive committee rose within a few months from 68 in December 1989 to 128 in February 1990. Since, however, the other organisational levels did not go along with this the centralisation process rapidly became a precarious business that ultimately succeeded only because of the time pressure. The majority of employees and grassroots workplace organisations, moreover, banked on IG Metall/West taking responsibility for all this. Because the employees basically accepted the transitional character of IG Metall/GDR the work in progress did not break down, despite the fact that the situation was fraught, to say the least. And after it had become clear that the trade union would disintegrate many of the leading officials tried to safeguard resources – in other words, members and assets – some as a matter of principle, but others in order to get their hands on something to bargain with in the upcoming handover process.



Programmatic Reorientations

Besides demands related to the organisational structure of IG Metall, from September 1989 ideas on a new policy started to emerge from the trade union's workplaces and branches. This critique took place from mid-October within the framework of the dialogue supported by IG Metall/GDR. In parallel with the political process and part and parcel of agreements with FDGB reformers a perspective crystallised that aimed at a socialist recalibration of economic productivity and a fairer distribution of power. This idea was reflected in the work programme of the central executive committee of 27 November 1989,³⁵ a condensed version of which was presented to employees in a first leaflet³⁶ issued by IG Metall/GDR on 18 December 1989. The most important demands were:

- Fair remuneration and free collective bargaining: equal pay for equal work; higher wages for higher performance; the use of the wage fund should be a company responsibility; performance-related pay for skilled workers; new rates for metalworkers in trades and crafts; revision of the assembly and customer service agreement; equitable taxation of all employees; rising performance, rising annual bonus; social security in the event of technological or age-related changes in the workplace; real wage and pension compensation guarantee in the event of changes to subsidies and prices; standardised pension rights.
- Working conditions: employment protection, work environment; safe, non-hazardous workplaces; no trade union agreement to exemptions for onerous working conditions; elimination of environmental hazards.
- Training and further training: occupational training and further training: equal rights for all; better opportunities for metalworkers; deployment in accordance with qualifications and abilities.

35 An important role in the transfer of policy ideas from IG Metall/West to the East German IG Metall was played by the international secretary Werner Geistert, who was in possession of the main programmatic documents as a result of his regular contacts and visits. Because of his participation in the congress of the West German IG Metall he was also informed about the intricacies of individual areas of debate.

36 Around 1 million copies of the leaflet were printed, at the expense of the West German IG Metall.



- Holidays and free time: transfer of all state and party holiday facilities to the trade unions' holiday service; allocation of trade union holiday places under the supervision of the IG Metall leadership; staggered school holidays to facilitate family recreation; cultural and leisure provisions by the company.
- Economic reform: safeguarding of public ownership of the main means of production; right to work; trade union participation in structural and ownership changes with regard to the national economy and companies; radically simplified and needs-oriented central planning.

The central executive committee of IG Metall acclaimed the working programme as an important stage on the way to restoring workers' trust. The view generally expressed in public was: »That is what we want and need. Keep it up«. ³⁷ By contrast, there was no lack of critics of the work programme, whose main concern was to speak out against the socialist reform perspective, ³⁸ others suspected that the programme amounted to little more than empty rhetoric and that ultimately nothing would be done. ³⁹ The reform-socialist work programme enjoyed only a brief »half-life« because, due to the ongoing unification process, the proclaimed basic orientation proved unsustainable. The work programme assumed the continuity of the state socialist framework; even the performance-related aspects of reform were part of this project and thus lagged behind the accelerated development of the political process. The melange of old state social-

37 Metall-Basis: Arbeitsprogramm kommt an [Action plan well received]. In: IG Metall. Meinungen. Tendenzen. Anregungen. 1/90, p. 1.

38 »How does IG Metall know that the goal of the majority of workers is to strive for a viable, democratic, attractive socialism? The same words have been preached to us for 40 years and we all know what happened. We are no longer ready to put up with any kind of socialist experiment. Blood was shed in the name of socialism in China and, as we all saw recently, in Romania.« (SAPMO-BArch, Bestand IG Metall: message signed personally by members of the technological department of VEB IKR Pirna branch office 9.1.1990 to the central executive committee of IG Metall).

39 »We demand at long last a clear statement on how things stand or what has been achieved so far with regard to the action plan and the leaflet of our industrial trade union in order to be able to convey clearly to our metalworkers here what the central executive committee of our IG Metall has accomplished.« (SAPMO-BArch, Bestand IG Metall: district executive of the industrial trade union Magdeburg-Nord 17.1.1990 to the central executive committee IGM).



ist and new democratic political ideas represented to some extent an activist dry-run that showed that the relevant protagonists were structurally overstrained by the fact that the restructuring of their organisation and the shift of focus were happening simultaneously. The faster things changed the more difficult officials found it to come up with new answers to point the way. After the first programmatic dry-run had run its course, the topical positioning of the central executive committee focused solely on keeping up with the accelerating political and economic transformation process. At the centre of this work were demands, negotiations and agreements in which IG Metall/East articulated citizens' social interests and thus, at the same time, sought to underscore the renewal of its own organisation in terms of interest representation.

5. Reasons for the Failure of Self-Transformation

Views differed between the trade unions concerning how East German officials might be able to assert their interests in the process of integration in structures and institutions of West German provenance. Whatever the differences, which were focused primarily on whether a preponderance of East German officials would be absorbed – as was the case with the IGBCE, for example – or whether this would take place only in individual instances, it ultimately came down to an institutional transfer from West to East Germany. In contrast to the SED the FDGB and its craft unions did not manage to transform themselves. This can be traced primarily to the fact that they were subject to socio-politically motivated pressure for unions with the Federal Republic. Furthermore, a successful social partner was already in the field in the form of the West German IG Metall, which was in a position to extend its organisation to the territory of the former GDR. On top of that, the East German actors, lacking experience in dealing with the institutions of a dynamic market economy, were hobbled right from the starting gate. The accelerating transformation process and the changing expectations of its members forced them to launch a constant stream of new initiatives in order to become or remain viable. This they could not manage without resorting to West German models and improvisation. However, these forms of actionism, new to



the GDR, could not disguise the dominant leaning towards old structures and types of solution. Sometimes, the impression was that even the protagonists did not believe their own reform rhetoric. Similar to the hare and the tortoise they always came in too late to influence the rapidly evolving unification process. The attempt to successfully bring about an independent reform process was too much for the officials of the East German metalworkers union. The majority of workers called for integration in West German society so that they would never even have to contend with the feared difficulties likely to go hand in hand with self-transformation. The sheer aura of the West German alternative to burdensome and uncertain self-transformation, not to mention the material resources underpinning it, was so strong that after the demise of the Soviet »security guarantee« there was no realistic basis for such a transformation. The work of the existing BG leaderships during the transitional period was characterised by pragmatism, there being little trust in the capabilities of the higher level union apparatus. Indicators of the lack of trust among workplace actors with regard to those further up the union hierarchy include the diminishing honesty with regard to union dues and the unenthusiastic participation in IG Metall/GDR's transformation efforts.

When assessing what came to pass, however, it should not be forgotten that the union apparatus also represented a substantial obstacle. Among leading officials there was little confidence in the way ahead and thus no consensus. The tensions between new and old committee secretaries were one thing; the other was that the majority of new actors found it difficult to adapt to the rapidly changing circumstances. Charismatic leaders were lacking who had sufficient trust among the grassroots and the necessary authority to be able to encounter West German trade union officials on an equal footing. On top of that there was the financial crisis of the central executive committee, which also limited the capabilities of the trade union leadership. If the transformation from a planned to a market economy had not also been embedded in the political process of unification the East German trade union officials would probably have been able to restructure their organisation on their own terms and without a fixed model. Accession in accordance with Art. 23 of the Basic Law and the tremendous time pressure ultimately limited their role to that of »liquidator«.



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Industrial Relations in East Germany

From a Worker-oriented Wage Policy to Counter Migration to the West to a Capital-oriented Incentive Policy to Encourage Migration to the East

Wolfgang Schroeder

1. Introduction

The East German transformation process from a planned to a market economy took place primarily by way of the accession of the German Democratic Republic (GDR) to the Federal Republic of Germany. With the amalgamation of two extremely different national economies the political actors concerned were faced with a challenge unprecedented in the post-War period. This concerns not only its quantitative and qualitative dimensions, but also the rapid succession with which problems arose. Under enormous time pressure answers had to be found to mass unemployment, deindustrialisation, institutional collapse and the fundamental transformation of living and working conditions, as well as political culture. The decisive impulses came initially from the Federal government, which at the outset of transformation chose to renounce, in contrast with the usual practices of the »semi-sovereign state« (Katzenstein 1987), a policy of close consultation with the parliamentary opposition and intermediary organisations. Their participation only came back into play after the government had clarified the main pillars of the foreign policy coordination process. In accordance with the structure of the German political system the transformation occurred in the context of the multi-level federal and sectoral system, which meant that during the initial period there was a high level of common interests between the actors. This also applies to the relations between IG Metall and the employers' organisations in the metal indus-



try, which as a result of their negotiation policy as it were installed and made use of an »elevator« with which the East German population was to be raised successively to the level of its West German counterpart.

If one compares the interim results of the transformation process in the former COMECON countries what is most striking is the fact that the level of real income in eastern Germany is significantly above that in all other COMECON states and certainly above that achieved under the old regime.¹ The comparatively high living standards in the Federal Republic already constituted a central point of reference for the East German population when the countries were still divided. During the period of the »peaceful revolution«, indeed, this was sometimes the key driving force for rapid accession, due to which it makes sense to talk of a consumer revolution. Because the West German actors also oriented their strategies to this preference the convergence of the East German population's living standards with those of West Germany became one of the main determining factors for the direction of the transformation process. In the decision in favour of a contractually binding link to West German income levels certain elements of GDR social policy – such as the decoupling of income, performance and productivity – were kept in place and even the so-called shock therapy was somewhat ameliorated. It also has to be taken into account that the dramatic collapse in employment was buffered by means of extensive labour market policy measures and social transfers. Of key importance for the dynamic of social unification was the collective desire for rapid convergence with West German living standards, which became both catalyst and indicator of the transformation process. To the extent that the prospect of rapid income convergence became a core legitimising element of »unification policy« the significance of welfare state and intermediary organisations of distributional policy temporarily rose above the level seen in West Germany.

Table 1 shows the process of wage convergence based on collective bargaining. In the first three years after reunification the wage level of full-time employees in eastern Germany rose from around 45 per cent of the western German level to around two-thirds. From 1996 or so, however, this dynamic catch-up became bogged down.

1 Cf. Wiesenthal (1999: 61/42) »Also, there had never before been a similarly ambitious attempt to sustainably raise the real income of a population of 16 million people in the space of a few years by 50 per cent or more.«



Table 1: Wage Development from 1991 to 1996, East–West Comparison (€)

Year	Total Germany	West	East	Wage level in the east compared with the west in percent
1991	1832	1987	924	46.5
1992	2003	2108	1213	57.54
1993	2103	2188	1425	65.12
1994	2185	2269	1537	67.74
1995	2281	2358	1652	70.06
1996	2344	2418	1769	73.16

Note: Figures present the average gross monthly wage of full-time employees in euros.

Source: Statistisches Bundesamt 2016; author's presentation.

The most important influences on the political course of events and the actors concerned arose from the dual legacy – east and west – of corporate attitudes and behaviour, state transformation policy and the organisational structures and strategies of the relevant interest-representing organisations. In this way the construction and development of industrial relations in eastern Germany were caught up not only in the social conflicts of interest of labour and capital, but also in the charged relationship between western and eastern Germany and thus also between exogenous governance and endogenous forces. In the transitional period of winter 1989 and spring 1990 it briefly appeared that forces within the GDR would themselves take responsibility for the upgrading and reconstruction of its own intermediary institutions, while the initially surprised and irritated western German associations would provide only conceptual and logistic help, without putting a question mark against the management capabilities of the eastern German side. In the trade union domain there was evidently onerous contention between the western German IG Metall and IG Metall/GDR. With the proclamation of the currency union and the preference for the accession model the aegis passed to the western side.² For em-

² For more details, see the contribution by Schroeder on the FDGB and its craft union IG Metall in this volume.

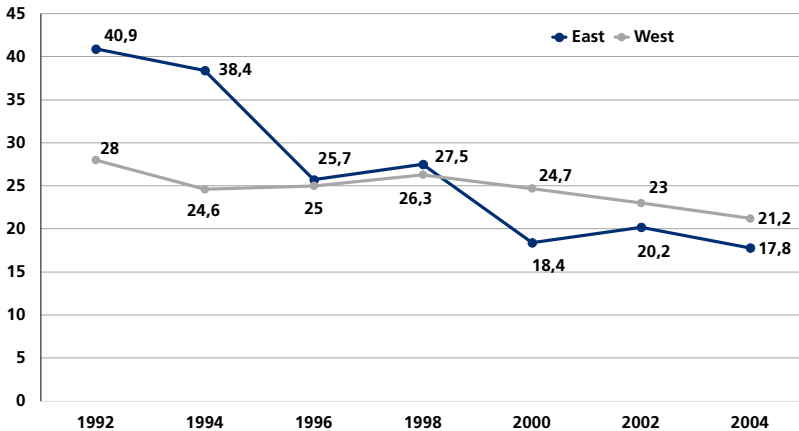


ployers' associations and IG Metall various organisational strategies arose from this. On the employers' side although the eastern German officials were formally confirmed, in reality a paternalistic teacher/pupil relationship was established for an indeterminate period, as a result of which decision-making competence with regard to collective bargaining passed to the western German organisations (Hoffmann 1997). While the eastern German employers' organisations were integrated IG Metall/GDR had to disband. Its top leadership was replaced by a set of western German officials, who were supposed to direct the reconstruction process in terms of western German guidance and experience. The level of trade union organisation presented in Figure 1, which depicts the east-west comparison on the basis of ALBUS data, indicates a parallel with the fall in this level of organisation subsequent to a wage rise, which amounts to a convergence between east and west. Later on the east appeared to be a pioneer for de-unionisation throughout Germany.

To the responsible western German officials of interest-representing organisations on both sides of the industrial-relations divide what was needed was a stability-oriented institutional transfer aimed at preventing negative repercussions for the western German status quo. The consensus between IG Metall and the employers' associations was neither to undertake changes with regard to the instruments of the original western German state of affairs, nor to borrow anything from the original eastern German society; in other words, not to allow any diversions that took account of the particular conditions of the transformation phase. Both associations were able to bring on board the bulk of the potential membership and to establish the norms of regional industry-wide collective agreements as rules. In the initial phase, from summer 1990 to the adoption of the graduated collective agreement in 1991, a political collective bargaining policy prevailed that provided the change of system with social peace and thus laid the material basis for acceptance of a transparent convergence process. At the same time, the emerging differentiation between working conditions was being slowed down and embedded in the structures of the western collective bargaining system. The eastern enlargement of the German industrial relations system corresponded to a collective bargaining homology that had found its most important material form of agreement in the graduated collective agreement signed in 1991. Thus



Figure 1: Trade Union Density in Germany, East–West Comparison



Source: Leibniz-Institut für Sozialwissenschaften (2011): Allgemeine Bevölkerungsumfrage der Sozialwissenschaften [General sociological population survey] ALLBUS 2006. GESIS Datenarchiv, Köln; author's presentation.

just as previously all important areas of accession had been defined by the government by contract, henceforth also the process of material convergence came to be regulated contractually for a longer period of time. Given the incipient reunification crisis this approach was welcomed by all those concerned and the political sphere as a positive signal that the unification process had been successful, migration was stemmed and convergence measures defined, with a clear prospect of rapid integration of the eastern German economy, so to speak as the light at the end of the tunnel.³

Upon this situationally positive reception, which can be considered a successful orchestration, there followed, after a certain delay, profound criticism from the business sector, political parties and public opinion of the exogenous management that concentrated on the structure and level of the phased collective agreements, as well as on the role

³ Cf. Barbier, Der Stufenplan, in: Frankfurter Allgemeine Zeitung 2.3.1991: »With the phased plan the collective bargaining parties are trying to cross a narrow bridge. The planned increase in the wages laid down in collective agreements harbours an incentive for potential investors to reach agreement quickly: whoever invests right away can benefit from the wage differential.«



of the trade unions in the Treuhand complex.⁴ Even if Lehbruch's retrospective evaluation of the phased collective agreement⁵ »as the last important manifestation of the tradition of corporatist strategy in labour relations« (Lehbruch 1998: 18) is somewhat exaggerated, this collective agreement undoubtedly represented a significant break in eastern German development. Looking back, this without doubt brought the emphatic unification and construction phase to a close.

With the conflation of the unification and location crisis⁶ (1992/1993) the collective bargaining parties and their policies came under public fire, as a result of which, in particular, the membership retention of employer organisations came under strain and ultimately was dramatically weakened. This led in spring 1993 to a first dramatic conflict situation between the two sides of industry. It began with the extraordinary termination of the phased collective agreement by the employers and reached its peak with the first major widespread strike in eastern Germany since the end of the GDR, which sought to defend the existing collective agreement. Although both collective bargaining parties, despite fears to the contrary, proved their willingness both to engage in conflict and to compromise there was no consolidation of industrial relations, despite the contractually agreed introduction of the hardship clause⁷ and the extension of the convergence plan. On the contrary, after the strike and the end of the Treuhand period there began a phase of permanent uncertainty and minor conflicts between the collective bargaining parties, as a result of fundamental differences of interest and strategy. This also includes the attempt of the employers' organisations

4 The Treuhandanstalt (Trust Agency) founded in March 1990 had the task of privatising the assets of GDR companies. East Germany's large industrial combines were split up and sold. As a result of these interventions eastern Germany suffered far-reaching deindustrialisation and mass unemployment.

5 The deployment of the phased collective agreement was supposed to bring about a gradual change in working conditions, as a result of which wage and productivity levels in eastern Germany were to converge with those in western Germany. The political aim was to persuade the eastern German workforce to remain in their jobs and not to migrate to western Germany.

6 This refers to the crisis of the pan-German model and its regulatory conditions between 1993 and 1996, in which various crisis phenomena of the years before 1990 find expression. It is not the same as the eastern German crisis.

7 With the hardship clause a mechanism of conditional deviation was implemented that was supposed to prevent the imposition of too much strain on weaker companies due to high wage costs. It is an opening clause for vulnerable companies, giving them the possibility to undercut existing wage and salary agreements.



to establish »trade union pluralism« in the five new *Länder* by means of the Christian trade union in order to weaken IG Metall's representative monopoly. Although the Christian trade union could hardly boast a sufficient membership base and organisational strength⁸ to enable it to act independently in collective bargaining the agreements it reached with the employers' organisations did achieve considerable public resonance. Besides the employers' organisations and the Christian trade unions individual companies – for example, Jenoptik (Schleef 1997) – exerted pressure for the recalibration of the established pattern-setting collective agreement, against IG Metall's wishes. The employers' strategies benefitted from mass unemployment (Vogel 1999), consolidated company »alliances for flexibilisation« (Mense-Petermann 1996) and IG Metall's inability to assert itself on the symbolic field of regional politics either in the media or in collective bargaining.

Although, to begin with, IG Metall and the metal industry employers' organisations had a common interest oriented towards both the stabilisation of the status quo in Germany as a whole and cushioning the transformation shock, in the ensuing years this changed into an opposition in some regions, which left limited room for cooperation. While IG Metall wanted to make progress with the process of wage adjustment the employers' organisations insisted on a fundamental revision of the basis on which collective bargaining was conducted. This reflected not only the altered political framework, but also far-reaching shifts in corporate structures (predominance of small companies⁹) and, as a result, the membership base of employers' organisations. While initially the employers were able to implement an externally directed policy oriented towards a logic of influence, from 1992 an endogenous set of problems dominated the calculus of employer-organisation actions. The loss of significance of the logic of influence was based primarily on the government's lack of interest in continuing with unification corporatism and instead supporting deregulation of the western German model of industrial relations. The employers' organisations thus set about breaking away from western German guidelines and adjust-

8 A trade union's organisational strength is a key condition of its ability to assert itself in collective bargaining. It is measured, first, by its level of trade union organisation in general and, second, by its ability to mobilise its members.

9 In 1991 the average number of employees at an eastern German metal company was 384; by 1998 this had fallen to 87.



ment parameters and preferred a more strongly contextual collective bargaining policy, tailored to companies' specific wage policy conditions and more far-reaching flexibility needs. This proactive policy with regard to IG Metall was nevertheless not able to halt the withdrawal of small and medium-sized companies from the employers' organisations, an exodus that remains at a high level. By contrast, although IG Metall was not confronted with a similar loss of members, it did face the problem that a large proportion of its members were oriented primarily towards enterprise-level compromise structures. Consequently, a proactive trade union mobilisation for the sake of a wage adjustment policy across the board was scarcely possible. The lack of willingness to participate can be traced back to attitudes that made sense in East German society, and which were rather confirmed than changed by the exogenous transformation. Although similar behaviour was observable in western Germany, there it did not have a comparably »paralysing« effect on organisations. In 1996 100 per cent formal wage adjustment was achieved between eastern and western nominal wages in the metal and electro industries. However, this was over a longer working week – 38 instead of 35 weekly working hours – and without further additional wage components or capitalisation-based provisions. Because coverage had fallen so much, however, only some employees were able to benefit from this development.

After the stabilisation-oriented initial period of exogenous institutional transfer, in which the two collective bargaining parties operated as transfer and buffer institutions, a process of erosion set in, characterised by a pluralisation of arenas of action and collective bargaining provisions. Thus collective agreements developed into framework standards from which many companies deviated, with or without the support of the collective bargaining parties. Consequently, from the mid-1990s the collective bargaining parties concerned primarily with the downstream balancing of new company flexibilisation patterns. The change of tasks and strategies that went along with that was compelled by the normative force of the actual. It set learning processes in motion whose unintended consequence was that the gap between reality in the firm and the sectoral norm grew wider. At the same time, the practice of the collective bargaining actors contributed to their having to put up with a significant loss of their ability to enter into commitments. The employers' organisations thus by means of the flexibilisation of associ-



ation membership¹⁰ and the pluralisation of remuneration and working time realities deliberately minimised the obstacles facing deviations from the norm, which also undermined their own norm-setting authority. By contrast, the dilemma of IG Metall lay in its company collective agreement policy. By accepting special conditions for a given company below the norm of the pattern-setting collective agreement IG Metall can boost the willingness of the relevant workforce to participate in collective bargaining and thus strengthen – mainly – the organisational affiliation of its members in such companies. At the same time, however, in this way it creates lower collective bargaining reference values, which other firms are all too eager to refer to in their own negotiations. As a result, IG Metall in turn becomes open to collective bargaining blackmail. In such conflicts, in which the logics of membership and influence stand counter to one another, cost-benefit analysis and damage limitation usually form the basis for proceeding. If in such a case the differentiation and flexibilisation process takes place as a decentralisation process controlled or backed by employees' and employers' organisations this also means that zones deprived of rights and one-sided uncontrolled burdens on employees are avoided in order to prevent a downward spiral that would otherwise be difficult to regulate.

The switch from an exceptional social policy situation of stability-oriented institutional transfer towards a flexibility-oriented company modernisation was accompanied by a diminishingly exogenous governance policy and an increasingly endogenous dynamic of its own. The industrial relations actors in eastern Germany were able to develop their own profile based on considerable experience by means of collective bargaining rounds, the revision strike, the routinisation of organisational policy and rapid-motion collective learning. And all this, after ten years, without getting beyond the state of precarious consolidation. With the change in the balance of power, the enormous increase in in-house company solutions and the major difficulties involved in anchoring a consensual strategy between the collective bargaining parties no basis for trust developed within and between the industrial relations organisations for a transparent and broadly recognised inter-company

¹⁰ Employers' organisations enable first memberships with and without collective bargaining coverage and second more flexible opportunities for joining or leaving employers' organisations in order to prevent the structural dissatisfaction of its own members.



mode of negotiation. On the contrary, industrial relations in the eastern German metal industry were characterised by turbulence and confusion, because of which the influence of company actors can be considered very high and the ability of industrial relations organisations to make commitments very low.

2. Transfer Programme: No Blunder, But the Unintended, Stability-oriented Price of Unity

In evaluating industrial relations in eastern Germany contrasting positions confront one another: the pessimists feared that in eastern Germany a long-term deviant trend had set in in relation to western Germany, which at the same time could result in a permanent weakening of the western German model. As Archimedean point the proponents of the erosion thesis identified the specific form of transfer programming (Ettl and Wiesenthal 1994). Some referred primarily to the initial efforts in relation to collective bargaining, while others pointed to the dealings with the eastern German actors and the representation gap that developed out of that (Mahnkopf 1991). In contrast, optimists put into perspective the long-term burdens arising from the initial measures implemented and pointed to the robustness and flexibility of the western German model (Turner 1998). I interpret the course taken as a stability-oriented, complexity-reducing power strategy on the part of the western German actors, which corresponded to the security-oriented expectations in both parts of Germany. Although the unintended consequences imposed considerable costs and burdens on the actors involved, they were perfectly manageable compared with the significance of this once-in-a-century event. They have not led to any fundamental change in the German model, but to its reinforcement in modified form.

As far as the motives for and consequences of action are concerned a number of prominent authors have formulated the thesis that the decision in favour of a rapid wage adjustment was in the long-term interests of the western German actors due to the removal of low-wage competition. This calculation, imputed to the collective bargaining parties in the course of the initial efforts with regard to collective bargaining, is thus brought into an intentional relationship with deindustrialisation and mass unemployment. Particularly effective and apposite in this con-



nection is the criticism by economists Gerlinde and Hans-Werner Sinn (1991: 150): »The collective agreements for eastern Germany amount to an employment ban in one part of the country. Only those can engage in economic activity who can do it under western conditions. From 1995 production will be possible only with the technology of one of the most productive economies on earth and at its wage levels.« The justification offered by the collective bargaining parties for the »high wage, high tech strategy« – that the idea was »not to give investors false signals when choosing their technologies« and thus to bring about high productivity and to halt labour migration to the west (Sinn und Sinn 1991: 151ff) – was evaluated by the Sinns as a paternalistic strategy, with massive efficiency problems, which would burden the state and tax payers. Thus to a certain extent the main blame for the rapid decline in employment was put on the collective bargaining parties. Furthermore, a kind of conspiracy theory about the long-term strategy of western German »cartel brothers« was blamed, aimed at fending off eastern German competition.

Ettl and Wiesenthal's (1994: 436) organisation policy-oriented actor-theoretical reconstruction of the launch period of collective bargaining is similarly to the point. They start out from a »structural representation deficit« on the part of the employers, as a consequence of which a policy oriented towards »conflict avoidance« and the prevention of low wage competition was implemented. The lack of »preventive handling of arising problems« is the result of »egoistic ignorance« (ibid.: 437). Ettl and Wiesenthal also come to the conclusion that there were also negative outcomes of the initial phase of collective bargaining on the level of employment, volume of investment and level of participation.

While both explanatory approaches have different emphases with regard to the rapid falling into line with western actors' interests, von Fürstenberg starts with the »endgame rationale« thesis in relation to the interests of the eastern German actors in the end-phase of the GDR. Given the deep economic crisis, the obvious overstaffing and the unemployment to be expected within the framework of the German welfare state the main purpose of the eastern German actors in the first half of 1990 was to drive up wages rapidly in order, later on, to receive the highest possible compensation from the Federal Labour Office (*Bundesanstalt für Arbeit*). Fürstenberg also sees here the main reason for the different course of labour market development in eastern Germany



and the former COMECON neighbour countries: »If East German politicians, managers and workers had taken advantage of the prospect of unification to maximise the wage bill just before the regime's end, the West German receivers would have been handed an extra adjustment problem to contend with that could not have arisen in post-communist Poland and Hungary« (Fürstenberg 1995: 299).

These explanatory approaches refer only to individual, particular calculuses of action; they do not constitute an explanation of the whole, however, because they assume that the strategic goals of individual groups were identical with the outcome of the process. Although it is conceivable that the intended goals of particular interests arose as the unintended consequence of a comprehensive complex negotiation process, it is inadequate to start out only from the goals. In such cases, however, no causation can be established to take account of the causes and dynamics of a process. Ultimately, economic and political action does not occur in some abstract realm, but embedded in a complex institutional context. That applies in particular to the transfer of institutions, which was shaped by a complex politically overstrained mixture of party-political, economic and associational interests. All actors here had to proceed with inadequate information on the current situation, but especially with regard to the normative dimension of collective action. Without the normative dimension, however, it cannot be explained why the overwhelming majority of members and substantial portions of the public held that the collective actors in the unification process acted in good faith, going beyond particular interests. While in Sinn and Sinn's analysis the institutional, political and normative framework was largely neglected, Ettl and Wiesenthal ignore the power-political, processual negotiation dimension as the basis of action among representative associations.

A different perspective on the initial programme arises if one considers the unrealised alternatives for the rapid transfer of western German collective bargaining structures. The thematisation of alternatives and opportunities not taken offers us the possibility of reflecting upon the advantages and disadvantages, costs and consequences of different decisions. Alternative structural options for collective bargaining included, first, more protracted transitional arrangements on the basis of a GDR-specific collective agreement on wages and salaries and, second, the development of a collective agreement on wages and salaries with



new provisions on classification and remuneration principles. While a slow transition from the GDR collective bargaining system to that of the Federal Republic did not figure in the public debate, the desire for imminent reform of the system did strike a chord within the trade unions. In Saxony, the collective bargaining parties had reached a consensus in autumn 1990 about striking out on this path together. Instead of a new remuneration framework agreement the separation into blue-collar and white-collar workers was transferred to eastern Germany. Although this separation was no longer in line with the qualification and performance requirements of the new world of work, it did meet white-collar workers' »need for catch-up demarcation«, namely to establish a difference between blue- and white-collar workers that did not exist in the former GDR (Mahnkopf 1991: 289).

Why was the opportunity of change not taken to adapt the collective bargaining system to conditions in western Germany that had already changed in the 1980s? What role did the now prominent interpretations of the abovementioned authors – concerning the self-interest of individual groups or an eastern German representation gap – play in all this? This is based on the assumption that such a complex and intractable decision-making situation, such as the initial period after unification, scarcely allows for a clear-cut attribution of cause and effect. Nevertheless, the following factors influencing the initial period can be determined, with reference to the safety-oriented behaviour of the collective actors:

- There was enormous time pressure, which meant that the transformation process was improvised.
- There was no consensus among the western German peak organisations about the direction of restructuring at the substantive and structural levels because there was no joint analysis of the shortcomings of industrial relations in western Germany.
- It also has to be taken into consideration that neither of the collective bargaining parties felt that the plausibility deficits of the western German collective bargaining system were sufficiently critical to consider a transformation of its own instruments and rules to be the top priority.



In effect, this meant that the collective bargaining parties regarded themselves as overwhelmed by the breakdown of the system. The reproach of »colonialisation« (Brie 1994) is closely linked to the question of overstrain. A large number of eastern German employers – but also some employees – later considered the transfer of the western model as »colonialisation« or as a process of imposition. Related to the criticism of imposition was the reference to the lack of participation of eastern German actors in the conceptual launch programme. However, actors were lacking – such as competent trade unionists or employers – who were recognised by the other side as on an equal footing. Nevertheless, the reproach of colonialisation served as a sounding board under the circumstances of unification for the works council movement in 1992, the Justice Committee and the many other activities, such as the Revision Strike in 1993 (Kädtler and Hertle 1997). Also important in this was the eastern German identity in the sense of wanting more recognition and participation. Even today this is sometimes dismissed as »*Ostalgie*« (nostalgia for the good old days of East Germany). Both the employers' associations and IG Metall referred to this perception in pursuit of their own organisational interests. Thus the employers made reference to the special situation in eastern Germany to justify not only their demand for a specific eastern German collective bargaining policy, but also deviations from collective agreements at enterprise level. In contrast, IG Metall referred back to the specifically eastern German state of mind when the employers tried to impose worse terms on eastern German workers than those enjoyed by western employees (Hondrich 1993: 117f).¹¹

3. Wage Level versus Shortage of Skilled Workers

Twenty five years after reunification wages laid down in collective agreements have converged in almost all sectors; at the same time, real percentage wage differences between eastern and western Germany

¹¹ Hondrich (1993: 117) interprets the 1993 strike in this sense: »The rationality of the strike for them lay not so much in the sphere of their interests as in their collective identity: they had had enough of kowtowing and humiliation. In this way they showed western German employers, western German colleagues and themselves that they would not allow themselves to be led like lambs to the slaughter.«



with regard to all employees remain at the level of the mid-1990s. This remains a reason – especially for young, well educated workers – to turn their backs on their eastern German home and make for the western German labour market. Although a downward trend has been discernible in collective agreement coverage since the mid-1990s in both eastern and western Germany, coverage in the east is much lower. In 2013 only 20 per cent of eastern German companies and 47 per cent of eastern German employees were covered by a collective agreement (sectoral and workplace agreements), while in western Germany the figures were 33 per cent of companies and 60 per cent of employees (Dahms 2014: 80f). Declining coverage has also been accompanied by an increase in opening clauses in which companies deviate from standards laid down in collective agreements (for example, with regard to working time, suspension of wage increases, cuts in or cessation of special payments). Here, too, the small company structure is a key driver of low collective agreement coverage. Interestingly, the low competence of the social partners does not necessarily correspond to their perception as key labour market actors in the workforce: according to a survey carried out by TNS Infratest at the behest of the labour ministry of the state of Brandenburg, 93 per cent of those asked declared that cooperation between the employers' associations and the trade unions in shaping working conditions and remuneration is at the very least important.¹²

Besides the falling coverage since the mid-1990s the adjustment rate of average gross wages has scarcely changed, fluctuating between 77 and 80 per cent. Particularly alarming is the high proportion of low wages in eastern Germany in comparison with western Germany. While 36.5 per cent of dependent employees in eastern Germany work in the low wage sector (hourly wage of less than two-thirds of the median), in the west of the country the figure is only 21.6 per cent (Kalina and Weinkopf 2014: 3). This low wage policy comes at a price: low tax revenues and social insurance contributions, burdensome social transfers and weak domestic demand, which in turn affects employment in downstream sectors, such as trade and crafts. For many years low wages were prized as a competitive advantage of the eastern German economy and used to woo investors: since the end of the 1990s average

¹² Survey carried out by TNS Infratest on social partnership in Brandenburg, commissioned by MASF, October 2012.



unit wage costs in manufacturing in eastern Germany have been below those in western Germany. In the eastern German *Länder*, however, it has been recognised for quite some time that that this low wage image is counterproductive in a period of looming skilled-worker shortages with regard to efforts to retain and attract skilled workers, not to mention highly qualified innovation specialists.

Demographic change and the abovementioned skills shortage that goes hand in hand with it, as well as reductions in fiscal room to manoeuvre with regard to state budgets represent a window of opportunity for implementing a new level of quality in work, fair wages and cooperation with the goal of achieving equal decent working conditions and living standards in east and west, as well as averting the renewed danger of a brain drain towards the west. This positive climate of reform is already accompanied at the federal level by a renewed call on the part of the social partners, who proved to be stable and reliable partners in the global economic and financial crisis of 2008/2009 and since then have experienced something of a renaissance. On top of that there is a broad societal and increasingly also political acceptance of a minimum wage policy, which now ranges across party-political lines, encompassing Social Democrats, Greens and Die Linke, although of course the parties' particular solutions differ in detail.

It is striking that since around 2010 the eastern German *Länder* – with the exception of Saxony – have made an active effort to improve the conditions of the social partners in relation to companies and the general public. These activities have been conducted under the aegis of the respective labour ministries. In cooperation with the employers' associations and the trade unions a public policy favouring social partnership and general collective agreements is being pursued in the interest of strengthening the relevant actors, though without infringing free collective bargaining. This approach is backed by projects with ESF (European Social Fund) funding, which are often used to boost social partnership-oriented policies. In the awareness that activities on top of institutionalised social partnership in eastern Germany are already so much part of the landscape, the prospects of establishing a different culture of social partnership are fairly distant.

A campaign conducted by the collective bargaining parties for decent, secure employment in eastern Germany has thus been taken up in the meantime by the regional governments of the eastern German



Table 2: »Joint Declarations by the Social Partners« in the *Länder*

Land	Ministry	Title of declaration	Actors	Date
Brandenburg	MASF (Labour and social affairs)	Joint declaration on strengthening social partnership	Ministry, DGB, IGM, IG BAU, NGG, IG BCE, Unternehmerverbände Berlin-Brandenburg (UVB) (Berlin-Brandenburg business associations)	31.05.2011
Thuringia	MWAT (Economy, labour and technology)	Joint declaration within the framework of »Concerted Action in Thuringia 2010«	Ministry + individual associations: Metal, construction, chemicals, food and beverages	24.02. 2010
Saxony-Anhalt	MWA (Economy and labour)	Joint declaration on strengthening collective bargaining partnership	Ministry + individual associations: Metal, construction, chemicals, food and beverages	21.10.2010
Mecklenburg-Western Pomerania	MP and MWAT (Tourism)	Joint declaration on strengthening collective bargaining partnership	Ministry + individual associations: Metal, construction, chemicals, food and beverages	11.05.2011
Berlin	SenAlF	Joint declaration on strengthening social partnership in Berlin	Ministry, DGB, UVB	22.05.2013

Source: Author's interviews in eastern German ministries of labour and the economy.

Länder. The fact is that the challenges are too multi-layered and complex for any one actor to cope with. Rather a multi-dimensional approach is required, linking labour and wage policy, but also education and integration policy and family and care policy. An important first step comprises the joint declarations of eastern German *Land* governments, trade unions and employers' associations. By this means, the relevant challenges and exigencies are identified and an appeal is made to strengthen the organisational level of trade unions and employers' associations and to expand workplace interest representation. These joint political initiatives, oriented to the long term, can also be backed up at *Land* level by means of public procurement laws. In this way at least minimum thresholds can be drawn with regard to public procurement, in particular for remuneration and at least a plausible renunciation of the »low wage image« of the eastern German *Länder* can be actively ensured.



Such a collective bargaining offensive can soon hit the buffers, however, if, despite the positive framework conditions and high level of acceptance among the workforce, the collective bargaining parties are unable to overcome their structural membership weakness. Although this path via the social partners is not necessarily obsolete alternative ways should be tried that make it possible under these conditions to cultivate an attractive employment landscape in eastern Germany.

Such an alternative path could be found in the establishment of chambers of labour. Such a counterpart to the chambers of commerce on the employee side as bodies under the aegis of public law have existed in Austria, Bremen and Saarland since the 1920s or 1950s. A chamber of labour offers the previously only inadequately organised workforce the opportunity to ensure low-threshold access to advisory services – especially initial consultation in legal and social matters – and further training and thus to confer some security and direction on the world of work. Nevertheless or precisely because the core tasks of the trade unions – free collective bargaining, legal advice – would not be affected the social partner offensive of the eastern German *Länder* could in this way obtain institutional support and a long-term boost through cooperation.

A new culture of labour is possible as the key to a consistent further development of eastern Germany. Ultimately, such a culture must leave behind the principle of any kind of work at any price. Forming the basis of such a new culture, besides the positive location factors already mentioned, from infrastructure to human capital, can be the fact that eastern German society is still defined by the heavy emphasis put on labour as a factor of production in the socialist GDR.

4. Eastern Germany: From Temporary Main Stage to Structural Side Stage of the German Model

After a brief empirical excursion into eastern German collective bargaining and counter-strategies in the eastern German *Länder*, to conclude we would like to insert the developments presented here once again in the structures of the German model of labour relations. The incorporation of the former GDR in the western German model took place through accession to the Federal Republic. In the context of a comparatively radical transformation, which can be characterised as only *semi*-shock therapy



due to the massive state intervention and transfer payments, the outcome in the five new *Länder* was deindustrialisation, mass unemployment, unequal wealth distribution and the dominant influence of western German companies. Comparison with the transformation processes in other central and eastern European countries shows that similar results – albeit considerably protracted – were also achieved by more gradual strategies.¹³ With the merger of two national economies with profoundly different levels of performance a crowding-out process set in that shrank eastern Germany's industrial base to a rump. Eastern Germany has not become a kind of »Mezzogiorno« (southern Italy and Sicily), however, as some had feared. The eastern German electrical and metal industry has consolidated at a low level since 1996 and is now well established in the value chains of western German companies as a dependent, but definitely dynamic regional economy. An important characteristic of the eastern German dependent economy, in which around 8 per cent (2014) of all employees in the German metal industry work, is the small number of large enterprises (around 50 enterprises with more than 500 employees), which – at the same time – mainly operate along the lines of the so-called »extended workbench« model; in other words, they rarely take care of all important functions of the value creation process. The economy's dependency is particularly evident if one bears in mind that only three of the large metal enterprises have their headquarters in eastern Germany. Because the majority of small enterprises operate as regionally oriented niche producers an export orientation as an economically constitutive element of the German model has to date been somewhat weaker in the five new *Länder* than in western Germany, although it has been rising strongly. While the export rate in the old federal *Länder* stands at 44.4 per cent, the metal industry in the new *Länder* stands at only 26.5 per cent.

The eastern German metal industry can today be regarded as a relatively consolidated industrial landscape, economically. Although unit wage costs, as well as revenue and return on sales have converged on the western German level in the majority of companies, this has not yet exercised a sufficiently calming influence on the viability of the dual

13 Cf. Wiesenthal (1999: 61): »Not only did eastern Germany's industrial production shrink in the same proportion as in Poland, Hungary and the Czech Republic, but the recovery in the volume of industrial production took place at the same rate as in countries that had not experienced anything comparable to economic and monetary union and had not been the recipients of extensive financial assistance.«



system of industrial relations. Instead, under conditions of mass unemployment the paternalistic communitarian GDR legacy and the effects of the externally governed transformation process have merged to form an amalgam favouring conservation of company isolation strategies in contrast to policy options pushed forward by collective bodies? The key strategic actors in this process are the eastern German managers. They seem to have been able to interpret the corporate context as a community of fate which will be able to counter the threats from the global market only if they jointly stand up for the future of the company and don't let outsiders prescribe what social standards they have to provide in the market. The basis of these corporate »alliances of flexibilisation«, which are undoubtedly open to interventions by the collective bargaining parties that they regard as positive, consists of the joint cultural and political origin and the priority given to maintaining one's own workplaces (Weinert 1999).¹⁴ Even if person-centred networks in small companies are more significant than in large ones, this factor is found there, too. The fixation on the culturally and the personally grounded competitive community, however, cannot hide the fact that even in eastern Germany there is now a broad range of corporate constellations. Decisive, however, is the fact that the profile of corporate behaviour outlined in this chapter is predominant in relation to the eastern German metal industry. The difference in comparison with western Germany, where similar flexibilisation alliances are to be found, consists in the fact that there the personalisation of this political pattern is less pronounced and formal procedures and institution enjoy greater acceptance.

What are the specific characteristics of industrial relations in the five new *Länder*? This question is usually answered by reference to the frequency of breaches of collective agreements, a reluctance on the part of businesses to join associations, an unwillingness to be active participants on the part of association members and a proactive employer organisation strategy which also developed in western Germany

14 On this point one might mention a trenchant assessment by Rainer Weinert (1999: 45): »managers and works councils tend to have known one another for several decades and there is usually a feeling of unity and friendliness. They survived the collapse of the GDR and the precarious stages of the privatisation phase. The common political and cultural roots in the GDR are regarded as a decisive competitive advantage in this perspective because expected cuts and curtailed benefits are taking place on the basis of this collective bond, the characteristics of which are ›honour‹ and ›openness‹«.



from the mid-1990s and gradually caught on in terms of a far-reaching flexibilisation of business association memberships.

Given the inadequate integration capacity of employers' associations with regard to small businesses a bifurcation of these associations developed in accordance with company size, which certainly serves as a model for Germany. Because the adaptation process had been blocked since the mid-1990s eastern German companies have enjoyed a considerable wage cost advantage in relation to western German ones and the employers' associations have sought to prolong it. All attempts to make the »golden age« of collective bargaining – the period between the 1950s and the 1980s – the benchmark for evaluating developments in eastern Germany eventually turn into futile accounts of decline. There can be no return to the »golden age« because things have changed entirely since the late 1970s. A »realistic« interpretation first of all requires that one distinguish between the core of the German model and its variable elements and susceptibility to change. The core of the German model of industrial relations comprises organisations with substantial memberships that implement inter-company sectoral distribution policy through conflict and cooperation. From this perspective two dimensions in particular appear precarious with regard to the eastern German situation: first, the lack of members of the employers' associations and second, the lack of binding force of the regional collective agreement. If we take, with regard to membership, the particular small business-oriented industrial landscape, on one hand, and the markedly high membership among larger companies the problem of a lack of members appears less serious, although not entirely groundless. More difficult to judge are the changes with regard to the regional collective agreement: in the »golden age« the collective agreement was declared, as an indispensable regulatory requirement, the definitive minimum norm without the option of deviation and was also treated as such by most companies. Since then, deviation has been increasing, also by means of opening clauses, which were devised by the collective bargaining parties themselves. In this sense the regional collective agreement has developed into more of a general framework whose shaping depends on the political balance of power and the specific economic circumstances. It follows from this line of reasoning that the core of the German model is not affected when the viability of individual elements is weakened. From the perspective of path-dependent development it is decisive that the capacity for cooperative regulatory practice exists



in the multi-level sectoral system and the associations shape this process in a negotiation process based on a division of labour with the company actors. In this they are able to take their bearings from a central reference instrument that shapes the working conditions of most workers.

In the longer term, the unification process appears to have been a brief interruption. The policy of the »middle way«¹⁵ was readjusted, but continued, even though some factors do not function in the five new *Länder* as they do in western Germany. The eastern German situation is characterised by the fact that there are simultaneously destabilising (low level of organisation and low collective bargaining coverage) and stabilising phenomena (especially state actors). But the overall picture is positive, despite all the disjunctions and contradictions, not only because of integration across Germany as a whole, but also because important political forces in the five new *Länder* operate in the direction of stabilising integration. Here I assume that complete convergence between western and eastern German standards and habits cannot be achieved overnight. On the contrary, eastern German development provides proof that in the future there will be more regional deviations and differences between centre and periphery within the framework of the German model, without renouncing integration in a common institutional context. The start phase of the transformation process was supposed to help prevent mass emigration to western Germany, and eastern Germany was not supposed to be identified as a low wage country from the very outset. It was not really possible to achieve either. In any case, in the early years after the transition this led to a slowing down of the restructuring of industrial relations. Since then the restructuring process has picked up speed, in the course of which the core elements of the German model have survived, though modified. In this respect the role of eastern German industrial relations has been comparable to that of the eastern German economy: in both instances we are dealing with dependent regional factors that, although dynamic in character and thus able to set their own priorities, are unable to shape the core of the German model sustainably by their own efforts.

15 The policy of the »middle way« characterised the activities of the Federal Republic and its policy outcomes with regard to economic and social policy as distinguished from other democratic states in the period from 1949 to 1989. In practice this middle way is expressed by various policy responses: first, the priority given to price stability, second the striving for economic efficiency alongside a strong welfare state, third the passing on of many public tasks to societal institutions and fourth the acceptance of a relatively high ratio of government spending to GNP to finance an interventionist state oriented towards transfers.



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So Who's Transforming Whom?

Frank Hoffer

1. Introduction

A quarter of a century after the fall of the Berlin Wall, most of the trade unions in Central and Eastern Europe and the successor states to the Soviet Union are by and large incapable of mobilizing, let alone striking. The transformation of the former State unions has to be viewed either as incomplete or as a failure, and the mass protest and strikes of the 1980s and early 1990s did not bring forth any new unions with strong memberships. Given the extremely difficult context, only a few small self-sufficient trade unions have emerged – and then only thanks to the tireless efforts of a handful of activists.

In the meantime, most of the post-Soviet trade union apparatuses have affiliated to the Global Union Federations and the International Trade Union Confederation (ITUC). The former State unions still have 40 million members (ITUC 2014), but they have contributed scarcely any ideas or impulses to the renewal of the international trade union movement. Rather, they are helping to bring about a structurally conservative depoliticization. The affiliation of regime-supporting unions from authoritarian successor states, plus the dialogue with the Chinese State unions, has led to rather muted criticism of violations of fundamental labour rights in these countries. This raises questions about the international trade union movement's own conception of itself – and about the credibility of international trade union campaigns for workers' basic rights.

So far, the hope that cooperation and affiliation to global trade union organizations would change State administrative agencies into living trade unions has not been fulfilled. So the conclusion has



to be that movements cannot be created just by transforming apparatuses. Rather, they emerge from efforts to deal with new circumstances.

2. Looking Back

After the liberating collapse of the Soviet power bloc, a whirlwind of privatization, freedom of opinion, freedom to publish and travel, consumer glitz, workplace closures, mass unemployment and dynamic oligarchical enrichment swept through the grey world of Soviet stagnation. Overnight, *homo sovieticus* was released from State-imposed communitarization and pseudo-social mass organizations.

The Soviet system was based on the actual fragmentation and formal socialization of the populace. Empty declarations filled the public arena, while real life was confined to the private world of family and friends. There was no room for civil society involvement. Independent associations, citizens' initiatives, parties, cooperatives, or even just tenants' associations, local community groups or parents' associations were not allowed, due to their potentially subversive nature. Social self-organization beyond the immediate circle of family and friends was not part of people's day-to-day experience.

The transformation swept away not only the system of Soviet rule but also its alter ego – the opposition niche culture and the constant backroom conversations that served as embryonic networks of social resistance. This was partly due to a lack of practical determination, but it was also because the new possibilities for advancement and economic success diverted people's attention to business. So to a large extent, no core organizing structures were on hand to convert the upsurge of mass protests and strikes into civil society engagement and organization.

Once the collectivist facade had crumbled, all that remained was loners fending for themselves in the new market maelstrom. Instead of subjection to an authoritarian State, the structural violence of the market became the new normality.

The absence of social self-organization permitted a shock transformation, which aimed at an ideal »perfect« market and ended up as oligarchical capitalism. »Structural adjustments«, ushering in mass pau-



perization and unbridled enrichment, were introduced by technocratic reformers without encountering any significant resistance, as the fragmented populace was largely helpless to act.

3. Learning from the West Means Learning to Win

The transformation debate of the 1990s implicitly assumed that, given a few radical measures, Soviet-type societies would rapidly change into western capitalist democracies with the institutions to match. Unlike the utopian bolshevist experiment of the early 20th century, the »social engineering« applied by the post-Soviet shock therapists was utopia-free. Everyone knew where they wanted to get to, and even the »how« was rarely an issue – by and large, the radical market recipes were the ones to use.

Supporters of rapid system change thought of transformation, or at least »sold« transformation, as the transition from an unnatural planned economy to a natural market economy. If the profit motive were given a free rein, they argued, then rapid enrichment would soon, out of functional necessity, be followed by the institutional fabric of a regulated market economy. The market would turn today's robbers and speculators into tomorrow's entrepreneurs and innovators. Market competition would lead to economic dynamism and performance-based fair distribution.

Weary of bumbling State planners, people were quite prepared to believe that, after a harsh transitional phase, everyone would soon be living like they do in the West. Moreover, social democrats and trade unions tried to put across the idea that welfarist class compromises and institutional social partnership are part and parcel of modern market economies. The fact that a socially bearable market economy is not an evolutionary matter of course, that it has to be re-won time and again through political dispute and social struggles, was often left out of the narrative.

4. Western European Welfare Capitalism – a Shifting Transformation Target

Yet it was precisely the trade union and social democratic advisers from the West who often ignored, or simply did not notice, how far the col-



lapse of the non-capitalist counter-model was also changing the fundamentals and the nature of the target model itself. Social democratic capitalism along continental European lines, which was being put forward as an alternative to neoliberalism, did in fact itself come under ideological, institutional and economic pressure back home, not least due to the failure of the global counterpower. This was particularly true of that central pillar of social democratic hegemony, the trade unions. In English-speaking countries, unions had been subjected to strong attacks even before 1989, but after the fall of the Berlin Wall, they became a focus of criticism everywhere as an alleged barrier to the creation of competitive, flexible labour markets. Just when the »market economy without adjectives« (Vaclav Klaus) was being introduced in the East, trade unions in the West were also losing influence and impact.

5. »Socialism« without Socialists

The implosion of the Soviet systems in Eastern Europe made it clear that, contrary to state propaganda, convinced socialists were a rarity in those countries and that, while formal State-run trade unions did exist, there was no organized labour movement. The mass protests, demonstrations and strikes against the »dictatorship of the proletariat« did not give birth to any ideas of social justice, nor to new strong civil society institutions. The fast collapse of the moribund systems gave the protesters hardly any time to transform the spontaneous mass mobilisation into organisational and institutional power. The State unions remained, in this period, mostly bereft of ideas and said nothing. Although these big subordinate administrative and distributive structures did have »trade union« in their names, they were at best about State welfare provision, often about authoritarian rule and never about the independent representation of working people. Despite all the rhetorical propaganda tributes to the labour movement, behind the scenes those very values had been reduced to nothing. Even in terms of language, the canon of trade union and socialist values had been discredited.

Having had quite enough of the planned economy's constant shortages and the bureaucratic Party dictatorship, the protesting, militant workers at the Lenin shipyard in Gdansk or in the Siberian coal mines were themselves only too willing to go along with the liberal promises



of market shock therapy. They were much less open to warnings from western leftists about the negative sides of capitalism. Not least because those western leftists often found it difficult to grasp that the market euphoria of the eastern protests was part of a liberation process.

What with looking nostalgically back to a vanished totalitarian welfare and surveillance state and euphorically hoping for market economy liberation, there was little room for a new Left. The deep cultural divide in East European societies between the critical intelligentsia and the workers is another problem. Most of the rather few critical intellectuals stood up for freedom, democracy and human rights. Social justice and organized labour were not priorities for them. With the exception of KOR in Poland, there were scarcely any alliances between left-wing intellectuals and organized labour, of the kind that made a substantial contribution to the success of the social democratic movements in the West. The State unions were mostly irrelevant in the transformation debates, while the protesting citizens and striking workers just wanted to get rid of the old system and take up the western way of life.

Unlike the youth organizations, women's associations, friendship clubs and communist parties, the State unions did not dissolve themselves, nor were they dissolved. In particular, wherever State enterprise and administrative structures were still to be found, albeit in a watered-down form, the traditional trade union committee, with its welfare and distribution functions, also remained part of workaday life. The union apparatuses above the workplace level sometimes had considerable wealth reserves and lived on as mainly apolitical, conflict-averse actors within relatively ineffective tripartite structures. Collective agreements, where reached at all, were low on content. Helping to reshape labour law was the main field in which their traditional technical expertise could be combined with their new conception of their role. However, because of widespread nihilistic attitudes to law enforcement and the unions' inability to mobilize for workers' rights on the ground, there was a wide gap between the law and reality. Union discussions about labour law often seemed strangely remote from the actual post-socialist conditions on the labour market.

Not just politically, the outlook for trade union renewal was dire. Mass unemployment, the collapse of many traditional industries, and inflationary wage devaluation, particularly in the public sector, meant that the economic conditions were also unfavourable. Moreover, the



dominance of canonized Marxism-Leninism had led to an intellectual narrowing and the general lack of a theory basis for critiquing capitalism. Neoclassical market determinism proved to be an easily internalized new spiritual home for those who were unused to thinking critically. Under the circumstances, it was only occasionally possible to swim against the neoliberal tide and convince the anti-socialist workers that a trade union movement would be useful. The main exceptions were smallish, occupationally focussed groups of workers, such as pilots, air traffic controllers, dockers and train drivers, who have a relatively high degree of striking power, but also the mining sector with its dangerous working conditions and consequently strong culture of togetherness and solidarity.

6. Pragmatic Modernization of a Thought-free Apparatus

In principle, there were two options for western trade unions that nonetheless wanted to support union-building in Eastern Europe: either consolidate the mass protests and mass strikes and build up completely new trade union organizations or else successfully reform the State unions. Given the lack of political and ideological starting points for a progressive labour movement, western unions' counselling was for the most part technical and pragmatic. This approach promoted a non-political view of trade unionism, sidestepped ideological debates with the anti-socialist working class and accommodated the State unions' interest in moving away from their image as the transmission belt of the Party.

Freed from Party control and, much to their own surprise, now independent, the old trade union apparatuses aspired to the world of institutionalized social partnership. They rapidly turned into protagonists of ILO-promoted tripartism and EU-style social dialogue. However, devoid as they were of any real membership base, these new institutions for the most part remained in administrative idling mode. The fact of the matter is that institutional co-determination, collective bargaining, health and safety and new organizing are not techniques that can be applied in a vacuum. They require a counterpower built on trade union identity, real membership, committed activists and political convictions.

During the transformation phase, there were heated debates about which course was better – supporting the strike movement or reforming



the trade union apparatus. But 25 years on, neither approach can be seen as particularly successful. Even in Poland, but equally in Russia, Ukraine, the Baltic States, Belarus, Bulgaria and the Czech Republic, no strong trade unions emerged from the courageous and powerful protests and strikes. This is in marked contrast to countries such as Brazil, South Africa, Spain and South Korea, which had liberated themselves from capitalist dictatorships.

To this day, the new unions remain confined to a few sectors. In practice, they often meet resistance from authoritarian new entrepreneurs or even from alliances of old managements and old workplace unions. Regime change has had its day as a unifying motivation for mass strikes and, due not least to the discredit that the Soviet regime brought upon socialist ideas, it has not been possible to win over broad sections of labour to the notion of free trade unions, although there are some exceptions to this in individual workplaces. In these difficult circumstances, the successful consolidation of a few independent unions is a tribute to a small number of courageous, tireless trade unionists. What remains of the old trade union structures is having hardly any impact on the policy debate in society. They are not a significant factor of social influence or power, and they scarcely ever hold internal discussions about content renewal or sociopolitical ideas. In only a few cases, such as Georgia and Bulgaria, have they seen a principled change of leadership. But even with renewed, credible, reform-oriented leaders, it is still difficult to substantially alter the old structures. A change of mentality within the apparatus is the exception rather than the rule, and the members' faith in renewal can only be won step by step, by acting in a credible way.

In the post-Soviet successor dictatorships, meanwhile, the former State unions have become marginalized, subordinated structures within the personalized dictatorships of Nazerbayev, Aliyev, Lukashenko or Karimov – and, increasingly, Putin. Here, their new role is a slimmed-down version of their old one. In such a context, any notion that these structures might reform themselves is just wishful thinking. In other countries that were more successful in transforming themselves into capitalist democracies, the State unions had to contend with massive membership losses. In some countries, there are really no longer any unions. And even where formal organizing rates have not fallen over the cliff, the unions are scarcely capable of mobilizing, let alone striking. The really surprising thing is the large discrepancy between their con-



tinuing high level of formal membership and their real inability to act.

In Eastern Europe, a weakly regulated market economy has arisen in which New Money, in symbiotic unity with neoliberal, oligarchical or oligarchical-authoritarian governments, reigns over a mostly fragmented workforce. These market economies do without any of the civilizing clemency that used to be seen, wrongly, on this side of the Iron Curtain as the normal functioning of modern market economies. Given the lack of any formative leftist or trade union power, the longing for greater justice and social security in these cold market economies is being increasingly co-opted by an anti-liberal political Right.

The system change resulted in a specific market (dis)order that has little in common with the welfarist and democratically contained Western European capitalism of the outgoing 20th century. Instead of coming closer to the original transformation goal Eastern European countries today amplify the international competitive pressure against the social and labour rights achievements of the former target model.

7. Economic Transformation without Changing the Political System

While the transition to capitalism was accompanied by a deep political crisis in Eastern Europe, the transformation in China and Vietnam is taking place under the control of communist parties. China has successfully established the fastest-growing capitalist economy in human history. Unlike the East European transformation societies, the Chinese did not heed the market-radical shock therapists. Instead, they opted for a State-guided mercantilist strategy of industrial catch-up. And due to the continuity of authoritarian rule, the trade union apparatuses are in this case still functional pillars of the regime. The Chinese communist party's interest in a more effective, more modern role for the ACFTU, in order to maintain the conditions of authoritarian rule, should not be misread as the beginnings of a transition to genuine representation of workers' interests. There is no logical reason, no systemic functionalism and no empirical evidence to suggest that, in China, either the Party or the ACFTU is aiming at any such change as part of modernization. It may be that the many strikes and protests are triggering such a change of function within workplace-level trade union structures. But whether these individual,



often successful strikes could form the core of self-organized trade unionism is, for the time being, a matter of pure speculation. However, this would then be a transformation from below, rather than a transformation steered from above. It is certainly a historically unprecedented situation that, under Soviet-type party rule, workers regularly go on strike without either destabilizing the system or being gunned down.

For want of any alternative, due to the ACFTU's monopoly of access, and impressed by the sheer size of an organization with almost 300 million members and 600,000 full-time officials, western trade unions are increasingly relying on dialogue with the ACFTU as a way of contributing to what they hope will be a process of top-down reform. Just why they are optimistic about such a change is not something that the supporters of cooperation with the ACFTU are often prepared to explain. In exchange for their willingness to dialogue, the Chinese partners implicitly, and sometimes explicitly, expect western trade unions to steer clear of public criticism and not to seek contact with spontaneous strike movements and NGOs.

To sum up, the sobering fact is that in most societies undergoing transformation, the State unions have not changed into effective autonomous trade unions. But neither did the protest and strikes of the 1990s bring forth any new strong unions. The few new stirrings of a critical Left in Eastern Europe are mostly taking place outside the trade unions and are not permeating them. The unions have not been significant actors in the more recent social movements, such as the protests against Putin's re-election in 2012, Ukraine's Maidan, the anti-corruption protests in Bulgaria and recently in Moldavia, or the Hungarian demonstrations against the Internet tax. As the transformation process was not a great success even under conditions of relative freedom, there seems to be even less prospect of a transformation of the State unions under continuing Party rule, such as in China or Vietnam.

8. Transformation Feedback

The bid to transform the State unions into trade unions that can mobilize and achieve results has not been a success. No serious analysis would dispute either that fact or the real weakness of the trade unions in the region. What is more, the transformation debate is amazingly



one-sided, as it has been looking only at how the East is turning into the West. There is no discussion of any actual or potential feedback from the integration of the mostly just administratively and formally transformed trade union apparatuses into the western-dominated international trade union movement.

During the 1990s, the international trade union movement set a number of criteria for the affiliation of State unions, such as democratic rulebooks, officers elected by secret ballot, formal independence from the Party, the State and employers. The eastern unions accepted this verification process. The internal modernizers found it meaningful, while others went along with it, like it or not, as western recognition was part of a survival strategy. In the meantime, not only the often numerically small new trade unions but also many former State unions have joined the Global Unions and there are quite intense dialogue relationships with the ACFTU and the Vietnamese VGCL.

After formal affiliation, the international trade union organizations no longer had any leverage to move the process of change forward by making demands from outside. Formal affiliation was an important milestone for both sides. The eastern unions gained international recognition, while the international trade union organizations could claim 40 million additional members and a presence in the transformation countries. Behind this lies the expectation that, despite the current inadequacies, real trade unions are more likely to develop from the existing structures than from any new social movements. But it is still an open question whether future new protest movements will take ownership of the old trade union structures and apparatuses, or if the grey structures will instead tend to block the road to renewal of the trade union idea.

Within the international trade union movement and its affiliates, there is virtually no discussion about whether accepting numerous unions from the Soviet bloc into affiliation entails any risks and/or dangers. While much has been written about how the merger between the ICFTU and the small and in most countries insignificant WCL was such a major step in reordering the international trade union movement, there has been scarcely any debate about possible changes in the international trade union movement due to its salvaging 40 million trade union members from the wreckage of the bankrupt command economies.

Yet this question does need to be put, at a number of levels. First: How does cooperation with State unions influence the international



trade unions' political identity? Second: Do the new members contribute to trade union renewal or greater international combat strength? Third: What effects do the affiliation of and cooperation with (former) State unions have on the credibility, political ability to act and internal democratic governance of the international trade union movement?

9. Worker Self-organizing – the Core of Trade Union Identity

In 1949, the non-communist trade unions left the Soviet-dominated World Federation of Trade Unions and founded the ICFTU. The free trade unions, often social democratic and socialist-orientated, firmly rejected the State trade union concept, and in the international arena of the Cold War, they were both resolute defenders of trade union freedom and anti-communists. In this tense situation, trade unions with dubious democratic reputations were sometimes taken into affiliation, simply if they were anti-communist enough. In particular, left-wing trade unionists within the free unions constantly criticized these double standards motivated by anti-communism. Despite a number of dubious affiliates, the ICFTU's core identity was the defence of trade union freedoms and trade union independence from employers and governments.

Among other things, the free trade unions used the International Labour Organization (ILO) and its complaints mechanisms to oppose the violation of workers' rights under authoritarian regimes and to defend basic labour rights. Particularly when such action was directed against the repression of trade unions within the Soviet sphere of influence, it was supported by western employers and governments. The support given to *Solidarność* is no doubt the most prominent example of this. Defending trade union rights as human rights was a major building block of the international trade union movement's identity.

10. Staying Credible

Since the end of the Cold War, all this has fundamentally changed, and human rights relativism towards economically successful dictatorships such as China is the order of the day for governments and investors



alike. For trade unions, the central issue now is how to deal with globally operating multinational concerns and a globalization architecture that is increasingly undermining State protective regulations. The interest in cooperation with State unions is in no small measure due to the desperate hope that it can somehow play a positive role in this stand-off. A joint Labour 20 Group within the G20 process or BRICs trade union consultations are practical expressions of this hope. So is the belief that an ACFTU presence within western companies in China could strengthen the position of trade unions in general. So far, few if any concrete results from this cooperation can be recorded. And yet, cooperation is practically impossible without simultaneously muting criticism of these organizations and the human rights situation in these countries. Such a policy is increasingly seen as the pragmatically correct one, but it comes at a price.

For example, the ITUC is conducting a visible, professional, aggressive campaign against Qatar because it denies fundamental labour rights to migrants. But it is more reserved in its criticism of increasingly authoritarian developments in Russia or the repression of labour rights in China. The Federation of Independent Trade Unions of Russia (FNPR) is the ITUC's biggest affiliate in membership terms and it no doubt substantially influences what the ITUC says about Russia. Since 2002, the ITUC has not lodged one single complaint with the ILO about violations of labour rights in China. In 2014, the ITUC recommended its affiliates to vote for an ACFTU representative in the Workers' Group of the ILO Governing Body. The outcome was that the representative of the ACFTU, the State union of an authoritarian regime, gained the most votes from worker delegates and a seat on the executive of the UN organization whose central mandate is the right to freedom of association and collective bargaining. In 2015, the ITUC decided to accept the Kazakh unions into affiliation. They are part of the authoritarian regime of Nursultan Nazarbayev. Associate status was granted to the Uzbek unions, which are an integral part of the even more repressive Karimov dictatorship.

Moral integrity and credibility are the greatest political capital that trade unions possess. Muted criticism of powerful dictatorships is likely to create doubts in the public mind about the seriousness of the unions' human rights agenda. (Hoffer 2013)

The clear defence of basic trade union rights lies at the heart of the unions' own identity and mobilizing capacity. But if former State unions



from authoritarian countries are affiliated, there is a danger that, to keep things peaceful in-house, no clear, audible positions will be taken on issues in those countries.

Little by little, the unions' own central conception of themselves as autonomous self-organized groupings of workers is giving way to pragmatic relativism, as many »brothers and sisters« are now affiliates or cooperation partners despite their closeness to the State. The shaky compromises of the Cold War era are serving to justify the even shakier compromises of today.

11. Growing Structural Conservatism?

Beyond the fundamental issue of human rights, the affiliation of ossified trade union apparatuses brings with it the risk that structurally conservative and non-political forces within the union internationals will be reinforced. About a quarter of the ITUC's members are from former State trade unions. Not all of them are paid-up members, but nobody could prevent the Russian FNPR, for instance, from becoming the ITUC's most powerful affiliate overnight if it voluntarily – or at President Putin's behest – decided to pay the full affiliation fees on its declared membership of 20 million (FNPR 2015).

During the initial phase of the transformation, the former State unions gratefully discovered that the international trade union movement was prepared to accept them in spite of their past, and giving them the benefit of the doubt for their willingness to change. Beyond that, they had no international agenda. To western international trade unionists, on the other hand, this quest for affiliation gave a feeling of organizational importance that they were not getting from any other part of the world. These new affiliates remained weak in terms both of workplace organization and of socioeconomic policies, and therefore tended to be averse to disputes. These days, given their own weakness, they are glad that social dialogue structures or other participation mechanisms exist, even if, apart from giving the unions something to be in, they achieve nothing. They contribute almost nothing to international campaigning and mobilizing capacities.

In almost all countries, trade unions are suffering from their image of representing workers of above-average age and failing to attract



young workers from new structures. Union officials from the East tend to further reinforce this image. They are often still a good fit for the grey functionaries of yesteryear. Apart from a few individuals, these unions embody, to a far more drastic extent than the western ones, the problems of internal ossification, poor outreach and dwindling membership. Particularly in many successor states to the Soviet Union, they are an integral part of authoritarian restoration regimes. In their present form, many of these organizations do not help to strengthen the international trade union movement. Indeed, the reverse may be true. The experience of the Socialist International should at least give the international trade union movement pause for thought. For decades on end, the SI allowed in dubious parties, until one fine day they became the power base of the secretariat – which then, through all the usual favours, proceeded to ensure its own eternal re-election. The possibility can by no means be excluded that the former State unions may, in future, become part of an alliance of structurally conservative affiliates that would build a majority for replacing the ITUC's currently rather polarizing activist stance with the quiet penchant of impactless functionaries for consensual self-occupation and organizational routine. In which case, all of our futures would be as desolate as the transformation unions.

12. Transformation Cannot Conjure Up Movements

Given the very modest success of trade union renewal, it has to be asked whether the supposed acceleration of union-building through the transformation of the existing apparatus has not hit a dead end. A trade union is always a social movement. Without membership mobilization and a nucleus of convinced activists, it can never deploy any power. Even in systems of highly institutionalized social partnership, such as in Germany and the Nordic countries, these are essential elements. All the more so in the post-Soviet societies, with the type of roughneck entrepreneur they have brought forth over the past 25 years.

Building up trade unions is first and foremost a political challenge. The organizational side comes second. In the transformation countries, 25 years on, both the Soviet legacy and the market radical euphoria are fading. However, the growing desire for greater social justice is currently being catered to mainly by right-wing populist parties. Not



least because they are able to incorporate this discontent into a political project based on national rhetoric. Similarly, a trade union movement can increase its reach only if, beyond regulatory techniques such as collective agreements, social dialogue and tripartism, it has a vision for reshaping society and the workplace that appeals both to its own members and to other social movements.

But this has no longer anything to do with transformation. Rather, it is a question of survival, applying equally to both East and West. In this respect, developments in Eastern and Western Europe give grounds for cautious optimism. From Podemos to Maidan and from Syriza to Corbyn in the United Kingdom, there are protest movements that refuse to see the status quo as an inevitable fate. The protests against corruption and nepotism in Moldavia, Bulgaria and Romania, cultural and intellectual rallying points such as the Subversive Festival in Zagreb, the joyously cerebral radicalism of people like Slavoj Žižek, the critical opposition to Viktor Orban, and local social movements in many places (Pleyers and Sava 2015) are positive examples of new pathways into social and trade union self-organization. At the workplace level, particularly in large stabilized concerns, a new generation of workers are less marked by Soviet experiences and are prepared to stand up for their economic interests. Up to now, these new first flowerings of workplace-level labour representation have usually been confined to individual workplaces. And they often lack a trade union policy dimension, which is essential for broader renewal. But they are certainly examples of workforces getting active (Kohl 2008; OST 2009; Mrozowicki 2011).

In Eastern Europe, and indeed elsewhere, there is the worrying rise of right-wing populism, but there are also, particularly among the younger generation, dedicated people with the civil self-confidence, critical curiosity and courage to get involved. These are still tender saplings, but they have more appeal and potential than the grey transformers of creeping doom.

13. In Conclusion

The bad news is that the hopes placed in a transformational short cut on the long road to the building of self-governing workers' organizations have not been fulfilled. The good news is that new approaches are



emerging. But we may overlook them if our own view is institutionally restricted to what we have already seen. If trade unions in both East and West see new developments not as a worrying NGO-ization but rather as a chance to understand a longing for social renewal – a desire that has sprung from the most varied sources – then the unions themselves will also have a future. But those who go on hoping that Eastern and Western yesterdays can somehow shape all our tomorrows will, as Mikhail Sergeyeovich Gorbachev put it, be »punished by life«.

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