

Trade unions and collective bargaining – the end of an era?

Main tasks

- **Explain the logic of trade unions and collective bargaining**
- **Chart the decline in trade union density along with the coverage and scope of collective bargaining**
- **Review the main challenges to trade unions and collective bargaining**
- **Discuss future prospects for trade unions and collective bargaining**

Summary

Almost invariably, trade unions and professional associations have emerged as a countervailing power to that of the employer. Although not always the main instigator of collective bargaining, this is the process with which they have become most associated: collective bargaining ('joint regulation') made it possible for them to represent employees' interests in both fixing and administering the main terms and conditions of the employment relationship. In many cases, however, it was not just because of the 'collective 'goods' or, indeed, the 'selective' incentives that many offered that trade union membership achieved very high levels. Also important was 'social custom' – the widespread belief throughout society that membership was a duty and an obligation. Since the 1980s, however, both considerations appear to be waning in influence. There has been a decline in trade union density in most major countries, albeit the degree is very different between private sector and public sector and from occupation to occupation. There has also been a decline in the employee coverage of collective bargaining, although not as universal as that in trade union density, along with the scope of its subject

Trade unions and collective bargaining – the end of an era?

matter. A number of changes in the composition of employment help to account for these developments – the shift from manufacturing to services, the reduction in the size of workplaces, the increasing feminisation of the workforce and the growth of part-time working - but they are not as important as popularly believed. Arguably, the main explanation is that employers no longer see the benefits in collective bargaining that they used to. Considerations here include the very significant competitive pressures to maximise performance, meaning they can no longer compromise in way they used too; the adoption of non-accommodating monetary regimes reducing the scope for wage increases; ‘juridification’ and the encouragement of more consistency in management’s approach; and important ideological considerations such as ‘neo-liberalism’s’ dominance of national level policy making and ‘marketisation’ at company level resulting in greater ‘fragmentation’ of employment. Looking to the future, the prospects for most trade unions and collective bargaining look pretty bleak. None of the models proposed for trade unions (‘service’, ‘partnership’, ‘campaigning’ and ‘organising’) appears to be able to engender the mixture of ‘movement’ and ‘organisation’ that trade unions have traditionally been able to rely on. Arguably, the prospects for trade unions and collective bargaining will very much depend on the decisions of policy makers and the extent to which they value their contribution in upholding social justice and offering an alternative to legal enactment.

The logic of trade unions and collective bargaining

Countervailing power

Trade unions have been a universal response to the asymmetry or inequality of power in the employment relationship. In Flanders much-quoted words, trade unions have ‘two faces, sword of justice and vested interest’¹. They are a ‘vested interest’ in as much as their immediate concern is with the particular interest of their members. They are a ‘sword of justice’ because, in offering protection to individual employees by limiting the arbitrary use of managerial power and lessening the dependences of workers on market fluctuations, they promote democratic involvement and a strong sense of idealism and social purpose. It is for these reasons that the right to form and join trade unions has been more or less universally enshrined

in legal codes in many countries and in the United Nations' 'Declaration of Human Rights'.

In seeking to fulfil their purpose, trade unions have come to be associated with three main types of activities. First are the activities that trade unions undertake unilaterally in support of their members' interests. Typically, trade unions have offered a range of mutual insurance benefits for their members; those organised around a craft or profession have usually been in a position to exert considerable influence over their members' employment relationship via codes of conduct or extended periods of 'apprenticeship'. Second is the collective bargaining that they undertake jointly with employers, more of which below. Third, as is also explained below, is the representation of their member's interests to government with a view to securing legal rights.

Trade unions come in many shapes and sizes. At first sight, especially in the UK, trade union structure, i.e. the coverage by occupation and sector, appears to be a 'hotch-potch'. But there is a logic, which reflects the balance between the three sets of activities. In an initial phase, craft societies grew up based on highly skilled occupations such as those in the printing and engineering trades. Very often their control of the supply of labour, together with mutual insurance provisions, made it possible for them to set levels of pay and conditions more or less unilaterally – in the event of employers failing to meet their demands, the craft societies would deny the employers labour, using their mutual insurance funds as a form of strike pay. A second phase saw the emergence of semi and unskilled workers in large numbers in manufacturing industries such as engineering, shipbuilding and steel, along with utilities such as gas and water. In some cases, the craft societies absorbed them. In most, however, these groups were largely left to establish their own industry organisations or more general ones that recruited members across different industries – transport workers were often the link. In this case, rather than unilateral regulation, collective bargaining and legal enactment were the priorities. In a third wave, employees in the public sector increasingly unionised, along with white collar workers more generally. Like the craft societies in printing and engineering, skilled workers organised around the occupation, while semi and unskilled workers established dedicated public sector groupings or threw their

Trade unions and collective bargaining – the end of an era?

lot in with the general unions. In countries such as the UK a process of merger and amalgamation throughout helps to explain the patch work that is to be found today.

Issues of identity were also closely related. As Hyman has neatly summarised, ‘three main identities either struggled for supremacy or else co-existed’ depending of the specific national context in which they emerged². The first viewed unions as ‘interest organisations with exclusively labour market functions’ – ‘pure and simple unionism’ in the words of Samuel Gompers, who was one of the architects of the AFL-CIO in the USA. The second treated them as ‘vehicles for raising workers’ status more generally and hence advancing social justice’. The third regarded them as “schools of war’ in a struggle between capital and labour’. In practice, as well as reflecting the balance between collective bargaining and legal enactment, the differences manifested themselves in other notable ways: for example, the relationship with political parties and the use of the strike – a trial of strength with employers as against a much more symbolic public demonstration.

Thus, trade unions in the USA have usually been associated with the ‘pure and simple unionism’ or ‘business unionism’: priority was given to collective bargaining and, while laying claim to be raising workers’ status, there was a reluctance to be overly identified with any one political party. In the middle might be located trade unions in Germany, Netherlands and the UK – in each case, trade unions had strong links with political parties on the left (indeed, in the UK, it the trade unions who played a critical role in forming the Labour Party), but collective bargaining was of equal, if not greater priority, to legal action. At the other extreme were the trade unions in the Latin countries (France, Italy and Spain). Here the major general confederations that emerged have been associated with Communist parties and political action, in the form of political exchange involving the state, with legal enactment tending to be given priority over collective bargaining. Indeed, as Chapter 5 has already indicated, in France in particular, their reluctance to reach collective agreements was a symbolic act designed to deny management its legitimacy.

The ability of trade unions to achieve their objectives is critically dependent on the power resources available. Trade unions have been described as a mixture of ‘movement’ and ‘organisation’: they need group identity that binds them together and ideology that promotes

collective action, the first for their vitality and the second for their power³. Also fundamentally important is the structural position in which they operate. Thus, some groups are much more difficult to substitute than others. This is especially so where the members have been able to achieve a measure of control over entry to the occupation or profession – historically, this often took the form of the ‘closed shop’; more recently, ‘occupational licensing’ is having a similar effect⁴. Equally, trade union power depends on the product market in which its members are involved. The ability of employer to concede varies considerably, reflecting the nature and extent of product market competition.

Crucial too is the extent to which society and the state legitimise trade union activities as fulfilling a critical role in society – indeed, some commentators contrast the ‘coercive’ power that reflects trade unions’ structural position with the ‘legitimacy’ power that is bestowed by the wider society⁵. Especially important here is the issue of recognition. Like those in the USA, trades unions in the UK suffer from the fact that the recognition process is workplace-based. In effect, this presents trade unions with a ‘catch 22’ situation: they have to have members before they can reach collective agreements; but it is difficult to recruit members unless they can show the benefits of collective agreements that are available. By contrast in the continental European countries, where recognition is nationally or sectorally based, trade unions are under nothing like the same pressures. The role that such recognition gives them in social dialogue and other tripartite arrangements also helps to fuel the ‘social custom’ argument for trade union membership discussed below.

Trade union membership is also affected by access rights to the workplace⁶. Thus trade union membership remains relatively high in countries with substantial and longstanding access rights, e.g. Sweden and Belgium. By contrast, in countries where trade unions have few if any such rights, e.g. France, the UK and the USA, trade union density is below average and there has been greater membership loss.

Joint regulation

Almost everywhere, the growth of trade unions and collective bargaining was very much related. Indeed, it is with collective bargaining that trade unions have come to be closely identified. In key

Trade unions and collective bargaining – the end of an era?

respects, however, the term is a misnomer. As Flanders⁷ emphasised many years ago, collective bargaining is not the collective equivalent of individual bargaining in the way that the Webbs implied in their pioneering work⁸. Collective bargaining certainly deals with distributive issues, as Chapter 5 has emphasised, but trade unions are not ‘labour cartels’. They also do not limit themselves to regulating the price of labour, but issues such as discipline and dismissal, promotion, and training, together with the promotion of a rule of law. ‘Stated in the simplest possible terms these rules provide protection, a shield, for their members. And they protect not only their material standards of living, but equally their security, status and self-respect; in short their dignity as human being’⁹. Collective bargaining, in other words, was ‘an institution freeing labour from being too much at the mercy of the market’¹⁰; it also helped to prevent favouritism, nepotism, victimisation and arbitrary discrimination.

A collective agreement ... though it is frequently called a collective bargain and in some countries where it has legal force a collective contract, does not commit anyone to buy or sell labour. It does something quite different. It is meant to ensure that when labour is bought and sold ... its price and the other terms of the transaction will accord with the provisions of the agreement. These provisions are in fact a body of rules intended to regulate among other things the terms of employment contracts. Thus collective bargaining is itself essentially a rule making process, and this is a feature which had no proper counterpart in individual bargaining¹¹.

Seen from this perspective, one of the things that collective bargaining brings is the opportunity for employee ‘voice’ not only in the making of the rules but also their administration. From this involvement comes ownership and from ownership a measure of commitment. Not for nothing did many of the pioneers of employment relations study in the UK and the USA talk about ‘private systems of governance’, ‘industrial jurisprudence’, ‘industrial self-government’, ‘secondary systems of ‘industrial citizenship’, ‘industrial democracy’ and the like¹². In Dunlop’s words, ‘a great deal of the complexity and beauty of collective bargaining involves the process of compromise and assessment of priorities within each side’¹³. Arguably, it is for these reasons that collective bargaining came to be seen as a basic

ingredient of a democratic society and a major building block of the EU 'social model'.

Self-evidently, the coming of trade unions was the catalyst for the development of collective bargaining. To understand why it developed and more recently declined, however, it is also necessary to taken into account the role of employers and government. Surprising as it may seem, in the initial phase the UK in industries such as printing and engineering, it was very often employers who were in the vanguard. The multi-employer bargaining for which they were largely responsible brought two main benefits. It not only provided a degree of 'market' control by putting a floor under competition on wages and working time. It was also important in maintaining their 'managerial' control: it pooled their strength vis-à-vis organised labour, enabling them to counter trade union 'whipsawing' tactics with the threat of lock-outs that raised the costs of industrial action considerably; and it helped to neutralise the workplace from trade union activities by exhausting or setting limits to the scope for negotiation there. Collective bargaining, in other words, involved a form of mutual recognition in which management's right to manage was implicitly – and in some cases such as the engineering and metalworking industries in Sweden and the UK - explicitly recognised.

Trade unions also helped in the performance of a number of management tasks. One is an 'agency' function, which is especially important where there is a large number of employees undertaking the same or similar tasks: managers escape the time-consuming and costly process of dealing with employees individually and avoid the inconsistencies in treatment that can so easily arise. A second is that trade unions 'voice' employee grievances and complaints. Henry Mond, who was one of the architects of ICI, the giant chemical company in the UK, put it like this: 'the trade unions are extremely useful to us in bringing to our notice matters that we should not otherwise be aware of'¹⁴. A third is that trade unions help to manage discontent by legitimising disciplinary procedures and the like.

In many countries, government was also very active. As Chapter 4 highlighted, Governments saw collective bargaining as a means of institutionalising and containing industrial conflict, along with delivering other key policy goals, ranging from employment standards to price control. Crucially, collective bargaining offered an alternative

Trade unions and collective bargaining – the end of an era?

to statutory intervention. The state could encourage a form of self regulation and avoid imposing particular distributive outcomes. In the language of legal discourse, the law could be ‘reflexive’ and ‘procedural’¹⁵.

The influence of employers and government is reflected in the structure of collective bargaining and, in particular, its level. Thus collective bargaining can be single-employer or multi-employer; single-employer bargaining can also be single or multi-establishment and multi-employer bargaining single-industry or multi-industry. In terms of agents, it can be restricted to trade unions or extended to cover other collective forms of employee representation including works councils or even work groups. In terms of subject, it can emphasise matters of substance or procedure. In terms of activity, it can be viewed as a rule making process leading to employment regulation or as a negotiating process, whose logic is as much about shaping on-going relationships as it is about resolving particular issues. As Chapter 5 explained, collective bargaining also involves a ‘vertical’ as well as ‘horizontal’ collective action problem: the parties have to reach some accommodation among themselves (the ‘vertical’ dimension) before they are able to deal effectively with the other (the ‘horizontal’ dimension).

Three decades of decline

In discussions of trade union membership, two main types of explanation are offered for why workers join trade unions¹⁶. The first turns on the benefits or incentives that membership brings. At first sight, these seem hardly problematic. Collective bargaining brings higher wages, shorter working time and better working conditions. The problem is that these have come to be regarded as collective or public goods. Because employers often do not make a distinction between union and non-union members, the individual employee has little incentive to join a union - he/she can save the membership fee and still enjoy the collectively agreed minimum standards.

To solve this so-called ‘free-rider’ problem, it is argued, selective incentives are needed in the form of private goods and/or services for union members only. Thus, in some countries, a general form of selective incentive is to be found in the operation of insurance schemes. This is seen to be especially important in the countries where

the so-called 'Ghent' system operates (i.e. Belgium, Denmark, Finland and Sweden). Unemployment insurance is compulsory and controlled by the state, but the unions participate in its administration. In principle, every worker is welcome to join the insurance system without joining a union. However, insurance is often connected with union membership for two reasons: Unions can make it difficult for nonmembers to obtain unemployment insurance and control, or greatly influence, what is considered a 'suitable job'. Thus, individuals choose membership to gain better insurance conditions.

The other type of explanation for trade union membership emphasises the role of 'social custom'. Selective incentives are unnecessary, it is argued, if belonging to a union provides 'reputation gains'¹⁷. If workers directly derive utility from belonging to a union and not being an outsider, they are assumed to be more prepared to join a union if others also join. If a union achieves a critical minimum density and thereby assures that the 'reputation effect' works, a union can exist despite the 'free-rider' problem. The problem is that the argument also works in reverse: the range of 'selective benefits' that can be offered is limited and in times of 'individualism trade union cannot rely on 'social custom'. In Simms and Charlwood's words, it is now 'even more difficult than in earlier periods to identify, construct and promote a single coherent set of collective interests among workers'¹⁸.

Trade union density

Visser offers the most authoritative overview¹⁹. Table 9.1 gives his details of trade union density, i.e. the proportion of the workforce in a trade union which is eligible, for the same selected countries that featured in the Appendix. The first point to note is that there is a very large variation - trade union membership as a proportion of the workforce is very high in Sweden and very low in France and the USA. Germany, the Netherlands and the UK occupy the middle ground - with just more than one-fifth of the working population in membership. The second point is that, having increased in the 1960s and 1970s - it reached 56 per cent in UK in 1979 - trade union density has declined considerably in five of the six countries. Indeed, each decade has been progressively worse from the trade union point of view. The one country in Table 9.1 not experiencing a decline is

Trade unions and collective bargaining – the end of an era?

Sweden - the only country in the selection in the Appendix in which trade unions are involved in a Ghent-type system of social insurance. But even in Sweden there has been a decline since 2005²⁰.

As Table 9.2 suggests, a more complicated pattern lies behind the overall figures. Trade union membership patterns largely reflect the structural features of the sector, workplace and the worker's employment status rather than personal characteristics. For example, in the UK and Sweden, the overall female unionisation rate is equal with or even higher than the male. At the same time, however, the unionisation of part-time workers, the majority of whom are female, is lower. The same is true of temporary or casual workers. Clearly, too, the decline in unionisation is concentrated very strongly in the private sector. In every one of the countries, unionisation in the public sector is considerably higher than in the private. In the USA, for example, density in the public sector is more than four times what it is in the private; in France and the UK, it is around three times. Also clear is that, within the private sector, although declining, density in manufacturing is higher than in services. In every case, it will be seen from Table 9.2, there are several percentage points' difference between the rates in the overall private sector and manufacturing.

Collective bargaining coverage

As the final row in Table 9.2 suggests, the differences between the single and multi-employer countries are especially marked in the case of the proportion of the workforce covered by collective agreements. In the single-employer countries, shifts in trade union density almost automatically translate into collective bargaining coverage reflecting the fact that the agreement is only workplace or company-wide. The result is that collective bargaining coverage is only slightly above union membership in the USA and, with a wider margin, the UK.

In the multi-employer countries, collective bargaining coverage is much less sensitive to changes in trade union density. The extreme case is France. Trade union density is very low, but collective bargaining almost universal. This is because of the overall role and status of collective agreements as both legally enforceable contracts and codes. Indeed, such is their status that, in countries such as France, Germany and the Netherlands, the provisions of multi-agreement are extended to firms in the sector regardless of the

presence of trade union members among their employees. These factors tend to lower the opposition of employers against unions, as all share the same costs inflicted by unions (as well as benefits from union cooperation)²¹. Even so, things have not been standing still in the countries where multi-employer bargaining is the dominant pattern. Three main types of development have been taking place that threaten the long-term viability of collective bargaining.

'Fraying at the edges'. In some countries, multi-employer agreements are shrinking in their coverage of firms within a sector. This is especially evident in Germany. In the key metalworking sector, the membership density of *Gesamtmetall*, the employers' association, has declined steadily since 1980, when it stood at 58 per cent, to 44 per cent in the western part of the country in 1993 and 34 per cent in 1998. In the eastern part of the country, it stood at only 17 per cent in 1998, having fallen from 35 per cent in 1993²². The decline in the proportion of the metalworking workforce employed in member companies has, however, been slower and between 1993 and 1998 levelled out, leading Hassel to conclude that 'big companies tend to remain members of the employers' associations while small companies tend to resign'²³.

'Decentralisation'. As Chapter 5 explained, the agenda of collective bargaining has increasingly become oriented towards questions of competitiveness, adaptability and employment reflecting a shift from a process that was essentially 'productivity-oriented' to one this 'competition-oriented'²⁴. The main effect is that more and more issues are being decentralised for company or workplace determination, reflecting the 'development of a 'different paradigm' of industrial relations'²⁵. As Chapter 5 also pointed out, company-level negotiations dealing with restructuring, so-called 'pacts for employment and competitiveness', became almost universal across EU countries in the 1990s.

'Hollowing out'. A number of devices have been used to introduce scope for company level variation within the framework of sector agreements raising concerns about their long term viability²⁶. These vary in the degree of the 'softness' introduced into the multi-employer agreement. Basically, this means two things: first, the extent to which they are consistent with the principle of universal standards that sector

Trade unions and collective bargaining – the end of an era?

agreements have traditionally promulgated; and, second, the extent to which the regulation provided is ‘complete’, i.e. prescribes the parameters of local outcomes. A rough continuum is apparent in the degree of ‘softness’ introduced into sector agreements under these different mechanisms, with complete opening clauses and framework agreements at one end and incomplete frameworks and specifying minimum standards at the other. The further towards the ‘softer’ end of this continuum, the more the substantive content of sector agreements tends to become ‘hollowed-out’ and the more they assume a procedural character.

Thus, some forms of organised decentralisation, such as ‘hardship’ and ‘opt-out’ clauses, expressly provide for derogation from the universal standard, the credibility of which is potentially undermined. Examples of hardship clauses where the employer is able to pay less than the collectively agreed rate under special economic circumstances are to be found in construction and metalworking in eastern Germany and chemicals in the west. Opening clauses permitting derogation from the universal standard include those in Austria (metalworking) and Germany (banking, chemicals and metalworking) whereby companies can make local agreements on short-term working time reduction below the normal weekly level with no wage compensation, but with a guarantee of employment security for the term of the reduction.

Developments in the Netherlands also suggest that the company-level is far from being the end-point of the decentralisation process. In 1999, the Foundation of Labour (the joint body responsible for advising the government on socio-economic decision making) reached an agreement promoting ‘tailored employment conditions’. Referred to as a ‘multiple-choice model’, the understanding encourages negotiators at lower levels to introduce, within the framework of the collective agreement, scope for greater individual choice with regard to certain employment conditions. There might be a trade-off, for example, between ‘time and money’ or current and deferred remuneration. By mid-2001, fourteen sectors had concluded agreements containing such *à la carte* arrangements and a further fourteen had commissioned exploratory studies. Individual companies concluding such agreements included ABN-AMRO and Philips.

Collective bargaining under pressure

It is important to emphasise that the initial compromise between employers and trade unions, usually facilitated by the state, was just that – a compromise contingent on circumstances. It never created a ‘perfect equilibrium’. While trade unions and employers might have had a common interest in achieving a measure of ‘market’ regulation, their positions on the implications of collective bargaining for ‘managerial’ regulation always differed. As the previous chapter observed, for trade unions, the collective agreement was the beginning of the process of seeking influence over the employment relationship; for employers it was the end – ‘neutralisation’ of the workplace involved helped to uphold managerial prerogative.

For several decades after the historical compromises, it was trade unions which pushed for a greater role for workplace negotiations, with management resisting. In recent years, there has been a role reversal. Management, above all in large MNCs, has been the main proponent of decentralisation while trade unions have sought to maintain the status quo.

Factors in decline

Chapter 7 discussed a number of explanations for the decline in strikes. Accounting for the decline in trade union density and collective bargaining involves a rehearsal of these. The difference, however, is that the quantitative data available about trade union membership are more robust than those dealing with strikes.

Changing employment structure. In discussions of the widespread decline in trade union membership, much attention focuses on the changing patterns of employment - in particular, the decline of manufacturing and the growth of services, the increasing feminisation of the workforce, the growth of part-time and agency working and so on²⁷. It is known as the ‘compositional argument’²⁸. Historically, trade unions were primarily the product of the collective organisation of male full time workers in industries such as docks, metalworking, mining, printing and the railways. Crucially, they were rooted in ‘occupational communities’ helping to explain a strong sense of solidarity. Collective interests and identities did not have to be constructed – they ‘existed’. Arguably, the decline in such sectors and

Trade unions and collective bargaining – the end of an era?

their displacement by the burgeoning service industries has had considerable structural and attitudinal implications. Structurally, organising part time workers or those in small scattered workplaces is much more difficult than organising miners. Attitudes come into play in terms of what is expected of the union and its members. For manual workers in the traditional industries, it was a matter of ‘one for all and all for one’ – there really was no alternative. For many white collar workers in the service sectors, however, the possibilities of individual careers mean that collective action does not necessarily come automatically. Similarly, the willingness to become involved in the union’s activities and readiness to follow its advice or instructions in face of appeals from other sources is more of an individual calculation. Perhaps most importantly, the demise of the strong union bastions rooted in their occupational communities has undermined the strength of ‘social custom’ in the trade union membership decision. Certainly their loss means that there few demonstration effects of trade unions in action resulting in ‘diminishing mobility potential’²⁹.

Changes in employment structure are by no means the whole story, however. In the case of trade union membership, in particular, there is growing evidence to suggest that the direct ‘compositional effects’ are not as important as it was thought. It is in the UK that the most exhaustive analysis has been possible, reflecting the availability of the representative WERS data. On the basis of these, it has been estimated that only around a third of the 28 percentage-point decline in trade union recognition is attributable to changes in workplace characteristics³⁰. Similarly, only one-tenth of the decline in the incidence of collective bargaining in the private sector is due to compositional change. In the words of the authors of the most recent analysis, ‘We can confidently reject the notion that compositional change in the economy has played a major part in diminishing the role of collective bargaining’³¹. Rather it was a matter of employers turning their backs on trade unions – preferring to ‘go’ or ‘remain’ non-union or to reduce the range of issues for which recognition is effective.

Cyclical factors. The levels of inflation and unemployment, sometimes labeled ‘cyclical’ factors, also play a role. Historically, low levels of inflation and high levels of unemployment have been deemed to have a negative effect on trade union density: the first reduces the

incentive to join, while the latter is believed to encourage employer resistance. This is especially so if unemployment insurance is mandatory and administered by the government. By the same token, rising consumer prices threaten employees' standard of living encouraging them join trade unions in order to defend their real wages. Low unemployment is also believed to strengthen trade unions' ability to win concessions and so make them more attractive³².

Certainly the non-accommodating monetary regimes discussed in Chapter 5 have had the effect of producing relatively low levels of inflation and similarly low pay settlements in recent years. The association between levels of unemployment and trade union density, however, seems to be less strong that used to be the case. In the UK, for example, unemployment was falling throughout much of the 1990s and early years of the new millennium and yet trade union membership continued to decline.

Intensifying competition. A third set of factors reflects increasing competition. There has long been recognised to be a close association between developments in collective bargaining and the nature and extent of the product market competition that companies experience – indeed, Commons drew attention to it more than a century ago in showing how the level of collective bargaining in shoe making went from local to district to national in line with the spread of the product market³³. Thus, as the previous section indicated, a major factor in the development of collective bargaining was its ability to take wages out of competition. In recent years, however, the nature and extent of competition has changed dramatically, spreading beyond the boundaries of the national state with which collective bargaining had come to be associated. Especially important is the rise of first Japanese, and then Chinese manufacturers, the collapse of the former USSR and the incorporation of Bulgaria, the Czech Republic, Poland, Hungary, Romania and others into the EU, offering alternative locations for investment. Compounding matters is that the increasing liberalisation of trade, both global through the WTO and regional as the result of the EU's 'single market', means that it much more difficult for governments to intervene to protect employment.

The underlying proposition is set out in the work of Reder and Ulman. In their words, 'union organisation or its span of control must be at least as broad as the product market. Otherwise, non-unionised

Trade unions and collective bargaining – the end of an era?

firms would be able to sell goods for lower prices than unionised firms, resulting in loss of union jobs and declining membership³⁴. On the basis of US experience, they argue that the organisational decline of unions may occur under either of two conditions.

First, when product markets become spatially extended or further integrated, *unless* (their emphasis) union organisation expands with the market, or union decision making becomes more centralised. Second, when organisation shrinks within existing market boundaries, *unless* (their emphasis) negotiated wage increases cause non-union workers to join unions or regulations or other arrangements bar non-union entry or operation³⁵.

The ability of trade unions to take various terms of employment out of competition within national borders also depends on the framework of public policy. States can provide some protection against external competition by tariff and non-tariff barriers. Where there are floating exchange rates, they can also devalue the currency. Under developments such as the EU's Economic and Monetary Union, however, the capacity to maintain barriers and to devalue disappears. The combined effects of EU economic integration therefore weaken considerably national trade unions' ability to influence terms of employment. The challenge they pose to trade unions throughout the EU is rather chilling:

The elimination or attenuation of this power could beset European unions with the same dilemma US unions have faced: either to create more highly centralised structures able to cope with unified markets (as US unions were able to do in the nineteenth century and again in the 1930s) or, lacking that capability, to suffer decentralisation and organisational loss (as happened to US unions in the 1970s and 1980s under the impact of legal deregulation and intensified international competition)³⁶.

The point is that intensifying competition means that employers find many of the provisions of collective agreements increasingly restrictive - for example, those dealing with hours of work may make it difficult to extend working time. The level of wages may higher than they would otherwise be - the so- called union 'mark-up' has been declining. Managers can find also find it frustrating to have to

EMPLOYMENT RELATIONS MATTERS

consult and negotiate in times of continuous change. Crucially, intensifying competition means that there are much smaller ‘rents’ for employers to share with trade unions in the form of higher levels of wages. In the words of the major study of decline that draws on the UK’s Workplace Employment Relations Survey,

Over our quarter century, collective bargaining has retreated fastest in those workplaces that, relative to others, were in product markets with particular competitive characteristics. Their workplaces faced more geographically local competition. Their industries had lower profit levels. And their industries faced a relative worsening of profitability. The growth of collective bargaining in the twentieth century had been nurtured by imperfect competition. Tightening product market competition suffocated it³⁷.

Privatisation has also been ‘major contributor’ to the decline of collective bargaining³⁸. Many former state enterprises continue to enjoy a natural monopoly. But others do not and these hitherto sheltered industries have found themselves exposed to increased product market competition.

Adding to the competitive pressures have been developments in capital markets. The liberalisation and deregulation of capital markets in 1980s and 1990s have put greater emphasis on company financial performance. As the previous chapter explained, the emergence of more active and aggressive investors such as hedge funds, private equity groups and sovereign wealth funds is especially important here. Coupled with the greater availability of capital to finance merger and acquisition activity, more and more emphasis has shifted onto financial results in the form of returns on investment regardless of product or sector. A key consequence of what has come to be known as ‘financialisation’ has been to intensify the pressure on managers to increase returns to shareholders.

‘Juridification’. Although much more difficult to quantify, another relevant factor is the process of ‘juridification’ discussed in earlier chapters. In the UK, most attention has focused on legislation introduced between 1980 and 1993 designed to curtail trade union activity - it ranged from the outlawing of the closed shop, to a ban on picketing at other than the immediate place of work to statutory

Trade unions and collective bargaining – the end of an era?

balloting requirements for legally recognised industrial action. Arguably, however, as Chapter 7 suggested, it is the very considerable increase in individual rights that deserves most attention. For these have had two substantial effects: first, they have helped to soften the harsher features of the subordination intrinsic to managerial hierarchies; and, second, in requiring managers to introduce and follow set procedures for dealing with issues such as discipline, dismissal, and discrimination, they have helped to reduce the inconsistency (or ‘opportunism’) of management behaviour that is so very often a major source of conflict. In short, ‘juridification’ has encouraged a shift away from ‘collectivism’ and towards ‘individualism’ - the more individual employment rights there are, the weaker the case for trade unions and collective bargaining. In the words of Checchi and Lucifora, the legislative framework acts as a ‘substitute for union-provided protection’³⁹.

Ideological considerations. Recent years have also witnessed a very considerable undermining of the ‘legitimacy power’ of trade unions and collective bargaining. In particular, the view that collective bargaining is a ‘public good’ has come under challenge, its role in institutionalising and containing industrial conflict increasingly forgotten as the incidence of strikes has declined. Since the 1980s the ‘new ideological hegemony of neo-liberalism’ in Europe has meant criticism of the both the goals and institutions associated with ‘political correction of market outcomes’⁴⁰. In as much as multi-employer bargaining sets non-market wages, it is held to result in unemployment, thereby generating inequality in the labour market. Rather than being inclusive, too little wage differentiation favours ‘insiders’ at the expense of ‘outsiders’. The role of policy is to ensure that all individuals can hold their own equally in the market. The criticism is usually reinforced by contending that the political and institutional prerequisites for the kind of market-correcting behaviour associated with sector bargaining have largely disappeared with the changing structure of modern capitalism.

Debates over the connections between bargaining structure and economic performance outlined in Chapter 2 are relevant too. A prevailing consensus developed amongst economic opinion that the relationship involved was non-linear⁴¹. Highly centralised bargaining structures, such as those characterising the Nordic area at the time,

apparently performed better in terms of key economic outcomes, because the scope for externalising the wider economic effects of wage decisions is minimised, as did highly decentralised ones because they were disciplined by the market. The worst performing structures were those that were neither fully centralised nor decentralised, i.e. those based on the sector. Although this received economic wisdom has been subject to a thorough going re-appraisal by Traxler and his colleagues, who demonstrate the importance of the particular forms of bargaining co-ordination⁴², it continues to hold sway in many policy making circles.

In countries such as the UK and USA, the influence of ‘neo-liberalism’ on policy making has meant that the emphasis is on markets and ensuring that they work effectively. To all intents and purposes, this has meant the withdrawal of support for trade unions and collective bargaining, with a relatively limited role for government and low taxation. Almost invariably, proposals to improve matters lose out to the desire not to hamper employers’ flexibility⁴³. Crucially, too, there is a premium on macro-level target setting, along with the prioritisation of econometric data over other forms of evidence: qualitative issues do not easily lend themselves to this approach. In the other countries, ‘neo-liberalism’ may have been rejected as an explicit statement of policy. Its impact has nonetheless been important. For example, the ability of governments to bail out business has been much curtailed by EU competition laws and the provisions of World Trade Agreements, both of which have been influenced by the ‘Washington consensus’ referred to in the Preface.

At company level, the influence of ‘neo-liberalism’ is mirrored in ‘marketisation’, i.e. the greater application of market principles to decision making. As Chapter 3 has explained, externally, there has been greater fragmentation of employment as the result of ‘competitive tendering’, ‘market testing’ and the subcontracting or outsourcing of activities previously undertaken in-house. Internally, as Chapter 8 described, ‘markets’ have been introduced, with different units being regarded as ‘purchasers’ and ‘providers’ trading products and services with one another.

Also important are new ways of thinking associated with ‘human resource management’ (HRM). HRM has been variously interpreted as encouraging a more strategic approach towards managing

Trade unions and collective bargaining – the end of an era?

employees and/or as more effectively utilising the workforce through new instruments of performance control. As the previous chapter mentioned, controversy continues to surround the ‘rhetoric’ and ‘reality’ of HRM, but definitions usually embrace a number of common elements: the view that employees are a strategic resource for achieving competitive advantage; emphasis on the coherence of personnel policies and their integration with business strategy; an approach to managing employees which is pro-active rather than reactive; and, perhaps above all, a shift in emphasis away from ‘collectivism’ (management-trade union relations) towards ‘individualism’ (management-employee relations) - helping to explain the stress on commitment of and exercise of initiative by individual employees; and elaboration of group and individual-based mechanisms of performance control.

Such considerations have been especially important in the break up of multi-employer agreements in the finance sector not just in the UK, but also Denmark and the Netherlands. If employees really are crucial to securing competitive advantage, it becomes difficult to justify relinquishing control of wages and major conditions to an external agent, i.e. employers’ organisations. As representatives of the Dutch trade unions explained to their colleagues from other countries, one consideration in the decision of the three major Dutch financial services groups, *ABN-AMRO*, *ING* and *RABO*, to withdraw from their sector agreements in banking and insurance in 1999 was a greater willingness to compete with one another in the labour market, undermining the principle of market regulation⁴⁴.

The dynamics of change

It is not enough, however, simply to list the factors or, indeed, quote the econometric evidence of the links between trade union density, collective bargaining coverage and a range of variables. To understand what has been happening, it is also necessary to appreciate the dynamics of change. Take, for example, the very considerable reduction in the coverage of collective bargaining that took place in the UK between 1984 and 1998, along with a halving of trade union density. Very rarely was this a consequence of active and aggressive acts of derecognition. Rather it reflected a process of withering on the vine – in some cases, managers did not bother to recognise trade

unions in newly established workplaces; in others, the demise of the multi-employer agreement or the break-up of the company (multi-site) agreement similarly meant that some workplaces fell through the net. There was also a great deal of 'implicit derecognition', i.e. a gradual reduction in the range and intensity of issues subject to negotiation – with the balance shifting in favour of consultation or communications. Increasingly, managers found that they could function perfectly adequately without trade unions⁴⁵.

Similarly, the 'decentralisation' of collective bargaining and the 'hollowing out' of multi-employer agreements in countries such as Germany and the Netherlands rarely reflected a deliberate strategy. Rather it was a consequence of the process involved. Employers have found it increasingly difficult to meet trade union aspirations for annual cost of living wage increases without any quid pro quo in the form of a reduction in labour costs and/or improved performance. The problem is that it is difficult to do this on an industry basis, helping to explain the very considerable decentralisation to the company and workplace levels discussed in Chapter 5. Also many of the 'new' issues of flexibility etc that negotiators have to confront do not lend themselves to 'hard' regulation in the same way that wages and working time do.

Complicating matters is the increasing difference of interest between large and smaller employers, many of which are in close (low cost) subcontracting relationships with one another. Larger companies increasingly operate within market segments whose horizons are international in scope, whereas for many SMEs, competition remains regionally or locally bounded. For larger companies, national, sector bargaining no longer provides a minimum substantive floor. Further, managers in these companies may be concerned to legitimate changes to practice amongst its own workforce by negotiating directly with company employee representatives. Conversely, smaller companies have less incentive and fewer resources to engage in company negotiations that trade off improvements in substantive terms and conditions in return for concessions in employment and working practices⁴⁶.

Future prospects

In considering the prospects for trade unions, a distinction has to be made between those that organise around a specific occupation or profession with a licence to practice and those that are more general in coverage. There is no reason to believe that the future of trade unions in the first group is in great doubt. Indeed, these are the ones whose membership has been growing. For the bulk of trade unions in the second group, however, the future looks much bleaker. If anything, the difficulties trade unions are experiencing in recruiting members, along with the pressures on collective bargaining, are likely to intensify. Conceivably, coupled with the worsening of the terms and conditions of employment, the austerity measure being introduced in many countries following the financial crisis could be a basis for the recruitment of new members⁴⁷. Equally, however, they could lead to further demoralisation, especially as trade unions are finding it difficult to link their role in the workplace with that in the wider society.

There is no shortage of suggestions for what trade unions might do. The first, encapsulated in the ‘service’ model, sees trade unions as providers of services – it takes us back to the ‘friendly societies’ and ‘method of mutual insurance’ of the Webbs, coupled with a representative role in individual disputes. The second relates to the discussion of ‘integrative bargaining’ in Chapter 5 and might be described as the ‘partnership’ model. As Chapter 5 suggested, such a model is applicable at workplace level in the form of ‘mutual gains bargaining’ and at national level in the form of ‘social pacts’. The third is the model of trade unions as populist ‘campaigning organisations’ and involves a combination of social movement and interest organisation. The fourth is the ‘organising’ model. Here the appeal is to workers’ interests and the aim is to rebuild countervailing power through assertive organising tactics.

The problem is that none of these possibilities appears to be able to engender the mixture of ‘movement’ and ‘organisation’ that trade unions have traditionally been able to rely on. Equally, combining the models, which is what many trade unions have been doing, does not seem to have the desired effect either. Similarly, a resort to merger and amalgamation is not helping as much as many advocates hoped - arguably, it means that too much time and energy is being spent on

internal administrative matters. Trade unions, it seems, face an increasingly hostile environment where they are ‘objects’ rather than the ‘subjects’ they used to be. Collective interests no longer ‘exist’ – they have to be constructed. In trying to do this, in Sims and Charlwood’s words, trade unions face ‘seemingly insurmountable challenges’⁴⁸.

As for collective bargaining, further reductions in trade union membership may mean a decline in the coverage in the UK and the USA, but not necessarily so in countries such as Germany, France, the Netherlands and Sweden. This is above all true because of long-standing differences in the legal status of multi-employer agreements. Whereas in the UK, multi-employer agreements were grounded in procedural rules and were voluntary ‘gentlemen’s agreements’, in Germany, France, the Netherlands and Sweden they are rooted in substantive rules and are legally-enforceable contracts and codes; in many cases, too, statutory provisions for trade union recognition are nationally-rather than workplace-based.

Arguably, however, multi-employer bargaining is increasingly unlikely, except in rare situations, to take the form of the comprehensive contracts of old. The scope for company level negotiation is likely to be progressively widened as ‘organised decentralisation’ is taken further and sector agreements increasingly become ‘framework’ agreements, as many employers’ organisations have argued. Another possibility is that twin-track arrangements emerge: large employers may abandon sector bargaining and establish their own company agreements, leaving the sector agreement to regulate the terms and conditions for medium- and small-sized companies. Also possible is what might be described as the ‘Irish’ solution: in smaller countries sector bargaining finds itself squeezed between the national and the company level. In principle, a shift in emphasis from the national sector to the EU sector is also possible - in many respects, this would be wholly consistent with the historical trend in which collective bargaining follows the product market. The problem, however, is that for many companies the product market is not regional, e.g. EU-based, but global. Arguably, the most that can be hoped for beyond the national state is the kind of broad frameworks that a number of the larger MNCs have entered into.

Trade unions and collective bargaining – the end of an era?

The critical point to make is that, with further decline in trade unions' 'structural' power, much will depend on the 'legitimacy' power society bestows on them. If policy makers want trade unions and collective bargaining to continue to play an important role – and, as Chapter 2 has suggested, there are good grounds for them doing so – they will need to take appropriate action to secure their survival. For example, legislative initiatives could be tailored to ensure implementation by collective bargaining and/consultation. The same goes for minimum wage legislation. More could also be made of provisions for the legal extension of collective agreements. In any event, one thing seems clear. If policy makers carry on as if nothing is happening, decline is likely to continue by default.

EMPLOYMENT RELATIONS MATTERS

Table 9.1 Trade Union density (%)

Year	EU	France	Germany	Netherlands	Sweden	UK	USA
1970	37.8	21.7	32.0	36.5	67.7	44.8	23.5
1980	39.7	18.3	34.9	34.8	78.0	50.7	19.5
1990	33.1	10.1	31.2	24.3	80.8	39.3	15.5
2000	27.3	8.2	25.0	23.1	79.1	29.7	12.8
2005	25.3	7.8	19.9	19.8	76.0	28.8	11.6
% change							
70-80	1.9	-3.4	2.9	-1.7	10.3	5.9	-2.5
80-90	-6.7	-8.1	-3.7	-10.4	2.8	-11.4	-4.0
90-00	-6.7	-1.9	-8.6	-2.0	-2.8	-10.0	-3.1
70-05	-12.5	-13.9	-12.1	-16.7	8.3	-16.0	-11.9

For further details of notes and sources, see Visser⁴⁹ and European Commission⁵⁰.

Trade unions and collective bargaining – the end of an era?

Table 9.2 Trade union density and collective bargaining (%)

	France	Germany	Neths	Sweden	USA	UK
	2003	1997	2001	1997	2004	2004
Total	8.2	27.0	25.0	82.2	12.5	28.8
Men	9.0	29.8	29.0	83.2	13.8	28.5
Women	7.5	17.0	19.0	89.5	11.1	29.1
16-24			11.0	45.0	4.7	9.7
F/Time	-	-	27.0	90.0	13.9	31.5
P/time	-	-	19.0	83.0	6.4	21.1
Standard	-	-	26.0	-	-	29.5
Casual			10.0	-	-	17.2
Public	15.3	56.3	38.8	93.0	36.4	58.8
Private	5.2	21.9	22.4	77.0	7.9	17.3
Manufacturing	7.5	45.0	28.0	95.0	12.9	24.6
Collective bargaining coverage	95.0	63.0	82.0	92.0	13.8	35.0

For further details of notes and sources, see Visser⁵¹.

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