



TRADE UNION ADVISORY COMMITTEE
TO THE ORGANISATION FOR ECONOMIC
COOPERATION AND DEVELOPMENT
COMMISSION SYNDICALE CONSULTATIVE
AUPRÈS DE L'ORGANISATION DE COOPÉRATION
ET DE DÉVELOPPEMENT ÉCONOMIQUES

OECD seminar,
Labour relations in the Future World of Work
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Paris 11 December 2017

“The global workforce is around three billion people. The world economy depends on their labour, and their families and communities depend on the income from that labour. However, the right to work and the dignity of that work are being undermined by an economic model founded on downward competition on labour costs in the endless quest for profit. The erosion of fundamental rights, the absence of minimum living wages and the decline in collective bargaining which is resulting in a global slump in labour income share along with the failure to ensure universal social protection, have led to historic levels of inequality.”

This is how the ITUC's recent paper on the Future of Work starts its analysis.

The organisers of this conference asked me to reflect on today's discussion with the following questions in mind:

“What are the main challenges and opportunities for unions in the future of work. In particular we would like to hear your views on whether and how unions should evolve or reinvent themselves to reach to the new forms of work, but also how collective bargaining and social dialogue could be mobilised to foster skills and training, modernise social protection and accompany the transitions in the labour market.”

You all may know the famous story of the Baron of Münchhausen: he pulled himself by his own hair out of the swamps. This is how I sometimes feel when questions are asked to me about the relevance of trade unions in the 21-st world of work, and their capacity to deal with the current challenges.

We have been confronted for the last few decades with economic and technological developments as well as deliberate policies from business and politics to weaken the bargaining power of workers and unions. Is anybody out there ready to help?!

When the ILO was founded in 1919, it was against the background of a devastating World War and the Russian Revolution. Something had to be done to address the economic and social insecurities that made workers support calls for war and revolution. The response was not only 'social justice' but also 'democracy'. In many countries, the universal right to vote was introduced, but also the necessity of democracy in the world of work was recognized, by establishing tripartism as a core feature of the governance of the ILO at all levels. Mind you, this was even before the Swedes invented the Swedish social model, and just a few years after in my own country the first nation-wide sectoral collective agreement introduced the 8 hour maximum working day.

I do not think anybody back then was asking questions about the representativeness of trade unions.

The ILO has survived the turmoil of the 1930's and also the Second World War, to then become a part of the United Nations. However, it kept its unique tripartite structure until today, and developed it further on the basis of its core conventions, of which 87 on Freedom of Association and 98 on the right to Collective Bargaining are corner-stones. In ILO language: these conventions provide for 'fundamental principles and rights', but these are at the same time to be seen as 'enabling rights', meaning that all other important rights can only be really achieved by recognizing that workers (and employers) need to be able to organise and express themselves collectively to ensure that their voices are heard and their interests addressed.

However, since the threat of communism has disappeared from the world-stage with the fall of the Berlin wall, it seems that the narrative has changed. Increasingly, we are faced with business groups and politicians who are in favour of the general notion of 'social dialogue', and beautiful principles on business and human rights, but are challenging the need for genuine collective bargaining and the need for national and international regulation in the social field, as they despise any form of binding regulation that could challenge their business prerogatives (and profits).

The OECD itself played an important role since the beginning of the 1990's, coming up with the notion of flexible labour markets, putting existing employment protection legislation (EPL) to the test of economic performance, and proposing decentralisation of collective bargaining as the way to go forward.

The OECD was followed by the Financial Institutions such as the IMF who made their support to ailing countries worldwide dependent on breaking down EPL, collective bargaining and social security systems, which was also the policy adopted by the EU, again supported by the IMF, in the wake of the financial crisis of 2008 in the Eurozone. (And then, to everybody's surprise, citizens and workers turn Eurosceptic and vote Brexit.....?!).

Globalisation has further exacerbated the situation, by providing employers, businesses and financial capital, an 'exit-option': They can just move to another country or region if

the pressure of organised labour on raising wages and working conditions, or social and tax regulation - requiring them to contribute in cash or in kind to the development of a welfare state - is becoming too high. Governments, rather than joining forces to call business and capital to order, increasingly compete with each other to attract foreign direct investment or to keep business in their territories, compromising on an everyday basis their responsibility to protect their workers and citizens from a race to the bottom.

So, how unexpected is it really, that we have seen trade union membership figures drop, and bargaining power diminished?

How to look at labour relations in this 'future of work' that has already started today? Let me share a few reflections with you on this, after today's rich discussions:

First of all, what strikes me as a problematic approach, which is predominantly taken by many, is that technological change is like a force of nature 'coming over us' and that we only have to look at its automatic effect on labour relations.

However and as some however also said today: We should be in the driving seat ourselves. We should decide what kind of technological change we want, and in which directions it should be developed so as to benefit workers, businesses and societies. In this, social dialogue – today subscribed by everybody as an important feature of sustainable economies and societies - should play a key role.

Talking about the 'future of work', several speakers raised the issue of the future being built on the world of work of today. Which is a world with a lot of complex and problematic features, including rising inequality, and the power and voice of workers and their representative structures increasingly under pressure of globalisation and other forces. How economic and political power relations will develop and how decisions will be made decide on the kind of changes is something that needs to be much better studied and questioned.

Of major importance is also, to recognise that the world of work of today is built on and consists of many layers of the past. We can see medieval forms of slavery existing in underdeveloped parts of the world, but also in highly developed regions labour exploitation is on the rise again. The factories of the world are nowadays to be found in South-East Asia, and working conditions in them have striking similarities with 19th century realities in industrializing Europe. The agricultural fields and plantations, providing food and other products to the world population, are increasingly to be found in Africa and Latin America, with child labour, bonded labour and other forms of exploitation no different from colonial times. And what about the football stadiums, built for our World Cups in countries such as Qatar by millions of migrant workers under extremely exploitative conditions?!

One thing has changed though: these 'old fashioned' realities are part and parcel of the new model of globalisation, the exploitation being part and parcel of the business model of global supply chains. This is greatly facilitated by technological developments,

increasingly allowing a situation in which everybody is connected but nobody responsible....

New forms of organising work (which is not the same as the ‘work’ itself) have one characteristic in common: they tend to substantially weaken the bargaining power of labour by placing the individual worker into a position where he or she is facing the employer on his own (if he knows at all who his employer is, taking into account the increasing complexity of supply chains with many layers of subcontractors and intermediaries). This makes workers very vulnerable to employers using and abusing the power they hold over the job.

At the same time, trade unions have much difficulty in organising workers who are on precarious contracts, who are doing outsourced work in a peripheral company, are working as an economically dependent worker or are engaged on app’s and digital platforms. Not only because it is more difficult to reach out to such workers and because these workers often do not dare to unionize because of their vulnerable position but also, because laws and practices in many countries create a lot of more or less deliberate obstacles to unionisation, and I will come back to this later.

One can call this the “**future of work paradox**”. At a time when workers need collective representation (trade unions) the most, it becomes more difficult to organise these workers and to ensure their collective representation.

However, this is nothing new at all: it was the situation in the 19-th century at the beginning of the industrial revolution, when trade unions were still prohibited, and labour law – with its notion of inequality-compensation – did not yet exist.

It is interesting to see with what kind of arguments nowadays the ‘independence’ of the new platform workers is being used to exclude them from labour and social protection and collective representation, and put them in the sphere of self-employed/small businesses. Whereas, on close look, they are basically workers without employers! (This is one reason why we should stop arguing about the definition of an employment relationship or self-employment at the bottom of the labour market, as what we see there are all working persons, dependent on selling their labour to make a living. Instead we should start talking about the magic trick of disappearing employer-ship, and the definitions used in labour law, social security and tax law, to identify where responsibilities should be established and enforced).

Some examples:

Uber: the driver does not know anything about the client (just his first name), the passenger pays Uber, Uber controls pricing, the route you take, defines appraisal in ratings system. This is not “people running their own business” but 21th century version of a day labourer waiting for a small job without any stability or security.

Deliveroo workers in NL who, like Uber workers, see their pay structure change overnight and pay go down, and their legal status changed from worker to self-employed, a case that was taken up recently by my union. [Interesting to see that now in the Dutch Parliament all political parties seem to be shocked and say that this is not acceptable.

At the same time however, political majorities, in different coalitions, have created over the last decades the very situation in which all of this can flourish, by promoting self-employment via tax deductions and giving them other 'benefits', thereby creating a playing field of unfair competition between workers and non-workers.]

Recent reports (<http://www.mirror.co.uk/news/uk-news/undercover-amazon-exhausted-humans-inefficient-11593145>) show how working conditions in 'state of the art' (automated/robotised) Amazon warehouses are brutal (workers found to fall asleep on their feet, because of 10 hour shifts under the constant pressure to deal with a package every 30 seconds, and said to be 'treated as cattle').

As several speakers said today: we need to demystify the newness of developments: there is nothing really new about 'platform' economy.

For example, 'sham' clause in contracts where a worker agrees not to sue his business on the issue of an employment relationship (like Uber and Deliveroo do) have always existed. The same is true for triangular work relationships such as Mechanical Turk which are basically a form of agency work. "Piece work": again nothing new. Practice of dock work/home work was already there in the previous century.

Powerful intermediaries are splitting up jobs into 'tasks' (see Task Rabbits in the USA) and create situations of extreme competition between workers, ending up in exploitative working conditions, said to be 'of their own making/choice'. Workers now and workers 150 years ago basically are telling the same stories.

Let me draw your attention here to one of the most important books I have read in the last few years: 'The fissured workplace', by David Weil (USA). His study shows how - thanks to technology - in the new world of work increasingly far-reaching control over the product and output of work is possible without employing and supervising workers yourself. So, control is moved to the highest level of enterprises and translated into detailed descriptions in business contracts with subcontractors, while the worker is said to be under nobody's control really, and has to fend for himself as a so-called self-employed worker, or finds himself in some unclear relationship with a subcontractor or labour agency.

So the technology may be new, the social challenge is not.

Meanwhile, the 'labour contract'/employment relationship was exactly established and designed to deal with the asymmetrical power relations between a worker who only had his labour to sell, and employers and enterprises that unilaterally could set the terms. Technological development currently allows for maximum control but minimum responsibility by the main contractor or 'platform'.

It is up to us to look through this mystifying veil, and deal with the unequal power and bargaining relations behind it, in the same way as we did hundred years ago, while evaluating if we need really new responses or just have to adapt the 'old' ones to modern times and challenges.

We certainly will need to rethink workers' rights as a platform for productive change. All too often, the perceived wisdom is that labour market institutions that promote workers' rights are an obstacle to change.

Prime suspects are job protection legislation (EPL) and sector level collective bargaining, which are seen as institutions standing in the way of 'managerial prerogative' and thus of change.

However, as we heard today from the example of 'Job Security Councils' in Sweden, robust labour market institutions can play a key role here. In fact, the OECD itself in its project on 'Back to Work' has done similar analysis as the one from our colleague from LO (<http://www.oecd.org/publications/back-to-work-sweden-9789264246812-en.htm>)

So, the Swedish example is certainly very interesting. But it requires more than one party to tango.... And in many countries nowadays there just is NOT the willingness to address the challenges with collective solidarity responses. Let me just tell you that in the Netherlands we tried to introduce incentives for the creation of something like the Swedish job security councils in our labour law reforms, based on the national Social Agreement of 2013. However, until now they never got wings, because – in my view - this was deliberately sabotaged by the employers' organisations (especially representing big business, while the SME-employers would have been the ones most interested in them, and most benefitting from them). The reason: they disliked re-creating collective and paritary structures as being something 'of the past'

And while I am at it: I do not agree with the very bleak picture that was sketched by Paul de Beer about the Dutch Polder model. Since I started to work in it, in 1988, it has been declared dead already many times, but, depending on the political situation and the leadership on all sides, time and again it has been possible to find agreement on the way forward. Exactly the fact that in NL part time work is NOT to be considered as such a precarious form of contract (because most part time workers have open-ended contracts, are fully covered by labour law and social security and are happy with their work) is the result of national social agreements dating from the beginning of the 1990's.

And just to add, that back in 1988, my organisation had 19 % women membership, and now 36%.... Now, this has also to do with the structural changes in the Dutch economy in the same period toward a services economy, with a loss of jobs in the traditional sectors (industry and agriculture). But one cannot say that trade unions, in my country or elsewhere, have not tried to modernise, innovate and adapt to the new challenges, and organise and represent new groups of workers.

So, what is it then that unions should do, and do more?!

Some suggestions on the basis of today's discussions:

- a Organise and recruit new / underrepresented groups of workers (women, migrant workers, and young people). Those 'new' groups have one thing in common: many of them have precarious contracts or work in the informal economy; so, addressing those issues is an important way to connect to them;

- b This requires other strategies and services than are common in more traditional work settings; here we can learn from unions in developing countries who have developed many innovative responses; (SEWA India, Ghana TUC)
- c One response is to reach out to new or already existing – often informal – structures and associations of workers and liaise with them (USA work-centres), recognizing their complementary role and possibility to bridge the gap with unorganized and vulnerable groups of workers;
- d Include childcare, leave facilities, and work-life balance arrangements in the collective bargaining agenda;
- e Do not forget to continue investing in the ‘old/traditional’ sectors where unions are still strong: they are the backbone of the labour movement and must be taken on board in any trade union modernising agenda;
- f Learn from the success of unions with a high professional profile, where membership is high because workers are interested in enhancing and defending the quality and dignity of their profession (education, police, care, etc.)
- g Develop new ways of countervailing power, also in cross border cooperation with other unions;
- h Organise workers on the basis of their common ‘territory’ of work (rather than on having the same legal employer) such as big construction sites, airports, sea-ports, with complex subcontracting structures, multiple employers and often also multiple collective agreements, to address the common needs of all workers in that territory and jointly take action on them.
- i Use innovative means such as codes of practice linked to collective agreements to bind platforms to decent work requirements (IG-Metall).
- j Go into new sectors and workplaces (Bol.com, Amazon, Deliveroo) and address workers’ concerns with working conditions;’
- k Challenge sham-constructions (false self-employment, zero-hour contracts) in court.

What to do for OECD and its constituents: a wish list:

- a Stop the blame game about insiders and outsiders! For the last 150 years unions have been fighting to include workers in their movement and for improvement of their working conditions; outsiders are not created by unions but by the wrong social and economic policies. At this moment, inequality is almost everywhere on the rise.
- b Do not get bogged down in definitions of workers or self-employed, this is not the real problem. What we need is more work done on what is an employer in the 21st century and what an ‘undertaking’, and on whose shoulders we want to put which responsibilities.
- c Recognize, after decades of fights about the notion of flexibility, that flexibility in labour is something totally different than flexibility of labour. Workers indeed also need ‘adaptability’ of their jobs to their needs (work-

life balance, working time, etc.). But it is high time to put more emphasis again on security and stability in and of work.

- d Re-value collective and solidarity approaches and measures, where necessary in new forms and structures, or adapted 'old ones', as the only ways to address the challenges of inequality in bargaining positions between capital and labour in a sustainable way.
- e Be so courageous to support, rather than attack, trade union development. Yes, trade unions need to modernise and innovate. They increasingly try to do so. But they need an enabling environment, and not a hostile one full of obstacles.
- f This means as a matter of urgency: challenging current limitations in competition law for self-employed workers to organise and bargain collectively. The ILO's fundamental rights of freedom of association and collective bargaining include ALL workers. Where workers of whatever employment status are bargaining about a decent price for their labour, and about decent working conditions, this must be recognized as falling outside the scope of competition law. The limitations of competition law currently prevent economically dependent workers to fight for their rights with 'equality of arms'!
- g It also means: addressing the root causes of unions' diminishing bargaining power: precarious jobs, value chains, exit options for employers, regime competition by governments. This also requires cross border regulation, IFA's, international standards, labour clauses in trade agreements etc.

If collective bargaining can play an important role in terms of skills and including outsiders, then it needs structural support!

More research should be done to investigate the different outcomes of national and sectoral bargaining – including through extension mechanisms and sectoral funds etc. - compared to company level bargaining, in terms of ensuring investment in skills and training and the inclusion of outsiders. Be aware, that mobilising funds, for skills and training and transition, require a broad basis, at sectoral or even cross-sectoral level, to be viable and sustainable. (Examples Swedish job security councils, Dutch paritary training funds in the construction sector).

If everybody now says that wages must rise in the interest of economic performance, it is very strange that nobody seems to realise that this will never happen if the bargaining power of labour is not structurally strengthened.

Because indeed, we are no Baron of Münchhausen.

Finally: if we do NOT do all the above, if we do not 'protect' old and new groups of workers?! Then we will see more labour unrest, more populism, more calls for closing borders and building fences, more challenges to free trade, more racism and xenophobia. Bad for business certainly, bad for societies and sustainable development as well..... So, high time to join forces and act!

