The Reform of Joint Regulation and Labour Market Policy during the Current Crisis: The Republic of Ireland

Tony Dundon and Eugene Hickland

(NUI Galway)

Project

Social dialogue during the economic crisis: The impact of industrial relations reforms on collective bargaining in the manufacturing sector (incorporating social dialogue in manufacturing during the sovereign debt crisis)

Employment, Social Affairs and Inclusion DG 'Industrial Relations and Social Dialogue'

Project Leaders: Dr Aristea Koukiadaki - Dr. Isabel Tavora - Professor Miguel Martínez Lucio

The University of Manchester

The reform of Joint Regulation and Labour Market Policy during the Current Crisis:

National Report the Republic of Ireland

Tony Dundon and Eugene Hickland

1. Introduction

The main distinguishing feature of the Irish economy from 1987 until the economic crisis of 2008/09 was the dominance of national corporatism as the platform for social dialogue. This model of national social partnership emerged in response to recession and economic problems Ireland faced in the 1980s, and collapsed under the strain of the financial crisis of 1008/09. Roche (2011) suggests that Ireland's social partnership model had gained an international reputation for versatility. It was viewed by some commentators as a new form of 'voluntary' regulation among social partners with economic and political governance embedded into institutions of the state (Hardiman, 2010). The economic crisis that occurred in 2008/09 has had a profound damaging effect on the Irish economy with a large growth in unemployment; the collapse of social partnership mechanisms brought a cessation of a national system of social dialogue and collective bargaining; and emigration of young people in particular from the labour market remains a characteristic feature of post-crisis Ireland.

Ireland entered an IMF-EU-ECB (Troika) bailout or 'Economic Adjustment Programme' in December 2010 with a financing package of €85 billion (EU, 2014). The recessionary times have witnessed trade unions engage in forms of 'concession bargaining' while maintaining a system of collective negotiation at workplace level (Teague and Roche, 2014:189). A feature of the Troika bailout package was reforms of labour market regulation that will change the Irish industrial relations landscape such as the creation of a new structure for employment rights and industrial relations bodies (Regan, 2012) and the changes to wage setting mechanisms in key economic sectors (Barnard, 2012). The economic crisis has had real and detrimental effects on the lives of Irish people and on the economy. The enduring effects of the economic crisis and the influence of Troika reforms on the labour market may have long terms implications for the conduct of Irish industrial relations (IR) with a fundamental shift in the nature, scope and form of collective bargaining in both public and private sector organisations.

This report will examine the impact of the labour market reforms in Ireland since 2008 on collective bargaining generally and more specifically in the manufacturing sector. It will outline the results of data obtained in interviews with national social partners and of different individual company level case studies. The Irish system of collective bargaining emerged through struggles between unions and employers and institutional frameworks established over years by the Irish state that sought to shape an Irish model of IR. This report is set against the backdrop of a major economic crisis that affected Ireland from 2008, the actions of the Irish government in response and the influence of labour market reforms from the IMF-ECB -EU (Troika). At the end of 2013 Ireland exited the Troika financial assistance programme and the economy has witnessed some improvements during 2013 and 2014 with falling numbers of unemployed people, although emigration continues on a large scale. Ireland is subject to a Troika post-programme surveillance scheme until at least 2031 (EU, 2014). The report is organised in the following way:

a) Explanation of the research methodology and an outline of the national social partner and company level case studies and interviews,

b) Review of the character and nature of the Irish system of industrial relations before and during the economic crisis,

c) An examination of reform and change to collective bargaining at national and sectoral levels (state, employer bodies, national unions responses),

d) Summary of workplace level reform and change to social dialogue and collective bargaining post-crisis (manufacturing case study responses)

e) Discussion of key themes and Issues emerging from the research concerning labour market reform and collective bargaining in Ireland, The report offers a synthesis of the reforms in the labour market and collective bargaining mechanisms in Ireland. The findings point to a new industrial relations architecture characterised by both '*structural change*' and '*process continuity*'. Major 'structural change' is the collapse of a national platform for social dialogue, when Ireland's voluntary corporatist model ceased in 2010. The result is bargaining has gone from a national and centralised arrangement to one now almost exclusively based at the enterprise level. The enduring 'process continuity' is that the activity of social dialogue evidently adds value to employers, unions and workers, especially during times of substantial restructuring and change. In the studied sub-sectors of hi-tech, medical devices and pharmaceutical manufacturing, decision-making was found to be robust when achieved through negotiated settlement, and support for change much more embedded when workers have a legitimate voice. In the sub-sectors of drinks, food and metals, unions and workers have felt more negative impacts of economic crisis and bargaining scope appears much narrower in terms of issues covered.

The permissive voluntary nature of social dialogue in Ireland, rather than a more legally regulated template as in other EU countries, means the system is subject to sudden and unforeseen shocks. Across all sub-sectors studied, there is now a greater emphasis on 'concession' bargaining for unions, with employers expecting and demanding improved productivity, work flexibility and other changed conditions in return for negotiated pay increases or even pay freezes. Thus there is wide variation of the outcomes of local social dialogue within the manufacturing sector in Ireland.

Overall, the project indicates the potential influence for a new IR architecture shaped by both the changes to social dialogue, yet also the continuity of long-established and highly valued collective bargaining activity in important sectors of the economy. The IR architecture reflects the legitimate role for trade union recognition and worker voice, and the strategic value-added benefits of social dialogue for employers seek effective change. However, the permissive voluntarism that underpins social dialogue in Ireland means that any system or architecture will be subject to shock or collapse in the absence of a stronger mandatory footing.

In the immediate aftermath of the economic crisis that emerged in 2008 and the subsequent impact of the severe economic shock in the Irish economy, the overwhelming scenario that faced many employers and trade unions was that of company survival and how to retain jobs. In the absence of national bargaining (e.g. social partnership), which formally collapsed in 2009 when the government withdrew from negotiations with unions and other social partners and proceeded to imposed sanctions and pay cuts through emergency budgetary measures, the role and function of collective bargaining was fundamentally altered. Negotiated wages rates, welfare payments and income taxes were no longer conducted through a corporatist model of national coordination and consensus. Bargaining, if it was to survival at all, would to take place at the local enterprise or workplace level through single employer bargaining.

There was some commentary that unions and collective bargaining no longer had a role in the manufacturing sector which was gathered in the initial phase of the research, typically articulated by some employer association representatives. A narrative discourse emerged among some employer groups and political lobbyists that began to pitch public against private sector workers, suggesting that the public sector enjoyed a protected status while private sector - particular manufacturing - workers faced massive cuts and job losses. While manufacturing firms did close with job losses, public sector workers faced imposed austerity through taxation, government-imposed wage levies and demands for greater work flexibility. At the same time, with the exception of ‘financial emergency’ public sector constraints, the evidence from our cross-sectional research underscores the utility, legitimacy and value-added strategic gains for the economy and social partners of collective bargaining. In particular, strategic bargaining responses by some unions has created a new bargaining model through an emergent sectoral strategy focussing on the coordinated activity of multiple and separate localised level bargaining units in key parts of manufacturing. The result (impact) is a coordinated union sector wage rate campaign which has protected jobs and increased wages across parts of the manufacturing sector, with a potential spill-over effect into other parts of the economy.

Finally, the research highlights a divergence in preference and approaches, both among the social partners but also between different employer groups, concerning the future role of national bargaining or social pact arrangements. For some unions the desire for a coordinated national social platform remains high, although employer groups and separate employers appear to have little interest or appetite in the value of national or sector level social engagement, and instead view a (reduced) bargaining role as appropriate only at the most local of enterprise levels. Importantly, divergence was evident between types of employer groups. Some national employer representatives saw little value whatsoever in bargaining or consultation with unions at all, and preferred a non-union individualised HRM-type of arrangement through employee communications with clear unilateral managerial decision-making, shaped in part by practices in non-union (typically American) MNCs operating across manufacturing sub-sectors. However, many company level managers appreciated the functional purpose of collective bargaining; for example, in providing better decision-making processes, bargaining helped achieve employee support and understanding about responses to the crisis in terms of the changes to re-position the firm, and bargaining offered a degree of predictability (even if negotiated agreements were at times protracted). Notwithstanding some employer diversity, a clear common trend among employer groups was the shift to localised single employer bargaining.

2. Research and methodology

The fieldwork was designed to collect information on how the economic crisis affected the nature and processes of collective bargaining in the manufacturing sector in Ireland. The research design included three separate complementary levels of data collection (national, sector, workplace), and a subsequent follow-up integrated national partner meeting held in Dublin. In total 32 people were interviewed across the three levels.

The first level concentrated on national informants to the changes post-financial crisis. For this level, 7 interviews took place with key national social partners. For example, two senior officials who head up the Industrial Relations Section of the Department of Jobs Enterprise and Innovation were interviewed in June 2014, of which one was re-interviewed again in November 2014. A further two respondents were interviewed in June 2014 from the main employers' body the Irish Business and Employers' Confederation (IBEC). Two interviews took place with a national official of the Irish Congress of Trades Unions (ICTU), one in July and one in November. The main purpose of this phase of the research was to establish an outline of the main developments in collective bargaining and legislative changes that occurred (or were planned) as a result of labour market reforms.

The second part of the research design concerned sector level data, with 5 additional respondents. Ireland does not have a coordinated or bespoke manufacturing sector bargaining arrangement or specific employer federation for manufacturing per se. As such interviews to capture sector level issues and responses dovetailed and overlapped with national informants above; in particular the two IBEC interviewees who had responsibility for manufacturing and foreign-direct investment type organisations in pharmaceuticals and medical devices (among others). In addition, sector union experts from three of the main Irish trade unions involved in the manufacturing sector were interviewed from: SIPTU (x2) in June 2014, TEEU (x2) in July and August 2014, and with UNITE the Union (x1) in June 2014.

The third level of research focussed on workplace level data from different companies with collective bargaining arrangements across a selection of sub-sectors of manufacturing. The aim was to obtain responses from different parts (sub-sectors) of manufacturing at a local workplace level from managers and union representatives. We interviewed 20 participants in 5 different companies (including local shop stewards, HR Managers, regional and site management and full-time union officials). The interviews with the national social partners provided crucial information concerning the processes of social dialogue since the financial crisis; in particular how social partners engage in consultation and bargaining following the collapse of corporatist national arrangement. Two key agreements between ICTU and IBEC for handling industrial disputes entitled as ‘Private Sector Protocols’ were noted as key conduit that maintained dialogue. The interviews also elicited views on actual and anticipated legislative changes to Irish industrial relations from representatives of government and related State agencies, and responses by government arising from Troika financial assistance programme.

The company case studies were designed to reflect the various parts of the Irish manufacturing sector (see Table 1). These included: *PharmaCoIrl* in the Chemical/Pharmaceutical sector, *FoodCoIrl* in Food and Drink sector, *MedivCoIrl* in the Medical Device sector, *MetalCoIrl* in the Metals sector. Changes to company ownership was reflected during the period of the research in *MedCoIrl* (medical device manufacturer), which was subject to plant closure by a new venture capital fund owner. However, following strong union bargaining and community coalition campaigning, agreement was reached to keep the plant open but included massive restructuring, cost savings. Importantly, creative and innovative solutions that kept the plant open, protected jobs, and remained profitable, came from the process of robust social dialogue. Without union solidarity, the plant would be closed if left to employer unilateralism. In each of the case study companies a HR manager and some other manager/s, shop steward/s, and full-time union officials were interviewed

A final phase is the integration and coordination of data with a national meeting of social partners (7th November). The element allowed some initial feedback to respondents and social partners to offer clarification and additional information on responses to collective bargaining reforms.

Table 1: Case study workplaces: interviews, context and background

Case Studies	Employer Association Membership	Workforce Size	Workers Representation	Impact of Crisis	Significant Restructuring	Company Agreement	Interviewees
Large Metals/ Machine (*MetalCoIrl)*	IBEC	850	UNITE & TEEU	Significant	Significant and Crisis-led Initially	Yes	Management Trade Unions Shop Stewards
Large Food & Drink *(FoodCoIrl)*	IBEC	200	SIPTU & TEEU	Significant	Significant and Crisis-led Initially	Yes	Management Trade Unions Shop Stewards
Large Pharma (PharmaCoIrl)	IBEC	650	SIPTU & TEEU	Minimal	Minimal, influenced by new ownership	Yes	Management Trade Unions Shop Stewards
Large Medical Devices (*MedCoIrl)*	IBEC	1,000	SIPTU & TEEU	Some	Significant. Partial crisis-led. Influenced by New Venture Capitalist buy-out Planned closure (aborted)	Yes	Management Trade Unions Shop Stewards
Large Medical Devices *(MedivCoIrl)*	IBEC	2,400	SIPTU	Minimal	Minimal. Status-Quo prevails	Yes	Management Trade Unions Shop Stewards

3. The Character and Processes of Collective Bargaining and Labour Market Regulation before the crisis (a review)

The Irish state was founded in 1921 and a written constitution was adopted in 1937 and has been amended 33 times since, including joining the European Union (EEC) in 1973. The Irish system of IR emerged from developments of the UK IR systems in the early twentieth century such as the trade union immunities legislation and the general approach of voluntarism. Similarly to the UK, Irish employment legislation is based on an assumption that an employer and employee agree a contractual relationship freely and voluntarily, on equal footing, and that this sets out the terms and conditions of employment. Traditionally, the regulation of the employment relationship has taken place almost exclusively at individual contractual level. Irish employment law is therefore almost an extension of the law of contract (Bacik, 2011).

The traditional form of voluntarism as practiced in Ireland up to the late 1970s was that trade unions and employers were opposed to legal intervention and that the parties largely regulated their own procedures free from state intervention (D'Art, et al. 2013:13). The conduct of IR was left to the main actors, save for the role of the Government to 'hold the ring' in providing the Labour Court for dispute resolution and by outlawing certain working practices such as safely net type legislation such as on health and safety. Membership of the EU has had a profound impact on Irish IR which has imposed a wide range of employment law in the last 30 years. The trend in more recent years has been for the Government to provide more individual employment rights or a basic floor of rights, some of those to transpose EU Directives which has been described as weakening of collectivism (D'Art, et al. 2013). Teague (2009) argues that Irish IR has shifted away from the notion of voluntarism as a central feature of the IR architecture.

The creation of the Labour Court in 1946 and the general approach of Irish governments were ideologically underpinned by elements of Roman Catholic social teaching or a type of corporatism (Adshead and Millar, 2003). In general there has been public policy support for the existence of trade unions and their role in society, although successive governments have stopped short of legislating for statutory trade union recognition and collective bargaining rights. The Labour Court's main role was to adjudicate on industrial disputes as an independent body consisting of representatives of employers and workers participating on an equal basis. It consists of 9, full-time, members - a Chairman, 2 Deputy Chairmen and 6 Ordinary Members, 3 of whom are Employers' Members and 3 of whom are Workers' Members. It is not a court of law. It operates as an industrial relations tribunal, hearing both sides in trade disputes and then issuing Recommendations setting out its opinion on the dispute and the terms on which it should be settled. These Recommendations are not binding on the parties concerned, who are expected to give serious consideration to the Court's Recommendation (DEJI, 2012). Three other important state bodies in the IR dispute resolution and compliance fields were put in place in recent years are the Labour Relations Commission, National Employment Rights Authority and the Employment Appeals Tribunal.

Ireland has one peak level trade union body the Irish Congress of Trade Unions (ICTU) which has 55 affiliated unions and a combined membership of over 800,000 and describes itself as 'the largest civil society organisation in the country' (ICTU, 2014). The main employers' organisation is the Irish Business and Employers' Confederation (IBEC) which has around 7,500 employer members in small and large enterprises which represent 70% of the Irish private sector employments (IBEC, 2014).

Ireland is often characterised as a 'late developer' in industrialisation terms as the country was largely unaffected by the industrial revolution (Tiernan and Morley, 2013). From the late 1950s political policies on economic development were pursued on two fronts, one was membership of the EU which was achieved 1973. The other political economic policy was to attract multinational companies to set up operations and bring modern industry and employment into Ireland. A large measure of Ireland's economic progress in the 1990s and early 21st century stems from its success in attracting inward foreign direct investment (FDI) by foreign owned multinational companies

(MNCs). As a consequence Ireland is one of the world's most FDI dependent economies (Gunnigle, et al. 2007), the result of a long standing cross-political party agreed policy to which has transcended the programmes of all different Irish governments in modern times to become something of a 'sacred cow'.

The Irish manufacturing sector employs over 200,000 people directly with a similar number indirectly in around 12,790 enterprises and 95% of those enterprises employ less than 50 people (CSO, 2010). The FDI sector employs over 91,000 directly across 527 plants including many leading firms in the chemical/pharmaceutical, ICT, optical, medical technologies and food sectors (Forfas, 2012). Over 80% of the industrial production is from foreign owned firms while Irish firms contribute around 20% of the industrial production (CSO, 2014).

The trajectory of Irish IR system moved significantly away from the UK voluntarist model from 1979 (Gunnigle et al., 2002). The dominant feature of Irish IR from 1987 until 2009 was the operation of 7 peak level National Social Partnership agreements starting with the Programme for National Recovery in 1987 and the last one was the Transitional Agreement in 2008. In essence these agreements set wages through a series of nationally-negotiated pay deals every three years or so. The Government, representatives of trade unions, employers' organisations, farming groups and in the latter stages, a non-governmental 'social pillar' (voluntary groups) come together to negotiate a national agreement which fixed wage increases and other payments (e.g. tax and social welfare rates). The agreements also set a framework for a wide range of government policies, ranging from: personal taxation measures; education; social housing initiatives to national infrastructural developments. Social partnership pay agreements were national benchmarks to be followed voluntarily across the economy/sector at workplace levels, with the exception of the public service employments. The non-unionised employments tended to shadow national pay deals (Eurofound, 2013). Employers could invoke an 'inability to pay' measure on the terms of the national pay deal and disputes were referred to the Labour Court for adjudication; there were over 300 such referrals between 2004 and 2007(Labour Court, 2011) .

There is no statutory legislation on the right to trade union recognition or right to bargain collectively in Ireland. In the Irish constitution there is a clause in Article 40.6.1(iii) that guarantees: *“The right of citizens to form associations and unions’*. Thus there is legal right of persons to join or form a trade union, but there is no legislation or legal method to compel an employer to deal with a trade union for purposes of collective bargaining. Trade unions in Ireland have been campaigning for some time for union recognition or right to bargain legislation. An attempt to partially deal with this issue was the Industrial Relations Acts 2001-2004, which introduced procedures which enabled trade unions to seek legally binding determinations on pay and terms and conditions of employment from the Labour Court in unionised and non-unionised employments. The airline company Ryanair neutralised any potential union recognition right of this legislation with a successful legal challenge to the Irish Supreme Court in 2008 (Cullinane and Dobbins, 2014). The Irish Congress of Trade Unions (ICTU) have maintained their campaign for union recognition laws and have taken unusual measures of; making a complaint in 2011 to the International Labour Organisation on the right to freedom of association in Ireland; and a formal complaint to the European Court of Human Rights in 2013 on the state’s failure to uphold an effective right to collective bargaining, in breach of the European Convention on Human Rights (Hendy, 2014).

In 1980 Irish trade union density stood at 61.8%. By 1990 this figure had decreased to an estimated 55%.In the private sector union density stands at around 28%, or just over a quarter of the 1m workers employed in the private sector while density is over 80% in the public sector. Collective bargaining coverage is estimated to be in the region of 44%. There was rapid employment growth for most of the period of 2001-2007, with union membership failing to keep pace. However, the most recent data indicates an increase in density from 31% in 2007 to 34% in 2009, alongside a decrease in absolute numbers of members from 565,000 to 535,000 (CSO, 2012). Union membership in the broad economic sector as measured by NACE Rev.2 indicates that the categories B-F under the general term industry, which includes manufacturing, shows a decrease from 34% of employees in Q2 2002 to 24% of employees in Q2 2012 who are union members in this sector.

There are a number of reasons to explain the drop in density. In part it derives from the decline of traditional, mass-manufacturing companies which were the main base of the trade unions. Some unions suggest that the density drop results almost exclusively from their inability to build membership in the new growth sectors, such as ICT, telecommunications and financial services. The hostility to unions in the large FDI sector in particular from US MNCs has been an important factor in creating the political and social legitimacy of union free zones and has embolden a new breed of Irish employers to follow suit (Turner and D'Art, 2013).

The National Minimum Wage (NMW) Act, 2000 came into effect on April 1' 2000 and introduced a National Minimum Wage for the first time in Ireland. Many low paid workers benefited from its introduction, particularly women, young people and part-time workers. The level of the NMW is set by the Minister for Enterprise on the recommendation of the Labour Court, although previously the NMW rate was the outcome of an agreement between employers groups and trade unions.

Until the economic crisis and imposed government austerity and legal changes, workplace collective bargaining deals were in some cases protected by statutory bodies. For example Joint Labour Committees (JLCs) were independent bodies which determine minimum rates of pay and conditions of work for workers in a number of low-wage sectors such as catering, hotels, cleaning and retail grocery. Each JLC is composed of representatives of workers and employers in the sector concerned and an independent chairperson. The pay and conditions agreed by the representatives on the JLCs are given force of law in Employment Regulation Orders (EROs) made by the Labour Court on foot of proposals made to the Court by the JLCs. These agreements deal with the pay and working conditions as de-facto collective bargaining of the employees concerned in a set range of employments. (e.g. . The various agreements on pay and conditions made by Joint Labour Committees (JLCs) are known as *Employment Regulation Orders (EROs)*. The sectors covered by JLCs, up to July 2011, was as follows:

- Agricultural workers
- Catering (Dublin and Dun Laoghaire)
- Catering (Other)
- Contract cleaning
- Hairdressing
- Hotels (Other excluding Cork)
- Retail, grocery, and allied trades
- Security industry

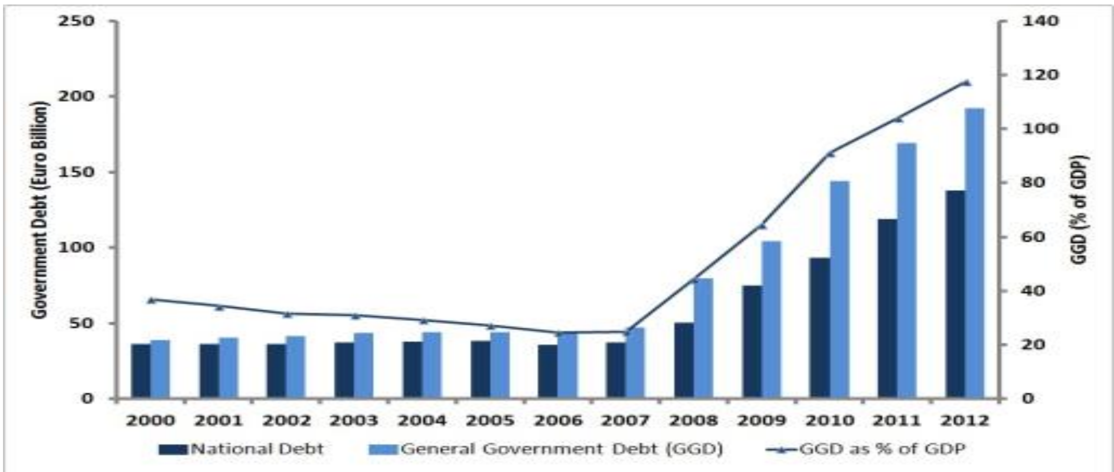
4. Labour market reform and the economic crisis in Ireland

Since 2008 the major economic crisis has had a profound impact upon the Irish economy, employment and politics of Ireland. The country has suffered one of the worst fiscal impacts of all EU countries. Ireland is a small open economy, heavily dependent on international trade and foreign direct investment, especially from US multinationals. From the mid-1990s, the Irish economy expanded at historically unprecedented rates, which spurred high levels of employment growth and job creation and unemployment dipped to around 4.4% at the height of the country's economic boom. However, the 2007 property loan scandal in the USA economic system spread throughout the world and during 2008, the economy was hit by a serious crisis, influenced both by international economic and financial turbulence, and domestic factors including a failed banking system and the bursting of a so-called property 'bubble'.

4.1 The Government responses

The Fianna Fail/Green coalition government (defeated at election in early 2011) imposed a number of austerity measures during 2009–2010 in an attempt to stem the crisis. The first casualty of the crisis was the consensus corporatist approach embodied in social partnership as the government pursued unilateral policies rather than negotiated ones (Regan, 2012). In effect the end of social partnership began to unravel in the talks on a new deal in 2008 and in the absence of an agreed approach to deal with the crisis or a programme on economic recovery (Roche, 2011)[1]. Thus the end of social partnership signalled the shift from national to enterprise level collective bargaining.

In November 2010, mounting debt problems forced the Irish government to apply for a €90 billion bailout from the EU, ECB and the International Monetary Fund (The Troika) in addition to bi-lateral loans from Denmark, Sweden and the UK (EU, 2014). The Troika 'Programme of Financial Support' for Ireland was implemented under a new Fine Gael/Labour coalition government which was elected in February 2011. From 2011 to 2013 Ireland had successfully completed a number of reviews under the Programme and formally exited the bailout in December 2013. There has been substantial restructuring and job losses since 2008, and unemployment rose rapidly to 14.5% in December 2011 as a result of the crisis. The accumulated Irish government debt in 2012 was €66 billion and in the main these funds were utilised to re-capitalise or buy the debts of Irish private sector banks. National debt increased from 20 per cent of GDP in 2007 to 84 per cent of GDP in 2012, and the general government debt increased from 25 per cent of GDP in 2007 to 117 per cent of GDP in 2012 as illustrated in table below (Dept. of Finance, 2014).



Source: NTMA, Department of Finance.

Irish Social Partnership structures emerged in 1987 to become an important feature of Irish economic, social and political life until it collapsed in 2010. Public sector employments have a form of 'partnership' through 2 agreements - Croke Park (2010-2014) and Haddington Road (2013-2016) which have formed the basis for workplace changes, pay levels and a general reform agenda.

The recession involved a massive adjustment in Ireland's Labour market. From peak to trough 15.2% (328,700) jobs were lost (UNITE, 2013). During the same time nominal hourly wages remained remarkably stable. The changes in employment are usually discussed with relation to two causes. One is the extent to which changes were due to a once off adjustment (mainly to employment in the construction sector) as an unsustainable construction bubble collapsed. A second aspect is the extent to which jobs were lost due to the general impact of the recession (with the expectation being that these jobs will be recovered once the economy expands). A further (third) aspect, which has been somewhat neglected in the public discourse, is the extent to which changes in the labour market represent long term underlying trends (sometimes referred to as 'secular' trends) (UNITE, 2013).

Part of unilateral approach adopted by the government was the decision to cut the NMW as a financial emergency measure. The minimum wage had not been increased since 2007 was cut by €1 per hour to €7.65 from 1 February 2011. This measure formed part of the Fianna Fail/Green government's four-year economic recovery plan under the Troika programme of financial support. The new Fine Gael/Labour government reversed the cut in the minimum wage and restored it to €8.65 from 1 July 2011. There was a high profile industrial dispute in early 2011 at the Davenport Hotel in Dublin over cuts to worker's pay following the government decision to reduce the minimum wage by €1 per hour. SIPTU, the union representing five minimum wage workers who refused to consent to a 10% pay cut and won the case at the Labour Court.

In August 2012 the Industrial Relations (Amendment) Act 2012 was enacted in response to employers' attempts to move away from REA/JLC system of setting pay and conditions in certain sectors of the economy in favour of individualised agreements. The purpose of this Act was to make new provision for the making of EROs and for the functioning of JLCs. This became necessary following the decision of the High Court in *John Grace Fried Chicken Limited and Ors v Catering Joint Labour Committee, Ireland and the Attorney Genera*l [2011] 1 I.LR.M 392, which held that the provisions of the Industrial Relations Act 1946 under which these orders were formally made, were invalid having regard to Article 15 of the Constitution. The Act extensively amended the provisions of the 1946 Act which related to the existence of REAs. A further legal challenge to the REA/JLC system came in the *'McGowan v Labour Court and the Unconstitutionality of Registered Employment Agreements'* in the Irish Supreme Court which ruled that REAs were unconstitutional. The government has pledged to legislate to put the REA/JLC system on a proper legal footing**.**

The changes to the REA/JLC system introduced an inability to pay clause, to be adjudicated upon by the Labour Court who need to consider the effect on employment, distortion of competition and sustainability of the business. In January 2012, in the announcement of the 2011 fourth quarter review of the Troika programme, one of the changes agreed to the Memorandum of Understanding between the government and the Troika was that the legislation would be amended to allow employers who get temporary 'inability' to pay exemptions of less than two years to seek extensions of those exemptions, for up to two years. The main rationale put forward for these changes was that the REA/JLC system added to the cost of labour which is disputed by some studies (Turner and O'Sullivan, 2013).The REA/JLC system was radically changed in January 2012 when employers could invoke an inability to pay clause, imposed by the Troika thereby rendering the protected bargaining system almost non-existent and increasing the wider European trend of increasing derogations from industry level agreements (Hendy, 2014). In addition, on foot of a Supreme Court ruling (delivered by Justice O'Donnell in May 2013) means that JLC decisions will be much more legal than ever intended under the voluntarist IR architecture (for example, the Labour Court will determine wage rates and terms and conditions, on foot of public consultation). In effect, the previous arrangement of bargaining and negotiation in specified economic JLC sectors could be replaced with legal arbitration. A national union official commented:

> *"I'm advising trade unions in these sectors not to enter into the new system. To do so is the end of voluntary bargaining"*

Further reforms have seen the growth of individual employment law that has led to an increasingly complex system of institutional arrangements that operate in a quasi-legalistic fashion to adjudicate employment relations cases. In 2011, Minister for Jobs, Enterprise and Innovation launched a reform of the current employment rights institutions as part of Troika agreements. Under the plan, the existing five workplace relations bodies will be replaced by a new two-tier structure: a new Workplace Relations Commission and an expanded Labour Court. The Workplace Relations Commission will take on the functions of the Labour Relations Commission, the National Employment Rights Authority, the Equality Tribunal and the first instance functions of the Employment Appeals Tribunal (EAT). The Labour Court will become the single appeal body for all workplace relations appeals, including those currently heard by the EAT, which will effectively be abolished under the reforms. The new Commission is intended to improve the state's IR institutions. Announcing the details of the Commission, the government commented:

> "*Landmark reform will see five State workplace relations bodies merged into two…. deliver 20% savings in staffing and 10% in budgets…. The move forms part of a reform programme which will see the total number of agencies under the Department of Jobs reduced by 41 by end 2014"* (Department of Enterprise, Jobs and Innovation, 2014).

4.2 Trade Unions response to the crisis

Collective bargaining since 2008 has been severely weakened and constrained by the financial framework adopted by the Irish government in response to the Troika programme. The 'fiscal adjustment', as it has become known has resulted in major cutbacks in public expenditure on a whole range of areas including health, social welfare and education. The 'fiscal adjustment' was criticised by ICTU mainly as an acceptance by the Irish government to stick rigidly to the Troika financial targets and timescale which plans to reduce national debt at a very rapid pace. The ICTU had proposed a longer time frame for the economic adjustment and protection of public services in their Social Solidarity Pact which did not find any support from government and have found life harder in many respects without partnership (Begg, 2010). The

ICTU held a series of national demonstrations at weekends to protest at the direction of government policies and held a one day strike public sector strike.

In the aftermath of partnership the ICTU and trade unions have focused on forms of renewal, union amalgamations and new institutions arrangements. The ICTU (2011) issued a discussion document called ‘Future Positive: Trade Unions and the Common Good’ which is a series of proposals to revamp the ICTU structures. The largest union SIPTU along with the shop workers union MANDATE established new organising sections to increase union membership. ICTU helped create a trade union sponsored economic think tank called the Nevin Institute to provide unions and the public with non-mainstream economic analysis.

A form of public sector national partnership has emerged in the form of 2 agreements (Croke Park and Haddington Road) which have had the effect of introducing pay cuts, wide changes in terms and conditions of employment and a voluntary redundancy programmes across the public sector. In the public service, pay was reduced by a progressive scale of 5–15% in December 2009 and net earnings were also hit by a levy from March 2009, also on a progressive scale of 5–10.5% which included a measure called a ‘pension levy’.

In the private sector there emerged a protocol between ICTU and IBEC for the ‘Orderly Conduct of Industrial Relations and Local Bargaining in the Private Sector’ in 2010 and was renewed in 2013 as a mechanism to underpin industrial peace. In the manufacturing sector SIPTU quietly launched enterprise level collective bargaining campaign in 2011 seeking modest pay rises of around 2%, often rationalised in relation to German pay rises and patterns for European rescue plans (IRN, 2013). In addition to the pay deals SIPTU decided to carry advertisements in their publications for goods produced in unionised factories under the banner ‘Supporting Quality Invest in Our Futures’ (Liberty, 2013) as part of marketing campaigns.

4.3 Employers responses to the crisis

In December 2010 IBEC formally withdrew from social partnership negotiations and collapsed the longstanding consensual arrangements. They did so due unprecedented scale of job losses in 2009, and the prospect of further losses in 2010, it is clear that we need to restore competitiveness for economic recovery (EIRO, 2010). The end of partnership witnessed IBEC reconsider its activities and launched a strategic shift in orientation with the majority of its members operating in non-unionised environments, IR was not mentioned in its briefing document announcing the new direction of the organisation, 'The Future is This Way' (Sheehan, 2013).

Some private sector employers responded to the crisis by freezing basic pay/salary at pre- crisis levels, while extra earnings have been cut. A significant minority have also cut basic pay levels, borne out by IBEC Quarterly Business Sentiment Survey for 2009, showing 56% of employers freezing pay and 25% cutting pay in 2009. A smaller minority had moderate pay increases, mostly under a national wage agreement struck in late 2008 – which most employers did not implement and was eventually abandoned at the end of 2009. Overall the sense is that employers adapted a range of HR bundles not in any systematic way that achieved various outcomes such as employment stabilisation and forms of restructuring without withdrawing from engagement with unions (Teague and Roche, 2014).

Teague and Roche (2014) argue that the recession in Ireland witnessed employers used a variety of HR bundles but saw no widespread evidence of a withdrawal from trade union engagement. The emergence of the cautious union pay claims remains a dynamic and evolving arrangement, especially in manufacturing. In terms of the collective bargaining in post-crisis Ireland, it appears that many traditional features remain evident and prevalent, albeit with shift to localised levels and with higher degree of concessions on the part of unions. (IRN, 2013). Unions continue to push for claims and issues through negotiation and referral to State machinery as a bargaining move and tactic. However, the full extent and to what degree unions have made excessive 'concessions' to employers remains uncertain, as does the scope of bargaining issues and the precise variability of bargaining character and depth across different industries and manufacturing firms and sub-sectors (e.g. metals, pharmaceuticals, medical devices, food and drinks, foreign MNCs, indigenous manufacturing, and among large and small firms).

5. National and Sectoral Evidence: the character and processes of collective bargaining and labour market reform post-crisis

5.1 Government Responses:

The responses by the Irish Government to the economic crisis were initially to unilaterally impose pay cuts and new forms of taxation as emergency measures. Subsequently 2 agreements with trade unions in the public sector were entered into. Under the terms of the Troika bailout on 28 November 2010, the Irish government agreed to introduce a number of changes that would have direct impact on the labour market. Some of the general points of the change were spelled out in some detail in the terms of the 'Memorandum of financial and economic policies of 7 December 2010' (MOU 1) and were as follows:

> '*To reduce long-term unemployment and to facilitate re-adjustment in the labour market, we will reform the benefits system and legislate to reform the national minimum wage. Specifically, changes will be introduced to create greater incentives to take up employment.'* P. 7

Under the terms of the various Memorandum of Understandings (MOU) that flowed from the Troika agreement the Irish Government would subject to Quarterly monitoring and reporting of progress made to the Troika representatives. The interpretation and detailed that followed from the MOU were fourfold in nature. Firstly element of the labour market changes was the reduction of the National Minimum Wage by €1 to €7.65 per hour. The second element to affect wages and terms of conditions was a review of the Registered Employment Agreements (REA) as a structural change in the method of agreeing wage levels in certain employment sectors, mainly low paid ones.

This involved the commission of a review of Joint Labour Committees to investigate labour market rigidities around wage levels, which was the 'Duffy-Walsh Review' which concluded in 2011 that the current system of REA and JLC should remain but be formed to be more responsive to changing economic circumstances which became the right of employers to claim 'inability to pay' such agreements. The third element was a reform of the entire state labour relations bodies to create a new body called Workplace Relations Commission. The fourth element emerged late in the Troika monitoring process and that was a new law to reform the collective bargaining system which was part of the Programme for Government in 2011.

The implementation of the labour market changes in Ireland that flowed from the Troika MOUs into labour market changes were not opposed politically by either of the Irish government in power. Although the new government elected in 2011 reversed the changes to the National Minimum Wage, the other significant changes were along politically acceptable lines. There is a suggestion that wage settings through the REA/JLC system, which was under challenge in the Irish courts by employers', was regarded as needing reform and the crisis offered an opportunity to leverage change:

> *"It was well recognised for some years in the Department and beyond that the system of the REA/JLC was outdated and needed change. The successful court challenges, in particular the McGowan judgement which declared the REA/JLC system set up 1948 as unconstitutional were not unexpected. The current economic circumstances and the tight reporting mechanisms of the Troika agreement meant we had to deal with them in an urgent manner and fashion a responsive modern system as a result"* (Govt. official)

The legislative arrangements surrounding REA/JLC wage bargaining is currently uncertain and the government has promised to bring forward legislation to address to all legal issues and put the system on a proper legal footing. The government had previously brought forward legislation to advance the proposed Troika changes in the REA/JLC system which has since been deemed invalid by the decision of the

Supreme Court in the 2014 McGowan case (*McGowan and others v the Labour Court, Ireland and the Attorney General*).

The evidence from social partner interviews was that the Labour Relations Commission, National Employment Rights Authority, Equality Tribunal and the Employment Appeals Tribunal whose responsibilities are to be merged into the new Workplace Relations Commission was needed as the other bodies had been created to address issues as they arose in an ad hoc, as opposed to a systemised or long agreed approach and required streamlining:

> *"Over the years various governments had decided to address pressing issues of the day such as equality, a more robust regime of workplace inspection and so on and in actual fact they were bolting parts onto the IR system and in some cases without linkages. The new workplace Relations Commission will bring some form of consistency of approach and hopefully be more efficient to use"* (Govt. Official)

It would seem that the agreement with the Troika on the new state employment relations machinery had already been identified for reform by the Irish government officials. Perhaps then the manner of the public announcement of the publication of draft legislation for the new body was aimed at the Troika, as it stated:

> **'***Landmark reform will see five State workplace relations bodies merged into two – Minister Bruton…. secures Government approval for legislation to reform workplace relations bodies, deliver 20% savings in staffing and 10% in budgets while providing improved services. Move forms part of reform programme which will see total number of Agencies under Department of Jobs reduced by 41 by end 2014' (DJEI Press Release 2014)*

The proposed reform of the Irish system of collective bargaining, under a commitment of the Programme for Government and subject to review by the Troika, includes a new proposed ‘legal right to collective bargaining’. However, the legal right will, in practice, only apply to workplaces that do not currently have collective bargaining. National level respondents indicated the legislation is ‘almost finalized’. An impending issue is the definition of an ‘accepted body’ who can bargain on behalf of workers, which need not be a recognized trade union. A government official commented:

> *“the crucial part of the reform will be the test of a genuine independent accepted body”*

5.2 Employer and Union Responses to social dialogue

The collapse of national-level corporatist bargaining (social partnership) has not witnessed the end of the social dialogue in Ireland. There are two outstanding actions which support the continued existence of forms of social dialogue taking place through the economic crisis. The National Implementation Body was a high level conflict prevention body that emerged from social partnership in response to the Irish Ferries dispute, and has since ceased to exist as an implementation body within the institutional industrial relations framework. However, social dialogue remerged with two agreements in the private sector between ICTU and IBEC for the ‘Orderly Conduct of Industrial Relations and Local Bargaining in the Private Sector’ in 2010, and renewed in 2013. In effect this is a mechanism to underpin industrial peace in the Irish economy and provide a channel of negotiation in times of industrial crisis. The function of such peace agreements to establish an informal dimension to the formal conflict resolution machinery of the state and a mechanism for the peak level involvement of the ICTU and IBEC to police against adversarialism or industrial disputes getting out of control on the streets. Respondents often contextualised Irish reforms in relation to media images of more vocal and politicised protests around similar issue in Greece:

> *"In the absence of partnership bodies or the NIB it was desirable that private sector protocols or industrial peace agreements were entered into"* (Employer)

> *"It was important to signal that we in Ireland can resolve differences …. to make clear to the Troika that, heaven forbid, social dialogue would prevent us looking like Greece"* (Union Official)

The second clear indication of a preference for some modified form of social dialogue was the manner in which the public sector pay deals were concluded (e.g. known as the Croke Park and Haddington Road Agreements) and the message it sent to private sector employers of the value of dialogue. The government had already taken unilateral action to introduced Financial Emergency Measures in the Public Interest Act 2009 (FEMI) to reduce pay in the public sector and had threatened to do so again if public sector unions did not agree to reforms of terms and conditions and some modernisation measures. Both public sector Agreements (Croke Park and Haddington Road) involved long and detailed negotiations with the Labour Relations Commission acting as facilitators. The outcomes of the negotiations were put out to ballot for agreement or rejection by union members. The initial Croke Park agreement was rejected by some unions including the largest union SIPTU and was re-negotiated to take account of union members concerns and subsequently agreed to in another ballot. By conducting the painful business of pay cuts and obtaining reform in work practices through collective bargaining, the Irish government highlighted to the wider economy that the state did not want to move away from the concept of social dialogue between government and trade unions as a means to solve problems in the midst of an economic crisis.

What had evolved post crisis, according to respondents, is a complex and flexible web where bargaining has undergone change, and in other instances has remained relatively robust. Explanations for the degree of continuity and change (discussed more below), is in a small country like Ireland the social partners relied on an informal network of social dialogue, even when formal structures of social partnership collapsed in 2009. The two very public instances given above, in the private sector industrial peace protocols and the intense very public negotiations with public sector trade unions sent a clear signal to the wider society and to private sector employers that the government still supported the current incarnation of voluntarism and the process of social dialogue. A return to the older forms of social partnership institutions does not seem inevitable or even a desirable intention of the main political parties at present, even though several union respondents advocated the utility in some form of social dialogue. Some employer groups, notably IBEC, were more sympathetic to a non-union HRM style (shaped perhaps more by their attachments to foreign multinationals) than to collective bargaining with unions;

"Since the onset of the economic crisis there is no collective bargaining as I see it – it just doesn't happen anymore. Social partnership is gone and the need to have collective bargaining went with it. Employers through the recession have exercised their right to pay wages and salaries how they see fit - there is no longer a role for unions in the system" (Employer)

A final development to the range of issues subject to negotiation has been that of workers' pensions. Pre-dating the crisis unions expressed concern that many occupational company pension schemes were underfunded. The result has been the inclusion of pensions as a distinct and more common collective bargaining issue. A related issue post-crisis, commented by both national union official and confirmed by government spokesperson, is that retired workers have no bargaining rights over changes because they are retired (e.g. no longer legally defined as a worker). A government spokesperson commented:

> *"difficulty for retired workers is there is no legal protection or any avenue for them to bargain when changes are proposed to their occupational pension"*

5.3 The durability of collective bargaining and social dialogue amidst the crisis

The largest trade union in Ireland and the main one in manufacturing, SIPTU, decided in 2010 that advances in pay rather than continued concessions were was needed to support union legitimacy and show a role for union bargaining. Irish national social partnership ended in 2009 and the last agreement was called *'Towards 2016 Ten-Year Framework Social Partnership Agreement 2006-2015',* often referred to as T16. Contained within the agreement were pay awards and a review timescale in which to agree new pay deals that became known as transitional agreements. This was unusual national partnership agreement as it tried to span a ten year period while other were for 2 to 3 years previously. Therefore, when partnership ended many companies had agreed to abide by the pay terms of T16 and individual company agreements were often covered different periods of time from the actual dates of the partnership agreements. It was not unusual in 2010 and onwards for companies to have finished T16, or opted out of by way of inability to pay, and for there to be no agreements on pay generally in manufacturing sector companies.

The decision to develop a pay rise strategy against a background of severe economic crisis affecting the entire country was taken by SIPTU after much careful consideration and development.

> *"What we did not want was a hue and cry from a very hostile media that the unions are back seeking pay rises and are attempting to bankrupt what is left of the country for their own selfish interests. The job of unions is to get benefits for our members through collective bargaining. So we had to very quietly start collective bargaining in our members best interests with selected employers who we knew were profitable and could pay"* (Union Officer)

The main element of the strategy was to agree a wage rise figure that was in line with economic developments in Germany and the ECB forecasts which appeared to be moderate and that could be obtained from employers. The agreed pay rise figure became known as the '2% Strategy'. There were three other key elements to the '2% Strategy'. One was that there would be no public announcements about the strategy and it would be pursued quietly and under the radar of press and media. Second key feature of the strategy was the commencement of localised bargaining done directly between the company and the union with no outside third parties, in particular to keep the employer bodies (e.g. IBEC), managerial type consultancies as well as the LRC away from the negotiating table to begin with. A third key feature was a slow and carefully crafted campaign of incremental and modest pay increases across manufacturing. The strategy targeted leading exemplar firms who were known to be still doing well amidst the recession and had an ability to agree a pay rise, mostly unionised MNCs, and then subsequently roll-out the precedent of a deal secured in one firm to the next, targeted different companies in selected sub-sectors of manufacturing. One of the national union respondents explained:

“This union had been engaged very deeply with many manufacturing employers from the start of the crisis to save companies and jobs and at times agree very unpalatable changes in our members’ terms and conditions. We had seen long established well-run companies wiped out by the downturn from 2008 on. Many firms that supplied the construction sector closed. It was crucial that the union got back to bargaining to make gains from those employers who could pay and move beyond the pay freezes that set in after the end of T16” (Union Officer)

SIPTU has for their own organisational reasons categorised manufacturing in Ireland into three sectors: Pharmaceuticals, Chemicals and Medical Devices; Agriculture, Ingredients, Food and Drink; and Electronics, Engineering and Industrial Production. The strong economic position of the pharma and medical devices industries through the economic crisis also had unionised large workforces which became the first target audience of the ‘2% Strategy’ by SIPTU. In 2010 there were a small number of around 5-6 pay deals obtained by SIPTU and they were seen as crucial to the union and restarting collective bargaining.

“*The 5-6 deals from the 2% strategy in 2010 were highly significant wins for the union. Localised collective bargaining was back, making gains and proving to be* *effective for our members. It also was a point to prove to the outside world that unions could still obtain the union premium rate in wages"* (Union Officer)

Typically the deals obtained by SIPTU under the '2% Strategy' were subsequently negotiated by the TEEU and applied to their members in the same companies. Many of the agreements were multi-year ones ranging from 19 months in 2010 and rising to 2.5 years by 2014. The average pay increase obtained was 2% while some agreed 1.9% or 2.2% from 2010 to 2014. In other words the 2% was a median figure around which negotiations were commenced. The pace of pay agreements concluded in the manufacturing sector quickened with 35 in 2011 to 75 in 2013 with some of those as one union officer describing them as: *'2% second rounders'*. In total SIPTU have estimated that the '2%+ campaign has resulted in over 220 collective agreements (made between 2010 and 2014) covering upwards of 50,000 workers.

"*Do we feel that the '2% Strategy' was the right one –yes we do. When we decided on this way of getting back into collective bargaining as a means to get gains in 2010 the whole atmosphere was poisonous towards unions. Would I say that 2% it was a cautious and moderate strategy – yes I would. It has been successful for the union and restates our role as a player in the economy again"* (Union Officer)

One aspect of the '2% Strategy' has been the return of localised collective bargaining for the first time in over 25 years in Ireland. There were some concerns expressed by unions and employers that the skills to successful conduct local agreements were absent at local level given the dependency of relaying on national corporatist negotiations through (former) social pacts. One union officer stated:

"It became the norm for so many years to speak to the employers which mostly were not real negotiations about the national deal. In reality most companies paid up but quibbled about linkages to change in a not very serious manner. So for me the 2% strategy was a new ball game of

putting out feelers to employers, checking their temperament as a form of preamble so that when we started pay talks negotiations would begin and we were not met with a flat no way"

Employers were equally unsure about local bargaining and tended to approach matters with extreme caution in how they approached the whole concept of pay rises. In previous times under the partnership agreements while there was flexibility on implementation in practice most employers followed the broad terms of the agreements. One employer representative related:

"*I had heard nothing even on the grapevine about the SIPTU 2% strategy until the local full-time union officer asked to meet me to talk about our shared future, as he put it. The initial discussion between us was frank and open. As a company we knew we could award a pay rise and we could see our employees needed it as they were hurting under the strain of new taxes and complete economic bad news everywhere was just depressing. During partnership people got pay rises for nothing, as a company we wanted some structural changes in exchange for pay – something for something. There was straight dealing with the union guys and we bought into the '2% strategy' with targeted changes to be met and concluded a 2 year agreement"* (Employer Representative)

The evidence to emerge in 2014 was that the SIPTU '2% Strategy' that was first rolled-out in 2010 was having a significant impact in achieving pay rises for workers in the manufacturing sector with over 220 such agreements concluded in this period of time. For the trade unions the return to localised collective bargaining was a strategic decision taken in the absence of national partnership or other forms of national social dialogue. One union officer while extolling the successes of the '2% Strategy' said:

> *"The manufacturing division in SIPTU has achieved the return of pay rises and the norm of company level discussions on pay deals not just cuts. While in itself this is a welcome union success story there are many issues that urgently needed sorting out, such as workplace pensions, the nature and scope of collective bargaining, and others but this stuff can only be agreed at national level social dialogue with government. The return of social partnership may be not but perhaps a new social dialogue forum can be created"* (Union Officer)

Collective bargaining in these manufacturing firms has been described as positive development for workers which was obtained as a result of what might be regarded as 'moderate' or 'pragmatic' approach encapsulated in the '2% Strategy' taken by SIPTU, TEEU and UNITE trade unions. They have found some success with employers by strictly following this strategy which has also caused some ill-feeling in at least one of our case study companies. In the latter case the local union were about to conclude a three year pay deal that amounted to 9% increases, but when the employer learned of the '2% Strategy' (publically announced in the media by this time on back of several successes by the union president), they refused to pay more than 6% over three years.

Two other interesting or novel features emerged from the research that is worth noting with regard to the nature of relationships between employers and unions that were forged by their responses to the crisis and their willingness to co-operate. The first feature was the undertaking by SIPTU to assist in promotion of the sale of goods and services produced by unionised manufacturing companies. The campaign is entitled 'Supporting Quality Campaign' and extolls the virtues to consumers of protecting quality Irish jobs through purchasing quality goods made by fellow workers in Ireland as a way to sustain employment in Ireland. The union carries a full-page advertisement for the supporting quality campaign in each edition of its monthly paper Liberty and on its website. One union officer commented on the logic of supporting this campaign:

> "*Asking workers to spend their hard earned cash on goods they are likely to need and buy anyway allows people to support in a tangible way other union members jobs, makes sense co-operatively speaking and allows the union to show it supports unionised companies"*

The second interesting or novel feature, which signals new extensions to the range of bargaining issues despite crisis and reform, is the role of SIPTU's training division. A new 'IDEAS institute' was formed within SIPTU to support training initiatives about "change management, innovation and restructuring" which assisted local managers as well a shop stewards. The concept underpins the notion of 'bargaining for skills' and involves the union engaging directly with managers about to deal with and consult with workers and other managers about future changes in production processes, lean production management techniques, or achieving higher levels of efficiencies through an agreed mechanism of workplace innovation. There are over 20 companies who have participated in the process which has involved a scoping and detailed planning exercise of the type and nature of changes that need to be achieved in the company and is conducted by SIPTU's IDEAS Institute. In practice the types of workplace innovations that have occurred have involved adaption of new work practices, processes or technology and the training for the changes of managers and employees are conducted by union institute.

6. Case Study Evidence: patterns of change and reform at workplace level in manufacturing

In this section the report outlines the evidence gathered in 5 case study manufacturing companies in Ireland. The five case studies reflect different parts of the manufacturing sector from metals, food and drink, pharma and medical devices. There is added variability in the selection of the cases as two of the cases had no desirable impact from the crisis while the other three were significantly affected and major restructuring took place. However, the evidence from the cases all indicate that collective bargaining through localised social dialogue was a crucial factor in reaching agreed sustainable solutions to their economic difficulties.

6.1 MetalCoIrl

MetalCoIrl is in the metals industry and has had a factory in Galway for over 35 years and is known to a good and steady employer over the years. The 2 main product lines are in the manufacture of truck and trailer refrigeration units. There has been collective bargaining in the company from the very beginning with the main union being UNITE and TEEU covering a small group of maintenance staff. Among the production staff UNITE have 80-90% density and the equivalent of a full-time union officer – 2 employees are given 5 and 3 hours each day and union office and other facilities. Three respondents were interviewed (shop steward x1, HR manager x1, full-time UNITE official x1).

The company was severely hit in the early stages of the economic crisis in 2007/2008 when their order books rapidity decreased as orders were cancelled or put on hold. A range of stabilisation measures were taken to secure the future of the plant which was under threat of closure from their corporate US Head office. Those measures included; voluntary redundancies, closing down shifts to move to a single day shift, introduction of a 3 day working which lasted 15-18 months (depending on job function), closure of defined benefit pension scheme to new entrants, lay-offs of permanent employees and ending the employment of all temporary or contract workers. All changes made in the plant in direct response to the crisis at the early stages were by negotiation with unions and agreed by votes of the workforce. One manager commented:

> *"This plant was under very serious threat of closure and the lads (union), much to many a managers' surprise, recognised this fact early on and played a very pro-active role with the local management team to get our plant in shape to meet the major financial challenges that Corporate wanted to see done"* (HR Manager)

The discussions on responding to the initial impact of the crisis in this plant were clearly observed by the workforce in the form of diminished order flows. One employee said:

> *“We saw for ourselves on the shop floor that we had moved in the space of 2 months from completing an average of 70-85 orders each day to competing 18-20 that the factory was in serious trouble like never before*”

The UNITE union committee in *MetalCoIrl* convened many special meetings to develop strategies to deal with all eventualities from workforce reductions to plant closure. A union officer commented:

> *“There was no doubt in all our minds that the plant was under serious threat of closure and the important aspect from the union’s point of view was to be ready and get involved at all times and be willing to make suggestions and ideas to management”*

Initially the management of the plant wanted to soften the impact of the crisis and move to a 4 day working week as an interim measure. The union believed that such a move by the company would be overtaken by unfolding wider economic events and requested that the company consider a 3 day working week instead. As a union officer explained:

> “*The atmosphere in the plant and more widely in the City and country was deeply pessimistic and the last thing we wanted to be doing was making matters worse for workers by being involved in an escalating series of cuts and more cuts to pay”*

The union had commenced talks with the local office of the Department of Social Protection with regards to any statutory payment or entitlements that their members may receive from a 4 or 3 day working week and to make arrangements for the ‘signing on’ of the workforce. During the discussions the union learned that the structure of the unemployment benefit scheme in Ireland was notionally calculated on a week by week basis and that the ‘unemployed week’ commenced on a Wednesday.

In discussions with *MetalCoIrl* management the union put forward a number of proposals and the two main ones were; working a 3 day week (Tuesday, Wednesday and Thursday) to fulfil all orders existing on the books and that increases in orders would be dealt with by way of bringing employees back on a full working week basis on an agreed rotation of workers. These two proposals were agreed between management, union and employees and formed the framework in which *MetalCoIrl* began to work their way through the crisis in an agreed manner. The union related that they felt that moving to the 3 day working week met all management’s demands and protected the wages of employees to the largest extent possible in the circumstances.

> *“ I worked a 3 day week for over 14 months but the method of calculating the ‘Dole’ meant that I lost on average €25 per week on short-time. At the same time the plant managers got all their orders done on time and agreed with us to introduce some in-house training in this time.”* (Union officer)

Reductions in employee numbers were made across the board – HR Dept. has only 3 people today previously there was 12 and there was a focus on obtaining structural changes of the internal the plant facilities and work practices at this time. There is a different emphasis from management and union representatives on workplace changes and innovation. The union have the view that the crisis brought about no new changes that those already highlighted before the crisis. Although the HR manager said:

> “*We believe that the place is in better shape after the crisis as the last few years were used to ‘lean things out’ and get rid of some old working practices and we have a lean headcount”* (HR Manager)

“The management had a long-term plan given to us some time ago to create 3 new value streams and group some work station/functions together which in principle we never disagreed with. The main concerns are to protect seniority of workers in different areas and agree a process that allows for change and offers no diminishing of rights previously obtained.” (Union Officer)

By 2014 the plant is back to full capacity with over 640 on site with over 450 directly working on the manufacturing side and the others in administration, marketing and European positions. The production area has had to expand into the office block (HR offices) and they are recruiting new staff for permanent posts and have a temporary evening shift running to deal with a spike in work. Since 2010 there has been pay rises each year of 2% and the current pay deal ends in March 2016. A new product and an R&D project are getting moved to the plant in the next weeks. The structural changes have had a positive effect regarding the attitude of their corporate Head Office to the Galway plant:

“*Recently corporate leaders visiting the plant told everyone that the flexibilities shown by the workers to negotiate changes was a very clear desire to protect their jobs and get us through the bad times is now recognised by Corporate through new long term investment in products and facilities unfortunately this realistic view taken in Galway was not evident elsewhere and they are gone* today” (HR Manager)

The relationship between UNITE and the company can be described as a good working relationship but also adversarial in form with 9 individual cases referred to the state’s IR bodies in the last 2 years. The union related that some of the cases taken to the state IR bodies were not sanctioned by the union plant committee who disagreed with their members and they were made on an ‘individual’ basis, although the union did provide representation in each case. Management at the plant state that they have a good working relationship with trade unions and have seen the value of collective bargaining in bedding down agreements over the duration of the crisis which they believe the company and their plant has survived; other *MetalCo* plants were closed. Social dialogue at the local level in this plant is credited with saving the plant and jobs but as the HR Manager comments it is not always conducted without tension:

> "*Working with the unions is challenging and is the way things are done around here and today they (unions) are flexing their muscles again as they see good times ahead. As a management team we have seen real and significant changes happen and we intend to hold our costs and continue to get efficiencies from the workforce"*

6.2 FoodCoIrl

The *FoodCoIrl* factory in Dublin is in the food and drink sector of manufacturing and is part of a well-known UK MNC. The plant manufactures a drink liqueur which was introduced to world markets just over 30 years ago and is considered by some as a truly innovative Irish food product. Ever since the liqueur was launched in 1974, it has been in growth phases, however the growth slowed and in 2008 due to the economic downturn and consumer sentiment for a 'luxury' product and by early 2013, *FoodCoIrl* was back in growth. There are 2 plants in the world making the product – one in N. Ireland which opened in 2003 to manufacture the generic product and the other in Dublin which now manufactures the blended 'niche' versions and until recently another drink spirit which has now produced in Scotland. There are just over 200 people working in the Dublin plant which has been unionised from the beginning and SIPTU is the largest union. In the past 3 years SIPTU has re-organised its internal structures and all their members in the Dublin plant are represented by one FTO instead of 3 in the past which has unified the CB processes. The craft union TEEU represent a small number of maintenance staff. Five respondents were interviewed (shop steward x2, HR manager x1, production manager x1, full-time SIPTU official x1).

The Dublin plant had 2 main challenges which featured in the interviews; survive the economic crisis and continue to face the internal competition of a modern comparatively ‘lean costing’ plant in N. Ireland. The HR Manager is with this plant for 7 years, the 2 shop stewards were highly experienced and have 22 and 14 years’ service respectively with the company and the FTO is dealing with the company for 6 years. Therefore all the interviewees have direct experience of the impact of the economic crisis on the company and how they dealt with the situation which saw volumes drop by nearly 25% in the first instance which was the first such fall since the product was launched in 1974.

There were 3 main phases of dealing with the crisis, one was initially to manage the downturn in sales and orders and involved moving to a 3 day working week, some temporary lay-offs, a pay freeze from 2009 which were agreed with unions. The second phase was de-layering of management positions, ‘encouragement’ of voluntary redundancies among the long-term staff and not replacing empty posts. One union officer felt that the working relationship with management was very important in how the company reacted to a severe downturn in orders:

> *“There is a level of trust between the company and the union that has been built up over years and that is why the union committee were able to ensure that there was no enforced or unilateral action by management in early stages of the crisis”*

One of the shop stewards recognised the need for the union to adopt a reasonable and positive attitude to the sudden downturn and said:

> “*Essentially we had our backs to the wall in 2009 and it seemed that not just us in this plant but Ireland was on the brink of closure. The company came looking for savings and short-time working which made sense if we had no orders but our job was to save jobs and attempt to protect terms and conditions which we did do”*

In late 2010 Corporate Head Office set them the task to achieve €5m in operating savings and bring down the 'cost of a case' of the liqueur. The latter became the third phase of dealing with the crisis that involved a major restructuring project of 'line and product' changes that took 18 months of negotiations to be agreed upon and used the services of the Labour Relations Commission. The company did not use IBEC or any consultants in their negotiations. For the union the need to have no outside management interference in the process was essential:

> *"We deliberately wanted to engage management within the plant to totally focus them on this place and solve cost and production issues in-house and not involve IBEC or any other management consultant types who might bring another agenda to the table that we did not need"* (Union Officer)

The length of time the negotiations took did bring two interesting and contrasting reactions from the workers and the HR Manager commented:

> "*Some other managers in the group kept asking why was the negotiations taking so long and I explained that we went through everything line by line and in the end that period of time allowed us to be more considered and look at things in the round and as a result we dropped some matters off the agenda"*

While the union shop stewards felt that the major restructuring was so important that the approach needed to be very deliberative in nature and one steward said:

> "*We know that the big restructuring took 18 months to conclude and that seems like a long time. We want to test every single management proposal and cost it and see if there was anything we could do to maintain jobs but achieve the same savings. In fact the longer the talks went on, some of the more extreme management ideas fell off the*

agenda under prolonged scrutiny. Also we felt that the need to slow down management haste as they were spooked by all the bad news in the Irish economy and by the end of the talks orders were starting to roll in again – so taking ones time makes for a better deal"

The outcome of the restructuring of line and product project was a reduction in headcount by 40, withdrawal of canteen subsidies, buy-out of some premium pay rates, closure of defined benefit pension scheme and the opening of a new Defined Contribution pension scheme, new pay rates for new employees, pay rises deal to run to 2017 and all redundancies were by voluntary agreement. There are long-term seasonal staffs to deal with spikes in production which was also covered by the agreement. The interviews with the 3 union representatives and management all believed that the future of *FoodCoIrl* in Dublin was at stake and although they felt that the parent group would retain the plant in some form. The clear evidence to emerge from the interviews was the critical importance to save jobs and keep the plant economically viable through an agreed sustainable deal. The HR Manager was very positive about importance of collective bargaining to the survival of the plant and said:

"*If you ask me could we have survived the economic downturn, persuaded Head Office to keep us open and get such a big cost saving and production restructuring deal without the unions - no way!….collective bargaining can be tough for some managers and some don't get it, but there is trust between me and the union guys and deals stick and problems are sorted out- it works for us"*

The deal reached essentially ended many fringe benefits that the unions had built up over the years through bargaining. One union officer commented:

"There are no doubt the members and union representatives feel that this deal has taken back a lot gains made in terms and conditions over the years. The point was to protect the long term viability of the plant and

union jobs and we achieved that and we have moved on and done a deal on pay increases to get back some lost cash through the '2% Strategy'"

6.3 PharmaCoIrl

The *PharmaCoIrl* plant operates in the pharmaceutical sector was bought over from another large pharmaceutical company in 2008. The plant produces long term developed medicines, some well-known brands, in tablet form, packages and distributes them throughout the EMEA. The main challenge facing this plant was 'patent cliff' which saw many well know drugs coming off patent and this was to affect sales and production levels in the wider company. Some of the production from this plant has been moved elsewhere in the group and there is closure of some work areas and some voluntary redundancies have occurred. The workforce was 650 in 2008 and reduced to around 350 in 2014 through a series of negotiations with the unions. This plant has been unionised from the beginning over 40 years ago with SIPTU representing most of the staff and they claim to have 90% density in their grades. TEEU represent craft workers in the maintenance section. At least one other plant in the group in Ireland is non-unionised. Four respondents were interviewed (shop steward x1, HR managers x2, full-time SIPTU official x1).

Collective bargaining is well established and very few issues ever get referred to third parties. The union convenor has worked in the plant for 15 years and is a shop steward for the last 6 years. The FTO who covers the plant visits when need or once or twice a year. A union representative remarked that the new owners were making changes but only by negotiation with the unions, and said:

"There have been big changes in this factory since I started 15 years ago and through collective bargaining and a good union committee we have managed to maintain good jobs here with above average pay in social partnership times"

The backdrop of the recession and the industry pay norm of 2% were reflected in the collective bargaining in the plant and marked a changed approach from the management who agreed a pay rise but demanded changes in work practices in return. The union representative described the new approach and how they dealt with it in the collective bargaining process and said:

> "*In the last pay deal the company gave 2% and added a clause for 'on-going change' at the last minute. We signed off on that and spent the next 6 months getting them to define 'on-going' as we had agreed changes that were planned and many were implemented and were generally agreed to have worked to meet their problems. So there is a changed atmosphere at the moment nothing will be given to the union easily"*

The ability of the union to face up to the changed circumstances was well regarded by the HR Manager and seemed to demonstrate the positive attitude they had to localised social dialogue and said:

> "*We deal well with the unions and can solve all problems we face by building on the relationships we have made with each over the years. One thing the unions have shown us is that they are not afraid to engage with proposals on changes on lean production ideas or find ways to save on costs"*

The Senior HR manager had worked at the plant for over 5 years and was moving to a new plant at the time of the fieldwork. There have been 4-5 different plant managers over the last 8 years which has caused issues of individual management styles in how they approach HR and the union matters. As such the recession has not been an issue for this plant but the re-organisation by the parent company and dealing with the product end of life due to the 'patent cliff' have been the main issues. In fact this appears to be the case for most of the pharmaceutical sector in Ireland.

Nonetheless, the recession was a backdrop in all the discussions on changes and the voluntary redundancies nut workers leaving had fewer options to get work elsewhere, which meant that many of those who did leave had very long service some of over thirty years or more. The relationship between the union and the HR Manager was reported by HR to be a good and straight forward one. Nonetheless a union officer did emphasise that there was a good working relationship which did not mean that there was no competitive or adversarial aspects in the manner of their collective bargaining processes, and said:

> "*To be honest you ask me is there trust between the management and the union. The truth is we are both actors in the IR process, they have an agenda and we have an agenda and we agree to work together and stick to deals made. Do I feel that if management can get one over us that they won't -no way! that's how much I trust them"*

6.4 MedCoIrl

MedCoIrl operates in the medical devices area making contact lenses and other eye care products and has had a plant in Ireland for over 30 years. The company has been the subject of two buy-outs by venture capital funds in 2007 and 2013. In May 2014 the venture capital fund management announced a unilateral restructuring plan that had to be accepted by the workers in a very short space of time of 2.5-3 weeks. The main aim of the plan was to achieve savings in running costs at the plant of €20m which also sought 200 redundancies and pay cuts of over 20%. Five respondents were interviewed (shop steward x2, HR manager x1, full-time SIPTU officials x2).

There are over 1,100 people employed at the plant with SIPTU representing the vast majority of the workforce and TEEU representing around 100 in craft grades. Therefore collective bargaining had been a feature of life through the existence of the plant. One union representative commented that:

"*Local management and the unions had routine rows that could last for months at a time and then there were trips to the Labour Court. When a deal was struck or recommendations given (Labour Court or Labour Relations Commission), the local management to their credit, never back-tracked. Often we felt that the local managers wanted us to go to the court so they could show Head office that a state body thought we were right and they had to give us our demand"*

The stark reality faced by the employees at this plant was a clear decision by the venture capital fund Valeant to close the factory unless significant pay cuts and reductions in other costs were accepted in a very short space of time. The move was met with an extremely hostile local political and press reaction as the closure of this plant would have had major economic and social consequences for the wider region. There was, therefore, considerable public and political pressure applied to the venture capital company to engage in a meaningful manner with trade unions. The venture capital corporate team arrived with an Irish IR consultant/expert to negotiate on their behalf and a public relations team – all separate from the local plant management.

The main union SIPTU felt that the ultimatum to accept the pay cuts and redundancies was very real.

"*Some of the workforce thought the threat to close was a bluff. We knew from the initial intent shown and the past track record of the corporate management representatives and the manner in which they delivered a brutal message very directly in a ruthless fashion meant the survival of the factory was at stake. Also the local management team were totally side-lined in this process and this added to our deep concerns"* (Union Representative)

The workers at this plant felt deeply betrayed by the actions of the venture capital fund by the announcement and 'brutal', as one union representative described it, 'take it or leave it' manner of informing the workforce of their demands. Shop stewards were alerted that company was going to meet with them in the morning of the announcement and then hold a general meeting of employees. In fact shop stewards discovered that the local and national media had been briefed that the plant 'may close' and were outside the factory gathering news. Once the union stewards alerted the plant management to the media outside were they then called into a meeting and given the venture capital fund company press release. Local management were not in a position to provide answers as many of them had only learned of the statement at the same time. A management representative of the venture capital fund addressed 4 general meetings of employees from various shifts that day in the canteen and did so by reading a prepared statement, and then immediately walked off the platform and did not allow any comments or questions from the workforce gathered.

The interviews were conducted for this research at the plant were with management and the union shop stewards in the aftermath of an agreement to keep the plant open in return for significant cost reductions in the operations. Employees at the plant agreed by over-whelming numbers to accept an €18.5 million cost-cutting deal, not the full €20m originally demanded, which includes; a wage reduction of 7.5pc in basic pay, elimination of some bonuses, one hour added to the working week, a reduction in payments from the sick pay scheme, removal of subsidies to the canteen facilities and an improved redundancy package for the 200 workers who will lose their jobs. The outcome of the agreement was achieved after intense discussions between the company and the unions that initially commenced in Waterford but were moved to a discrete location in Dublin to allow the talks to take place away from the glare of publicity. Part of the agreement was for the venture capital fund to commit some investment capital into the future of the plant to sustain the future prospects of the facility.

The start of the talks between the unions and the company at a local hotel became a media circus and every word leaked or overheard became headline news and this started to cause great concern that proper negotiations would not start on both sides.

“We had no choice but to move to a secret location to engage in talks away from the City and allow an atmosphere to develop of teasing out problems and finding solutions” (Management Representative)

The negotiations were facilitated by the LRC and were eventually moved to a Dublin location and became an intense 3 days and nights of negotiations with forensic accountants were deployed by SIPTU to go through all expenditure line by line. The union approach was to talk to the owners and ask them to justify the cost reductions and by doing so they demonstrated a willingness to have social dialogue and reach an agreement. One union representative commented that their attitude and approach seemed to impress the owners and make the talks serious and meaningful and said the following:

“*The serious or ‘mature manner’ (as the management said to them) in which SIPTU approached the talks convinced ‘venture capital’ that they wanted to save the plant from closure. Our main aim was to save jobs, core pay and get a deal that could work. We kept members informed every step of the way through the union Facebook page. The deal that was made was hard one to bring back to the plant as we had to surrender many of extras built up in good times. It was a success for our union and proves the point that we are for jobs not just up for a scrap”* (Union Representative)

Most of the local managers experienced the venture capital fund company’s ultimatum a*s ‘coming from the left field’,* as one described it, as they were unaware of the actual contents of the cost savings demands until the day of the announcement. One aspect of the deal is that local managers are given a budget to run the plant and totally responsible for it which the HR Manager felt gave them more control over the workings of the plant if not their destiny. Managers at the plant were of the clear opinion that the factory would have closed if there was not union collective bargaining and the HR manager said:

"*There is no doubt that the manner in which the unions conducted themselves in the negotiations was very important in convincing our parent group that they wanted the plant open, were reasonable and would work the deal struck…. Could the company have survived without collective bargaining? No is the short answer and there are other closed plants elsewhere in the group in recent years to prove that point"*

6.5 MedivCoIrl

*MedivCoIr*l is an American-owned multinational, founded in 1949. The company developed the first ever battery-powered external pacemaker and is today known for cardiovascular and cardiac rhythm medical devices used to extend life through hospital treatments and operations worldwide. Globally, *MedivCoIrl* employ about 40,000. At the Irish plant there are 2,400 workers. Of these about 1,400 are hourly-paid workers, of which 80% are unionised with SIPTU who has a closed shop agreement for collective bargaining. The other 20% of hourly paid operatives are agency staff supplied by an outside contractor firm in recent years. These workers are not unionised (or at least *MedivCoIrl* do not recognise them if they are) as agency workers are not part of the closed shop agreement. The remaining 1000 employees are white collar, professional and technical staff that non-union. Three respondents were interviewed (shop steward x1, HR manager x1, full-time SIPTU official x1).

The crisis and reforms have had minimal direct impact at *MedivCoIrl*, although some restructuring has been in evidence and bargaining processes and issues subject to negotiation have witnessed change.

Collective bargaining is best described as 'adversarial' and 'cooperative' between management and SIPTU. There was a history of referral of issues to State agencies (e.g. Labour Court, Labour Relations Commission) for mediation and conciliation. In reality, these were bargaining tactics either by the union or management in seeking external verification of positions, and local negotiation would resume to finale details post-LRC or Labour Court recommendation on a given issue (e.g. pay, working time, flexibility, short-term contracts etc). Both the HR Manager and SIPTU Convenor spoke favourably of the role of government agencies in helping to persuade their respective constituencies of bargaining positions, and the frequency with which bargaining disagreements would be referred:

> *“If a deal is about to go down, what do you do next? Getting that sort of external option can help persuade the workforce of the need to get to a negotiated recommendation at the end of the day”* (HR Manager)

There have been several changes in bargaining arrangements and processes over recent years. First, while the company locally has good relations and would previously have sought advice and services from external consultancies or employer bodies (such as IBEC) concerning bargaining issues, this activity had reduced over recent years. In the main, external survey data would help with data about market research ahead of negotiations, but little direct negotiating support was provided to the company. Thus there has been an on-going effort at direct bargaining at the enterprise level, often with additional benefits to the minima negotiated in national partnership agreements. For example:

> *“National partnership only ever existed as a guide for us. We usually paid above any national agreement anyway. The collapse of social partnership never really impacted us”*

A second broad change included the integration of union bargaining machinery with non-union consultative forum. Plant-wide issues would be referred to a ‘Staff Dialogue Group’ (SDG) that included management, union but also non-union employee representatives. For example, if SIPTU negotiated changes to pensions or holiday entitlement which might then impact all (including non-union) staff, the issue would be referred to the SDG before implementation. This has two potential impacts yet to be fully analysed. One is it could weaken union bargaining power with the employer as the process dilutes the union constituency to include non-union representatives. Another is it may diminish negotiation which has a definite agreement-making function, to a process of that seeks views and is only consultative by nature. The third change relates to the expectations and demands of the employer for greater concessions and conditions as part of pay agreements. The HR Manager explained. For example:

> *"We kept just giving pay rises as part and parcel of the Celtic tiger boom years. In 2009 that all changed. We had a pay pause and then in 2010 honoured the 2.5% part of the national deal. Then we started asking for more back. We took away the bonuses and looked for savings and staff reductions and efficiencies …. 2014 was the most difficult set of negotiations and a lot has been agreed we would never have got before the crisis"*

MedivCoIrl is one of the various manufacturing organisations targeted as part of the SIPTU '2%+ Pay Campaign. Negotiations concluded in June 2014 produced a pay settlement of just over 2%, covering a three year period (e.g. 2.5% in year one; 2% in year two; and 1.7% in year three). At the same time, however, there was a range of conditions that became part of the final agreement, reflecting greater degree of 'concession bargaining' on the part of the union and 'renewed managerial confidence' to demand more. In summary, the agreement included:

- *Pay rises as indicated above (2.5%, 2%, 1.7% in each of the three years)*
- *New entrant rate of pay (lower than existing workers)*
- *Cut back on bonus and other related premium payments*
- *Recode sick leave as annual leave days (at local department manager's discretion)*
- *Summer holiday pay to be paid weekly*
- *Work restructuring and new "lean manufacturing" working practices*
- *Agreement that agency workers, after one year's unbroken service, can become new temporary Medtronic employees (on new entrant lower pay scale). When these new temporary employees have served two years and eight months, they may then be eligible to become permanent Medtronic employees.*

The final item that agency workers can become *MedivCoIrl* employees represents something of double-edge sword for SIPTU. On the one hand there was unease at agreeing a new entrant pay scale that effectively meant future workers would be on a lower rate of pay compared to existing employees. However, in obtaining agreement off management that agency workers can become *MedivCoIrl* employees after a qualifying period, even with a temporary contract, these workers then availed of union membership and were afforded bargaining rights under the closed shop agreement. Thus management secured a reduced hourly rate for new entrants while SIPTU were able to extend membership among previous (unorganised) agency workers. The shop steward explained:

> *"Our aim as a union has been to get agency workers into membership. Once unionised they have more rights and we can get them onto more permanent contracts"*

The adversarial dynamic to local bargaining at the *MedivCoIrl* plant also signalled a number of intra-union tensions. The local shop steward felt that the SIPTU campaign of rolling out, incrementally and progressively, the 2%+ pay campaign across manufacturing has cost workers at the plant. In the concluding stages of the 2014 agreement noted above, it was explained that a pay rise close to 9% over three years was almost finalised (e.g. averaging 3% per annum). However, at a national level SIPTU had public the successes of their 2%+ campaign. As a consequence, management pulled back and withdrew the 3% average annual rise and only offered 2% given SIPTU's publicity on their recent strategy. The union convenor remarked:

> *"SIPTU let us down a lot here. Some senior SIPTU people who want to be seen telling the world and their dog how great they are at getting 2% 2% 2% and that's enough for people. Management couldn't wait to throw that back at us and would then only cough up the 2% saying that's all SIPTU want. It presented a sort of national pay norm when we were getting on our a better deal. We virtually had 9% in the bag and SIPTU cost us that"*

6. Discussion of emerging themes

This section the report will discuss a number of the themes that have emerged from the research in terms of responses and adaption to the new economic situation brought about by the recession and the end of national social partnership in Ireland. The performance of the manufacturing sector in Ireland through the crisis has been uneven as parts associated with the construction sector were extremely badly affected. The pharma sector was largely untouched by the recession but had the emerging challenge of the impact of the 'patent cliff' on their production planning. On the other hand two of the case studies in this report indicated the need for significant restructuring. One case was in the food and drink and the other in metals making large-scale refrigeration units, and both had dramatic and immediate loss of orders as their product markets plunged from 2008-2010, although they are experiencing a recovery phase from late 2013.

There are three main themes discussed here and the first one is the '*government responses*' to the crisis and their commitments to the Troika MOU that have long-term implications for the framework of the Irish labour market and its regulation. The second is the role of localised social dialogue which will be described in terms of '*Varied Employer Preferences* and *Union Responses'*. The third theme is the degree of '*continuity and change*' that has emerged in the Irish IR system and how these will shape the conduct and pattern of collective bargaining into the future.

The main response of the Irish government to the economic crisis was to seek a bailout of funds from the Troika and to implement the terms of the 'Economic Adjustment Programme'. The most visible are the additional labour activation measures taken to promote training and take people off the unemployment register that have been actively worked through the various Government Departments and are witnessed on the ground. The other four commitments given to the Troika had had mixed outcomes to this point. The 2010 decision to cut the Minimum Wage from by €1 per hour to €7.65 was part of the Troika MOU in 2010. The Finance Minister said at the time *'it one of the highest in Europe and not sustainable in the time of crisis'* (Dail,

2010) but this measure was reversed by the newly elected government in 2011. This action indicates that the Irish government did have some latitude of choice on reforms outside of those actions taken on fiscal budgets constraints.

The three other impacts from crisis reform include: changes to the model of REA/JLC wage setting; a new state workplace relations body to regulate IR; and anticipated legislation on collective bargaining, all will have significance in terms of creating a new IR architecture and labour market regulation are not in place, although the broad outlines are known. Through two legal cases employers have challenged the processes and constitutional standing of the REA/JLC system, which has led to new legislation to reform bargaining and wage setting determinations, much of which favours employers and weakens worker rights and protections, especially for those in low paid sectors. Although the government have indicated value to workers through the protections in the REA/JLC system, employer groups are organised and continue to lobby for its abolition, articulating a narrative that such wage regulations are "*anti-business and anti-job creation"* (RTE, 2014). The remit of the new workplace relations commission may be designed to deal more with individualistic rights and not be in a position to deal adequately with collective bargaining challenges and issues. It would seem that there is widespread acceptance in Irish IR circles that such a reform was needed to streamline and improve services. Proposals on reforming the legal position of collective bargaining have not been publicised although there is commitment in the 2011 Programme for Government to do so, and mentioned in Troika reports on Ireland. The evidence to emerge in the research suggests that the reforms and specific changes agreed on these three issues were not in conflict with the prevailing opinions in Government circles. However, the demanding reporting timescales to the Troika monitoring teams forced more prompt legislative responses from the Irish government.

Broadly there are two phases of the impact of the crisis on Irish manufacturing, the initial one was the shock or survival one from 2008-2010 and the second was adjustment and restructuring one from 2011 to present. The absence of national social partnership structures from 2010 created a vacuum of processes and mechanisms for the conduct collective bargaining. The return to localised collective bargaining has filled that vacuum and there are varied outcomes and patterns to the forms of collective bargaining that took place which has generally reflected the two main phases of the impact of the crisis as experienced at company level.

The research reported here is of unionised firms in which there is a tradition of collective bargaining and the evidence to emerge was that there was no attempt or even a desire on behalf of the management groups to use the crisis to move in a de-unionised direction. Indeed the evidence from *MedCoIrl*, *FoodCoIrl* and *MetalCoIrl* suggests that role of collective bargaining was an essential component in achieving cost savings, implementation of restructuring and convincing corporate head offices of the continued viability of each plant. Therefore, the role of local social dialogue through the established mechanisms of collective bargaining between employers and trade unions was instrumental in firms surviving the initial impact of the crisis and positioning firms for the future as stated by one management representative:

> *There is no doubt that the manner in which the unions conducted themselves in the negotiations was very important in convincing our parent group that they wanted the plant open, were reasonable and would work the deal struck…. Could the company have survived without collective bargaining? No is the short answer*

Employer responses to the crisis in the firms studied here displayed a variety of preferences in how to adapt to the sudden downturn in their product markets and how they responded organisationally. These *Varied Employer Preferences* were in many respects market-driven that reflected a global neo-liberal economic paradigm. Yet at the same time, collective bargaining and negotiation impacted employer options. For example, *MedCoIrl* wanted cost saving and agreements on restructuring to be concluded in a very short period of time, potentially including plant closure, which were changed because of collective negotiation. In contrast, *FoodCoIrl* were engaged in union consultations for 18 months to complete their significant restructuring. In *PharmaCoIrl* and *MedivCoIrl*, who were largely unaffected by the crisis, management agreed a negotiated 2%(+) pay rise but added new clauses and expected improvements in return for a wage increase for the first time. Thus firms that were performing relatively well during and after the crisis leveraged further concessions from workers, but did so not by abandoning or devaluing the gains of bargaining, but by using collective negotiations as a process to agree and implement change. While management at *MetalCoIrl* initially responded to the crisis and a serious possibility that their corporate head office would close the plant with drastic actions to reduce the working week, lay-off temporary and contractors and introduce a voluntary redundancy scheme all of which was agreed with the trade unions. After the initial phase of the crisis and *MetalCoIrl* survived the return to adversarial collective bargaining arrangement between management and unions re-emerged with evidence that at least 9 cases were sent to the state IR bodies for adjudication.

The responses of unions to the crisis in its various stages can be best described as *Union Strategic Pragmatism.* In the initial phase of the crisis in *MetalCoIrl* and *FoodCoIrl* in particular the unions were forced into shock or survival bargaining to save the plants from closing and once their situations stabilised the need for major restructuring and cost savings became their main focus. In the latter cases and with *MedCoIrl* in 2014, trade unions had to face the strong possibility of plant closure and the ensuing agreements did surrender gains to terms and conditions of workers employment made over the years. To achieve the scale of the cost savings needed at *FoodCoIrl* and *MedCoIrl* for example, there was a filleting of collective agreements to protect jobs and core pay which was a process that varied from company to company and the extent of their individual crisis.

At company level trade unions dealt with the practical issues around survival and restructuring that arose through localised social dialogue with a degree of concession bargaining. In the research the main feature of *Union Strategic Pragmatism* was the development and roll-out of the SIPTU ‘2% Strategy’ as a means to get gains for union members and re-start a form of traditional adversarial bargaining. The quiet under the public radar and deliberate targeting of the ‘2% Strategy’ at specific companies from 2010 and incrementally rolled-out through the manufacturing sector to obtain over 220 pay agreements by the third quarter of 2014 covering 50,000 workers has been successful. It was a pragmatic strategy that was quietly worked at company level to avoid hostile media attention and it was seeking a moderate pay rise. For the unions the '2% Strategy' was a very important strategic national move that reinforced the worker advancement rather than the retrenchment or survival role of unions as seen in the early part of the crisis.

Localised social dialogue has long being a feature of Irish IR although in recent times within the framework of national social partnership. Some trade unions want the return of some form of national social dialogue forum to advance national issues such as pensions and collective bargaining. From the employers side there did not appear to be any wish to return to any form of national partnership. Nonetheless, the continuity of national partnership mechanisms was reflected in the 2 private sector industrial peace protocols between IBEC and ICTU. For its part the government indicated to wider society by agreeing to retain REA/JLC system and by concluding the public sector agreements of Croke Park and Haddington Road that they still did wish to see the end of partnership or national wage setting mechanisms.

7. Summary and Conclusion

The period under review in this report 2008-2014 has witnessed dramatic change in the economic and political fortunes of the Irish government and their subsequent actions taken as a result of the economic crisis have placed immense economic and personal burdens on the Irish people. Ireland was seen by many as an economic under performer compared to its European neighbours in the post-war period (EU, 2012). The subsequent era known as the 'Celtic Tiger', from the mid 1990s to 2008, saw employment grow from 1.1 million to 2.1 million in 2007 and wages and salaries grow at significant levels and traditional emigration turn to net immigration (Whelan, 2014). In 2007 it would have been unimaginable that a sovereign Irish government would have asked for a financial bailout, that unemployment would rocket to over 15%, and that imposed austerity through emergency legislation would reign throughout Irish society for the following six years – and will likely continue for another decade or more. Several underlying sources have impacted change in Ireland: the collapse of national-level social dialogue; a wave of employer challenges to the legal authority of statutory wage setting arrangements in some sectors (e.g. the JLC/REA system); a new mood of employer self-confidence with pay freezes, pay cuts and job losses; and finally, but by no means the least significant, the proposals contained in the Troika. These sources of change have in one very important sense turned the model of social dialogue and bargaining upside-down; that is, from a highly centralised system to a new decentralised and localised bargaining arrangement, which is now focussed more directly on local actors and workplace activists.

However, at the same time, there is strong undercurrent of continuity. Above all, the evidence points to a sustained durability of robust collective bargaining in different parts of manufacturing. Some unions have successfully adapted to change by devising a protective wage rate strategy through the coordination of a constellation of single enterprise bargains based on a shared goal for a 2% pay rise minima to offset austerity and hardship. SIPTU's campaign in this area was first rolled-out in a relatively quiet, piecemeal manner by targeting key manufacturing (MNC) employers. The objective appears to have been highly significant with over 200 agreements made with employers to date, which in turn has had a spill-over effect on other parts of the economy (in retail and services for example). Likewise, employers have adapted to a new decentralised industrial relations architecture with tighter collective agreements focussed on core pay.

The overall response in Ireland can therefore be defined as containing elements of both '*structural change*' with '*process continuity*'. That is to say the structural platform for social dialogue has witnessed major change, from a national corporatist model to new local and enterprise-based bargaining. Notwithstanding such fundamental change, the 'process' of collective bargaining continues to add value by achieving agreement, consensus and wider understanding for change. That is to say, the activity of social dialogue itself remains a creative and innovative dynamic that is pragmatically and politically much more advantageous to that of unilateral employer imposition.

The risk is Ireland's system, unlike other European counterparts, remains predicated on a permissive voluntarist arrangement between the social partners. Such voluntarism means social actors may - and indeed have done – simply walked away from the goal of engagement through social dialogue. There is therefore counter argument, and evidence, that a more regulated system to mandate social dialogue can enhance creativity and problem-solving to facilitate deeper and more supportive change.

References

Adshead, M. and Millar, M. (2003)' Ireland as Catholic Corporatist state: a historical institutional analysis of healthcare in Ireland', *Limerick Papers in Politics and Public Administration. No. 5,* Limerick, University of Limerick

Bacik, I. (2011) *Labour Law Profile: Ireland*, Geneva, International Labour Organization (June)

Barnard, C. (2012), 'The financial crisis and the Euro Plus Pact: A labour lawyer's perspective', *Industrial law Journal*, 41 (1): 98-114

Begg, D. (2010) '*The Trade Union Movement as One: a Discussion Document'*. Irish Congress of Trades Unions, Dublin

CSO (2012) *Quarterly National Household Survey- Union Membership Q2-2002-Q2 2012*, http://www.cso.ie/en/qnhs/releasesandpublications/qnhs-specialmodules/qnhs-unionmembershipq22004-q22012/

CSO (2014) *Census of Industrial Production – Local Units, Regional and County Data*, Cork, Central Statistics Office

CSO (2010) *This is Demography: Business in Ireland*: Dublin. http://www.cso.ie/px/pxeirestat/database/eirestat/Business%20Demography%20NACE%20Rev%202/Business%20Demography%20NACE%20Rev%202_statbank.asp?sp=Business%20Demography%20NACE%20Rev%202&Planguage=0

Cullinane, N., and Dobbins, T. (2014) ' Considering the 'Right to Bargain' Legislation in Ireland: A Review', *Industrial Law Journal*, 43 (1): 52-83

D'Art, D., Turner, T., and O'Sullivan, M. (2013) 'Introduction: The continuing Relevance of Trade Unions', in Turner, T., D'Art, D. and O'Sullivan, M (eds) *Are Trade Unions Still Relevant? Union Recognition 100 Years On*, Dublin, Orpen Press

DEJI (2012) http://www.djei.ie/employment/industrialrelations/

DEJI (2014) 'Landmark reform will see five State workplace relations bodies merged into two', http://www.merrionstreet.ie/index.php/2014/07/landmark-reform-will-see-five-state-workplace-relations-bodies-merged-into-two-minister-bruton/

Department of Finance (2014) http://www.finance.gov.ie/sites/default/files/Ireland's%20SPU%202014%20Final%2029%20April%202014.2.pdf

EIRO (2010) http://www.eurofound.europa.eu/eiro/2010/01/articles/ie1001029i.htm

EU (2014) '*Irelands path to growth'*, http://ec.europa.eu/ireland/key-eu-policy-areas/economy/irelands-economic-crisis/index_en.htm

EU(2014) http://ec.europa.eu/economy_finance/assistance_eu_ms/ireland/index_en.htm

Eurofound (2013) http://www.eurofound.europa.eu/eiro/country/ireland_4.htm

Forfas (2012) *Annual Employment Survey (AES)*, Dublin

Gunnigle, P., and O'Sullivan, M., and Kinsella, M. (2002) 'Organised labour in the new economy: Trade Unions and Public Policy in the Republic of Ireland', in D'Art, D. and Turner, T. (Eds) *Employment Relations in the New Economy*, Dublin, Blackhall Press

Gunnigle, P., Lavelle, J., McDonnell, A., and Morley, M. (2007) *Managing HR in Multinational Companies in Ireland: Autonomy, Coordination and Control*. Report to the Labour Relations Commission (LRC), Dublin

Hardiman, N. (2010) 'Brining domestic institutions back into an understanding of Ireland's economic crisis', *Irish Studies in International Affairs*, 21: 71-87

Hendy, C. (2014) 'McGowan and Collective Bargaining', Lecture, Trinity College Dublin, Jhttp://www.ictu.ie/download/pdf/collective_bargaining_ireland_jan_30.pdf

IBEC (2014) http://www.ibec.ie/IBEC/IBEC.nsf/vPages/About_Us~about-ibec?OpenDocument

ICTU (2014) http://www.ictu.ie/about/

IRN (2013) 'Security of employment and income key to SIPTU manufacturing '2%' pay strategy', Dublin, *Industrial Relations News*, IRN14 -17/04/2013

Labour Court (2012) Annual Report

Liberty (2013) December Issue, Dublin, SIPTU.

Regan, A. (2012), *The Impact of the Eurozone in Irish Social Partnership: A political economic analysis*, Geneva, International labour Organization

Roche, W.K. (2011), 'The Breakdown of social partnership', *Administration*, 59 (1):29-37

Sheehan, B. (2013) 'IBEC, looking to the future, maps out major change of direction', Industrial Relations News, IRN1-09/01/2013

Teague, P and Roche, W.K. (2014), 'Recessionary bundles: HR practices in the Irish Crisis', *Human Resource Management Journal*, 24, (2): 176-192

Teague, P. (2009), 'Path dependency and comparative industrial relations: the case of conflict resolution systems in Ireland and Sweden', *British Journal of Industrial Relations*, 47 (3):499-520

Tiernan, S., and Morley, M. (2013) *Modern Management Theory and Practice for Irish Students*, Dublin, Gill and MacMillan

Turner, T. and D'art, D. (2013) 'Is there a 'Representation Gap' among Irish Employees? in Turner, T., D'Art, D. and O'Sullivan, M (Eds) *Are Trade Unions Still Relevant? Union Recognition 100 Years On*, Dublin, Orpen Press

Turner, T., and O'Sullivan, M. (2013) 'Economic crisis and the restructuring of wage setting mechanisms for vulnerable workers in Ireland', The Economic and Social Review, 44 (2): 197-219

UNITE (2013) *Unite's Notes On The Front* : Commentary on Irish Political Economy by Michael Taft, Research Officer, UNITE the Union, http://notesonthefront.typepad.com/politicaleconomy/2014/09/appreciating-facts.html

Whelan, K. (2014) 'Ireland's Economic Crisis: The Good the bad and the Ugly', *Journal of Macroeconomics*, 39(part B): 424-440.