

It must have been love...but it's over now: the crisis and collapse of social partnership in Ireland

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Abstract

This article examines the key factors behind the collapse of the Irish social partnership process in 2010 and looks at some of the broader implications that can be drawn. It categorises the process as being driven by extreme pragmatism, rather than ideological conviction, on the part of the main actors and looks at how the shifting positions of the State, labour and capital, as well as the focus on processes over outcomes, led to the demise of the much-admired Irish model.

Keywords

Social partnership, politics, trade unions, government, employers, collective bargaining, public sector reform

Introduction

For just over 20 years the story of Irish social partnership has attracted a wave of attention from academics and policy-makers all over the world (see Auer; 2000; Baccaro, 2002; Sabel; 1996). The fact that Ireland, with its historically antagonistic, fragmented Anglo-Saxon industrial relations (IR) system, was capable of maintaining such a distinctive, corporatist-style system of socio-economic governance for so long fascinated and befuddled in equal measure. Throughout much of this period, too, the 'Celtic Tiger' economic success that accompanied the experiment in social partnership was the 'poster child' of the smart, modern economy. It seemed Ireland could have it all; astonishing growth in wealth creation and employment coupled with a socially-inclusive governance structure.

The events of the past couple of years following the financial and social crisis that has gripped most of the Western world have brought the Irish social partnership juggernaut crashing to a halt. The country is presently in the grip of a deep economic recession. While international economic events have impacted almost everywhere, worries had long been expressed about the light regulation of financial institutions (domestic and otherwise) and an over-heated property market in Ireland.ⁱ The recent 'bursting' of national financial and housing bubbles, coupled with the government's 2008 decision (endorsed by the EU) to State guarantee *all* banking debt has meant that the crisis in Ireland is particularly severe. In this context, the social partners have, for the first time in two decades,

been unable to negotiate a new national pact and the Irish IR system exists in a state of acute uncertainty and flux.

This article begins by describing the core elements of social partnership, before going on to examine key factors involved in the demise of the Irish model and some of the broader implications that can be drawn. It should be noted, first, that the factors identified here did not *emerge* with the crisis, but these pre-existing weaknesses exacerbated the demise of social partnership once the extent of the crisis became apparent. Secondly, this article will characterise social partnership as a process borne of, and sustained by, extreme *pragmatism*; a pragmatism, indeed, that is characteristic both of the Irish IR tradition and political system. Where the impact of the crisis intersects with both of these points can be summed up, rather inelegantly, as the point at which the money ran out.

It couldn't happen here

Given the absence of many of the 'institutional preconditions' (Baccaro, 2002) for corporatist deals, and Ireland's Anglo-Saxon IR tradition, much attention in the literature has been focused on 'accounting' for the Irish case (Roche, 2007).

Analysis has focused on, for example, theories of 'deliberative governance' (O'Donnell, 2000) and 'competitive corporatism' (Roche, 2007), and on an 'unorthodox system of institutional complementarities' (Teague and Donaghy, 2009). Other accounts, which echo critiques of 'classical' corporatism, see partnership as a form of union 'incorporation' (Allen, 2000) or have focused on the anti-democratic nature of the process whereby national policy-making is devolved to a select group of 'insiders' (Ó Cinnéide, 1998),.

These various perspectives all contain important insights about the social partnership process. All accept that the process emerged as a response to the political, employment and economic crisis of the late 1980s. The trade union movement was suffering from sustained and serious losses in membership as unemployment rocketed. The weak, minority Fianna Fáil (FF) government was a key driver behind the first social pact as that cross-class, 'catch-all' party, traditionally the State's dominant political force, was desperate to shore up support amongst both business interests (by championing wage restraint and control of the public finances) and its middle and working-class base (through tax reform and continued social protection for vulnerable groups; Hamann and Kelly, 2007: 981-984). Thus, it will be argued throughout that the partnership strategy

emerged as a *pragmatic* response by the social partners to a desperate situation: we will equally see how pragmatism informs a shift in the parties' positions when crisis strikes again twenty years on.

Secondly, virtually all accounts accept that social partnership became, over time, a very definite and distinctive *process*. Centralised bargaining was not new to Irish IR (Hardiman, 1988), but what distinguished social partnership after 1987 was the all-encompassing nature of the social pacts, which gradually expanded to cover most areas of socio-economic policy-making, and integrated into the process 'new' social partners (civic, community and voluntary groups. As we will see below, however, it may be that, over time, the *process* became the point.

This time it really is different...

Many comprehensive and erudite accounts of the Irish partnership process are readily available (see O' Donnell, 2000; Roche, 2007). To review briefly, seven tripartite social pacts were concluded between 1987 and 2009: *The Programme for National Recovery* (PNR, 1987-1990); *The Program for Social and Economic Progress* (PESP, 1990-1993); *The Program for Competitiveness and Work* (PCW, 1993-1996); *Partnership 2000* (P2000, 1996-2000); *The Program for Prosperity and Fairness* (PPF, 2000-2003); *Sustaining Progress* (SP, 2003-2006); and *Towards 2016* (T2016; agreed in 2006, the pay provisions were renewed in 2008. Other provisions were to run for 10 years, before the collapse of the process in 2009).

The agreements have always centred on trade-offs between wage moderation, fiscal restraint and tax concessions. The agreements have also addressed other core labour market issues such as industrial peace, labour market flexibility, active labour market policy and social welfare reform. Table 1 summarises the main process from 1987-2009.

Table 1. Social Partnership in Ireland 1987-2009

Agreement	Context of negotiations	Content
1987-1990 PNR	Fiscal crisis; unemployment; Thatcherite assault on unions in the UK	Pay moderation for tax concessions; industrial peace clauses
1990-1993 PESP 1993-1996 PCW	EMU criteria to be met; jobless economic growth	Welfare reform; supply side policies
1996-2000 P2000 2000-2003 PPF	Economic boom, full employment	Introduction of community and voluntary pillar; promotion of workplace partnership
2003-2006 SP (*pay renegotiated after 18 months)	Gloomy economic climate; slowing growth; some job losses	Focus on 'Special Initiatives' (educational disadvantage, child poverty, housing etc)
2006-2016 T2016 (initial pay deal runs for 27 months)	Return to economic health; concern about compliance with labour standards	Longer (10 yr) 'life-cycle' framework; measures to strengthen compliance with labour standards
2008- pay deal (rejected by construction employers)	Emerging economic and banking crisis; fiscal crisis	
2009- process collapses		

On the union side, negotiations have been conducted under the umbrella of the Irish Congress of Trade Unions (ICTU). The ICTU is the only union confederation in Ireland, but acts to co-ordinate, rather than direct, the action of its affiliates, which retain significant autonomy. In 2008, there were 55 unions affiliated to the

ICTU, representing the vast majority of Irish trade union members.ⁱⁱ Irish trade unionism has been traditionally dominated by general unions and the Services, Industrial, Professional and Technical Union (SIPTU) now represents approximately 40 percent of the total membership of ICTU-affiliated unions. The acceptance or rejection of partnership deals is based on an overall vote of delegates from ICTU-affiliated unions. Within the ICTU, the powerful Public Services Committee (PSC) represents unions with members employed by the State and negotiates the specific public sector-related aspects of the partnership agreements.

Irish employers have also been traditionally well-organised. The main employers' association is the Irish Business and Employers Confederation (IBEC), which represents around 7500 business organisations. There are also associations for certain sectors of industry, the most influential being the Construction Industry Federation (CIF). Leading officials of the IBEC have tended to be prominent in public affairs and represented on State bodies and the IBEC has led the negotiations of partnership deals on the employers' side.ⁱⁱⁱ

From 1997, the partnership process expanded to address more 'non-core' labour market issues (e.g. social inclusion, drug-misuse, housing policy) and to include a wide spectrum of civil society groups, collectively termed the 'Community and Voluntary Pillar' (CVP). For example, civil society groups involved in negotiating T2016 included the Irish National Organisation of the Unemployed, The Disability

Federation of Ireland, The Carers Association and The Children's Rights Alliance. This increasing range of elite community based policy-making was 'reflected in a dense web of working groups, committees and task forces', which sought to 'involve the social partners in the design, implementation and monitoring of public policy' (O'Donnell and O' Reardon 2000: 237-8).

It is important to remember that the bargaining and implementation processes have always been voluntary, with unilateral withdrawal by any party possible at any time. Since the terms of the agreements were not *legally* binding unless passed into law by parliament, the Irish government was free to treat the agreements as advisory documents choosing which issues to fully implement, subject, of course, to *industrial relations and political* considerations.

The events leading up to the collapse of the process in late 2009 arose in the context of a rapid deterioration in the public finances, a collapse in the housing market and construction sector and a liquidity crisis for the banking system. The government and employers sought to renegotiate the wage agreement struck in 2008 (O' Kelly, 2010) but in March 2009, the government unilaterally introduced an emergency budget, introducing pay cuts for all public servants. Attempts to negotiate a new pact continued throughout 2009 and, in December, appeared to be on the verge of successful conclusion. However, a last minute revolt by government deputies over aspects of the deal relating to public sector reform led to the government withdrawing and the effective end of the Irish social

partnership process (ibid.). The December 2009 budget again cut public sector pay.

In March 2010, with the partnership process moribund, the public sector unions and employers concluded a new four-year *Public Service Agreement* (the ‘Croke Park Agreement’),^{iv} under which it was agreed to protect public sector pay levels in exchange for a reduction in employee numbers and a substantial commitment to ‘reform’, including the redesign of work processes. Despite considerable opposition to the deal amongst, and within, many unions (McDonagh and Dundon, 2010), the ICTU PSC ratified the deal in June. In November 2010, the Irish government accepted the terms of an International Monetary Fund-EU rescue package, outlined a four-year austerity plan, and, in the December budget, introduced €6 billion of tax increases, new charges and levies and severe welfare and public spending cuts (including a 12 percent cut to the minimum wage).

The next sections will try and account for the inability of the social partners to conclude a social pact in the face of the recent crisis (as they were able to do in the dire circumstances of the 1980s). The focus will, first, be on issues relating to the primary *actors* (the State, the employers and the unions) and then shifts to the social partnership *process*.

Where did it all go wrong? The actors

The State

The origins of the Irish social partnership process are often traced back to the publication in 1986 of a highly influential report (*A Strategy for Development 1986-1990*) by the tripartite advisory body, the National Economic and Social Council (NESC). As Hamann and Kelly (2007) note, the FF party appropriated much of the report in its successful 1987 election manifesto and, for all but a two-year period in the mid-1990s, has remained in power until the present (from 1989 on as the dominant coalition party). Social partnership became significantly associated with FF and, in particular, two men; Charles Haughey, Taoiseach (Prime Minister) from 1987-1992 and Bertie Ahern, Minister for Labour in 1987 and Taoiseach from 1997- 2008. Under both men, the Department of the Taoiseach was significantly and progressively empowered and headed by successive Secretary-Generals who were closely associated with their political masters and were powerful and committed champions of the partnership process (Mac Sharry and White, 2001). A process that depends so much on individual personalities, though, is vulnerable when key players, as they inevitably will, exit the stage.

Moreover, the fundamental and dominant role played by successive governments left the partnership process extremely susceptible to changing political winds. D' Art and Tuner (2005) note that the role of the State in most

Western European countries with tripartite governance models has been neutral or supportive, aimed at persuading pragmatic employers to recognise and negotiate with trade unions. Once this has been achieved, and trust begins to develop between the parties, tripartite bargaining tends to involve some sort of devolution of policy-making to the social partners themselves. However, the Irish process has always been conducted in the 'shadow of representative democracy' (Donaghy, 2008: 58), whereby, ultimately, final decisions were taken by government, which retained its capacity to act unilaterally on what it considered electorally sensitive issues, irrespective of the interests of the social partners (Hardiman, 2006). In a political system such as exists in Ireland, with no 'left-right' ideological divide, with a high degree of personalism in voting choice, where politicians are extremely responsive to localised concerns, and where power is very strongly centralised around the executive (O' Malley, 2011), the process was, as a result, always open to a withdrawal of governmental support. Partnership, then, can be seen, from the governmental perspective, as a pragmatic *political choice* rather than an articulated and embedded *ideology*.

The withdrawal of political support, when it came, was swift and brutal. The NESC report of March 2009 (*Ireland's Five-Part Crisis: An Integrated National Response*) called for a national plan to address the banking and fiscal crises, but also the economic crisis of competitiveness and the social crisis of unemployment and income loss. The contrast with the reception of the celebrated report of 1986 could not have been starker, as the government

decided to effectively ignore the social partners and focus its attention almost exclusively on the banking, and latterly the fiscal, crises. Indeed, as McDonagh and Dundon (2010: 558) point out, 'the abandonment of social partnership has, arguably, been central to the government's strategy of dealing with the crisis'. Stimulus proposals agreed by the construction social partners, for example, were ignored, because, as one ICTU official put it, the 'government was so busy with the banks it wouldn't make any other decisions' (author interview; August, 2010).

Despite the longevity of the partnership process, the fundamental fact of the State's driving role meant that at no time since 1987 did the social partners challenge the main tenets of government economic policy (Teague and Donaghy, 2009a). Thus, unions did not seek to trade wage restraint for progressive redistribution policies, but instead for a reduced taxation burden on workers and institutional influence. Such a strategy worked well in times of growth, when tax reductions and moderate wage increases were possible, but once the crisis hit concessions were required. As unions and employers struggled to *jointly* respond to the economic downturn, the government quickly reverted to a unilateral approach of public service, spending and welfare cuts, and tax increases. When the money ran out, the dominant partner very quickly packed up the partnership tent.

The Employers

While employers were initially somewhat reluctant to embrace tripartite bargaining in 1987, the main employer representative groups (led by the IBEC) have subsequently been key supporters of the process. Roche (2007: 421) has argued that the peculiar nature of Irish social partnership involved a refashioning of *hierarchical control mechanisms* (enforced, under 'classical' corporatist arrangements, by all-encompassing and hierarchically co-ordinated partner associations) so that the core participants were able, and prepared, to isolate groups of workers or employers whose activities were seen to be threatening the process. This was done through applying moral or social pressure on non-compliant groups and through copper-fastening the role of the 'older' State institutions for IR conflict resolution, the Labour Relations Commission and Labour Court.

However, it seems that the social partners have become increasingly unable (unwilling?) to 'discipline', in particular, recalcitrant employers. Writing a decade ago, Heery (2001: 315) noted that 'while the official discourse of European industrial relations deploys the language of "partnership," there is evidence of European employers becoming less tolerant of unions than in the past'. Sheehan (2008: 106) has commented that the notion in Irish IR of the 'good employer', which engaged in collective bargaining with trade unions, abided by procedural agreements and respected the State's dispute resolution agencies, has been fundamentally altered over the past two decades. We will look at the issue of

trade union bargaining rights in the next section, but there is a trend of growing antipathy towards unions by some major employers, which has included the victimisation of activists involved in union recognition campaigns (D'Art and Turner, 2005; O'Sullivan and Gunnigle, 2009). The voices of non-union employers, critical of social partnership, have become louder and more influential.

There are a number of related points to be made here. Since the early 1980s, the State's industrial development agencies have 'marketed' Ireland as non-union environment with the result that powerful, mainly US-based, multinational corporations (MNCs) have throughout the partnership era refused to engage with trade unions (a position 'sanctioned' by the Irish State) and have not been a party to partnership agreements. However, as Baccaro and Simoni (2007) note, social partnership 'morally legitimated' MNCs to 'shadow' the agreements and pay similar (moderate) wage increases as domestic companies, despite demonstrable differences in productivity gains.

At the same time, the main organisation representing the collective voice of US companies located in Ireland- the American Chamber of Commerce Ireland- is known to wield considerable influence. This was demonstrated to staggering effect when the Irish government, prompted by the Chamber and large individual US MNCs, first opposed, and later succeeded in watering down, the EU's Information and Consultation Directive (Doherty, 2008). One of the most

contentious provisions of the transposing Irish legislation (the Employees (Provision of Information and Consultation) Act 2006) allows employers to comply with the law by ignoring or bypassing employee representative structures (union *and* non-union) and provides for *direct* information and consultation arrangements.

Sheehan (2008: 112-118) has also noted an increasing tendency amongst powerful *indigenous* employers, which previously would have abided by the 'rules of the game', to refuse to engage with third-party dispute resolution bodies or to accept non-binding recommendations from the Labour Court. There have also been legal challenges to the State's long-established system in sectors such as construction, retail and catering, where pay rates and other terms and conditions of employment are established by committees made up of worker and employer representatives (Meenan, 2009). Here, new, loose groupings of employers are challenging the representativeness of these bodies, as well as the constitutionality of the process on the grounds that only Parliament may set legally binding terms and conditions of employment. At the time of writing, the cases have not reached finality, but the legal challenges demonstrate the increasing fragmentation of employer interests.

The argument is not that the social partnership has *caused* these changes in employer postures. However, undoubtedly political choices relating to trade union and worker representation rights (those discussed above and in the next section)

resulted in a lopsided form of partnership where co-operation at national level was never 'underpinned by a code of rights to guarantee social partner engagement at the enterprise level' (O' Hagan 2002: 152). McDonagh and Dundon (2010: 556-7) note that it has been easy, given the minimal constraints placed on private sector employers by 'the increasingly permissive nature' of the Irish voluntarist system (underpinned, as we will see, by the partnership process itself), for employers to shift rapidly from discussions about the redistribution of economic gains to imposing concessions (via pay or job cuts, or changes to work practices) in the face of the current crisis. Over time, the benefits to employers of continuing to operate a partnership system, when set against the advantages observed to be obtained by those 'outside the tent', have become less obvious. This, of course, is a key tenet of the argument of the 'incorporation' theorists, who see the ultimate aim and outcome of a 'partnership' strategy as the demobilisation of union resistance to employer interests (Allen, 2000; Kelly, 1998).

The Unions

Since 1987, the Irish trade union movement has pursued a strategy of exchanging wage moderation and industrial peace for policy and institutional influence (Teague and Donaghy, 2009). The extent to which unions did, in fact, secure institutional influence through the partnership process has provoked considerable debate. On the one hand, the unions can point to a considerable body of protective labour legislation agreed during partnership talks and then

progressed through the normal legislative process (Donaghy and Teague, 2007); for example on a national minimum wage, 'exceptional' collective redundancies and regulation of employment agencies.^v However, it must be emphasised again that such measures ultimately require the imprimatur of the government before they become law. So, for example, the much-trumpeted package of legislative reforms on compliance with labour standards, agreed in 2006 in response to large-scale disputes involving the exploitation of migrant workers (Krings, 2009), has yet to pass into law. This follows a backlash against the measures by employer groups (Dobbins, 2008) and, in particular, small-medium sized businesses, which have been lobbying local politicians on the issue.

It is the failure of the labour movement to extend its influence beyond the level of national talks, though, that has arguably dealt the biggest blow to union partnership advocates. Two principal approaches to strengthening unions' *workplace* role were agreed through partnership. In the mid-1990s, the social partners outlined a voluntary framework promoting the diffusion of *workplace partnership*, based on the template of the national process. P2000 defined 'enterprise partnership' and identified nine areas in which the concept would be particularly apposite.^{vi} Despite the promotion of workplace partnership, the empirical evidence has shown that its incidence and significance, especially in the private sector, is limited (Geary, 2007; O'Connell et al; 2010). This is not surprising. Whereas, traditionally, corporatist arrangements established a *national* framework of entitlements and obligations to guide how employers and

employees should behave at the *workplace*, social partnership in the Irish case did not display such interlocking connections between the national and local levels. The social pacts placed few constraints on private sector firms, in particular, granting them almost 'complete autonomy to pursue corporate strategies of their choosing at the company level' (Teague and Donaghey 2009: 67).

The unions, therefore, pushed for *legislative* change and a compromise solution was reached resulting in the enactment of the Industrial Relations (Amendment) Acts 2001-2004. Under the voluntarist model, there is no obligation on employers to recognise trade unions for collective bargaining purposes and collective agreements are generally not legally binding. The Acts allow trade union representatives the right to represent members, working for employers that do not recognise unions, on specific, identified workplace issues relating to pay, and terms and conditions of employment. The Labour Court can make a legally binding determination with regard to these matters, and to dispute resolution and disciplinary procedures, in the employment concerned but *cannot* provide for arrangements for ongoing collective bargaining (Doherty, 2009).

While the unions had hoped to use this legislation as a 'springboard' to greater recognition rights, the legislation has been regarded as largely neutered following the decision of the Irish Supreme Court in *Ryanair v The Labour Court*.^{vii} Here, the Court ruled that, under Irish law, *employers* should be free to determine the

form, structure and organisation of any internal 'collective bargaining' units (e.g. how their members would be elected or chosen, their remit, the terms of office of members, etc), as long as these have a degree of permanency and are not *ad hoc*. The Supreme Court also noted that it was 'not in dispute that as a matter of law Ryanair is perfectly entitled not to deal with trade unions' and went on to suggest that neither could a law be passed compelling it to do so.^{viii} Irish (and, indeed, UK) unions had traditionally been suspicious of legal intervention in IR, fearing a hostile judiciary and the ceding of labour market regulation to legal professionals. Ironically, the partnership process has accelerated a rapid 'legalisation' of employment relations; the *Ryanair* decision (much like recent experiences of unions before the European Court of Justice) has illustrated well the dangers of such a state of affairs (*ibid.*).

Thus, 20 years of social partnership have not resulted in a strengthening of *workplace* organisation and the extent to which said *institutional* influence has compensated for this is questionable. Over the partnership period, union density, and industrial action, levels have continued to decline (Walsh and Strobl, 2009). It would be intemperate to draw a *causal* connection here, as these are problems that have been experienced by union movements all over the Western world. The difficulty for Irish unions is that, for a considerable period, social partnership has been viewed as 'the only game in town' (Donaghy and Teague, 2007: 39). Given the centralised nature of the process and the no-strike clauses in the agreements, the breakdown of the process leaves a generation of union

representatives and activists with no experience of engaging in collective bargaining or taking collective action. Organisational weakness, of course, makes the unions considerably less attractive as a social partner. We will return to this point below in considering union responses to recent government actions.

The Process

Means and ends

The Irish partnership model was distinguished by its all-encompassing nature; a broad range of actors addressing an array of policy issues. Those focusing on the 'deliberative' nature of the process have tended to emphasise its 'problem-solving' approach to creating shared understandings and social consensus (O'Donnell, 2000), a feature of the process manifested in the 'increasingly elaborate institutional architecture' of social partnership (Roche, 2007: 418). The process, too, placed considerable emphasis on producing *procedural* consensus between the key actors to guide the search for solutions to identified challenges (Teague, 2001).

However, a stabilised system that knows *procedurally* how to search for solutions does not necessarily produce functional *outcomes*; over time the 'fit between agreements and economic context', which may once have been intentional or serendipitous, can subsequently become 'dysfunctional, all within broadly the same framework of negotiations' (Hardiman, 2007; 5-6). There has been a

question mark over the capacity of the partnership process to 'deliver', outside the core areas of pay, tax reform and industrial peace. In form, the agreements are akin to political manifestos; an introduction that lays out the approach and context, chapters or frameworks based on themes (tax reform, workplace relations, social inclusion, etc), and, throughout, numbered, specific actions or commitments. The first agreement (the PNR) was 32 pages in length; the latest (T2016) ran to 139 pages.

What is striking is the number of commitments that pledge to submit an issue to 'review', usually by means of establishing a working group or task force; Hardiman (2006) counts 65 working groups set up by the late 1990s looking at issues from pensions to childcare. Thus, a significant feature of the partnership process involved the avoidance and postponement of difficult or contentious *decisions* in favour of further *deliberation*. By 2003, it was tacitly acknowledged by the parties that very few concrete initiatives had emerged from the various task forces and their incidence was subsequently scaled back (Donaghey, 2008). Moreover, once the crisis struck, and fiscal difficulties meant the opportunities for review and compromise were circumscribed, the government ultimately took the 'hard' decisions, settling little store by the views of partnership actors or institutions. It was quite happy to dismantle the institutional architecture.

Furthermore, a focus on deliberation tends to obscure the fact that the role of the 'social pillar' or CVP, has ultimately come to be seen as rather marginal to the

main business of social partnership, which centred on the State and the labour market actors.^{ix} As Larragy (2006: 20) notes:

'The main bargaining chip the CVP has in social partnership is whether it rejects or signs off on a deal. But just how far it could "play it" depends on the *political context* - or *what such a rejection might cost a government in popularity*...the threatened rejection of *Sustaining Progress* in 2002 by a section of the Pillar resulted only in that section's expulsion from the partnership process' (ibid: 20; emphasis added).

When unemployment was a political priority in the 1980s and 1990s, the governments of the day were grateful for the legitimacy conferred by engaging with organisations representing the unemployed and other civil society associations (and, indeed, the unions); when the *realpolitik* was deemed to demand social welfare and public service cuts in the wake of the crisis, these organisations' voice was quickly ignored.

The public sector, reform and resistance

Given that trade union density is significantly higher amongst public servants, the public sector unions (in particular the State's second-largest union, the Irish Municipal Public and Civil Trade Union-IMPACT) have always had a key role in shaping and sustaining the process. The literature on social partnership has tended to emphasise the pay benefits wrought for public sector workers by their unions (Baccaro and Simoni, 2007) in exchange for which the State received commitments on industrial relations stability (Donaghy and Teague, 2007). Much less attention, however, has been placed on the focus of the partnership agreements on public sector *reform*, particularly after 1997.

According to the Organisation for Economic Cooperation and Development (OECD, 2008: 18), Ireland has 'significantly advanced along a *New Public Management* (NPM) continuum' of public sector reform which has explicitly sought the input of the social partners. An elaborate performance management system was devised, through partnership, for the public sector whereby the payment of agreed salary increases for public employees depends upon co-operation with satisfactory local implementation of the modernisation agenda set out in national agreements.^x Performance Verification Groups (PVGs) for different sectors (health, local government, etc) were established to make recommendations as to whether or not pay increases should be granted. In *all* cases, it was envisaged that the process of reform and implementation of change, outlined in the national agreements, would be accompanied by 'robust'

workplace partnership structures 'characterised by high levels of employee and union involvement with management' (NCP, 2005: 30). However, Doherty and Erne (2010) have argued that, despite this democratic and inclusive rhetoric, public sector workplace partnership has been used in a managerialist manner to steer through a pre-determined reform agenda, which seeks tighter, more controlling management structures, constricts employee autonomy and which risks undermining the core public service ethos. This, again, suggests a version of 'deliberative democracy' that is largely instrumental; the use of partnership as a legitimisation tool (see Bacon and Samuel (2009: 245) for a similar discussion in the UK context).

Ultimately, it was the issue of public sector reform that proved to be the final nail in the partnership coffin. As the crisis became more acute and the dire state of the public finances more apparent, the ICTU produced proposals for a national recovery plan. The union movement generally has accepted the need for a 'fiscal adjustment' aimed at reducing the exchequer deficit (see, particularly, the ICTU plan, *A Better, Fairer Way*),^{xi} whilst arguing for a longer-time frame in which to make the adjustment, and a greater focus on job creation and protection for the lower-paid and welfare recipients than that proposed by government. In December 2009, it seemed the social partners had agreed a new national pact, which promised further extensive reforms of public sector work practices in return for no further pay reductions (O' Kelly, 2010). At the core of the deal was a plan for 12 days' unpaid leave for public sector workers. Although unpaid leave is a

fairly conventional way of addressing commercial difficulties in the private sector (akin to the recent policy of reducing working time in Germany and the Netherlands), the plan was denounced by many sections of the media as a 'cave in' to the public sector unions (Roche, 2010) and resulted in a 'revolt' by FF ministers and backbenchers unprepared to support the proposals (O' Kelly, 2010: 427).

The episode showed up, yet again, the fault lines that had long been appearing in the partnership process. The government, once the political benefit of engaging the unions (and employers) in talks diminished, immediately and unilaterally exited the process. For the public sector unions, the reform process with which they engaged in recent years, and even the concession bargaining in which they engaged in 2008-09, was insufficient to keep the government at the partnership table, when the latter was confronted by the perceived demands of electoral pragmatism.

It is submitted here that the crisis has laid bare a certain strategic disorientation on the part of the union movement. The leadership of the ICTU, SIPTU and IMPACT has demonstrated a tenacious determination to cling to the partnership model. The reliance of the union movement on a partnership strategy has seemingly, over time, engendered a reluctance to embrace (or a fear of?) alternatives. This has had a number of consequences.

First, the determination to negotiate a partnership pact has meant that, on a number of occasions, plans for co-ordinated industrial action have been postponed or cancelled in response to offers of fresh talks from the government and/or employer groups (McDonagh and Dundon, 2010). Most spectacularly, a planned one-day strike in late-November 2009 was postponed in order to allow the ill-fated 'unpaid leave' deal to be concluded. The ICTU leadership has managed, to date, to more or less maintain unity throughout the crisis. However, the strategy it has pursued has focused predominantly on negotiation and conciliation through the partnership process, has been dominated by pro-partnership union leaders and has resulted in the frustration of a number of smaller unions, which favoured earlier and more prolonged campaigns of outright industrial action (for example, some of the teacher unions and the general, UK-based union, Unite). Fears that the unions were not merely unwilling, but would be unable, to engage in strike action were, to an extent, borne out in early 2009 when IMPACT failed to secure the two-thirds majority of votes required from its membership to partake in a planned (but, inevitably, postponed) national day of action.

It would be inaccurate, however, to claim that the union movement has focused *exclusively* on a partnership strategy, as co-ordinated union action *has* taken place. Two ICTU-organised protest marches were held (on a Saturday in February and a Friday in November), which both attracted numbers close to 100,000. Since early 2010, 'low-level' industrial action (mainly a work-to-rule and

overtime ban) has taken place in sectors of the public service. The strike weapon (with the exception of a one-day work stoppage by some 13,000 lower paid civil servants in early 2009), however, remained conspicuously unutilised until, after many false starts, around 250,000 public sector workers engaged in the country's largest ever one-day strike in November 2009. However, as noted, a planned follow-up strike was postponed to allow partnership talks to re-commence.

Thus, 'traditional' resistance strategies have been employed. However, in addition to being limited in scope and duration, these have featured, almost exclusively, *public sector* workers. Private sector workers, for example, were 'encouraged' to attend the protest marches, but few seemed to be visible. A particularly damaging legacy for the unions from the breakdown of partnership has been the emergence of a perceived 'divide' between workers in the private and public sector workforces, which has dominated recent public discourse in Ireland. Some commentators, pointing to the fact that the general public perception of unions is largely positive (see Geary, 2007), focused on the role of the media in this regard. As Roche (2010) puts it:

'In the print media, in particular...it seemed that "open season" had been declared on social partnership and that it had effectively become tainted through its association with the nexus of failed institutions of the Celtic Tiger era... it would be reasonable to suggest that media commentary [...] channelled and even seeded public disaffection with unions, public servants and social partnership'.

Furthermore, cracks are beginning to appear within the public sector union movement. Frustrated by what they see as a lack of ICTU action, a new, loose, alliance- the '24/7 Alliance'- of trade unions representing 'frontline public servants' (e.g. nurses, police, fire-fighters, and prison officers) has been formed to oppose government cutbacks and defend jobs and services. Thus, the relatively timid recourse to traditional union resistance strategies has served merely to exacerbate underlying schisms in the union movement and to underline the difficulties in mobilising a membership, which, recall, includes a significant 'partnership generation' of members *and* activists that has never witnessed, much less participated in, industrial conflict.

Moreover, the conclusion of the Croke Park deal has further served to deepen tensions within the union movement. The deal split the public sector unions with a significant number of unions voting to reject its terms. A striking illustration of this discord can be seen in the fact that one teachers' union (the Irish National Teachers Organisation-INTO) voted in favour of the agreement, whilst two others (the Teachers Union of Ireland-TUI- and Association of Secondary School Teachers in Ireland-ASTI) voted against. Issues of trust, or, more accurately, the lack thereof, loomed large in the debate with both pro- *and* anti-agreement unions questioning the *bone fides* of the government. Some unions took the unprecedented step of questioning on the use by the ICTU of the majority vote, with the TUI arguing it would not feel bound by a majority vote to accept the Croke Park agreement, as the deal proposed work changes affecting specific

groups that are a minority of the whole (as teachers are within the wider public service).^{xii} Ultimately, with the support of SIPTU and IMPACT, the deal was passed. By late 2010, most unions (including those who voted against it) had entered talks on implementation. However, many did so grudgingly. Unite, for example, said it would enter the public sector implementation process only to avoid 'victimisation of its public sector members'.^{xiii} It is likely that the agreement's implementation process will provide many more flashpoints for the union movement, given the legacy of distrust from the collapse of the partnership process and as the precise details of concessions sought by management begin to emerge.

Conclusion

The Irish trade union movement, after 20 years of partnership, finds itself at a crossroads. The legacy of that era seems to be, first, a more fragmented movement. This has revealed itself, damagingly, in the manner in which private and public sector workers have been 'pitted' against one another; most injuriously in terms of public perception. It will be difficult for the ICTU, in the medium-term at least, to maintain a unified public-private strategy, as it was able to do during the partnership years. Within the public sector union movement itself there has been fragmentation, with the formation of new, loosely-structured groupings and a questioning of the hitherto axiomatic use of the majority vote within Congress. The acquiescence to the NPM reform agenda by public sector unions and staff, copper-fastened by partnership agreements since the late 1990s, the recent concessions granted under the Croke Park Agreement, and ongoing media- and public?-hostility to the public service may ultimately result in a less supportive State approach to public sector unionisation than has historically been the case. This would, from a union perspective, be a disastrous by-product of the collapse of partnership.

In the private sector, unions also face steep challenges. Employer representative groups seem less able (or willing) to hold their constituency together in the face of challenges from increasingly vocal anti-union employers, seemingly emboldened by the failure of unions to strengthen their representation and bargaining rights. Attempts to secure such rights have backfired spectacularly,

with 'workplace partnership' largely non-existent and the legal environment extraordinarily hostile. In fact, it is possible that a constitutional amendment would be required to fully reverse the effects of jurisprudence in this area (including the *Ryanair* decision). The trade union movement is unlikely to relish campaigning for such a move given the damaging public association of the unions and social partnership with the policy and institutional calamities of the Celtic Tiger era.

However, the case can also be made that the crisis presents an opportunity for a re-thinking and renewal of union strategies. Nascent strategies of resistance have begun to emerge. These are 'traditional', in the form of industrial action (the potential for which was so heavily circumscribed under partnership), but also 'new', in the manner in which fresh union groupings are being formed, and, especially, the manner in which unions have begun linking and campaigning with other civil society groups *outside* of the social partnership structures under which the latter were so marginalised.^{xiv}

This article has argued that, ultimately, the Irish case can be categorised as one of 'pragmatic partnership'. It seems unlikely that the partnership process as it developed since 1987 will be revived; the achievements of the partly self-sustaining partnership 'industry' (of working groups, task forces and 'insider' networks) that emerged remain debatable. To some extent the process generated its own momentum; as long as the tune of economic growth and

employment creation was playing, the participants (whether music-lovers or not!) seemed unwilling to get off the dance-floor for fear of being left, lonely, at the margins. However, when the music stopped, the weakness of the 'deliberative governance' aspect of partnership was demonstrated. While deliberation and problem-solving became ingrained in the partnership *process*, 'hard' *decision-making* and *policy implementation* remained centralised and, ultimately, subject to governmental whim. When the 'perfect storm' of a global economic crisis, a domestic banking meltdown and a rapid decline in prosperity hit in 2007, the partnership model, given its weak ideological foundations, proved unable to adapt and renew itself. The partners quickly (and brutally) brought an end to the affair.

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ⁱ See, for example, the account of Ireland as a 'financial Wild West' in the *New York Times*, 1 April 2005.

ⁱⁱ See www.ictu.ie

ⁱⁱⁱ The employer groups party to T2016, in addition to IBEC, were the CIF, the Small Firms' Association, the Irish Exporters' Association, the Irish Tourist Industry Confederation and Chambers Ireland.

^{iv} Available at http://www.onegov.ie/eng/Publications/Public_Service_Agreement_2010_-_20141.pdf

^v All of these are domestic, rather than EU-mandated, initiatives.

^{vi} Including, *inter alia*, co-operation with change and work re-organisation, and financial involvement; see paragraph 9.15 of *Partnership 2000*.

^{vii} [2007] IESC 6.

^{viii} This interpretation would seem to suggest that a *legislative* right to trade union recognition, such as exists, for example, in the UK, would be constitutionally prohibited. This appears to come perilously close to permitting the establishment of 'company unions'; a unique situation in an 'old' EU Member State.

^{ix} Indeed, it seems that for most union members (and the public at large), support for the process has hinged almost exclusively on *pay* outcomes. Surveys of union members reveal little understanding of other policy aspects of the process, even where (in areas like childcare, housing, etc) these were issues that had a significant impact on working life (see, for example, Doherty, 2007).

^x See, for example, paragraph 27.18 of T2016.

^{xi} Available at www.ictu.ie/download/pdf/better_fairer_way.pdf

^{xii} *Irish Times*, 25 June 2010.

^{xiii} <http://www.unitetheunion.org/regions/ireland.aspx>.

^{xiv} See, for example, the *Poor Can't Pay* campaign; <http://www.thepoorcantpay.ie/>.