Rethinking the Employee Representation in Taiwan: the Role and Future of Trade Unions

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Employee Representation in the New World of Work: The Dynamics of Rights, Voice, Performance and Power

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ABSTRACT
This study discusses the role and future of trade unions in Taiwan whilst non-union representation has been reinforced by the state. Despite the fact that the coverage rates of trade unions and collective bargaining are quite limited, a privatised cooperation, a state-owned business and a private company are examined to draw the framework of Taiwanese representative mechanisms and further to propose the possible development of trade unions. Research methods include participant observation, in-depth interviews, survey, and documentation analysis. Instead of seeing non-union representation as competitors in workplaces, trade unions would like to internalise those mechanisms to expand their influences and strengthen union recognition. Therefore, trade unions have additional ways to redefine their roles and offer various functions in the future.

INTRODUCTION
This paper focuses on Taiwanese experiences and challenges of the employee representation as well as the role and future of trade unions in Taiwan. Because of the asymmetrical relationships with management, workers need some sort of mechanisms to represent and negotiate their collective rights and interests, so trade unions are formalised to fight for them. Taiwanese government has introduced the representative systems since 1929 when the Trade Union Law was stipulated. Different mechanisms of employee representation have been implemented in many businesses, whilst trade unions and collective bargaining take place in most state-owned and privatised enterprises, but private-owned companies are often in favour of non-union representative mechanisms that become the sole channel of workers’ voice in non-unionised workplaces.

In 2000, the government proposed a new ‘labour-management partnership’ to encourage the harmony in workplaces whilst the systems of employee representation have been re-examined and promoted. According to the official statistics (Council of Labour Affairs, 2010), the total number of trade unions in workplaces has been slightly declining in the past decade and so was the total number of collective agreements, but at the same time, the total number of labour-
management committees, which are one kind of representative mechanisms regulated by the state, has dramatically increased. As a result, whether mechanisms of non-union representation would replace trade unions in the future becomes a current debating issue.

This paper addresses the question: how have the employee representative systems been structured and implemented in Taiwan, whether trade unions played an important role or not? This question explores features of Taiwanese worker representation systems and discusses unions’ future in workplaces. Furthermore, this research examines three case companies, and argues that Taiwanese trade unions would expand their functions and influences in workplaces if they could embrace and internalise non-union representative mechanisms.

The article is structured as follows. The next section addresses literature review of employee representation systems in Taiwan. The third section briefly explains the research cases and methods. Following is the discussion and analysis of this paper. The final section provides conclusion of this research.

EMPLOYEE REPRESENTATION IN TAIWAN

The Nationalist government (Kuomintang, KMT) dominated industrial relations and played an important role of determining the systems of worker representation in Taiwan, including both union and non-union mechanisms (Pan, 2001, Wei, 2003, Wu, 1999). After the presidential election in 2000, the Democratic Progressive Party (DPP), as a pro-labour party, became the ruling party and made more efforts to put industrial democracy into practice (Chen et al., 2003). However, the KMT returned to the presidency in 2008.

Trade Unions and Collective Bargaining

The Nationalist government initially brought trade unions into existence to support industrial strategies, so enterprises regarded trade unions as the basic units in organisations and agreed to develop unions to be the state and enterprises’ auxiliary means (Chen et al., 2003, Lee, 1999, Shieh, 1997, Wu, 1999). The Labour Union Law, which was announced in October 1929 and amended in July 2000, classifies two types of trade unions: industrial unions and craft unions. An industrial union is organised by more than 30 employees within the same industry, in the same area or in the same factory or workshop, i.e. the Chunghwa Telecom Workers’ Union and the Taiwan Railway Labour Union. A craft union is composed of more than 30 workers who do not have constant employers but share the same professional skills, such as the Taipei Translators and Interpreters Union. In terms of various levels, trade unions in the same city or county can initiate a federation of trade unions, above which a general federation of unions is established at the national level. Therefore, a geographically three-tier system of trade unions exists in Taiwan.
According to the governmental statistics (Council of Labour Affairs, 2010), the aggregate union density in the quarter ending September 2009 slightly increased 2.8 per cent to 38.1 per cent, comparing to the same period of previous year. There were 952 industrial unions with the total membership at 15.9 percentages, and 3,566 craft unions with 52.5 per cent of union density; and in terms of regional and national levels, there were 139 federations of trade unions and 78 general federations of unions.

Decline of industrial unions is visible in the past decade, as the aggregate number of industrial union members has been decreasing; but the craft union density, though slightly declining as well, gradually increases since 2008 whilst more people become members of craft unions (Council of Labour Affairs, 2010). The main purpose of joining a craft union is to be covered by the national labour and healthy insurances (Chen et al., 2003, Kuruvilla et al., 2002, Wei, 2003). To be entitled to the benefits of labour and healthy insurance systems, one person has to be registered as an employee in company or a member of craft union, because only enterprises and craft unions are legitimated as insuring units. Unlike the prediction of Kuruvilla et al. (2002) that both industrial and craft unions would suffer more declines due to the economic changes these days, craft unions are attracting more people who need national insurances but do not have regular employers or who have suffered economic crisis as unemployed. Nevertheless, craft unions act as so-called ‘labour insurance union (Wei, 2003: 49)’ and their main function is not representing members to bargain with associations of employers.

In addition, the membership of an industrial union is compulsory if a union exists and is registered to the local labour administrative bureau according to Article 12 of the Labour Union Law. When people start working in a unionised workplace, they are involuntarily enrolled in that industrial union and typically their fees of membership are automatically deducted from their salaries afterwards. When a workplace is not unionised, workers have the right to establish a union but not obligatory. Moreover, trade unions in state-owned and privatised enterprises are always better organised with sufficient funds and numerous members because of the past state policy of supporting economic development.

Collective bargaining is regulated by the Collective Agreement Law, which was enacted in 1930 and then modified in 2008. Accordingly, trade union is the only legitimate body to negotiate issues of specifying employment relations and conclude a written contract with an employer or an association of employers. However, the coverage rate of collective bargaining is very limited (Kuruvilla et al., 2002, Wei, 2003). Only 49 collective agreements have been signed by the end of September 2009, but there were 4,735 unions with a total number of 3,162,346 members and the employed labour force aggregated 10,278,000 persons (Council of Labour Affairs,
Collective bargaining in Taiwan is ‘rare and underdeveloped (Wu, 1999: 22)’. Additionally, no collective agreement has been concluded in science-based industrial parks where high-technology industries inhabit (Council of Labour Affairs, 2010). Trade unions are the only legally representing body of workers in collective bargaining, but there is no trade union in science-based industrial parks at this moment.

During the DPP governance between 2000 and 2008, the logic of collective bargaining had four determining factors: politically economic contexts, political and/or industrial elites, characteristics and status of actors in industrial relations, and power relationships and interaction of workers and management (Wu, 2003). Wu (2003) addresses that a ‘human right oriented’ policy of collective bargaining has been developed to achieve more votes and public support. Accordingly, the government started modifying the three pillars of collective labour rights in Taiwan since 2000: the Trade Union Law, the Collective Agreement Law and the Settlement of Labour Disputes Law.

Furthermore, the right of collective bargaining used to be statutory but voluntary. Workers and management had to negotiate whether to bring collective bargaining to their workplace prior to the formal bargaining. If one side of representatives were not willing to negotiate, the other side could not do anything to require collective bargaining. In January 2008, the modification of the Collective Agreement Law changed the right of collective bargaining to obligatory according to Article 6. If one party called for collective bargaining, the other side could not refuse without any reasonable excuses. Hence, the government aims to shrink unfair labour practices and to encourage bargaining in good faith in workplaces (Huang, 2008).

**Non-Union Representation**

Non-union representative mechanisms are characterised as three types according to their initial formalisation: by the state, by the management, and by non-profit organisations i.e. trade unions (Heery et al., 2004: 21-28). Some commentators argue that management are in favour of introducing some kinds of non-union mechanisms because worker involvement and participation would harmonise industrial relations and increase the productivity in workplaces (Baugher, 2003, Lansbury and Wailes, 2008).

The first kind of non-union representation in Taiwan can be traced back to 1929, when the Nationalist government enacted the Factory Law to create factory committees. A factory committee was organised monthly by the same numbers of representatives of both workers and employers to discuss issues regarding employment relations, such as increasing work efficiency, improving the relationship between factory management and workers, assisting with the implementation of
work contracts and factory rules, reforming the terms and conditions of the factory, and planning workers’ fringe benefits. Meanwhile, statutory committees are the main sort in businesses, consisting of four legal committees convened by both labour and management representatives in all enterprises, including labour-management committees, employees’ welfare committees, labour safety and health committees, and supervisory committees of worker’s retirement reserve funds. The most important one is labour-management committees because almost all issues in the workplace can be proposed and discussed at the forum. The other three meetings are specified with different areas in workplaces as their titles suggest.

In addition, the implementation of worker directors on the board has only been regulated for state-owned enterprises, and then expanded to privatised businesses. This concept originated from the German co-determination system as a practice of industrial democracy, but the outcome varies since Taiwanese structures of economy and employment relations are different from Germany (Wei, 2002).

**Labour-Management Committee**

According to the Convocation Rules of the Labour-Management Committee announced in 1985 and amended in 2007, the organisation, structure and issues of a labour-management committee are regulated. However, the legal constraint of the Convocation Rules of the Labour-management Committee seems not existing and there is neither penalty nor fine for employers who refuse to hold the labour-management committee (Wei, 2003).

Executing boundaries of labour-management committees are the rights of reports, discussion and suggestions. Representatives report on the execution of the decisions made in the previous meeting, labour turnover, production plans and business conditions, and so on; discuss on matters relating to the harmonisation of industrial relations and labour-management cooperation, matters relating to working terms and conditions, the planning of labour welfare and the increase of labour productivity; and suggest these issues as well. Decisions taken at the committee are forwarded by the business to the trade union or to the department concerned for implementation, and are reported in writing to the local competent authority for reference. In case the decisions taken are impracticable, they may be referred back to the next meeting for further consideration.

The paradox is that the rights of representatives are not as ‘real’ in practice as a system of the ‘co-determination’. Issues dealt in labour-management committees are matters relating to the harmonisation of industrial relations and labour-management cooperation, relating to working terms and conditions, the planning of labour welfare and the increase of labour productivity, but are not the critical issues concerning workers’ working terms and conditions or the enterprise’s basic
operation. Committees do not have any crucial impact on businesses (Cheng, 2000, Huang et al., 2003). Decisions made at the labour-management committee are not obligatory, even though the meeting takes place regularly and smoothly (Cheng, 2000, Huang et al., 2003, Wei, 2003). If the enterprise were not willing to implement decisions taken by the committee, workers could not ask any unbiased outsiders for conciliation or arbitration, even if they conceived the enterprise did not respect the labour-management committee. This essential problem of the institution provides employers with the means to avoid sharing power with workers.

**Worker Director**

The issue of worker directors on the board was initially proposed to the public by the Chunghwa Telecom Workers’ Union in January 1996, which has been the most active Taiwanese union since 1996 when its union president was elected from the rank and file for the first time. However, the government did not consider the issue at the time. In June 2000, the Legislative Yuan, the highest legislative organ, passed the amendment of the Administrative Law of State-Run Enterprise, which becomes the only statute of worker directors in Taiwan, to include worker directors recommended by the trade union and appointed by the enterprise to be the representatives of state capital on the board. According to Article 35, boards of state-owned enterprises have to set up worker directors to represent state capital whilst every 20 percentage of state capital is represented by one seat of worker director.

Huang and Lin (2004: 13-17), from a legal perspective, argue that although the candidates of worker directors are nominated by the union, their rights, obligations, and qualifications are as same as other state-appointed directors, which may result in difficulties in selecting worker directors. Additionally, the role of worker directors is ambiguous because of their relationships with the state-owned business, the state, as well as the union (Wei, 2002: 244-246). Hence, trade unions of state-owned enterprises have passed their own regulations on election and recall of worker directors, mainly focusing on how to select the appropriate candidates, but also emphasising their obligation to union and workers, and indicating the establishment of advisory committees to support worker directors; so apparently unions are more cautious about the practice of worker directors on the board (Huang and Lin, 2004: 158-164).

Regardless of the flaw in legislation, many state-owned and privatised ventures have introduced worker directors, such as the Aerospace Industrial Development Corporation (state-owned), the Taiwan Sugar Corporation (state-owned), the Chunghwa Telecom (privatised), the China Steel Corporation (privatised), the Land Bank of Taiwan (privatised), and so on.
RESEARCH CASES AND METHODS

This research focuses on one major case company ‘C’ and two supplementary case companies ‘S’ and ‘F’ in Taiwan. Research methods include participant observation, in-depth interviews, survey, and documentary analysis.

The major case ‘C’ is a steel corporation established in 1971 as a private business at the time, then owned by the state in 1977, and eventually privatised in 1995, but the Ministry of Economic Affairs remains the main shareholder so far. ‘C’ owns a capital about 2 billion pounds and employs 8,900 persons, whilst less than 2 per cent are female employees and over 50 per cent are operating workers. The turnover rate of labour is less than 1 per cent per year and the average age of workers is 47 years old. Besides, the ‘C’ labour union was set up in 1980, and is at present the largest single-plant trade union in Taiwan. Research data were constantly collected between July 2003 and December 2007 by doing participant observation as an intern in the union, in-depth interviews with union president, union officers and worker representatives, a survey of ordinary workers, and documentary analysis of meeting minutes, official letters and internal documents.

The first supplementary case ‘S’ is a state-owned sugar-producing enterprise founded in 1946 with branches in 15 cities. ‘S’ employs 4,370 workers whose average age is 47 years old and whose status of employment is either civil service workers or pure workers. The ‘S’ federation of workers unions was established in 1955 and consists of 12 member unions which are regional trade unions organised by workers in different areas. Data were collected in April and August 2007 with interviews with the executive secretary of union, employee representatives, and administrator of the Human Resources Department.

The second supplementary case ‘F’ is a private petrochemical company established in 1992 and owns a capital of 1.54 billion pounds and 3,800 employees. It is part of the biggest business group in Taiwan, but unlike its parent corporation that is unionised, there is no trade union in ‘F’. In-depth interviews were conducted with the director-general of one representative committee and one management representative in September 2007 but no inside documents were provided.

DISCUSSION

As a non-unionised workplace, ‘F’ has implemented the four statutory committees. The labour-management committee in ‘F’ takes place bimonthly. All workers elect and can be elected as representatives pro rata in each department every three years, but the company directly appoints middle managers as management representatives. Only worker representatives propose issues of meeting and management side passively responses. The interviewee who is a management representative said that the labour-management committee is one of employees’ channels to vent but he
believes other mechanisms initialised by the company are more effective and helpful, e.g. departmental meeting or team brainstorming. However, ‘F’ practises those statutory committees in order to be successful in outside evaluations. The management representative said, “Of course we run all kinds of mechanisms regulated by the state, because we are a good company and we want to do well to win external prizes.”

‘C’ founded its first labour-management committee in December 1985 after the passage of Convocation Rules of the Labour-Management Committee in May 1985, and meetings are at present held on the fourth Thursday every month. Labour representatives propose all kinds of issues of employment relations, but management representatives never submit any items for meeting agenda. The convenor of labour representatives calls a monthly pre-committee one week before the formal meeting to discuss and propose issues to the Employee Relations Division of the Human Resources Department to place the agenda. In the formal meeting, every representative chairs in turn but the person taking minutes is fixed to an administrator of the Employee Relations Division.

Due to its organisational structure, each branch of ‘S’ holds individual local labour-management committee trimonthly and sends the meeting minutes to the Industrial Relations Division in the headquarters. Unlike ‘C’, both labour and management representatives in ‘S’ branches suggest items of agenda before the meeting, and management may take the committee to promote some policies. Occasionally, when none of employee representatives proposes any issue, the administrators in local Human Resources Division may set the agenda on behalf of management, because ‘S’ aims to keep the regular practice of labour-management committees, which is an important item of many external evaluations by government or non-governmental organisations.

Besides, ‘C’ used to be a model of state-owned businesses in Taiwan and implemented all kinds of legal mechanisms. When ‘C’ initialised its collective bargaining because of the government’s encouragement at the time, the first formal meeting of collective bargaining took place in June 1989, but representatives did not endorse the first collective agreement until February 1997. More than sixty meetings had taken place before both parties agreed to sign the earliest agreement. The issue of privatisation was arisen during their bargaining, which contributed to the collective agreement to some extent because everyone in the company would be influenced, including management who could not directly reject the policy. However, the power of union, generating from the support of members, affects the entire procedure of collective bargaining. The union president said: “When people know we have spent almost eight years to accept the first collective agreement, they always assume that we must have made a lot of efforts and highly respected our
bargaining ...... In fact, the thing is that different cliques existed within the union, so even the labour representatives had internal conflicts that could not be resolved. We spent most time to compromise with ourselves.”

After having approved the collective agreement, the implementation depends on the union’s power in the workplace as well as the trustworthiness of both sides. One union officer complained about the company’s attitude: “According to the agreement, the company should subsidy over 60 per cent expense of each training event organised by us. Nonetheless, they only give us the exactly 60 per cent, no more, but we cannot argue that they violate the agreement. The only thing we can do is to persuade them as possible.” Hence, the process of collective bargaining is a process of structuration in the workplace.

Furthermore, worker directors are instituted in ‘C’ and ‘S’, but not in ‘F’, since private corporations are not regulated. ‘S’ has set up 3 worker directors according to the law, but the worker director in ‘C’ was requested by the labour union after collecting letters of attorney of stocks from members. ‘C’ and ‘S’ unions both have formalised internal consultative committees of worker directors, and worker directors meet committee members before each formal board meeting or at the time when issues related to the company governance arise. Trade unions start manipulating non-union representation as a strategy to expand and increase their influence and importance in workplaces.

In terms of representative mechanisms formalised by businesses, ‘C’ runs departmental meetings in which all employees can suggest or complain to the head of department and all issues are answered and recorded formally. ‘C’ also formalises the employees’ stock ownership trust committee, the sexual harassment prevention committee, and the awards and punishment committee, which are similar to the three legal committees specified with one area of issues. Besides, ‘S’ holds branch forums when local managers and officers from the headquarters are present to hear from all workers as well as to publicise some important policies. ‘F’ also runs divisional and departmental conferences to advertise policies and regulations and to take opinions from employees at the same time. Some forms of direct representation, such as quality circles, take place in ‘C’, ‘S’ and ‘F’, since they are all manufacturing corporations.

CONCLUSION

The comparison between three research cases illustrates a brief view of representative mechanisms in businesses. Non-union representation is gradually developing in all kinds of corporations because of mandatory regulations, business needs, and even worker and union demands. No matter how an enterprise is state-owned, privatised or private-owned, mandatory committees are held accordingly,
and the implementation of legal mechanisms is regarded as some kind of good impression and social responsibility of companies. Besides, corporations usually take non-union mechanisms, especially those management-oriented committees, as the replacement for trade unions.

From the case ‘F’, the absence of trade unions results in an incomplete system of representation whilst workers’ voice cannot be efficiently passed to the management who does not always respect their voice. Moreover, experiences of the case ‘C’ shed light on the role and future of trade unions. Trade unions propose new kinds of representative committees and manipulate non-union representation as a strategy to expand their influence and importance in workplaces. By electing employee representatives and organising internal committees to provide support to representatives, the union recognition has been re-strengthened.

To sum up, the dynamic systems of worker representation provide Taiwanese trade unions the possibility of significance and influence in the future. Rather than viewing the non-union representation as the obstruction, unions embody those mechanisms in their own structures and organisations. Whilst the decline of trade unions is ongoing, there are still different ways for trade unions to redefine their own roles and offer more functions in the near future.

REFERENCES


