

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

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Introduction

For just over 20 years the story of Irish social partnership has attracted an unprecedented wave of attention from academics and policy-makers from all over the world (see, for example, 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 a corporatist-style system of socio-economic governance for so long (not to mention developing what seemed to be a unique model that demanded a review of traditionally accepted 'corporatist truths'), fascinated and befuddled in equal measure. Throughout much of this period, too, the 'Celtic Tiger' economic success that accompanied the Irish experiment in social partnership was the 'poster child' of the new, smart, modern economy. It seemed Ireland could have it all; astonishing growth in wealth creation, an explosion in employment growth and all with a socially-inclusive governance structure. The Irish social partners could Riverdance gaily high above the choppy waters of industrial conflict and political division, safe in the knowledge that the safety-net of social partnership would catch them should they happen to misstep.

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 amid widespread disillusionment and increasing recrimination. With Ireland in the grip of a deeper and (it seems likely) more prolonged economic recession than most, if not all, of its European

partners, consensus amongst the social partners has, for the first time in two decades, proven impossible to achieve in terms of negotiating a new national social pact. As a result, the Irish IR system is, at present, in a state of some uncertainty and flux.

This article looks at some key factors involved in the demise of Irish social partnership and some of the broader implications to be drawn from the events of the last couple of years. It begins (briefly, for this is well-trodden ground) by outlining some of the more influential accounts of the Irish process, as well as the core elements of Irish social partnership. It then goes on to identify and explain some of the factors leading to the collapse of the process.

There is a danger in such an approach of gorging on the benefits of hindsight. While it would be wrong to claim that the end of social partnership was not predicated by *any* commentators, it is fair to say that, much like the crisis itself, the collapse of the process, when it came, was relatively sudden and took most observers somewhat by surprise. In a time of flux, too, one should be careful about making definitive pronouncements. It may be, much like in the late 1980s, that Irish social partnership can surprise onlookers again with an unexpected revival.

Notwithstanding the above however, this article takes the view that the process is moribund, if not completely dead, and so seeks some explanations for this state

of affairs. Two points should be made at the outset. First, the factors identified here did not *emerge* with the crisis. However, these pre-existing weaknesses exacerbated the demise of social partnership once the extent of the crisis became apparent. Second, 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 the Irish 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

Ireland has been categorised as one of the 'unlikely countries' (Baccaro, 2003) to engage with a corporatist strategy and one of a number in which the 'corporatist Sisyphus' rose again in the late 1980s/early 1990s (Schmitter and Grote, 1997). 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). One of the most influential perspectives centres on the idea of 'deliberative governance' (O' Donnell, 2000). In the Irish case, this referred to a wide range of State and non-State actors adopting a 'problem-solving' approach to socio-economic governance, which focused on much more than simply pay and other, narrow labour market issues, but attempted to create shared understandings (and shape and reshape the parties' identity and preferences) about broader social and economic challenges.

By contrast, the leading critiques of the process substantially echo those of classical corporatism. Allen (2000) has argued that the partnership structures provided a political, industrial and ideological framework through which a neo-liberal agenda could be pursued. He is particularly critical of union leaders who, for him, became co-opted by employers and the State, with the result that membership-led and resistance strategies were downgraded and workplace activism undermined. Other critics have focused on the anti-democratic nature of the process, especially the emasculation of parliamentary democracy (Ó'

Cinnéide, 1998), which saw elected representatives (and non-privileged civil society interest groups) effectively excluded from national policy-making, which was devolved to a select group of 'insiders'.

Others have argued that the Irish partnership process, rather than being analysed in terms of (non/) democratic outcomes can best be understood in terms of 'competitive corporatism' and the need, acknowledged by all the social partners, to improve the competitiveness of the national economy, without the traditional corporatist concern for re-distributional policies or social safety nets (Roche, 2007). More recently, Teague and Donaghy (2009) have characterised the process as an 'unorthodox system of institutional complementarities', where a bundle of institutions and practices combine so that each increases the efficiency of the others. So, they argue, the system of social partnership blended with other aspects of the Irish economy to create a distinctive regime of economic growth; a successive governmental policy of economic openness, a minimal welfare state and social partnership all interacted with a favourable international economic climate in the 1990s and 2000s to trigger employment growth and increased prosperity.

These various perspectives all contain important insights about the social partnership process. Commonalities in the accounts can be difficult to find, but a few points can be made. First, all of the accounts accept that the Irish social partnership process emerged as a response to the political, employment and

economic crisis of the late 1980s. By 1987, Irish economic and social life was in a grave state with a spiralling level of public deficit and debt and extremely high levels of personal taxation and unemployment (O'Connell, 2000). Virtually all sections of the trade union movement were suffering from the most sustained and serious losses in trade union membership recorded since the 1920s (Roche, 1997). 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 see how such pragmatism later informs a shift in the respective 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 industrial relations; in the 1970s pay agreements were negotiated centrally, and even in periods of free collective bargaining like the early 1980s, local bargaining tended to follow central trends (Hardiman, 1988). However, certain characteristics distinguished social partnership after 1987; the *contents* of the agreements became somewhat all-encompassing, expanding to cover virtually all

areas of socio-economic policy-making (migration, waste management, alcohol/drug misuse, housing policy, etc.); the *composition* of the social partners moved from being solely the labour market actors to encompass a range of other civic, community and voluntary groups (farmers' organisations-included, albeit in a separate 'pillar' of talks, from the beginning- gay and lesbian groups, charity organisations etc); and, from the early to mid 2000s, the emphasis was on expanding the *time frame* of the non-pay elements of the agreement (through the use of long-term 'special initiatives' and a 'lifecycle framework' in later agreements). As we will see below, however, it may be that, to paraphrase Marshall McLuhan, the process became the point.

This time it really is different...

A comprehensive account of the Irish social partnership process is beyond the scope of this article; in any case, many accounts by eminently more erudite authors are readily available (Hardiman, 2000; Roche, 2007; Teague and Donaghy, 2004). 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 basis of the agreements has always been 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, work organisation 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	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 sector as social partners; promotion of workplace partnership
2003-2006 SP (*pay renegotiated after 18 months)	Gloomy economic climate; slowing growth; some job losses	Pay deal only for 18 months, '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; public finances in crisis	
2009- process collapses		

From 1997, the partnership process expanded to include a wide spectrum of civil society groups (the 'Community and Voluntary Pillar' or CVP). It also expanded to encompass more non-core labour market issues such as social inclusion, childcare, racism, and housing policy (Gunnigle et al, 1999). This increasing

range of elite community based policy-making was 'reflected in a dense web of working groups, committees and task forces, which involve the social partners in the design, implementation and monitoring of public policy' (O'Donnell and O'Reardon 2000: 237-8).

The social partner associations were never monopolies and nor was membership in them compulsory. The bargaining and implementation processes have always been voluntary and unilateral withdrawal was 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.

Thus, in early 2009, 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 the private sector employers sought to renegotiate the wage agreement struck in 2008 (O' Kelly, 2010). In March 2009, the Government broke off negotiations and introduced an emergency budget, which introduced pay cuts for all public sector workers. After a rapid rise in private sector unemployment, and in the aftermath of a protest strike in November 2009, a new partnership agreement appeared to be on the verge of conclusion in December 2009. However, at the last minute a revolt by Government ministers and backbenchers 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 by an average of 7 percent.

In March 2010, the public sector unions and the Government agreed a new four-year *Public Service Agreement* (the 'Croke Park Agreement'),ⁱ under which it was agreed that public sector pay would not be cut again during the lifetime of the Agreement (which runs until 2014). This would be in exchange for a reduction in public sector numbers (by means of continuing the existing moratorium on recruitment and promotion); 'flexible redeployment' within and across each sector of the public service; and a substantial commitment to reconfigure the design and delivery of public services (including the redesign of work processes). Despite considerable opposition to the deal amongst and within many unions (McDonagh and Dundon, 2010), the Irish Congress of Trade Unions (ICTU) Public Services Committee ratified the deal in June 2010 by a margin of almost two-thirds.

This represents the Irish position in late 2010, as the public awaits a December budget that will look to make public savings of approximately €6 billion by means of tax rises, and welfare and public service cuts. 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 Irish social partnership process emerged as a response to the crisis engulfing the country in the late 1980s. The origins of the process are often traced back to the publication in 1986 of a highly influential report (*A Strategy for Development 1986-1990*) on economic strategy by the National Economic and Social Council (NESC- a tripartite advisory body, established in 1973). The report argued for many of what were to become the central elements of the partnership process: wage restraint; control of public spending; tax reform; reform of the public sector; but also the progressive removal of the major iniquities in Irish society (O'Donnell and Thomas, 2002). As Hamann and Kelly (2007: 983) note, the Fianna Fáil (FF) leadership appropriated much of the report in its 1987 election manifesto and was returned to power as a minority government. With the exception of the period between 1994 and 1996, the FF party has remained in power until the present (from 1989 on as the dominant party in a coalition government). Thus, the social partnership era has become significantly associated with FF and, in particular, with two men. Charles Haughey was leader of the party from 1979-92 and served as Taoiseach (Prime Minister) on four occasions until 1992. Bertie Ahern was Minister for Labour in 1987, later Minister for Finance, and Taoiseach himself from 1997- 2007. At the outset of the partnership process in 1987, it was Haughey who is significantly credited with getting the unions and, particularly, the employers to the bargaining table

(Hastings et al, 2007: 39). Under both men, the Department of the Taoiseach was significantly and progressively empowered and was 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).

However, the fundamental and dominant role played by successive Governments in the Irish partnership process meant that the process was extremely susceptible to changing political winds. D' Art and Tuner (2005) note that the role of the State in most western European countries that have engaged the social partners in some sort of tripartite governance model 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 viewed as 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 or strategy* for socio-economic governance. Even within the Government itself, the process was championed by the Department of the Taoiseach (concerned principally with the *political agenda* of the Government) but viewed with considerably less warmth, and often opposed, by officials, and at certain times, ministers, in the Department of Finance (Roche, 2010). Similarly, as noted above, criticisms were voiced at times by opposition politicians and Government backbench deputies that the process had usurped the role of parliamentary democracy.

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 an integrated national response to the crisis that addressed the banking crisis, the fiscal crisis, the economic crisis of competitiveness and job losses, the social crisis of unemployment and income loss, and the reputational crisis. 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'. A particularly illustrative example of the interests of the social partners being sacrificed on the altar of political pragmatism relates to the construction sector, the sector hit hardest by the economic collapse. The construction industry social partners, despite being engaged in a prolonged pay dispute, came together to agree in 2009 a stimulus proposal based on investing pension funds in new public infrastructure projects. By this time, however, the popular mood had turned strongly against support for the sector ('property developers' being strongly associated in the public mind with the crisis) and the proposal was rejected. As one ICTU official put it, the 'Government were so busy with the banks they wouldn't take any other decisions' (interview with the author, August 2010).

Some may point to the longevity of the process as a counterpoint to the argument that social partnership never became embedded in the Irish IR system. However, the argument here is that political and Governmental support for the process was always highly contingent and pragmatic. By 2009, key 'champions' of the process, particularly Bertie Ahern, had departed the scene and, as Roche (2010) points out his successor as Taoiseach, Brian Cowen, 'seemed willing to expend little political capital to preserve the fabric of a social partnership model that no longer seemed publicly or electorally popular'. The 'people factor' (Hastings et al, 2007: chapter 7) has always been seen as crucial in the Irish model (union leaders, famously, could phone up Ahern and talk 'one-to-one' while he was Minister for Labour), but a process that depends so much on

individual relationships and personalities is vulnerable when key players exit the stage.

More fundamental, however, was the fact that the State's driving role in the partnership process meant that at no time since 1987 did the social partners challenge the main tenets of the government's economic policy (Teague and Donaghy, 2009a). Thus, unions did not seek to trade wage restraint for increased public expenditure or progressive redistribution policies, but instead for a reduced taxation burden on workers and institutional influence. Such a strategy worked well in times of economic and employment growth, when the Government could reduce the tax burden and sanction moderate wage increases, but once the crisis hit concessions were required. As we have seen, as unions struggled compromise on how to manage the economic downturn, the Government quickly reverted to a unilateral approach of spending and welfare cuts, tax increases, and pay and staffing cuts in the public sector. When the money ran out, the dominant partner very quickly packed up the partnership tent.

The Employers

As noted above, it was the employers who were initially the most reluctant of the social partners to embrace tripartite bargaining in 1987, only signing up to the PNR following the 'vigorous advocacy and brokerage' of the then-Taoiseach, Haughey (Roche, 2007: 398). Nevertheless, over the 20 years that followed, the main employer representative groups (led by the Irish Business and Employers' Confederation- IBEC) have been key supporters of the process.ⁱⁱ Roche (2007: 421) has argued that the institutionalisation of Irish social partnership involved a refashioning of *hierarchical control mechanisms* (which, under classical corporatist arrangements, were commonly viewed in terms of the formal internal governance structures of union and employer peak organisations) 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, through the intervention of the National Implementation Body (NIB- the body-established under the PPF-charged with 'policing' the agreements and IR stability generally and made up senior Government, employer and union representatives) and through copper-fastening the role of the 'older' public 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) has commented that the notion in Irish IR of the 'good employer' has been fundamentally altered over the past two decades. Previously, under the Irish voluntarist system, the 'good employer' engaged in collective bargaining with trade unions, abided by procedural agreements and respected the State's dispute resolution agencies (ibid: 106). However, in recent years these aspects of the Irish system have come under strain. 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 the non-union employers outside of the social partnership process have become louder and more influential.

There a number of related points to be made here. In its drive to secure foreign direct investment (FDI) the State's industrial development agencies, from the early 1980s, have 'marketed' Ireland as non-union environment, at least in part as a response to the refusal of US multinationals (MNCs) to recognise unions, and their position that any statutory recognition measures would be unacceptable to them (Gunnigle et al, 1998). Powerful (mainly US-based) MNCs, therefore, 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 has 'morally legitimated' MNCs to 'shadow' the agreements and pay similar wage increases as domestic companies, despite demonstrable differences in productivity gains, thus considerably boosting their cost competitiveness and profits.

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, at the promptings of the Chamber and large individual US MNCs, first opposed, and later succeeded in watering down, the EU's Information and Consultation Directive (Directive 2002/14; see Doherty, 2008). One of the most contentious provisions of the Irish legislation transposing the Directive (the Employees (Provision of Information and Consultation) Act 2006) is section 11, which 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, who 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 a number of legal challenges to the State's long-established system for

establishing pay and conditions in sectors such as construction, retail and catering, where pay rates and other terms and conditions of employment are established by bodies representative of the social partners (Meenan, 2009). Here, loose groupings of employers are challenging the representativeness of these bodies, as well as the constitutionality of the entire process on the grounds that allowing social partner bodies to set legally binding terms and conditions of employment represents an impermissible delegation of legislative functions to a body other than the Parliament. At the time of writing, the cases have not reached finality, but the State has been forced to 'shore up' the system with new legislation (published in 2009, but not yet passed into law). Nevertheless, the legal challenges demonstrate the increasing fragmentation of employer interests.

The argument here is not that the social partnership has *caused* these changes in employer postures (clearly, the decision in relation to attracting FDI was made some time before the partnership process began). 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 social partner 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 very few constraints placed on private sector employers by the 'the increasingly permissive nature' of the Irish voluntarist system (underpinned, as we will see shortly, 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

By buying into the social partnership model, the Irish trade union movement fixed on a strategy of exchanging wage moderation and industrial peace for policy and institutional influence (Teague and Donaghy, 2009). Thus, a policy of political action through the pursuit of a corporatist model of governance, as well as (significantly more limited) engagement with employers at the workplace, has, in Frege and Kelly's (2004) terms been the 'renewal strategy' pursued by the Irish union movement.

The extent to which unions did, in fact, secure institutional influence through the partnership process has provoked considerable debate. To take just one example of contention, the unions can point to the considerable body of protective labour legislation passed during the social partnership era (Donaghy and Teague, 2007). Through partnership, a number of statutory measures were

agreed, which were then progressed through the normal legislative process; these included legislation on the national minimum wage, 'exceptional' collective redundancies and employment rights compliance.ⁱⁱⁱ 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 new legislation on better compliance with labour standards, one of the key elements of the *T2016* agreement, was agreed by the social partners in response to large-scale disputes involving the exploitation of migrant workers at two companies, Gama and Irish Ferries (Krings, 2009). The resulting Employment Law Compliance Bill 2008 grants significantly enhanced powers to the State's Labour Inspectorate, provides for greater penalties for employer offenders (most of which are *criminal* sanctions, such as fines and imprisonment); and places comprehensive new record-keeping obligations on employers. However, the stringency of the measures (and the criminal law focus) has provoked quite a backlash against the Bill by employer groups (Dobbins, 2008). In particular, small and medium sized business, fearful of the cost and administrative implications of the legislation, have been lobbying local politicians on the issue; as a result, two years on from its publication, the Bill has still not been passed into law.

It is the failure of the unions to extend their influence beyond the high-level context of national talks, though, that has arguably dealt the biggest blow to union advocates of the partnership strategy. The trade unions have tried, under partnership, to find means of strengthening their presence at workplace level.

From the mid-1990s, increasing focus was put on the dissemination of partnership to the level of the enterprise. The social partners outlined a voluntary framework promoting the diffusion of *workplace partnership*, with the national agreement *Partnership 2000* defining enterprise partnership and identifying nine areas in which the concept would be particularly apposite.^{iv} Despite the promotion of workplace partnership, the empirical evidence has shown that its incidence and significance, especially in the private sector, appears quite limited (Geary, 2007; O'Connell et al, 2004; 2010). This is not surprising. Whereas corporatist arrangements traditionally 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 granting them almost 'complete autonomy to pursue corporate strategies of their choosing at the company level' (Teague and Donaghey 2009: 67).

It was in this context that the trade unions pushed for a change in union recognition laws. Traditionally, the Irish voluntarist model of IR has meant that there is no obligation on employers to recognise a trade union for collective bargaining purposes and collective agreements are generally not legally binding. Employees have a constitutional right to form and join trade unions, but employers are not obliged to recognise such unions as having the right to represent their members in negotiations. In 2000, a High Level Group on Trade

Union Recognition was established, under *Partnership 2000*, look at reform of union bargaining laws. A compromise was reached that resulted in the enactment of the Industrial Relations (Amendment) Acts 2001-2004. Under this legislation, an employer may be compelled to grant trade union representatives the right to represent unionised employees on 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; the determination, though, *cannot* provide for arrangements for collective bargaining (Doherty, 2009).

The unions had hoped to use this legislation as a 'springboard' to greater recognition rights and the number of claims being processed under the Acts increased significantly between 2004 and 2006. However, the legislation has been regarded as largely neutered following the decision of the Irish Supreme Court in *Ryanair v The Labour Court*.^v The Supreme Court ruled that the Labour Court had incorrectly interpreted what was meant by, and which bodies could engage in, 'collective bargaining' under the Acts. The Supreme Court held that employers should be free to determine the form, structure and organisation of any internal collective bargaining units, as long as these have a degree of permanency and are not *ad hoc*. Thus, if an employer were to set up an Employee Council, it could seemingly decide on issues such as how employees would be elected or chosen to be members, the remit of the Council, and the

terms of office of its members. In a final flourish, the Supreme Court 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.^{vi} Irish unions (like those in the UK) had long been suspicious of legal intervention in industrial relations, fearing a hostile judiciary and the ceding of control of labour market regulation by unions and employers to legal professionals. Ironically, the partnership process has accompanied 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 (Doherty, 2009).

Thus, 20 years of social partnership has not resulted in a strengthening of unions' workplace representation rights (and the extent to which the failure to build organisational strength has been compensated for by increased institutional influence must also be questioned). In fact, following the *Ryanair* decision, the position in Ireland seems to come close to permitting the establishment of 'company unions'; a unique situation in an 'old' EU Member State. Over the partnership period, union density has continued to decline, in tandem with levels of industrial action (Donaghy and Teague, 2007; Walsh and Strobl 2009). Again, it would be intemperate to draw a causal connection here. The problems of declining density and blunted capacity to engage in industrial action have been experienced by union movements all over the Western world, including those who have adopted stances contrary to a partnership approach. The problem for

Irish unions is, for a considerable period, social partnership has been viewed as 'the only game in town' (Donaghy and Teague, 2007: 39). Given that bargaining was centralised and the national agreements contained a variety of no-strike clauses, the breakdown of the process now sees a generation of union representatives and activists who have no experience of engaging in collective bargaining or of taking collective action. Of the three main actors, the unions seemed the most anxious to maintain the process, delaying industrial action in order to keep partnership negotiations going (McDonagh and Dundon, 2010). Organisational weakness, however, makes the unions considerably less attractive as a social partner.

The Process

Means and ends

The Irish model of social partnership attracted attention due to its distinctive and all-encompassing nature. This included the broad range of actors involved (notably the inclusion of the community and voluntary pillar- CVP) and the broad sweep of issues that the national pacts addressed. Those focusing on the 'deliberative' nature of the process have tended to emphasise its focus on 'problem-solving' over 'hard-nosed' bargaining, and the attempts to create shared understandings and prioritise social consensus rather than debate ultimate political or social visions (O' Donnell, 2000). This feature of the Irish process was manifested in the establishment of a dense web of working groups, committees

and task forces, which sought to involve the social partners in public policy-making (Baccaro, 2006). Indeed, it was argued that the ‘increasingly elaborate institutional architecture’ of social partnership stabilised the process in many key ways and at various important junctures (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.

First, a closer look at the agreements themselves reveals some interesting features. 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 and equality 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. Turner (2002) notes that 23 such groups were set up under the PPF alone, while 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 deliberation and attempts at problem-solving; however, prolonged and reasoned debate can sometimes simply lead to entrenchment in a party's original position (Donaghey, 2008).

By the time *Sustaining Progress* was agreed, it was tacitly acknowledged by the parties that very few concrete initiatives had emerged from the various groups and task forces and their incidence was scaled back significantly in that agreement and its successor, T2016 (ibid.). Moreover, once the crisis struck, and fiscal difficulties meant the opportunities for issues to be the subject of review and compromise were circumscribed, the Government ultimately made the 'hard' decisions and took little account of the advice of partnership institutions or the social partners themselves. It was quite happy to sweep away the institutional web.

Secondly, a focus on the text of the agreements substantially serves to simply confirm what many observers of, and some participants in, the process have long suspected; that ultimately, some partners have been more valued than others. The role of the non-core actors, the 'social pillar' or CVP, has ultimately come to

be seen as rather marginal to the main business of social partnership, which has primarily involved the State and the labour market actors (Hardiman, 1998; Roche, 2007). As Larragy (2006: 20) notes 'it seems obvious that there is a hierarchy of social partners in the Irish model and the CVP is somewhat subordinate in bargaining power terms'. The author also notes, in line with the central argument in this article, that the fortunes of the community and voluntary pillar have waxed and waned according to the extent the Government of the day found its imprimatur politically useful:

'The main bargaining chip the CVP has in social partnership it 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. That chip had an impact in the context of negotiating *Partnership 2000*, when the threat to reject the pact resulted in a last minute concession by Government. But 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).

When unemployment was a political priority in the 1980s and 1990s, the Governments of the day were quite 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' embeddedness in the process was quickly undone.

Thirdly, it should be noted that even the most enthusiastic accounts of the partnership process have always recognised the centrality of the pay provisions

to the national agreements. The pay deal has always been the 'glue' holding the process together^{vii} and pay negotiations certainly did not come under the range of issues for deliberation, but remained to be bargained over in a traditional manner. Survey data, whilst limited, has tended to suggest relatively strong levels of *public* support for social partnership (see, for example, Fitzgerald and Girvin, 2000). However, it is arguable that much of this support for the process seems to have hinged almost exclusively on *pay* outcomes (see, for example, D'Art and Turner; 2002). Doherty (2007) indeed, in his survey, of trade union members found that the vast majority of had very little knowledge of the 'broader partnership agenda'; outside of pay and industrial conflict, members had little understanding of other policy aspects of the process, even where (in areas like childcare, housing, etc) these were issues of concern that had a significant impact on their working lives. It seems for employers, unions and the public at large, the partnership process was ultimately about pay deals; when the 'glue' of pay increases could no longer be delivered, the process quickly became unstuck.

The Public Sector and Reform

One feature that has been somewhat underplayed in the literature on partnership has been the role of the public sector. In fact, this is crucial to any analysis of the Irish process, not least because trade union density in the public sector is much higher than in the private sector, and so 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

(Hastings et al, 2007). Accounts that have looked at the role of the public sector have tended to emphasise the benefits wrought for public sector workers by their unions in terms of pay (Baccaro and Simoni, 2007) for which the State received in return commitments on industrial relations stability (Donaghy and Teague, 2007). While undoubtedly public sector workers did gain in pay terms (as did virtually all workers in the 'Celtic Tiger' era) much less attention 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 brought the social partners on board to input into the reform process. In fact, an elaborate performance management system has been 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.^{viii} 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 the successful implementation of the change and innovation 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 the democratic and inclusive rhetoric, workplace partnership in the public sector has been used simply as a means of facilitating the implementation of a pre-determined management reform agenda. They argue that the process has been used in a managerialist manner to steer through a public sector reform schedule, which seeks tighter, more controlling management structures, and which risks undermining the core public service ethos. This 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 an issue relating to public sector reform that proved to be the final nail in the partnership coffin. In March 2009, the government broke off negotiations with the social partners on a new social pact and unilaterally introduced pay cuts for all public sector workers (on top of the levies introduced on public service pay in January 2009). Despite this action, the unions held off on taking collective action (apart from a one-day stoppage in November), re-entered talks with the Government and, seemingly, reached a deal in early December, 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- essentially a form of work sharing- is a fairly standard approach to addressing commercial difficulties in the private sector, and despite the fact that many other

European countries have introduced similar measures in the face of the crisis (reductions in working time in Germany and the Netherlands, for example), the plan was denounced by many sections of the media as a 'cave in' to the public sector unions (Roche, 2010). Subsequently, the Taoiseach 'found himself facing a revolt of ministers and backbench members of his parliamentary party' who were 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 public sector unions in talks diminished, immediately and unilaterally walked away from 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.

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 puts it:

'In the print media, in particular, editorial commentary seemed overwhelmingly hostile towards unions, their proposals for achieving cuts in the public service pay bill and social partnership. 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... This was a new phenomenon. In more that 25 years observing and commenting on industrial relations in Ireland, I recall nothing to compare with the tenor of commentary in sections of the media on the slow death of social partnership and its associated discontents. Columnists, commentators, phone-in and chat-show hosts would of course claim that their output reflected public opinion. While opinion-poll data showed no clear trend towards growing public hostility towards unions, this no doubt was true in part. But it would be reasonable to suggest that media commentary also channelled and even seeded public disaffection with unions, public servants and social partnership'.

The breakdown in trust between the public sector unions and the Government as a result of this affair and the significant media hostility generated towards unions and the partnership process in its final days (not forgetting the swift reaction by politicians to this) will make putting the pieces of partnership back together again unlikely in the short-medium term.

Conclusion

This article has argued that, ultimately, the Irish case can be categorised as one of 'pragmatic partnership'. The process emerged as a pragmatic response to crisis in the 1980s, and the respective parties' commitment to social partnership was sustained for most of its lifetime by economic success and employment growth (Rittau and Dundon, 2010). Although sustained criticism of the process related to its lack of achievements in terms of economic and social equity (see Kirby, 2010), this did not fundamentally threaten the model as long as it was able to 'enlarge the economic pie' in a manner that provided the 'overwhelming number of citizens with larger slices, notwithstanding that their overall share was more or less the same as before' (Teague and Donaghey, 2009: 73).

However, the positions of the parties had altered when crisis struck again. The State, while finding the process invaluable for legitimising cutbacks in social services and pay restraint in the 1980s, in the preparation for EMU and, later, in garnering union support for its public sector reform agenda quickly reneged on agreements, ignored the social partners and withdrew support upon unilaterally deciding that the banking and fiscal crisis post-2007 demanded a strategy of swingeing cuts. Employer representative groups by this time were less able (or willing) to hold their constituency together in the face of challenges from increasingly vocal employers critical of partnership. Private sector employers have seemingly been emboldened by union weakness, following the failure of unions to strengthen their representation rights under social partnership. In the

public sector, employers may also have been emboldened by recent events: the acquiescence to the new public management reform agenda by unions and staff, copper-fastened by partnership agreements since the late 1990s; the recent concessions granted by public service unions under the Croke Park Agreement, which emerged following the collapse of the process; and ongoing media-and public?-hostility towards public sector unions and staff. It may be possible that a less supportive State approach to public sector unionisation than has historically been the case emerges as a by-product of the collapse of partnership.

For the unions, the collapse of the process means the end of the principal strategy with which they have engaged over 20 years. The crucial failure under social partnership, to link their institutional role at national level with a strengthening of autonomous trade union and worker representative structures at workplace level (cf, Baccaro, 2002 on the Italian case), has ultimately made them less 'useful' as a social partner. Arguably, the end of partnership has been strategically disorienting above all for the unions; it is not clear exactly where they will go from here.

The pragmatism of the actors involved might have resulted in the process coming to life in 1987 and being sustained at various junctures over its 20-year lifetime, and we have seen that personal relations amongst various partnership champions were also key, but it is true to say that a partly self-sustaining partnership 'industry' (of working groups, review groups, strategy groups and

networks) also emerged, the achievements of which 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 band stopped playing, 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.

As Teague and Donaghy (2009) argue, the Irish model, to an appreciable extent, emerged by serendipity rather than clever policy design. However, they argue that the longevity of the system was due to its becoming an integral part of a system of institutional complementarities that propelled economic growth and prosperity. Unfortunately, when the 'perfect storm' of a global economic crisis, a slump in economic growth 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 Available at http://www.onegov.ie/eng/Publications/Public_Service_Agreement_2010_-_20141.pdf

ⁱⁱ The employers' groups party to T2016, in addition to IBEC, were the Construction Industry Federation (CIF), Small Firms' Association (SFA), Irish Exporters' Association (IEA), Irish Tourist Industry Confederation (ITIC) and Chambers Ireland.

ⁱⁱⁱ All of these are purely domestic legislative initiatives, as opposed to being mandated by EU law.

^{iv} Including, *inter alia*, opportunities for employees to contribute to meeting the challenge of global competition, co-operation with change, including new forms of work organisation, and financial involvement; see paragraph 9.15 of *Partnership 2000*.

^v [2007] IESC 6.

^{vi} 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. It should be noted that the Supreme Court decision would appear to be somewhat at variance with the decision of the European Court of Human Rights in *Demir and Baykara v Turkey* (Application No 34503/97, 12 November 2008). There, the Court ruled that the right to collectively bargain with an employer in principle had become one of the 'essential elements' of the right to form and join trade unions, guaranteed under Article 11 of the European Convention on Human Rights and Fundamental Freedoms.

^{vii} As Hardiman (2007: 7) notes 'despite the 139 pages of dense text in *Towards 2016*, the bottom line for unions and employers alike is nominal pay'.

^{viii} See, for example, paragraph 27.18 of *Towards 2016*.