Collective Bargaining for the 21st Century

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Abstract: Collective bargaining has served as a cornerstone institution for democracy, a mechanism for increasing workers' incomes, improving working conditions and reducing inequality, a means for ensuring fair employment relations and a source of workplace innovation. However, the number of workers belonging to trade unions has declined in many countries and global economic integration has tipped bargaining power in favour of employers. This paper reviews recent trends and developments in respect of collective bargaining. It examines the evolution of collective bargaining institutions in different regions of the world. It highlights the manner in which collective bargaining structures have adapted to competitive pressures and the increasing coordination of bargaining practices both within and across borders. In a survey of collective bargaining agendas, the authors note the increasing diversity of issues on the bargaining agenda. They highlight particularly innovative practices in respect of the application of collective agreements to
non-standard workers and the role that collective bargaining played in mitigating the effects of the recent economic crisis on workers and enterprises. They argue that the support of public policy is essential to promote and sustain collective bargaining. These developments and the ongoing challenges facing collective bargaining present a number of issues for future research.

Keywords: collective bargaining; employment relations; industrial relations; trade unions; wages

Introduction

Throughout the last century collective bargaining served as a cornerstone institution for democracy, a mechanism for increasing workers’ incomes, improving working conditions and reducing inequality, a means for ensuring fair employment relations and a source of workplace innovation. Yet in recent decades, the proportion of workers covered by collective agreements has either declined or remained essentially stable in the majority of advanced industrialized economies, and collective agreements only cover a small fraction of the workforce in many developing countries.

A number of factors have contributed to this stagnation. Despite widespread ratification of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), there continue to be obstacles to the effective realization of these fundamental rights. Structural changes, involving a decline in the share of manufacturing and increase in the share of services in total employment, eroded the traditional membership base of trade unions in many countries. Integration into global markets intensified competition, leading firms to cut labour costs which in turn placed downward pressure on wages and working conditions. New technologies and more flexible work processes presented new options for where and how to organize work. Together with the increased mobility of capital, this tipped bargaining power in favour of employers. The increase in the use of part-time, temporary and contract workers changed the nature of employment relations. In some countries, these changes were accompanied by the deregulation of labour markets and a rollback in policy support for collective bargaining institutions. Trade unions in many parts of the world experienced declines in both membership and bargaining power.

These changes present important challenges for collective bargaining. Collective bargaining institutions, structures and practices need to evolve and adapt if it is to remain responsive and relevant as a tool for addressing the interests and concerns of workers, employers and their respective organizations. In this paper we take stock of collective bargaining. We begin by examining the evolution of collective bargaining institutions in different regions of the world. We then review bargaining agendas and highlight examples of the innovative bargaining practices being adopted by some unions, employers and their organizations in order to meet these challenges. We conclude with discussion of three areas that we believe need to be focused on in order to foster innovations in collective bargaining.
The Evolution of Collective Bargaining Institutions in Different Regions

Industrial relations systems are deeply entrenched in national traditions (Crouch, 1993), and there continues to be great diversity in how collective bargaining is organized and the numbers of workers covered by collective agreements in different countries. The percentage of workers covered by collective agreements is itself a function of the interaction between different institutions such as the level of trade union membership, the bargaining structure (including degree of multi-employer bargaining) and the role the state plays in promoting collective bargaining and extending collective agreements (Traxler et al., 2001; Traxler, 2003). Available data show that in higher income countries, the proportion of workers covered by collective agreements is either equal to or higher than trade union density, particularly in those systems characterized by multi-employer bargaining and the extension of collective agreements (e.g. Austria, Belgium, Denmark, Finland and France; see Figure 1).

It is interesting to observe that while trade union density declined in many countries for which we have data (see Figure 2), collective bargaining coverage remained relatively stable (see Figure 3). However, there was some decline in collective bargaining coverage in countries that deregulated labour markets and removed or weakened state support for collective bargaining, such as the United Kingdom.

Against this backdrop of a decline in trade union membership, together with relative stability in the numbers of workers covered by collective agreements, we see considerable adaptation of bargaining structures within countries. Two important features of this change in the form of collective bargaining deserve to be highlighted. The first is the significance of both formal and informal mechanisms of coordination, both within countries and increasingly

Figure 1  Trade union density and collective bargaining coverage in OECD countries (c.2006)

Source: Data from ICTWSS Database (h3. version 2 – January 2009).
also across borders, particularly in regions where national economies have become more integrated. The second is an increase in collective bargaining activity at the enterprise level. However, as we discuss later in this paper, this is often a consequence of greater articulation of issues at different levels within a multi-level bargaining structure rather than the decentralization of regulation by collective agreements to the enterprise level. In this form of articulated bargaining, higher-level agreements set the parameters within which negotiations at lower levels are carried out in what some authors refer to as a process of ‘organized decentralization’ (Traxler, 1995).

**Figure 2**  
*Trade union density in OECD countries*

Source: Data from ICTWSS Database (h3. version 2 – January 2009).  
Note: Iceland, Korea, Mexico and Turkey excluded due to unavailable data.

**Figure 3**  
*Collective bargaining coverage in OECD countries*

Note: Iceland, Ireland, Korea, Mexico, New Zealand and Turkey excluded due to unavailable data.
In countries with highly segmented labour markets, where large numbers of workers fall outside the purview of labour market regulation and institutions supporting collective employment relations are weak (e.g. trade unions, employers’ organizations and labour administration), the proportion of workers covered by the terms of collective agreements remains very low, often below that of union density. In addition, while the numbers of wage earners covered by collective agreements may be significant by developing country standards, this often represents a very small proportion of all those in employment (see Figure 4). For example, whereas collective bargaining agreements cover 20.8 percent of wage and salary earners in Malawi, this represents only 2.7 percent of total employment (Hayter and Stoevska, 2010).

We examine the evolution of collective bargaining institutions in different regions of the world: Africa, the Americas, Asia and the Pacific, Europe and the Middle East. While countries within these regions vary significantly in terms of levels of development and the extent to which employment relations are institutionalized, they have often experienced similar political, legal and institutional developments historically, warranting their consideration as a regional or sub-regional grouping. However, we also acknowledge that within these regions there are significant differences in the way that national political economies are, or were, organized. We are careful not to overlook these ‘varieties of capitalism’ in what is a broad and sweeping review of developments in respect of collective bargaining.

**Africa**

There have been significant developments in the legislative and institutional framework in a number of countries in Africa. Some countries strengthened

![Figure 4](https://jir.sagepub.com/)

**Figure 4** Collective bargaining coverage in developing countries (circa 2006)

Source: Data from S Hayter and V. Stoevska.
organizational rights and ended state-sponsored union monopolies (e.g. Ghana, Tanzania, Ethiopia and Nigeria). Others improved procedures for collective bargaining (e.g. Kenya, Namibia and South Africa) and introduced new institutions for dispute resolution. Despite these legal and institutional developments, collective bargaining remains underdeveloped in many countries in the region. There are a number of reasons for this. First, wage employment accounts for a relatively small proportion of employment in most countries, and the majority of workers work in the informal economy or in unpaid work in the rural sector. Collective agreements seldom encompass these workers. Second, labour administration is often weak and the capacity to implement and enforce industrial relations legislation is limited. For example, despite the creation of new institutions for dispute resolution in a number of countries in the Southern African region, their effective funding remains a key challenge.

Third, trade unions face a number of challenges in respect of their membership and strength. Structural adjustment programmes had a profound impact on the labour market and on trade union membership (Wood & Brewster, 2007). The transition to multi-party democracy in a number of countries and the end of a unitary state-sponsored union was often followed by a proliferation of trade unions. Paradoxically, the strengthening of freedom of association was accompanied by a fragmentation of the union structure in some countries, which in turn weakened rather than strengthened the bargaining power of unions. Fourth, the unstable political climate in some countries and continued persecution of trade union leaders prohibits the effective realization of the right to collective bargaining.

Collective bargaining structures across the region are diverse, with bargaining taking place at different levels (i.e. enterprise, industry or central) or at multiple levels at the same time. For example, in Tanzania, collective bargaining is centralized in the public sector but largely enterprise based in the private sector (Mlimuka, 2010). In Ghana, the National Tripartite Commission establishes minimum conditions which serve as a reference point for bargaining at the enterprise level. There is also a strong tradition of ‘pattern bargaining’ within some sectors; for example, the University Teachers Association takes its lead from settlements by the Ghana Medical Association and the Teaching Hospitals (Gockel, 2009). In Nigeria, employers’ associations and one or more trade unions negotiate industry-wide agreements which are then either improved upon or supplemented by issues negotiated at the enterprise level (Fajana, 2010). South Africa is characterized by a strong system of industry-level bargaining, either through bargaining councils or other non-statutory bargaining fora such as that which exists in the mining sector. Collective agreements reached by bargaining councils can be extended to non-members provided that the union represents the majority of all employees. This industry-level structure in some sectors exists alongside a strong tradition of enterprise-level bargaining in other sectors such as retail (Budlender, 2009; Godfrey et al., 2010).
In a context in which the number of workers covered by collective agreements tends to be limited, other tripartite institutions of social dialogue may play an especially important role in labour market governance. For example, in Mauritius, the tripartite National Remuneration Board determines the minimum wage for a larger proportion of workers than those likely to be covered by collective agreements. Moreover, unions use this minimum as the basis for negotiations with employers at the enterprise level (Fashoyin, 2010). Many countries have also formally established national tripartite institutions of social dialogue to deal with labour and social issues, such as the Comité National du Dialogue Social (National Social Dialogue Committee) in Senegal. Depending on the political history and strength of the social partners in a particular country, these institutions may play only a more limited advisory and consultative role, or they may have the capacity to negotiate binding agreements. In some countries, these national institutions of tripartite social dialogue help to ensure that the interests of those in the informal economy are also addressed. For example, in South Africa the Development Chamber of the National Economic Development & Labour Council (NEDLAC) negotiated a number of policies aimed at improving the provision of services. They can also play a key role in facilitating sound labour relations and ensuring that the social partners consider the impact that their collective agreements may have on the broader economy.

**Americas and the Caribbean**

Collective bargaining takes place mostly at the enterprise level in North America, and at least in Canada and the United States is privately organized. In the latter, judicial decisions regarding the use of permanent replacement workers during a strike and subsequent employer strategies to individualize employment relations had a dramatic impact on trade union membership. A recent study highlights the ongoing difficulties that trade unions face when attempting to organize new bargaining units and negotiate a first contract (Ferguson & Kochan, 2008). After three decades of political impasse over legal reform, attempts to strengthen union recognition and bargaining rights in the United States led to the introduction of a new legislative bill for consideration by the United States Congress. However, strong disagreements between employers and unions persist, making it unlikely that Congress will break the political impasse in the near future. Collective bargaining has been more stable in Canada, where collective bargaining agreements are estimated to cover 31.5 percent of wage and salaried workers (Hayter & Stoevska, 2010). In 2007, the Supreme Court ruled that Canada’s Charter of Rights and Freedoms also protects the right of union members to engage in collective bargaining. This landmark ruling is widely thought to have strengthened the realization of this fundamental right. In Mexico, where collective bargaining coverage is estimated to be 10.5 percent (Hayter & Stoevska, 2010), collective bargaining plays a more limited role in regulating working conditions, perhaps with the exception of the sugar sector (Cardoso & Gindin, 2009).
In South America, trade-related concerns sometimes created the impetus for legal reforms aimed at bringing legislation into conformity with international standards (Vega, 2005). While a few countries enacted procedures to strengthen collective bargaining (e.g. Jamaica, Uruguay and Argentina),7 collective bargaining remains underdeveloped in many countries in the region, and is mostly conducted at the enterprise level, particularly in Central America and the Andean region. The large informal economy and the predominance of small enterprises are often seen as obstacles to collective bargaining, particularly in a region where the thresholds for the establishment of a trade union can be anywhere from 20 to 40 workers (Vega, 2005).8 Collective bargaining structures are more encompassing in Brazil, Argentina and Uruguay. While collective bargaining occurs largely at the municipal/territorial level in Brazil, it is conducted at the industry level in Argentina and Uruguay. Wage bargaining has been reinvigorated in Uruguay with the reinstatement of sectoral wage councils. An estimated 89 percent of wage and salaried workers are now covered by these agreements (Hayter & Stoevska, 2010). Most sectoral agreements do not permit subsequent negotiations at the enterprise level, with the exception of the agreements in the metallurgical and textile industries (Mazzuchi, 2009).9 Collective bargaining has also gone through a period of revitalization in Argentina with the strengthening of industry-level bargaining. Subsequent bargaining is permitted at the enterprise level; however, enterprise-level agreements may only improve upon, not derogate from, industry-level standards (Cardoso & Gindin, 2009).

Asia and the Pacific

Institutional frameworks for labour relations are at very different stages of development in the Asia and Pacific region. At one end of the spectrum are countries such as Australia, New Zealand, Japan and Singapore with relatively well-developed systems of industrial relations, including well-established trade unions and employers’ organizations and other independent institutions (e.g. Fair Work Australia). After significant deregulation of rules and procedures for collective labour relations in Australia and New Zealand, recent reforms reaffirmed support for collective bargaining, and in respect of the latter country, expanded the system of collective bargaining in the public sector.

At the other end of the spectrum are the transition countries such as Cambodia, China, Indonesia, Mongolia, Nepal and Viet Nam which are in the process of establishing new labour relations frameworks. Legal reforms in these countries are focused on establishing the framework for sound industrial relations. For example, following the democratic transition in Indonesia the focus has been on strengthening organizational rights and the enactment of procedures for recognition.10 The weak capacity of the social partners in some countries in this region places important constraints on collective bargaining. Employers’ organizations emerged very recently in the transition economies of Cambodia, China, Mongolia and Viet Nam. In countries such as Indonesia, the Philippines and Thailand, while legal reforms sought to
ensure freedom of association, the fragmentation of trade union structures prevented the emergence of a strong trade union movement (Yoon, 2009).

Enterprise-level bargaining remains the predominant bargaining structure in most countries in this region. There are some exceptions, such as sectoral agreements in the plantations sector in Sri Lanka (Amerasinghe, 2009), and the cotton and textiles and sugar industries in India (Shyam Sundar, 2009a). Labour market reform under way in Nepal also aims to strengthen collective bargaining at the sectoral level. While collective bargaining still takes place predominantly at the enterprise level in Korea, there has been some shift to sectoral bargaining in the banking, health and metal sectors (Yoon, 2009). There are significant changes under way in China, where the government and social partners have been using tripartite mechanisms to promote the expansion of collective bargaining since the early 2000s. While questions remain about union governance and the quality of the bargaining process, there is some evidence that the direct election of union leaders in the workplace and their participation in collective bargaining is associated with lower inequality and fewer disputes (Lee, 2009). The recent rise in strikes and dramatic increases in wages suggests that the process of democratization and the institutionalization of labour relations in China might move at a faster pace.

Given the predominance of enterprise-level bargaining in this region, the role that particular institutions play in coordinating wage settlements across the economy is an important issue for future research. For example, in Singapore, the tripartite National Wage Council (NWC) plays a key role in issuing national guidelines that are taken up in subsequent enterprise-level negotiations (Fashoyin, forthcoming). In Sri Lanka, the Employers’ Federation of Ceylon plays a central role in coordinating collective bargaining and in ensuring parallel developments in wages and productivity. In Japan, the Shunto or spring wage offensive in which sectoral unions synchronize their wage negotiations has traditionally been an important coordinating mechanism. However, it has weakened in recent years due to worsening economic conditions which have constrained the ability of unions to achieve annual pay scale increases. Nevertheless, the Shunto is undergoing a period of revitalization and is increasingly used as a mechanism to promote equal pay for equal work.

Europe and Central Asia

As in other regions, there are significant differences between countries in Europe. Three broad groups can be distinguished. The first group includes countries in the enlarged European Union (EU), where integration and European Union directives shape legal and institutional developments. The second group includes Moldova and countries in the Western Balkans. The third group is made up of the Commonwealth of Independent States (CIS).
In respect of the first group of countries, some of the newer EU Member States undertook legal reforms to bring labour laws into conformity with EC Directives. Among the EU 15 which have relatively well-developed multi-employer bargaining structures, some countries introduced legal amendments to ensure that collective agreements are applied to vulnerable categories of workers, such as agency workers and migrant workers. For example, Norway passed legal amendments to ensure the payment of wages in collective agreements, particularly in respect of foreign workers. The amendments make contractors liable for the obligation of subcontractors to pay wages, overtime pay and holiday allowances set out in collective agreements.

There are some countries within this first group in which collective bargaining is carried out primarily at the enterprise level. However, in most of the countries collective bargaining takes place largely at the sectoral level. Even in countries where collective bargaining takes place at a centralized or inter-sectoral level, subsequent sectoral bargaining plays a role in implementing or expanding on national inter-sectoral accords. Some decentralization of collective bargaining regulation is evident in this first group. After a long period of central income policy agreements in Finland, collective bargaining shifted to the sectoral level in 2007. In Denmark, a new sectoral framework agreement paved the way for the development of an enterprise-level bargaining structure in the insurance sector (European Industrial Relations Observatory [EIRO] 2008, 2009a). However, most of the change in bargaining structure has been the direction of multi-level bargaining.

Growing pressure for enterprise flexibility led to an increase in collective bargaining activity at the enterprise level. Agreements reached at the sectoral or inter-sectoral levels now frequently allow for the articulation of issues at the enterprise and branch levels on issues such as the schedule for the implementation of pay increases and the details of flexible working time arrangements. Legal amendments have been introduced in some countries to facilitate the adaptation of collective bargaining structures and permit more articulated bargaining at different levels. For example, France introduced changes to regulations governing representativeness and other reforms that give broader scope to enterprise-level negotiations and permit derogations from higher-level agreements.

The relationship between different levels is being regulated in diverse ways. Some countries allow lower-level agreements to derogate from standards set by higher-level agreements, in particular circumstances and according to an agreed procedure but excluding minimum wages (e.g. France). In other countries, where a favourability principle applies, lower-level agreements may improve upon but not derogate from labour standards in higher-level agreements (e.g. Slovenia). A few countries only allow for derogations from a higher-level agreement if collectively agreed by the social partners at the sectoral level (e.g. Austria, Germany); however, there may be restrictions in respect of minimum wage provisions (e.g. Belgium). This trend towards greater articulation of issues at the enterprise level, such as bonuses, performance pay and working time, led to a debate.
on whether this represents the adaptability of collective bargaining structures or the erosion of collective bargaining (e.g. see Haipeter & Lehndorff, 2009). The fact that collective bargaining coverage has remained relatively stable despite these changes in collective bargaining structure suggests that bargaining structures are adapting rather than weakening. An exception is Germany, where the decline in the extension of collective agreements and use of opening clauses appears to have eroded the bargaining structure, and the coverage of workers by collective agreements has fallen (Bispinck et al., 2010). The rollback in support for collective bargaining as a result of austerity measures taken in Greece and Spain is likely to also significantly weaken collective bargaining structures in these countries, in particular the abolition of the favourability principle in Greece and the introduction of new measures making it easier to ‘opt-out’ of multi-employer agreements in Spain.21

With the enlargement of the European Union, the transnational dimension of collective bargaining is becoming more significant. There are a number of important developments in this regard. The first is a form of vertical coordination involving an increase in the cross-border comparison of labour costs and performance by multinational enterprises (MNEs). Given the possibilities for relocation, this is used by employers in local negotiations to introduce cost-saving and flexibility-enhancing measures into collective agreements. These typically include concessions on wages and working conditions and the introduction of flexible working time arrangements (EIRO, 2009b). The second is the transnational coordination by trade unions of bargaining strategies within a particular sector. This plays an important role in containing competitive bargaining and its detrimental effect on labour standards or a potential ‘race to the bottom’ (Traxler et al., 2008). The third is the negotiation of European Framework Agreements (EFAs) between an MNE and European Industry Federation or European Works Council (EWC). These agreements do not address wages and working time which are the core collective bargaining issues within countries. Rather, they address topics such as restructuring, social dialogue, human resource management policies and health and safety (European Commission, 2008; EIRO, 2009a, 2009b). The agreements on restructuring are particularly significant in that they establish principles and parameters for subsequent national and local negotiations and thus play an important role in vertical coordination of bargaining agendas. The evolution of collective bargaining in the first group of countries, in particular the shift to multi-level bargaining and challenges of coordination both between levels and across borders, presents important issues for future research.

In respect of the second group of countries, including Moldova and countries in the Western Balkans, significant efforts were made to establish the legal and institutional foundations for social dialogue and procedures for collective bargaining and dispute resolution. In Moldova, Serbia and the Former Yugoslav Republics of Macedonia and Montenegro, the main focus of recent reforms has been the regulation of national tripartite bodies
for social dialogue. Weak and fragmented social partners in these countries limited the development of collective bargaining. In addition, the resources and attention of the social partners has been focused on the establishment of tripartite institutions of social dialogue as part of the preparatory work for accession to the European Union. In the third group of countries (CIS), many also adopted labour codes that include procedures for collective bargaining and dispute settlement. However, the weak capacity of the social partners has also limited the development and practice of collective bargaining, particularly outside the larger (formerly state-owned) enterprises.

The Middle East

Progress with regard to the effective recognition of the right to collective bargaining remains limited in the Middle East. While migrant workers make up a significant share of the workforce in many countries, they do not enjoy freedom of association and the right to collective bargaining (International Labour Organization [ILO], 2009). While some countries are making efforts to establish legal frameworks that guarantee freedom of association and collective bargaining rights, indecision on the part of public authorities concerning issues such as union independence remains a stumbling block in some countries. The weak capacity of the social partners, as a result of previous impediments to these rights, also limits their exercise in practice. An exception is perhaps the transportation sector, where collective agreements have been reached in the terminals managed by APM Terminals in Jordan and Bahrain. Here, the role of the global union federation (GUF) has been crucial in coordinating and supporting the efforts of domestic unions in these industries.

International Developments

In the maritime sector, a unique agreement was reached in an international bargaining forum between the International Transport Workers’ Federation (ITF) and the International Maritime Employers’ Committee (IMEC). The agreement has many of the characteristics of a collective agreement and includes provisions on issues such as wages, working hours, leave entitlement, maternity pay and medical treatment. Negotiations have been affected by the economic crisis; however, the agreement provided the basis for a strong partnership between the ITF and IMEC. A growing number of International Framework Agreements (IFAs) have also been concluded between MNEs and GUFs, possibly co-signed by an EWC. Unlike the EFAs, these are global in scope. While these are not collective agreements per se, they do establish a common commitment to promote fundamental principles and rights at work including the effective recognition of the right to collective bargaining (Papadakis, 2008).
The Scope of Collective Agreements

A review of the issues covered by collective agreements in different countries shows important developments in respect of the scope of collective agreements. Two general observations can be made. The first is that in some countries, clauses in collective agreements do little more than replicate basic provisions in legislation on minimum wages and working time. There are a number of reasons for this. In several countries, prescriptive regulations on particular issues leave little space for collective bargaining, in addition to which the weak capacity of the social partners places an important constraint on the quality of agreements that can be achieved. On a more positive note, it also highlights the important regulatory role that collective bargaining plays in increasing knowledge of basic labour standards and in monitoring labour practices. Indeed, as research in South Africa shows, enterprises falling under the jurisdiction of sectoral bargaining councils tend to have better knowledge of basic provisions in the Labour Law than those in sectors not covered by bargaining councils (Godfrey et al., 2007). Bargaining councils are also responsible for the enforcement of their collective agreements and can appoint agents with statutory powers to monitor compliance (Budlender, 2009). This allows the government to concentrate its limited resources on monitoring compliance in more vulnerable sectors of the economy.

A second observation is that the collective bargaining agenda has expanded in many parts of the world. Collective agreements now include a wide range of issues such as work organization, vocational training, the regularization of employment, parental leave and family responsibilities. This broadening of the collective bargaining agenda has enabled the social partners to negotiate agreements that seek to combine the interests of enterprises for enhanced flexibility with those of workers for income and employment security, and equal treatment. The greater complexity in the issues that the actors address and their effect on both standard and non-standard workers is interesting in light of the general decline in trade union membership. It suggests a need for industrial relations scholars to shift their analysis from a narrow focus on membership and representation, to a broader focus on social action by trade unions on behalf of all workers.

Approaches to primary concerns such as wages increasingly link pay to performance. For example, in Sri Lanka, a growing number of agreements signed by the Employers’ Federation of Ceylon (EFC) and different unions include productivity-based bonuses (Amerasinghe, 2009). In Brazil, participation in profits and results (‘Participação nos Lucros e Resultados’) has been a key issue on the bargaining agenda, especially in the manufacturing sector. The introduction of productivity-linked wages and the question of how to measure performance is also a key issue on the bargaining agenda in the public sector in many countries. With the general decline in the share of wages in national income (ILO, 2010), these efforts to link wages and productivity and the extent to which this may contribute to a general recovery in the wage share deserve closer study.
In countries where collective bargaining coverage is high and collective bargaining plays an important role in regulating working time, the focus of the bargaining agenda has shifted from the length of the working week to working time flexibility. Collective bargaining has been the key consensual means for introducing working time flexibility. While sectoral or inter-sectoral-level agreements may set out a broad framework, negotiations on the details of working time arrangements increasingly take place at the enterprise level (Keune & Galgközi, 2006). Innovative agreements manage to balance enterprise interests to make working time more adaptable to variations in production, and the interest of workers for some control over their working hours to enable them to better combine family and work life. Schemes agreed to include employer-oriented hours-averaging schemes (‘annualized hours’) which align variations in weekly hours with production needs and reduce or eliminate overtime, and more employee-oriented flexitime and working-time account schemes which allow workers a degree of control over their working hours. These innovative models for regulating flexibility through collective agreements have limited application in countries characterized by segmented labour markets and low levels of bargaining coverage (Lee & McCann, forthcoming).

Another subject increasingly finding its way onto the collective bargaining agenda is a change in work organization. This often involves the introduction of new technology and work processes that seek to improve output, quality and performance. There is growing evidence that where changes in work organization are included on the collective bargaining agenda (rather than introduced unilaterally), this can contribute to improved enterprise performance (Fakhfakh et al., forthcoming). In the United States, for example, Kaiser Permanente, a healthcare provider employing over 165,000 people, and the Kaiser Permanente Unions (CKPU) reached an innovative agreement in 2005 which, in addition to wages and benefits, addresses issues such as work organization, service quality and performance-related payments. The agreement also included investment in joint training funds for workforce development (McKersie et al., 2006). The company and union coalition report that the agreement deepened their partnership and facilitated shared commitment to improve performance and patient care.24

As can be seen in the above example, the collective bargaining agenda may also be the means for innovating in respect of training. For example, in Denmark, an agreement between the Central Organization of Industrial Employees (CO-industri) and the Confederation of Danish Industries (Dansk Industri, DI) created a fund through employer contributions which finances training for employees. Those workers who take the programme receive 85 percent of their wages while being trained (Heyes & Rainbird, forthcoming).

In a context in which the numbers of part-time, temporary and contract workers are growing, social partners in different countries are using collective bargaining as a tool to also address the concerns of these non-regular workers. In countries such as Argentina, Kenya and Korea, industry/sectoral agreements have been instrumental in extending the terms and conditions
agreed through collective bargaining to those in non-regular work within a particular sector. In Japan, a collective agreement was reached in 2009 between the Hiroshima Electric Railway Co., Ltd (which employs 1200 workers) and the union which will regularize within a year all full-time contract workers (fixed-term employment) and unify the wage system of regular and contract workers, in order to eliminate the disparity that exists based on employment status.\textsuperscript{25} In Europe, some collective agreements involving temporary agency workers place limits on the duration of temporary contracts, after which workers become eligible for an open-ended contract.\textsuperscript{26} As mentioned previously, Norway has enacted regulation that addresses the applicability of collective agreements to workers employed by subcontractors.\textsuperscript{27} In India, in Tamil Nadu, a growing number of collective agreements include provisions to make contract workers permanent when a vacancy arises. Similar developments are being observed in the Maharashtra region where a number of casual workers are now permanent workers as a result of these agreements.\textsuperscript{28} In Uruguay, some agreements in the manufacturing sector also include measures aimed at regularizing employment (Mazzuchi, 2009).

The current economic climate has compounded concerns over employment security and the sustainability of enterprises. As enterprises face the immediate challenge of cutting costs, workers and their organizations are concerned about retaining jobs and incomes. Some trade unions and employers have used collective bargaining as a tool to craft a package of short-and longer-term measures aimed at mitigating redundancies. This resulted in an increase in collective bargaining activities in some countries (EIRO, 2010a). Jobs were saved through agreement to the flexible implementation of wage increases or pay freezes, short-time working, temporary layoffs and redeployment. Some collective agreements included provisions to use downtime for the training of workers, so that the enterprise could respond to opportunities during economic recovery with a skilled and committed workforce (Rychly, 2009; EIRO, 2010b). A range of public measures such as partial unemployment and training subsidies made it possible to agree to more innovative agreements that reduce labour costs, save jobs and maintain incomes (Haipeter & Lehndorff, 2009; Glassner & Keune, 2010). One such example is the collective agreement reached at Daimler AG in Germany. The economic crisis in 2008/9 exacerbated falling demand and made it necessary for management and the works council to identify additional cost savings. Management and the works council negotiated an agreement that included short-time work and the postponement of pay increases and bonuses outlined in the sectoral multi-employer agreement in exchange for the extension of a ‘no-redundancy’ clause that had first been agreed to in 2004. Workers were able to benefit from public support for work-sharing and thus maintain their level of income. Management also agreed to forgo a portion of their monthly salary and to freeze any increases they might receive in 2009.\textsuperscript{29}

Well-developed industrial relations systems with established trade unions and employers’ organizations and a rich tradition of collective bargaining
provide countries with the institutions needed to manage conflicts of interest. They can provide social partners with the space to craft the types of short-term strategies needed to buy time and ride out unanticipated crises. Support for collective wage-setting institutions is also an important part of a broader crisis response aimed at maintaining aggregate demand and avoiding potentially deflationary wage developments. Public policy plays a critical role in underwriting industrial relations systems and protecting these from erosion. It was during the economic depression of the 1930s that many governments instituted measures to extend collective agreements and thus protected collective agreements from being undermined by intense cost-based competition (Hamburger, 1939). The announcement of austerity measures, including cuts in wages and public sector employment in Greece and some other European countries, has generated strikes and widespread protests. These unilateral actions have the effect of creating obstacles to the implementation of the types of policies that are needed to facilitate adjustment, and can negatively impact on labour relations, the quality of services and productivity in the public sector, further delaying recovery.

Fostering Innovation in Collective Bargaining

We draw two conclusions from the above review. First, overall, the institution of collective bargaining is changing and adapting to the multiple developments in the economy and in organizational practices. Rather than create rigidities and obstacles to flexible adjustment as is commonly argued, industrial relations systems have been robust and flexible and are evolving to meet rising demands for microeconomic adaptability. Instead of widespread decentralization of regulation by collective agreements in countries with multi-employer bargaining structures, we see greater articulation of bargaining issues at different levels. The increase in enterprise-level bargaining activity in many of these countries takes place within the parameters set by higher-level agreements. Furthermore, we consider the emerging transnational coordination of collective bargaining to be an important development in addressing the challenges that the integration of economies poses to the regulation of labour standards.

Second, the social partners have used collective bargaining to address contemporary challenges in innovative ways. One question that employers’ organizations, unions and governments face is how to spread these innovations beyond mere examples or islands of good practice. In some cases, such as the example of productivity-linked pay bargaining in Sri Lanka, employers’ organizations are the key conduit for the spread of these practices, through training and information sharing. In other cases, unions play an important role in coordinating the bargaining agenda and advancing innovations, for instance in Japan through the Shunto. Governments can also play a facilitative role, for example by publishing innovative agreements so that these are in the public domain, or facilitating the sharing of information and model clauses. Building on the examples that have been reviewed, we
consider the following three themes to be central to fostering innovation in collective bargaining in the foreseeable future.

Managing Change

Collective bargaining has a key role to play in managing change. In ‘high-road’ industrial relations systems, collective bargaining allows for the exchange of information which improves the quality of the strategy, trust and the commitment of all to implement that strategy (Stiglitz, 2000). Where the parties are open and transparent with each other about the nature of the desired change and the challenges being faced, the result might not only be a solution for the immediate crisis, but a deepening of trust and improvement of labour relations and performance. The ability to craft innovative agreements often requires a broadening of the bargaining agenda to issues that have not necessarily been considered subjects for negotiation but that need to be part of a solution, such as employment security, training, and the flexibility and sustainability of the enterprise. By forming labour–management partnerships, the parties have the opportunity to forge a new social contract that once again sees wages and working conditions improve in tandem with improvements in productivity.

Collective bargaining has also been shown to be an effective means with which to craft agreements that saved jobs and facilitated enterprise adjustment to changing economic circumstances. In addition, bargaining structures were flexible enough to accommodate the needs of trade unions and/or works council and enterprise to agree to their own strategy, while still ensuring basic labour protection. A broader package of policy measures can expand the options on the table and make it possible to arrive at an innovative agreement. Of course, different countries have different industrial relations traditions and face different challenges. Nevertheless, well-developed industrial relations institutions can be a critical resource for steering a country, a sector and/or an enterprise through an economic crisis and managing change.

Expanding Inclusive Practices

Another frontier for collective bargaining lies in the complex challenges associated with improving the working conditions of non-regular workers. These workers are often the most vulnerable in labour markets. The changing nature of work and difficulty establishing an employment relationship in some countries may place these workers outside the reach of collective bargaining agreements. This is a difficult and contested area of law and practice in many countries. A number of examples referred to above illustrate how the social partners are using collective bargaining to address the needs of these workers. This is occurring on two fronts: first, between a trade union and temporary work agency to improve the conditions of work of those whom they employ; and second, between a trade union and user enterprise to ensure that contractors respect the terms of collective agreements and that
to regularize the contracts of non-regular workers. Trade unions are expanding their organizing drives and membership to include non-regular workers.

Creating an Enabling Environment

The diffusion of innovative practices requires a supportive policy and institutional environment. In this regard, we identify three specific roles for government. One is to protect the basic rights for freedom of association and collective bargaining. The second is to provide mechanisms for individual and collective dispute resolution, and the third is to be a catalyst for innovation. These actions need to be based on the ratification and effective implementation of relevant ILO Conventions. They also need to be premised on a clearly defined employment relationship. Labour law is the key policy instrument for establishing an enabling environment and fostering innovations. It is also the essential means for monitoring rights at work and protecting workers where collective bargaining is not well developed. The legal framework needs to be both stable and responsive to changes in labour markets and in organizational practices. It needs to provide the social partners with the space to innovate through collective bargaining. As we know, the best labour law reforms are those that emerge from a process of social dialogue and consultation.

The effective recognition of the right to collective bargaining also requires support for institutions such as those that provide for the prevention and resolution of disputes through processes such as facilitation and mediation. These services are a resource for the collective bargaining process and should always aim at helping the social partners reach a negotiated solution. There is also a need to provide support for bargaining structures and forums at the national and sectoral levels, such as the wage councils in Uruguay or bargaining councils in South Africa. These play an important role in establishing an industry-wide floor and ensuring the effective monitoring of these standards. This reduces the resources that might otherwise be required for government to regulate and monitor labour standards in these sectors. In addition to their role as regulator and facilitator, governments can also be catalysts for innovation. This means working with the parties to build commitment to the principles of negotiation, of workplace participation and social dialogue at the workplace, sectoral and national levels. Governments need to be actively involved in providing and disseminating information, promoting innovation and supporting the parties as they reach for new approaches to solving their problems.

Concluding Remarks

The challenges facing the institution of collective bargaining and the changes it is undergoing in different settings opens up a wide range of questions for researchers. A hypothesis that emerged from this review is that collective bargaining is most effective when there is coordination across levels of industrial relations, from the workplace to enterprise,
national and international levels. This raises a question about the capacity of the social partners to coordinate derogations from higher-level agreements in multi-level collective bargaining structures – and the implications of this for the industrial relations system and for economic and social development. A related hypothesis is that collective bargaining will be most effective when embedded within other labour market policies and institutions (e.g. unemployment, training and development, work–family policies) and when there is coherence between labour policy and other national economic and social policies. In contrast, in settings where collective bargaining stands in isolation or apart from these complementary institutions and policies, its role in labour market governance will continue to decline. Another general hypothesis that flows from this analysis is that bargaining will be most responsive to worker and employer interests if the scope of issues on the bargaining agenda expands beyond wages, hours and working conditions to include, on the one hand, issues directly affecting enterprise performance such as productivity, and on the other, employee concerns for having a direct voice in how they do their work (work organization). This may require a shifting from more traditional negotiations to problem-solving/partnership models of interaction. Further testing and refining of these hypotheses in different settings would provide the evidence parties and policy-makers need to support collective bargaining. Finally, research on the diffusion and sustainability of innovative examples of collective bargaining is sorely needed. One of the biggest challenges facing our field lies in capitalizing on innovations and ensuring that they serve as learning laboratories for others. Indeed, the transformations in collective bargaining that are under way provide an ideal laboratory for further experimentation, research and theory building.

Notes

1 The analysis is based on an international survey of collective bargaining coverage and trade union density conducted in 2008/9, secondary research and over 30 country studies, primarily of developing countries where no secondary research material is available. This was conducted by the International Labour Office in preparation for a High Level Tripartite Meeting on Collective Bargaining held in Geneva in 2009. Other material related to the meeting can be found at http://www.ilo.org/public/english/dialogue/ifp/dial/events/tripartitemeeting.htm

2 Examples of new dispute resolution agencies include the Comissão de Mediação e Arbitragem Laboral (Commission for the Mediation and Arbitration of Labour Issues) in Mozambique, the Committee for Dispute Prevention and Resolution in Namibia, the National Labour Board in Kenya, the National Labour Commission in Ghana and the Commission for Mediation and Arbitration in Tanzania.


4 Trade union density declined from 20.1 percent in 1983 to 12.1 percent in 2007. There was a slight increase to 12.4 percent in 2008 (United States Bureau of Labour Statistics, 2009).

5 Employee Free Choice Act (H.R. 1409/S.560).

7 For Jamaica, see the Labour Relations and Industrial Disputes (Amendment) Act, 2002 (No. 13 of 2002), for Argentina ‘Decreto núm. 1135/2004 por el que se aprueba el texto ordenado de la Ley núm. 14250 y sus modificatorias, la cual se denomina “Ley núm. 14250 (t.o. 2004)”, y el texto ordenado de la Ley núm. 23546 y sus modificatorias, la cual se denomina Ley núm. 23546 (t.o. 2004) sobre la negociación colectiva’ and for Uruguay see ‘Ley núm. 18566 de Sistema de Negociación Colectiva’.

8 In Colombia, 25 workers are needed to form a union at the enterprise level, 30 in Ecuador and Honduras, 35 in El Salvador and 40 in Panama.

9 Some agreements also allow specific issues to be negotiated at the enterprise level. For example, the ‘International news agencies’ agreement establishes enterprise-level negotiations for the wages of workers earning dollars.


11 The ILO is involved in providing advice to the Nepalese Government on labour market reforms, including in respect of labour legislation and social security.

12 Information provided by Japanese Institute for Labour Policy and Training.

13 Albania, Bosnia and Herzegovinia, Croatia, FYRs of Macedonia, Montenegro and Serbia.

14 Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine.

15 EU15 refers to the ‘old’ EU Member States: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom.

16 Lov om endringer i allmenngjøringsloven m.m. (solidaransvar mv.) Law 2009-06-19-42. Act on changes in the Act m.m. (joint and several liability, etc.).

17 Cyprus, Estonia, Latvia, Lithuania, Luxembourg, Malta, Poland and the United Kingdom. There are a few sectoral agreements, for instance in education and the performing arts in Estonia and in metalworks in Cyprus.

18 Austria, Bulgaria, Denmark, Finland, Germany, Italy, Netherlands, Norway, Portugal, Slovakia, Sweden.

19 Belgium, Ireland, Greece and Spain (framework), Romania. Inter-sectoral arrangements broke down as a result of the economic downturn in Ireland and Spain in 2009.


22 For example in Vietnam and China (Lee, 2009; Yoon, 2009).

23 Initially created by the 1988 Constitution, the regulation of PLR in 2000 led to a dramatic increase in unions’ bargaining efforts and is a key reason for many strikes in the manufacturing sector (Cardoso and Gindin, 2009).

24 Interviews with company representatives and the union in October and November 2009.

25 Information provided by Japanese Institute for Labour Policy and Training.

26 For agreements in Europe, see EIRO, 2000.

27 Lov om endringer i allmenngjøringsloven m.m. (solidaransvar mv.) Law 2009-06-19-42. Act on changes in the Act m.m. (joint and several liability, etc.).

28 For example, see the collective agreements reached between Century Rayons and CITU and between Rashtriya Chemical Fertilizers and the CITU (Shyam Sundar, 2009a, 2009b).

29 Zagelmeyer (2009) and interviews with management and the works council in October and November 2009.
http://www.eurofound.europa.eu/eiro/


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