THEMES

THEME 1 THE INCIDENCE AND EXPERIENCE OF BINDING ARBITRATION IN THE IRISH IR SYSTEM

The Irish IR system has been traditionally described as voluntarist in nature. However a number of developments have in combination led some academics and practitioners to question the continued accuracy of this description. These developments include:

1 Statutory Rights which provide for an appeal from IR Tribunals to the Civil Courts on a point of law and are de facto binding for most parties given the legal costs involved;

2 The enforcement infrastructure that has been introduced within recent National Social Partnership Agreements that provides for binding outcomes in some instances e.g. Inability to Pay/Definition of ongoing change/Breach of the agreement;

3 The negotiation of agreements (albeit limited in number) that provide for Binding Arbitration between parties directly at local level e.g. Connex/SIPTU, Kingspan/SIPTU, Waterford Crystal/ATGWU, etc.;

3 The facility for the parties themselves to agree to binding arbitration on a case by case basis e.g. direct referral under Section 20(2) of the IR Act 1969, the parties committing in advance to accept the outcome of a Section 26(1) Recommendation under the IR Act 1946;

4 The IR Amendment Acts 2001/2004 which provide a mechanism for the Labour Court to issue a Determination on pay and conditions in certain circumstances .The Trade Union can seek an enforcement order in the Circuit Court with no facility for the case to be re-heard;

5 The demands from some employers to secure finality when a Trade Union (or employer) seeks to process a claim to the Labour Relations Commission / Labour Court;

6 The willingness of some Union Officials to use binding arbitration to resolve disputes.

The focus of this study would be to examine the incidence and experience of Binding Arbitration within the Irish IR System. The project should examine the concept of using Binding Arbitration within an IR System, drawing on domestic and international literatures. The perspectives of the Social Partners in Ireland and in particular the attitudes of Trade Unions and Employers should be critically examined. The conditions under which Binding Arbitration might be more acceptable to Trade Unions and Employers should be examined and the implications (if any) of its further extension should be identified. Finally the Study should identify any Public Policy issues that are relevant in the debate on Binding Arbitration.

THEME 2 THE 'CLOSED SHOP' IN THE IRISH PRIVATE SECTOR

Ireland has been found to be in breach of Article 5 of the European Social Charter on the grounds that the 'Closed Shop' is still operative in Ireland in 2006. As far as the Department of Enterprise, Trade and Employment have been able to establish there are no reliable statistics on the incidence, extent and coverage of the 'Closed Shop' in Ireland's private sector industries. Traditionally Irish trades unions have sought employer agreement to the introduction and/or maintenance of 'closed shop' membership

agreements as part of their collective bargaining portfolio. There were periods in recent history when agencies of the Irish state were supportive of such arrangements being made by unions with FDI start-ups. This 'policy' has changed. It has been argued that the existence and operation of a 'closed shop' affects the nature of the relationships between employer & union, union & member, and employee & employer viewed through the lens of a number of different literatures and disciplines. With the decline of 'traditional' industries and the change in State agency / FDI policy, the effects on union density can be contemplated. Do Irish trades unions know what the affects of Irish compliance with the terms of Article 5 would have on their membership levels? Have Irish unions examined the experiences in other jurisdictions. What steps have Irish trades unions taken in advance of compliance with Article 5?

THEME 3 CENTRALISATION OR DECENTRALISATION OF INDUSTRIAL RELATIONS IN LARGE DIVERSIFIED FIRMS.

This research question addresses how industrial relations are managed in large diversified organisations. These organisations can be either multi-national or have multiple site locations of a headquarters/parent company. The question is whether firms centralise responsibility for IR in the parent company/headquarters or devolve responsibility for IR to subsidiaries or regional offices/plants.

In the context of multi-national firms, to what extent are the industrial relations practices of MNC's controlled by the parent company and to what degree does country-of-origin of the parent and their business system influence this. Ferner has argued that the extent to which MNC's are likely to transfer country-of-origin practices to their subsidiaries has been linked to the host country environment. Will subsidiary MNC's from different countries located in Ireland manage their industrial relations practices differently?

Alternatively, how do large divisionalised organisations- public and private-in Ireland manage their Industrial Relations: Do they control the practice of industrial relations from their headquarters or do they devolve responsibility to the branches or regional offices. If they do devolve practice, which practices do they devolve and why?

Finally, what is the relationship between the practice of industrial relations and the practice of human resource management in these large diversified organisations? For instance, do firms behave in the same manner regarding the centralization / decentralisation of IR and HR.

THEME 4 BENCHMARKING THE HEALTH OF OUR IR SYSTEM

The traditional measurement of the 'health' of our IR system is person days lost due to official trade disputes as recorded by the IR unit of the Department of Enterprise Trade & Employment in conjunction with the CSO. It has been suggested that this single measurement is simply too narrow and therefore inadequate to act as the basis of capturing the health (or ill health) of our IR System.

Some other indicators that have been suggested and include:

- Incidence of unofficial action
- Acceptance /rejection rates of Labour Court Recommendations by the parties
- Total Third Party referrals per head of labour force
- Notice of industrial action by Unions without exhausting procedures
- Precipitative action by management without exhausting procedures
- Adherence to NWA's

The focus of this project should be to identify a comprehensive framework of indicators (from among the foregoing and to identify suitable others) that in combination assist in informing policy makers and IR Practitioners on the health of our system and facilitate the tracking of changes over time. The project should encompass a review of literature, and the identification of international best practice within a range of developed economies. It should also include a series of structured interviews with key players in the IR System to canvass opinion and determine the likely validity of the suggested portfolio of indicators.

THEME 5 IN-HOUSE COLLECTIVE EMPLOYEE BODIES OR COMMITTEES

A Project to explore the extent and nature of, and outcomes of, internal collective employee committees within companies. 'In-house' or internal company employee bodies have attracted considerable attention in recent years due to a number of significant cases related to the Industrial Relations (Amendment) Act, 2001 and the Miscellaneous Provisions Act, 2004. (These Acts allow trade union members in non-union companies to be represented by a trade union at the Labour Court (once they pass a number of criteria), where they may secure a binding decision on whatever issues they raise at the Court hearing.)

It has been argued, for example, in a recent case involving Ryanair and its pilots, who are members of the IMPACT trade union, that an in-house elected employee representative committee (ERC) can have the same status as an 'excepted body' under the Trade Union Act, 1941. The Supreme Court, when it investigated the case found that such employee committees, if they are recognised by an employer for internal collective bargaining purposes - and they operate in a 'fair and reasonable' manner - may indeed have the status of an excepted body. The impact of this finding suggests that research into such in-house employee bodies is needed to establish the extent to which they may be prevalent in industry, what role they play, how they are constituted and how they operate.

The EU Information and Consultation Directive, enacted under the Employees (Provision of Information and Consultation) Act 2006, provides for the establishment of internal employee or works councils across a wide swath of industry, with the number of firms affected by the legislation set to increase in the years to come. The Supreme Court finding in the aforementioned Ryanair case may also have implications for these councils. They could, for example, be adapted to include a form of in-house collective bargaining within their overall ambit, thus moving beyond their 'information and consultation' remit. This could have implications for how companies conduct employee relations; in regard to the terms and conditions of employees concerned, and; on the ability of trade unions to organise in traditional ways.

From the available evidence, such as Labour Court hearings and reports in various specialist journals, it is evident that such employee bodies have always existed in Irish industry and are now likely, particularly due to the impact of the information and consultation Directive, to increase in number. The impact of the Supreme Court judgement in the Ryanair case may also trigger an interest within companies in enhancing the role played by existing internal bodies. Related issues raised by the growth of such bodies, include the possible impact on already declining private sector trade union density levels, and the possible extension of partnership initiatives being introduced 'downwards' through these councils.

Note on research methods: There is a need for an overarching study of such internal company bodies would be a fertile area for a research project, as well as being timely and relevant to industrial relations practitioners. Little is known about the dynamics of these bodies, particularly in the non-union sector.
This research project could include:

1. Case studies: there is a pressing requirement for in-depth case studies to explore the nature and outcomes of internal employee bodies.
2. Survey: quantitative survey focussing on the extent of in-house collective employee committees building on previous survey materials.