Irish Business Journal

Volume 11 | Number 1 Article 5

1-1-2018

Social Partnership and its Continuities

Brian Sheehan

Social Partnership and its Continuities

Brian Sheehan

Social partnership has long been pronounced 'dead' and buried, lamented by few. But thirty years on from the watershed Programme for National Recovery of 1987, the underlying influence of the 22-year construct is stronger than it might seem. How pay formation in the private and public sectors works today; how management-union disputes are resolved; how employers and trade unions engage; and how the social partners manage key industrial relations issues, all suggest important continuities with the partnership era.

Thirty years ago, the social partners signed a national-level agreement which hinged on a 3-year year pay arrangement, covering the private and public sectors, entitled the Programme for National Recovery (PNR). In return for pay moderation, this programme also included a measure of tax relief for PAYE workers, largely ensuring industrial harmony after a period of high strike activity in the 1980s.

The PNR was first of eight social partnership agreements, stretching from 1987 to 2009 when the final 'Transitional Agreement' collapsed under the weight of the fiscal and economic crisis, which the country only emerged from with gusto after 2014 onwards. While the economy has recovered from this more recent crisis – the second in thirty years - the construct known as social partnership has never been revived. Instead, the whole notion of social partnership has taken a beating from the media and what might loosely be described as the 'commentariat'. Although defended by some former adherents, the political system has tended to shun social partnership as if it were a toxic brand, commenting that 'it went too far', without explaining or examining what is meant by this. Caught up in some of the more hysterical commentary during the worst crisis years (2008-2012), the reputation of social partnership has been left in tatters, and with few defenders. Many trade union leaders did defend it, as did some on the employer side, but given the tide of opinion flowing in the other direction, this defence was never full-blooded.

Unbeknownst to its more trenchant critics, however, there are strong continuities between the social partnership years and how industrial relations and pay negotiations are carried on today, in both the private and public sectors. There are also obvious discontinuities, such as the absence of an overarching pay deal for both private and public sectors. These national-level pay deals used to be 'policed' by the social partners and the state's dispute resolution agencies. The absence of an all-encompassing agreement is perhaps most starkly evident in the spate of public transport disputes in recent years, which could never have occurred during the partnership era, simply because those pay deals were 'nailed down'.

No major union or employer was able to breach the social partnership pay agreements during the partnership era, albeit with one significant and consequential exception, namely, the nurses in the 1997. They secured a deal that ultimately led to the Public Service Benchmarking Body and the collapse of what was then known as the 'grade restructuring' approach to public service pay reform.

Self-Policing

The social partnership agreements had their own ‘policing’ system, patrolled not least by the trade unions. Unions wouldn’t openly criticise a fellow union that prosecuted a dispute, but their silence was usually deafening if a particular strike was seen to go against a national social partnership agreement. Their influence was made known via tripartite bodies like the old Employer Labour Conference, or the more ad hoc National Implementation Body. These bodies were usually able, to either stop disputes in their tracks, or ensure that no local deal would breach the terms of the national agreement in question.

This approach is continued today in the public service agreements (Croke Park, Lansdowne Road, etc) between the Government as employer and public-sector trade unions. These multi-year agreements also include an innovation in the form of voluntary binding arbitration in the public service that replaces the self-policing approach of the social partnership years. The commitment to binding arbitration in the event of disputed issues, starting with the Croke Park Agreement, has received little attention. When was the last industrial action in the public service over a centrally agreed pay arrangement, apart from that involving the ASTI in 2016? Moreover, that dispute came from outside the Lansdowne Road Agreement, because the ASTI hadn’t signed up to the pact. Likewise, in the case of the threatened ‘strike’ by Gardai in late 2016, this too arose at a time when the Garda Representative Association (GRA) remained outside the Lansdowne Road Agreement (2015-2017).

Since the holding of a nationwide one-day strike by all unions before the Croke Park Agreement (2010-2013) was agreed, there has been virtually no action by any of the *signatories* to the various public service agreements over the course of the two retrenchment agreements (Croke Park and Haddington Road) and subsequent restoration agreements (Lansdowne Road and the current Public Service Stability Agreement). In essence, the ad hoc self-governance of the social partnership era in the public service has been replaced by a more formal governing mechanism, in the form of voluntary binding arbitration. Neither have unions raised objections to this self-policing mechanism, voluntarily accepting that disputes are resolved through binding arbitration. They have also been relaxed about where these decisions emanate from; they can emerge from the WRC, from agreed independent third-party experts or from agreed tribunals.

Behaviours learned in the partnership period have, it would seem, been effectively absorbed and given practical effect in the crisis and post-crisis public service agreements, in the form of binding arbitration. This innovation has assisting greatly in maintaining industrial peace at a time of trauma and recovery, as well as accommodating a measure of change and reform. It has also been quietly welcomed by the public service unions, in that it is rarely debated at trade union conference level, despite its importance. Union leaders and officials would acknowledge that it brings finality to issues that might otherwise get bogged down in traditional procedures, freeing up time for more productive representation work.

Looking Back

Looking back, the crisis of the 1980s was, of course, different in character to the recent 2008-2012 crisis. There was no banking crisis in the 1980s, but during that earlier period there was a fiscal crisis, an unemployment crisis (unemployed touched 17%), an inflation crisis (18% at peak), and emigration returned in the 1980s to levels not seen since the 1950s. Moreover, trade union recognition was seen as the norm in the private sector in the 1980s, whereas such arrangements have become more the exception today, mirroring a similar decline in other western democracies. Nonetheless, union density in Ireland, while nowhere near the levels of some Nordic countries (70% plus), is still higher than in countries like Germany, UK, USA and France.

Despite paying lip service to reform, however, social partnership achieved little in this regard, while attempts to change how pay was formed also failed spectacularly. The idea behind the public service benchmarking approach, reviled today, was to address the failure of the previous 'grade restructuring' reform effort. Benchmarking at least did one thing: it ended the old system of relativities and brought everyone up the same position at the 'starting gate', even if the price paid was too high. When the tide went on the economy in 2009/10, benchmarking attracted a good deal of the blame, and by association, so too did social partnership.

In addition, the social partners were seen as being 'too cosy' with Government, a charge that exaggerated the closeness between unions and the political system. There were also charges that the partnership process, underpinned by successive reports from the tripartite National Economic & Social Council (NESC), by-passed parliament. However, there was little interest shown in Dail Eireann in getting involved in the sort of strategising that NESC engaged in.

Haughey Upped Ante

Forgotten today is that in 1987 the unions had been called in and asked by then Taoiseach, Charles Haughey, to give assurances that they would stick to a modest pay deal in all sectors, albeit in return for a measure of tax reductions on members' incomes. Previous national-level deals during the 1960s and late 1970s had failed on this crucial point, partly because the unions had used the basic pay agreements as a platform on which they could build higher pay rises.

These early pre-partnership national agreements certainly didn't match the soaring vision of former Taoiseach Sean Lemass who, post-war, had advocated a radical corporatist approach to the economy. Lemass was not only responsible for the establishment of the Labour Court, he also envisaged "much of what came to pass"[i] in the social partnership period. As Professor Bill Roche has observed, it is startling that "so much could emanate from the mind and imagination of a single politician in an age without 'think tanks', expert advisors and all the associated paraphernalia of the modern political and administrative world".[ii]

In 1987, the employers body, FUE (Ibec today), told Haughey, who was Lemass's son-in-law, that they didn't want a national pay deal because the unions wouldn't abide by it's pay terms. That had been the employer experience in previous such arrangements. According to some accounts, the controversial Fianna Fail leader strong-armed them into a pact, assuring employer leaders that this time the unions would adhere to it. Haughey knew they would, because he and his shadow Labour spokesman, Bertie Ahern, had spent years in opposition cultivating the unions. But the clincher was that the terms of the pay deal on offer were very attractive to employers; they knew they couldn't achieve such a modest arrangement in 'free for all' bargaining. Haughey had been told by union leaders like Bill Attley (FWUI), John Carroll (ITGWU) and Phil Flynn (LGPSU) that a national pay deal would stick. Attley said the unions had been securing high pay rises, but that members' real incomes were falling:

"We were pushing pay up over and above the level of inflation which was at enormous heights and yet, at the end of that period people were 7% worse off than when they had started".

Attley also admitted that the industrial relations environment at the time was poisonous. Some 250,000-man days were being lost per year, "so nobody wanted to invest … there was a genuine feeling of 'last out – turn out the lights'[iii]. A straight forward pay deal for all sectors (a modest 2.5% a year over three years), plus gradual tax relief, led to industrial peace on the pay front. The Government could get on with putting the finances in order, something the previous Fine Gael-Labour coalition had dallied over.

Indeed, Haughey's Finance Minister, Ray McSharry, had forged ahead with deep cuts even ahead of national talks on the new pact with the unions and employers. The unions could not be expected to sign up to those cuts, in the same way that they couldn't sign up to pay and pension impositions that were implemented ahead of the Croke Park Agreement 24 years later. Therefore, both the PNR (1987) and the CPA (2010) heralded periods of industrial peace, the tough question of public spending cuts having already been unilaterally made by two FF Ministers, Ray McSharry in the earlier period - and in the more recent crisis, by Brian Lenihan.

In both cases, from the unions' perspective, it was easier that the cuts were made before the agreements were negotiated, for the union side could never be seen to formally assent to such draconian measures. This was pragmatism writ large, and while this approach had its critics, the result in each period was a faster than anticipated recovery.

Major attempts by some groups to challenge those early partnership pay deals (PNR and PESP) in strong union bastions like ESB and the main banks were seen off in the early 1990s. There would be no breach in the dam for the first 15 years or so. Not only did the state agencies like the Labour Court (and later the LRC, now WRC) play a key role, so did the main union and employer bodies themselves. This is where self-policing started, for self-interested pragmatic reasons, and we see something similar today at play in the public service, a critical and largely unrecognised continuity between the two eras.

"Substantial People"

Social partnership mightn't have created the Celtic Tiger that followed, but it certainly accommodated business in providing something investors crave - pay and industrial stability over a long-extended period. These deals stuck, in a way that previous deals hadn't, and strike action became a rarity. The role played by union leaders like Peter Cassells (ICTU), John Carroll (ITGWU), Bill Attley (FWUI) and Phil Flynn (LGPSU) was acknowledged by a long-line of senior employers. Take these comments by former IBEC director general, John Dunne, looking back twenty years on from that first 1987 agreement:

The same people if they hadn't been in the trade union movement, would have been CEOs of some of Ireland's biggest companies ...they were substantial people ... they demonstrated very significant leadership qualities .

The pay arrangements and attendant industrial stability achieved in the private sector seem to have been largely forgotten today. This may be because in the private sector, while we have moved from centralised bargaining to local bargaining, it has remained largely peaceful.

Underlying Similarities

When it comes to pay, there are critical underlying similarities between the two periods, which demonstrate that the pay stability of the social partnership years remains solid, though of late some voices on the employer side[v] are starting to raise concerns that without a more formal structure, we could be in danger of damaging our competitiveness. Coverage of private sector pay deals in Industrial Relations News (IRN), plus a related forensic analysis by Professor Bill Roche and Tom Gormley of UCD, show how the trade unions set their sights post-recovery on achievable pay rises[vi]. Led by the SIPTU Manufacturing Division, these demands were pitched at 2% (known as the '2% strategy'), a level that would 'travel' through manufacturing, slowing spreading onwards to services, retail and so on. The 2% strategy is now a thing of the past. In late 2016, the ICTU private sector unions pitched in with a figure of around 4%, but this was nothing more than a distraction on the ground, where pay deals edged up past 2.5% towards 3%. Ibec's survey of pay deals in November (2017) averaged out rises at about 2.2%; with an IRN-CIPD (Chartered Institute of Personnel Development) survey suggesting the level might settle around the 2.5% mark.[vii] Meanwhile, in May of 2017, the Public Service Pay Commission, established to advise government on public service pay in the lead-up to negotiations on the current PSSA agreement, used a mixture of IRN-CIPD and CSO data, to observe that pay increases in the private sector had ranged between 1.5% and 2.5% annually in recent years.[viii] The move away from a set figure of 2% and toward, but not reaching, an ICTU 2017 guided 3.1% basic rise (December 2017), has not upset the industrial climate in the private sector, not even in the semi-states. The ICTU private sector committee updated their pay target to include "compensation for the excessive costs" of housing, childcare and pensions, "in addition to a minimum pay increase of 3.1% to take account of normal productivity and cost of living factors". Ibec called the claim "wildly unrealistic" but there has been little evidence that the ICTU 'pitch' has had much of an effect. By February 2018, however, a greater proportion of pay agreements were being made for 2.5% or more compared to the previous year, with only a minority moving beyond that range. This modest upward movement reflected the continued improvement in the economy, and the tightening labour market as unemployment hovered at just over 6%.

The commercial semi-state companies have also been remarkably peaceful post crisis, except for the obvious stand-out exception of the public transport entities in the CIE group (Dublin Bus, Irish Rail, Bus Eireann), and the Luas tram service, a public service operated by a private contractor. The semi-states are in an interesting position, post social partnership. For some commentators it came as a shock to be told during the crisis that these companies (e.g. ESB, RTE, daa, Coillte, IAA) had been regarded as part of the private sector for pay purposes during the partnership years. The reason was simple: they were required to operate commercially, and they were no longer allowed get a 'leg up' from the state. They would also have to adopt the sort of IR and HR practices common to the private sector, which they have done, over time.

Fashioning Solutions

In an unexpected development, no fewer than four semi-states in the post-financial crash years have developed, in cooperation with their trade unions, some form of internal dispute resolution mechanism or tribunal. Prior to 2009, only the ESB and RTE had internal industrial tribunals tailored to their own circumstances. This pair has now been joined by Bord na Mona, daa (the Dublin Airport Authority), Coillte and the IAA (Irish Aviation Authority). When social partnership collapsed, these semi-states lost their moorings, and they were prey to populist demands that pay be cut or frozen, even if some of them could afford to maintain modest rises. From being part of the private sector in industrial relations terms, they were suddenly prey to Ministerial whim. Pay was frozen, and the pay of semi-state CEOs was capped.

As the economy recovered, it might have been expected that industrial action would have been inevitable in these highly unionised entities but, bar the aforementioned public transport firms, this hasn't happened. There can be little doubt that the development of internal tribunals has played some role in this; in each case the level of pay rises has been moderate and in several, performance related pay has become the norm. A quiet revolution has occurred.

In the CIE companies, the recent spate of disputes resembled the 1970s and 1980s, not the social partnership years when there was, by and large, industrial peace in CIE. Competitive trade unionism is a major feature in these CIE companies, between SIPTU and the NBRU, a reality that can engender a tendency to 'bid up' pay offers in a climate marked by battles over seemingly low subsidies. An internal industrial tribunal to help clarify and elaborate on the respective positions of the parties before they arrive at the WRC, or in front of the Labour Court, could help to reduce conflict.

Ultimately, the fact that there is no social partnership agreement has been compensated for in industrial relations terms in most of the semi-states, but the absence of a national agreement remains keenly felt by transport users nationwide.

Systematic Approach

Returning to the public service proper, which covers 320,000 public servants, including teachers, nurses, doctors, gardai, local authority staff, civil servants and the defence forces, they may no longer have the security of a social partnership arrangement, but what they do have in the post-crisis public service agreements is a formula for pay restoration, and a dispute resolution system. This means that many of the certainties that partnership provided are, in effect, replicated under the new government-public service union agreements. They now also have a Public Service Pay Commission, which is approaching – in a structured way – thorny issues like recruitment and retention and pay equality for new entrants. This systematic approach promises a peaceful resolution of these issues. Any union attempting a 'solo run' won't be tolerated, another continuity from the social partnership era.

There has also been more real progress on reform than in the past, although it is on the industrial relations end of the change ledger that the more substantial achievements have been made: a new public service pension scheme; new sick pay and annual leave schemes; extra unpaid working hours; and the elimination of a number of what are, arguably, anomalous allowances. There will be plenty of debate and demands for 'rollback' in relation to these changes, especially on the working hours and allowance issues, but there is in place now a tried and trusted binding mechanism to deal with them if they cannot be addressed in national-level negotiations.

Powerful Continuities

Looking back, it is no surprise that there are powerful continuities between the social partnership and post-partnership eras. Even though there is now free collective bargaining in the private sector, today's behaviours are informed by the successful response to the crisis of the 1980s. What is the point in trying to break pay norms in one or two high profile firms, rather than make steady progress across a spectrum? Conflict can put off investors; what is required is a balancing act. SIPTU, which represents a generality of workers, knows this. If it pushes too hard, too fast, this may rebound as it did in the 1980s. If there are specific downward pressures on pay, as happened on previous occasions (e.g. currency crisis, financial crisis), these can be accommodated at plant level in the interests of maintaining jobs and investment. Likewise, the public service has shown in the crisis that it too can live with retrenchment - as long as there is a route back to better pay and conditions.

Writing back in 1973, at a time when strike activity was at a level that is unimaginable today, that doyen of industrial relations commentators, Charles McCarthy, suggested that in Ireland we suffer from "an enormous poverty of perspective". That has certainly changed, partly perhaps because of social partnership but also through a growth in economic literacy through an understanding of how business works. It is something Sean Lemass would surely have welcomed. Charles McCarthy also lamented the lack of an institution where "wider strategies can be jointly considered and jointly recommended". It is this sort of body that both Ibec and ICTU have been suggesting of late that could be useful to discuss issues common to both, a place where they might arrive at a broad consensus on key policy areas. It might also usefully discuss broad guidelines on how pay is managed, without being overly prescriptive.

With pay expectations heating up at a time of uncertainty due to external factors largely beyond our control, such a forum could be far more useful than an occasional ‘talking shop’, like the annual national economic dialogue (NED). These days almost no-one is proposing a return to social partnership, although the Irish Times columnist, Fintan O’Toole, did just that in a presentation at an industrial relations conference in Dublin late last year[ix] .

How private and public-sector pay are managed locally and nationally remains crucial for stability. The behaviours that helped moderate pay during the partnership years are still evident in the conduct of collective bargaining in the private sector and in the gradual approach to pay restoration throughout the public service. Meanwhile, outside of these two ‘bedrock’ issues, and because of the scale of the external and internal challenges facing the country, there is certainly a need for something more substantial than the lip service currently being paid to social dialogue. A more structured forum could help develop a consensus around how to manage the sort of big issues that, if not addressed, could ultimately threaten our relative political and social stability.

---

[i]Professor Bill Roche, Countess Markievicz Memorial Lecture, 2008.

[ii]Roche, Markievicz lecture, 2008

[iii]Attley quoted in ‘Saving the Future’, Hastings T., Sheehan B. & Yates P., Blackhall, 2007

[v]John Dunne quoted in ‘Saving the Future’, 2007.

[vi]‘Private sector pay will drift in the absence of a ‘settled pay policy’, McGinty Brendan, in IRN 43 - 23/11/2017

[vii]‘The advent of pattern bargaining in Irish industrial relations’, Roche WK and Gormley T., in IRN 38- 19/10/2017.

[viii]IRN-CIPD pay survey: 2.5% expected to be average rise, but caution is evident’, in IRN 12 - 23/03/2017http://paycommission.gov.ie/

[ix]Social Partnership may be only way to meet challenges facing country conference told, in IRN 44-17 (this issue)