

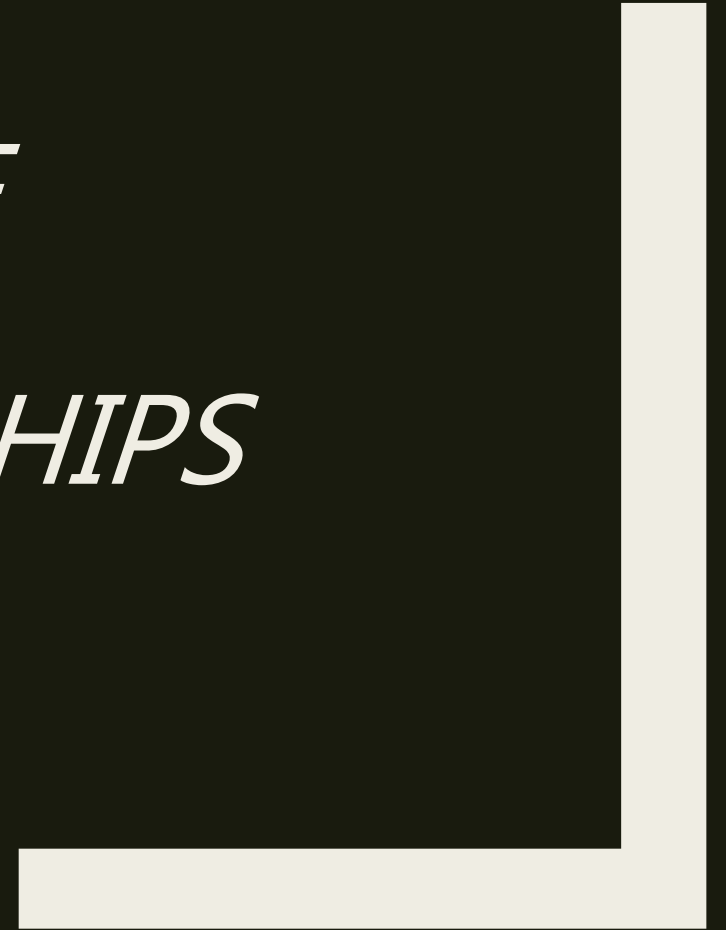


HOW UNIONS ARE RAISING  
WAGES AND TACKLING INCOME  
INEQUALITY IN IRELAND'S  
PRIVATE SECTOR

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*INHERENT INEQUALITY OF  
BARGAINING POWER IN  
EMPLOYMENT RELATIONSHIPS*



# Tony Wedderburn QC (1986) **The Worker and the Law:**

*“the common law assumes it is dealing with a contract made between equals, but in reality, save in exceptional circumstances, the individual worker brings no equality of bargaining power to the labour market and to this transaction central to his life whereby the employer buys his labour power”*

## Kahn-Fruend (1984) **Labour and the Law:**

*“...an act of submission, in its operation it is a condition of subordination, however much the submission and the subordination maybe concealed by that indispensable figment of the legal mind known as the “contract of employment” ...”*

# Why workers need unions

Despite the enactment of legislation to deal with worker protection, the inequality of bargaining power remains the enduring feature of the industrial landscape in Ireland

Unions help equalize the relative power imbalance in bargaining power



# State's role in industrial relationships

Absent the countervailing influence of independent trade unions and collective bargaining, the only other bulwark against the inequality of bargaining power in the workplace is the role of the State in statutory regulation of the protection of workers

# Sean Lemass, Minister for Enterprise, 1935

*"The whole purpose of the series of measures which we propose to institute in relation to all occupations, where undesirable exploitation of labour might occur, is a machinery for the regulation of working conditions, which will prevent abuses, and which will enable the State to exercise a general supervision over these conditions of employment. It is recognised in all countries at the present time that it is necessary to have such legislation and that the State must exercise the function of maintaining supervision over conditions in which its citizens are employed."*

Dáil Debates on Conditions of Employment Bill 1935-Second Stage-15<sup>th</sup> May 1935)



# State's role in industrial relationships

- 1946 Industrial Relations Act made specific provision for Joint Labour Committees
- In effect, the 1946 Act gave a substitute for collective bargaining in certain industries or an underpinning of collective bargaining at national level in industries with a propensity for exploitation and low levels of trade union organisation
- The JLC mechanism affords workers and employers in the industries covered the best available opportunity to bargain collectively on the appropriate wage floor and statutory conditions for their particular industry
- Take wages out of competition

# High Court ruling (2011) - JLC system unconstitutional

- On 7 July 2011, the collective bargaining landscape for low paid private sector workers in Ireland changes utterly
- John Grace Fried Chicken and the Quick Service Food Alliance (representing a group of fast food outlets) v. the Catering JLC
- The restaurants argued that the JLC system was unconstitutional, unfair and breached their property rights
- The State defended the JLCs as legally sound and reasonable in protecting the rights of low paid workers.
- Mr Justice Kevin Feeney found the JLC system unconstitutional
- Ibec welcomed this decision saying, "the entire JLC system is an anachronism and should be abolished"

# Current state of JLC system

- Restored by legislation on constitutional basis in 2012
- JLCs established for Contract Cleaning, Security, Hairdressing
- However, employers vetoing in Hotels, Catering, Retail and Agriculture
- Despite their refusal to participate in the state's JLC system, hospitality employer enjoy massive state subsidies, not in preferential VAT rate
- Employers pursuing low pay, casualised workforce labour strategy, subsidised by the tax pay in the form of social transfers

# Contract Cleaning Employment Regulation Order – c.30,000 workers

- New national agreement came into effect 26 December 2016
- Cumulative pay increase over the 36 months of the agreement is in excess of 10%
- An end to deductions for uniforms
- Advance notice of rosters
- Statement of terms and conditions in a transfer situation
- New policy on wage shortages
- Virtually no media coverage

# Private Security Employment Regulation Order – c.17,000 workers

- New national agreement came into effect on 1 June 2017
- Cumulative pay increase of 8.4% over 3 phases
- In excess of current Living Wage (€11.50 p.h.) by 1 June 2019 (€11.65 p.h.)
- Ban on zero hours contracts – new statutory minimum of 24 hours p.w.
- Improvement in sick pay benefit and qualifying criteria
- Introduction of one day's bereavement leave
- Employee rights to statement of T & Cs in advance of transfer 30 day notice
- Agreement of the employers to apply the monetary increase to all Security Officers who are on a rate of pay above the minimum ERO rate

# SIPTU collective bargaining in the Services Sector

- 140 collective bargaining agreements on pay and working conditions in 2015 and 2016
- Bargaining coverage – approximately 60,000 workers in transport, distribution, warehousing, retail, print, broadcasting, entertainment, leisure, hotels, catering, cleaning, security
- Main issues at the bargaining table – restoring pay, increasing pay, fighting casualisation, increasing working hours, providing certainty of working hours and rosters, equalising pay and conditions, protecting occupational pension coverage

# Campaigning for legislative change

- Freelance workers
- Zero Hours / If and When Contracts / Involuntary low working hours
- Post-Clerys tactical insolvency
- Apprentices
- Pensions



Thank you

