Symposium Proposal for Track 4: Regulating employment in Europe – processes, actors and governance

Title: Workers’ Collective Direct Action Responses to Redundancy in European Union Economies

Symposium Convenor:
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Labour struggles against mass redundancies in France: how to understand direct action?

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Warning: This is a very first draft. The second part and the conclusion still need to be translated and reworked.

Several disputes against restructuring, mass redundancies and site closures have received considerable media attention in France over the last two years. Their radicalism and duration were often pointed out as a paradox in a context where official measures showed a general decline in collective conflicts and a tendency towards the individualisation of demands focused on appealing to the courts.

The argument we are aiming to develop in this paper is that the situation is not so paradoxical, considering the nature of labour conflicts. These last are always a mix of individual and collective action, legal and direct action. Occupations, sit-down strikes or blockades are often parts of action processes and are more or less likely to happen depending on a large range of factors: efficiency of collective bargaining, prospects on the local labour market, union ability to organise actions.

In the first part of this contribution, we will thus compare a range of data from different sources in order to approach the complex reality of labour conflicts. We will then turn, in a second part, to a case study that allows us to approach the interaction between different aspects of collective action against mass redundancies¹.

I – An overview on labour conflicts in France

Until recent years, for reasons that have to do with the types of labour disputes which arose during the 30-year post-war boom period, as well as with the political agendas of those in power concerned with pacifying labour relations, the official measurement of labour conflict was mainly performed through an indicator established by the civil service departments dealing with labour issues: individual days not worked due to strike action (in French, Journées individuelles non travaillées pour fait de grève or “JINT”). This indicator has constantly declined since the 1970s. The Ministry of Labour counted 3 million JINT in the private sector at the end of the 1970s, but only 250,000 to 500,000 JINT in the middle of the 1990s. Only the period between 1995 and 2003 and probably the year 2009 represented shifts from this declining trend in open labour conflicts. The number of national strike days and inter-sector strike actions which exceptionally increased during those years concerned essentially the public sector and major public sector enterprises. Many observers deduced from this that labour conflict was on the decline and only existed in large companies and in public sector enterprises.

¹ These data were produced during the research project CAMS funded by the European DG employment.
However, this analysis is not shared by all. In their book, Sophie Béroud et al draw attention to the fact that labour conflict often focalises on strike action, and even a certain form of strike action (pp. 12-21). They note that the use of the JINT as the only indicator for measuring labour conflict obliterates all other forms of protest, such as petitions or demonstrations, for example. They also expressed scepticism concerning the listing of real stoppages—work stoppages of a few hours at the most—which were targeted as separate statistics during the 1980s and which are currently counted as a part of JINT. According to them, the scope of investigation covered by the official statistical monitoring system constitutes a major bias. Until 2001, the counting of the JINT covered the whole of the private sector apart from agriculture, as well as public sector and nationalised enterprises. In 2003, it was reduced to only the private sector, apart from agriculture. Data relating to the transport sector, EDF (Electricité de France), la Poste and France-Telecom were therefore excluded and counted according to other rationales. Another pitfall resides in the JINT counting method. Identifying JINT from day to day depends on data sheets notifying the beginning and the end of the dispute transmitted by labour inspectors to their supervisors. However, as Sophie Béroud and authors point out, no legal rule obligates the inspectors to fill out these notification forms. As a result, the number of disputes, which varies in time, is largely underestimated.

Many collective labour disputes are therefore finally ignored. A recent survey conducted by the French Ministry of Labour shows that after having taken into account other forms of action over and beyond the two days of strike action, the propensity for collective disputes has intensified during the last decade. The RESPONSE² survey changes the angle of study concerning conflict: it does not focus on days of strike action but on "establishments involved in conflicts". The survey lists the different forms of collective action. It differentiates a strike of two days or more from a strike of less than two days. It also makes a distinction between temporary forms of strikes, such as work stoppages or go-slows and other forms of protest such as demonstrations and petitions. It also seeks to define the different forms of individual action such as absenteeism, tensions and incidents. Lastly, it makes it possible to deal with forms of protest at the crossroads between collective and individual action, such as refusing to work overtime and disputes filed with the labour courts.

Taking into account all of these indicators revealed an increase in the volume of labour disputes in establishments for the years from 2002 to 2004. In 30% of establishments, the management acknowledged that at least one form of dispute had occurred between 2002 and 2004. This proportion was only 21% between 1996 and 1998 (Béroud et al., 2008, p. 29). This increase, equally noted from answers provided by staff representatives, concerns all sectors. It contrasts with the decline in the number of JINTs recorded in the statistics, from 999,400 JINTs for the years from 1996 to 1998, down to 665,300 JINTs for 2002-2004. All forms of dispute therefore do not evolve in the same way. The increase in the proportion of establishments with disputes without work stoppages (+ 6.9 points) is much more pronounced than that of establishments

² The RESPONSE survey, designed and conducted by DARES, the Ministry of Labour Department of Research, is the only quantitative instrument that makes it possible to describe the manner in which the employee representation bodies operate and interact within companies and to assess the respective roles the employee and employer’s organisations attribute to them in practice. The question concerns the presence and the nature of the bodies representing employees, the organisation of negotiations and the entering into of collective bargaining agreements, the existence of labour conflicts and the perception of labour relations. Similar to the British WIRS-WERS survey, RESPONSE is widely recognised both in France and abroad as can be seen by the numerous (over 60) publications issued after the two first rounds of the survey (1992 and 1998).
having experienced collective disputes with work stoppages (+ 2.4 points). In addition, the frequency of short work stoppages has increased, whereas the number of strikes of more than two days is the only type of action to have slightly declined between the two periods studied.

**Changes in the forms of disputes declared by management representatives between the periods of 1996-1998 and 2002-2004**

<table>
<thead>
<tr>
<th>Dispute with work stoppage</th>
<th>1996 - 1998</th>
<th>2002 - 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strike of more than 2 days</td>
<td>3%</td>
<td>2.5%</td>
</tr>
<tr>
<td>Strike of less than 2 days</td>
<td>7.5%</td>
<td>8.8%</td>
</tr>
<tr>
<td>Work stoppage</td>
<td>7.5%</td>
<td>10%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dispute without work stoppage</th>
<th>1996 - 1998</th>
<th>2002 - 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Go-slow</td>
<td>1%</td>
<td>1.2%</td>
</tr>
<tr>
<td>Work to rule</td>
<td>0.9%</td>
<td>1.5%</td>
</tr>
<tr>
<td>Refusal to work</td>
<td>3.2%</td>
<td>9.6%</td>
</tr>
<tr>
<td>Demonstration</td>
<td>4.9%</td>
<td>6.7%</td>
</tr>
<tr>
<td>Petition</td>
<td>8.5%</td>
<td>10.6%</td>
</tr>
<tr>
<td>Other forms</td>
<td>1.8%</td>
<td>3.8%</td>
</tr>
</tbody>
</table>

Scope: All establishments with 20 or more employees (amounting to 125,000 establishments). Sources: Survey results between 1998 and 2004. Data presented by Alexandre Carlier and Elise Tenret, Première synthèses No. 08.1, February 2007.

As all of these data were obtained based on statements from three types of players, it is important to note that the perception of what represents "labour conflict" is different depending on who is involved and the type of dispute. Indeed, employee representatives and employees themselves declare a proportion of collective disputes with an equivalent amount of work stoppage, whereas the management reports a much lower figure. As for collective disputes without work stoppages, employee representatives declare that more occur than employees and management representatives do (table above). The differences are more when conflicts are not very visible and/or limited to one sector, to a workshop or a category of the staff.

**Conflicts according to...**

<table>
<thead>
<tr>
<th>% or employees concerned</th>
<th>According to management</th>
<th>According to employee representatives</th>
<th>According to the employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour dispute with strike action</td>
<td>34.8</td>
<td>43.8</td>
<td>43.2</td>
</tr>
<tr>
<td>Labour dispute without strike action</td>
<td>39.7</td>
<td>57.3</td>
<td>38.8</td>
</tr>
<tr>
<td>Total</td>
<td>50.7</td>
<td>63.3</td>
<td>50.1</td>
</tr>
</tbody>
</table>

Interpretation: According to the statements of the management representatives, 34.8% of employees work in an establishment that has experienced at least one work stoppage (strike or stoppage) during the last three years.

3 The three parts of the survey (management, employee representatives, employees) provide three combined samples: management representatives surveyed correspond to the representative in charge of labour relations in 125,200 companies employing 20 employees or more in the non-agricultural trade sector; employee representatives correspond to the representative of the organisation or the list having a majority in the 98,050 companies that do have a body to represent employees; the employees correspond to the 8,340,000 employees that have been in these companies for more than 15 months.

4 Concerning the constitution of the sample, see previous note.
Scope: All establishments with 20 or more employees having an employee representative (amounting to 98,050 establishments).
Source: REPONSE survey 2004-2005 (“Management Representative”, “Employee Representative” and “Employees” Divisions), Dares. Table presented by Alexandre Carlier and Elise Tenret, Première synthèses No. 08.1, February 2007.

Finally, only some of these disputes led to court action. The courts approached depend on the way the petitions are formulated by the parties themselves, bearing in mind that a given case may involve a collective claim as well as individual claims. However, the distribution of labour disputes between the different courts of first instance in France shows a marked preference in favour of our “Prud’hommes councils” or labour courts. During the period from 1993 to 2003, the labour courts heard on a constant basis more than 97% of all cases. The first instance courts (in French, tribunaux d’instance) dealt with approximately 1.5% of cases and the Tribunaux de grande instance (first instance court hearing more important cases) with less than 1% in 2003.

During the entire period from 1993 to 2003, the number of cases brought before the labour courts remained relatively stable (214,874 cases in 2003, compared to 224,158 in 1993, or 0.4%), after having experienced a peak in growth at the beginning of the 1990s. It then tended to decline, with 192,000 cases in 2007 and then 202,000 cases in 2008. According to the specialists questioned, these variations may be analysed in the light of the history of the institution itself. A strong increase in cases being submitted to the labour courts was recorded at the beginning of the 1980s. But this was partly due to the development of the labour court system which was mainstreamed throughout the country in 1979 via the law for the “generalisation of sectors of activity and territories for labour courts”. At the beginning of the 2000s, the development of labour courts seems to have ended and the variations recorded may since be explained by other aspects linked to the labour context and the implementation of new rights for employees.

5 The French Conseil des prud’hommes or labour court is the only court having jurisdiction to settle individual disputes relating to the employment, performance and breach of employment agreements. The labour court has a two-fold mission of conciliation and in the alternative, judgement.
6 In order to take into account the increasing number of these series of cases, a new regulation was introduced in 2008 regarding labour disputes in the case of redundancies on economic grounds. Articles R1456-1 and R1456-7 now provide that when cases are referred to a division of the labour court by several parties challenging the economic grounds for the same collective redundancy plan, the conciliation bureau requires a joinder of the cases. Conversely, series of cases may most often be generated by collective disputes, but employees will most often be forced to refer to the labour courts themselves for the individual aspects of their dispute opposing them with their employer.
8 193,777 petitions were recorded in 1990.
10 « La crise dope les recours devant les prud’hommes”, Le Monde, 5 November 2009, p.13
"Abusive" or improper dismissal is the main ground involved in disputes brought before the labour courts (73% of cases submitted in 2007). The majority of cases are filed by employees (96.5% of cases in 2007). They obtain satisfaction most of the time (two thirds of the cases presented by employees). But appeals and appeals to the Court of Cassation have tended to increase. Brigitte Munoz Perez and Evelyne Serverin (2005, p. 13) note that appeal courts are involved in labour disputes in ever increasing numbers, from 13.9% in 1993 to 17.5% ten years later. The proportion of labour disputes among all the cases submitted to the appeal courts is also increasing, from 17.6% in 1993 to 24.4% in 2003. In the same way, the number of appeals filed with the Court of Cassation each year - which fluctuated around 6,000 until the year 2000 - has continuously increased, exceeding 8,000 in 2003. From 1993 to 2003, the rate of growth was 25.6%. In spite of a whole series of procedural measures taken for the purpose of limiting the "growing" number of cases submitted to the "Social Chamber" of the Court of Cassation for a final appeal, labour disputes are still mainly dealt with through the court system.

Concerning collective disputes, the labour code provides an official system of conciliation, mediation and arbitration which is quite inefficient according to specialists. Nonetheless, collective labour disputes are relatively well represented before the courts, namely in summary proceedings when employees occupy corporate premises or stage sit-ins. For example, in 1999 and 2000 respectively, there were 2,319 and 3,142 specifically localised disputes (...). Those same years, the courts heard a total number of cases on the merits and in summary proceedings of 397 and 483 cases, representing 17% and 15% of the labour movements identified. Conversely, collective redundancy programmes (in French, "plan social") were only rarely referred to the courts. In 2003, there was a maximum of 121 cases (heard on the merits and in summary proceedings) for a total of 1,375 redundancy programmes presented in the same year, representing a rate of 8.8% of cases. As for the many aspects of collective bargaining, cases involving these issues were only rarely brought to court (190 cases in 1993, 199 in 2003), whereas collective bargaining activity was quite intense throughout the course of the period, namely with the introduction of the 35-hour working week

<table>
<thead>
<tr>
<th>Changes in cases heard on the merits and in summary proceedings before courts by type of case between 1993-2003</th>
</tr>
</thead>
<tbody>
<tr>
<td>Petition to rule on the merits</td>
</tr>
<tr>
<td>Representation of employee interests</td>
</tr>
<tr>
<td>Collective labour disputes</td>
</tr>
<tr>
<td>Collective bargaining</td>
</tr>
<tr>
<td>Labour disputes (no other details provided)</td>
</tr>
<tr>
<td>Total</td>
</tr>
<tr>
<td>Petition for summary proceedings</td>
</tr>
<tr>
<td>Representation of employee interests</td>
</tr>
<tr>
<td>Collective labour disputes</td>
</tr>
</tbody>
</table>

### Table

<table>
<thead>
<tr>
<th>Collective bargaining</th>
<th>89</th>
<th>103</th>
<th>80</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour disputes (no other details provided)</td>
<td>543</td>
<td>333</td>
<td>251</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>947</strong></td>
<td><strong>1003</strong></td>
<td><strong>847</strong></td>
</tr>
</tbody>
</table>


## II – Radical conflicts in France: some elements for interpretation

Radical conflicts increased during the two last year. According to Jean-Marie Pernot\(^{14}\), such disputes are part of a context of poor industrial relations and growing tensions. Since the autumn of 2008, the publication of the pay and bonuses of company chief executive officers (CEOs) has shocked public opinion and especially people working in the many companies that, at the same time, announced closures or staff reductions. Some 150,000 manufacturing job cuts were recorded in the first half of 2009. Few of the closures or staff reduction, if any, were negotiated.

Various demands have been made during disputes. In many cases, it was a matter of negotiating the best possible redundancy payments. In other cases, it was a matter of compelling the contractor to take on board redundancies or even to negotiate the subcontracting enterprise being reincorporated into the contracting company. Disputes – especially in the most radical cases – often achieved results such as the payment of better severance benefits than those provided in the collective agreement or the creation of teams responsible for placing redundant employees.

Jean-Marie Pernot explained that the role of the media has become central in two respects: firstly, disputes need to attract attention in order to have a public impact and win public support to force the state to take action. The media has also played a role in disseminating types of protest action, thus helping each new dispute in its search for suitable forms of action.

In order to better understand the process of radicalisation of actions, we propose to analyse one of the famous cases occurred during the years 2008 – 2009, the Molex company one.


En novembre 2008, les syndicats déposent une plainte devant le juge des référés au tribunal de Grande Instance de Toulouse et auprès du procureur de la République pour délit d’entrave à la bonne marche du comité d’entreprise. En effet, la direction de l’établissement aurait dû fournir les informations demandées dès août 2008 par le cabinet d’expert, d’autant que ces informations concernaient le déménagement d’une activité. Ils obtiennent gain de cause en référé, la Direction est condamnée à fournir les informations demandées.

Néanmoins, la Direction américaine du groupe refuse toujours de communiquer ces informations. Pour motiver son refus, elle invoque la loi fédérale américaine protégeant les activités commerciales. Le 4 janvier 2009, elle assigne le cabinet d’expertise Syndex en référé devant le Tribunal de Grande Instance de Paris afin qu’une date de remise de son rapport définitif soit fixée dans les plus brefs délais.

La remise de la version définitive du rapport d’expertise est, en effet, un préalable à la formulation de l’avis du comité d’entreprise sur le plan social. Or, tant que le comité d’entreprise ne peut pas se prononcer, le plan social est suspendu. Son avis n’étant que consultatif, la Direction a tout intérêt à ce qu’il soit prononcé au plus tôt.

En février 2009, le tribunal de grande instance de Paris déboute la direction de Molex de sa demande, les établissements implantés en France étant régis par les lois françaises. La Direction est, de surcroît, à nouveau condamnée à fournir les informations demandées par le cabinet d’expertise Syndex conformément aux dispositions du Code du travail.

Sur ces entrefaites, les syndicats apprennent par des cadres de l’entreprise que les productions du site de Villemur-sur-Tarn ont été dupliquées dans un autre site, aux États-Unis, la direction ayant ainsi préparé bien en amont la fermeture de l’établissement de Villemur-sur-Tarn. Dès lors, il apparaît de plus en plus clairement que le plan de licenciement envisagé n’a aucun fondement économique et qu’il ne fait que s’inscrire dans une stratégie de réorganisation de l’entreprise. Le parquet, qui avait été saisi en novembre 2008, renvoie l’affaire devant le tribunal correctionnel.

Le conflit se durcit. En avril 2009, les salariés se mettent en grève. Ils retiennent deux dirigeants de l’établissement dans leurs bureaux pendant plusieurs jours.

Le 21 avril 2009 : Une première médiation est initiée par la préfecture et la DDTEFP de Toulouse, pour tenter d’apaiser le conflit. Elle aboutit à la reprise du travail. La Direction accepte en échange de communiquer un certain nombre d’informations, quelle assortit toutefois de clauses de confidentialités.

En mai 2009, le cabinet d’experts Syndex publie son rapport. Il indique d’emblée que les demandes relatives à la communication des éléments prévisionnels du groupe Molex pour ses activités établies avant l’été 2008 n’ont pas été satisfaites.

Plusieurs points ressortent de l’expertise :
- Les performances comparatives des entités de production de la division TPD sur la période 2007 – février 2009 montrent que le site de Villemur génère le plus fort taux de profitabilité, la meilleure efficience des capacités de production et la plus forte contribution par salarié aux résultats.

- La compétitivité de la division, dont la sauvegarde passerait par la fermeture du site de Villemur n'est pas caractérisée par des critères définis, précis et chiffrés. L'essentiel des pertes comptables de la division, actées depuis août 2008 est, de surcroît, concentré sur les sites de Lincoln et Chengdu sur la période analysée.

- Les argumentaires économiques successifs justifiant le projet de fermeture du site de Villemur ne sont pas en rapport avec le niveau des résultats ou des performances passées de ce site. Ce projet s'inscrit dans la stratégie globale de réorganisation du groupe, communiquée en juin 2007, basée sur des projets de « réduction des coûts », de « relocalisation en zone low-cost » et de « réduction du nombre de sites ».

- L'analyse du détail des ventes par site de production (…) montre que plus de la moitié du portefeuille actuel des ventes de l'usine de Villemur a été dupliquée sur le site de Lincoln. Cette décision de duplication (…) a des conséquences majeures sur l'évolution des résultats de Molex SARL qu'il est impossible d'estimer par manque d'information.

Les syndicats saisissent à nouveau le Tribunal de Grande Instance de Toulouse afin d'obtenir les informations manquantes et la suspension du plan de licenciement. Ces dernières pourraient, en effet, permettre aux syndicats de démontrer l'absence de caractère réel et sérieux du plan de licenciement envisagé. Ils obtiennent gain de cause. Le Tribunal de Grande Instance condamne la Direction de Molex à recommencer la procédure d'information du Comité d'entreprise depuis le départ.

Le 5 août 2009, alors que les salariés sont de nouveau en grève, de nouveaux incidents interviennent, durant lesquels un cadre américain du groupe est blessé par des jets d’œufs.

Le 6 août 2009, les cogérants français démissionnent à la suite d’un de ces incidents, laissant la gestion de l’établissement à la direction américaine du groupe. La direction décide de fermer l’établissement.

Le tribunal de grande instance de Toulouse, saisi par l'intersyndicale, juge cette fermeture illégale.

14 Août 2009 : Un médiateur ministériel est nommé par le ministre de l'Industrie (Christian Estrosi).

15 septembre 2009 : Le ministre de l'industrie, annonce la reprise partielle de l'usine Molex et la relance de l’activité industrielle par le fonds de pension américain HIG. Selon lui, cette reprise pourrait permettre la réembauche de 60 à 70 des 283 salariés que compte l’usine. La CGT indique de son côté que le protocole de reprise ne concerne que 15 à 20 personnes avec « 30 à 40 emplois supplémentaires » à terme. Ce plan de reprise aurait été lié à l’acceptation du plan social par les salariés (le Figaro du 16/09/2009).

Le même jour, les salariés acceptent, par 140 voix pour et 74 voix contre, lors d'un vote à bulletins secrets, le plan social de l'entreprise. Ce plan prévoit le licenciement des 283 salariés de l'usine et doit leur permettre de conserver leur rémunération à 100 % pendant 9 mois, de percevoir environ un mois de salaire par année d'ancienneté, ainsi que le paiement des jours de grève de juillet et août et, enfin, de bénéficier de l'intervention d’un cabinet de reclassement durant 15 mois.
Selon les témoignages recueillis par Le Figaro du 16 septembre 2009, le ministre de l'industrie Christian Estrosi, a qualifié le dénouement de positif et a précisé que l'indemnisation des salariés devrait atteindre les 17 millions d'euros (l'ensemble des mesures prises représentant une enveloppe d'environ 30 millions d'euros). Les réactions des syndicats ont été plus nuancées. Le délégué CGT Guy Pavan a déclaré : «On en vient à accepter ce qu'on refusait en juillet». Thierry Bonhour (FO) a ajouté : «En combattant, on a gagné huit mois sur la date des licenciements, et pour l'emploi c'est un peu mieux que rien».

En février 2010, selon le témoignage d'un expert de Syndex que nous interrogé, seuls 15 nouveaux emplois ont été créés afin de maintenir pendant quelques temps la production des produits Molex en fin de vie. Aucun véritable projet industriel n'est envisagé et le site pourrait définitivement fermer ses portes au cours des mois qui viennent.

**Conclusion**

L'augmentation du nombre de conflits avec occupations et actions d'éclat s'inscrit, en France, dans le contexte d'une augmentation globale de la conflictualité. Cette tendance a pu être décelée grâce aux enquêtes du ministère du Travail, portant sur un ensemble d'indicateurs allant au delà du recensement traditionnel des « Journées individuelles non travaillées pour fait de grève ».

La radicalisation d'un certain nombre de conflits, observable au cours de ces dernières années, tient principalement à la forte dégradation de la situation économique dans un contexte où les acteurs en cause sont de moins en moins saisissables. Démunis face à des directions locales ne détenant aucun réel pouvoir de décision stratégique, n'ayant plus rien à perdre, les salariés font sortir le conflit de l'entreprise et le portent devant l'opinion publique. Ils somment l'Etat de prendre position sur un terrain qu'il tend à désérer : celui de l'organisation de l'appareil productif dans les secteurs clés de l'économie.

Au-delà, un ensemble de facteurs peuvent expliquer la radicalisation des conflits dans certaines entreprises plus que dans d'autres. L'existence de syndicats questionnant publiquement les choix stratégiques de l'entreprise, la nature de la décision stratégique prise par l’entreprise elle-même, le déficit de dialogue social ou le blocage du dialogue social à un moment donné des discussions figurent au rang des principaux éléments déclencheurs.

Si les actions radicales débouchent souvent sur une amélioration des résultats obtenus par les salariés et leurs syndicats, force est toutefois que ces résultats ne constituent pas de réelles victoires. Les syndicats et les salariés s’en satisfont comme d’un pis aller. Ainsi, dans le cas du conflit Molex, la première médiation initiée par la Préfecture et la DDTEFP de Toulouse a abouti à la reprise du travail, tandis que la seconde a permis au Gouvernement de faire accepter le plan social de l’entreprise par les salariés.

Force est, toutefois, de constater que ces résultats ont été obtenus par de fortes pressions exercées sur les salariés par la direction de Molex. Celle-ci les a, en effet, privés de leurs salaires à partir du moment où elle a fermé le site, le 8 août 2009. Malgré une procédure en référé pour le déblocage de leurs salaires, les salariés n’ont pu en obtenir le versement qu’à partir du moment où le comité d’entreprise a rendu son avis et où le plan de licenciement a été voté. Dans son rapport, l'inspectrice du travail a pointé cette situation, indiquant que les élus du comité d’entreprise ont pris leur décision sous contrainte.
Par ailleurs, les résultats obtenus vont à l’encontre du respect du droit français et des décisions des tribunaux de grande instance saisis. En effet, la Direction de l’entreprise Molex a fermé l’établissement de Villemur-sur-Tarn et a conduit son plan social sans apporter la preuve du fondement économique de sa décision. Elle a de plus entravé le fonctionnement du comité d’entreprise et, plus largement, des institutions représentatives du personnel sans qu’aucune sanction ne lui soit finalement appliquée. Aucune institution judiciaire n’a pu l’obliger à réouvrir l’établissement en août 2009, bien que la fermeture ait été déclarée illégale. Enfin, l’entreprise a mis en œuvre son plan de licenciement alors que la décision du tribunal correctionnel n’est toujours pas rendue et que le licenciement des salariés protégés a été refusé par l’administration.

Dans le cas étudié, le résultat de la médiation qui a mis fin au conflit ne semble donc que refléter l’état d’un rapport des forces entre une multinationale américaine n’hésitant pas à s’affranchir de toutes obligations vis-à-vis du droit français et des salariés très fortement mobilisés, mais relativement impuissants. Par ailleurs, de l’avis des avocats interrogés, il est fort probable que le conflit connaisse de nouveaux rebondissements à l’issue de la mise en œuvre complète du plan social.
Occupation as resistance: The case of worker sit-ins in the Irish Republic

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Introduction

Since 2008, the Irish Republic has fallen victim to a serious economic malaise. An over-heated economy, driven by a construction and property boom, effectively collapsed. The construction sector, the backbone of the economy for near a decade and accounting for close to 25% of national GDP, suffered a reversal in fortunes as banks were unable to lend and house prices fell. The knock-on effect was unemployment and falling consumer spending. Financial institutions teetered on the verge of collapse as money tied up in bad debts to the property industry was lost. Government finances hemorrhaged as tax receipts from the construction industry collapsed. Added to this was a wider recession in global demand. Irish exports, an important plank of economic growth, progressively weakened, a process exacerbated by a strong Euro and falling growth in US, UK and the Euro-zone. In sum, these developments brought an end to a 15 year-long era of hitherto unseen economic growth in the Republic (Honohan, 2009).

In the industrial relations sphere, the resulting recession sparked a wave of redundancies and firm closures across both foreign and indigenous-owned firms throughout a broad range of sectors. Figures suggest that in 2009, the number of redundancies was at 77,001, an increase of 89.6% over the total in 2008, which itself had been a 59.5% increase on 2007 (Central Statistics Office, 2010). One feature of the trend in redundancies has been the tendency for employers to display hard-line and uncompromising responses (Higgins, 2010). In a number of cases, employers have rejected Labour Court recommendations on severance issues or offered significantly lower terms than in the past or indeed statutory entitlements only.

Although the full picture of worker and trade union responses to employer actions remains uncertain, and no comprehensive data sets exist upon which to draw more generalizable conclusions, indicative patterns are evident. Whilst there is evidence of employee passivity and resignation to redundancy, Irish unions have increasingly challenged employers, not so much on the fact of redundancy itself, but rather on attempting to secure the best possible for members in the form of severance pay and supportive measures. Thus unions have sought recourse to the national Labour Court for recommendations and increases in ex-gratia settlements already offered by employers or some level of enhanced ex-gratia severance payment on top of statutory entitlements (Higgins, 2010). Furthermore, there has been increasing use of strike action (Farrelly, 2010).

Within this context of resistance to redundancy and firm closure, is a noteworthy minority response of an unusual and somewhat dramatic character. This is the use of sit-ins and workplace occupations as an employee tactic to influence employer behaviour on the use of redundancy. This tactic is of long historical vintage, albeit infrequently used. In Ireland there have been several high-profile instances of worker occupations since 2008 occurring in instances where the near total redundancy of the workforce has been proposed by the employer or where the employer has sought to execute redundancy and workplace closure with immediate effect; often with little or no consultation with those affected.
This paper explores the dynamic of worker occupations as have occurred in the Irish Republic in recent years. It asks what are the factors giving rise to such responses and how effective are they in securing workers' objectives. The paper utilizes a detailed case-study of three instances where occupations have been deployed, examining the influences, form and trajectory of such occupations. The paper contributes to re-emerging interest in the phenomena of worker occupation and to knowledge and understanding on why workers might deploy this tactic when face with situations of redundancy and workplace closure (Gall 2010).

The paper begins however by tracing some of the core conceptual considerations for industrial relations scholars around analyzing worker occupations, raising a number of pertinent questions. It then outlines the methodology and case study settings. Following from this are the main descriptive findings. The paper concludes with further analysis and discussion.

**Conceptualizing Occupations**

Sit-ins and factory occupations have a long vintage as tactics of worker resistance in industrial relations. In Italy, after the First World War, a wave of factory occupations in Turin became the centre of what was known as the “two red years” (Franzosi, 1995). Work occupations played a key role in the spread of unionisation across the motor industry in the United States throughout the 1930s (Skocpol et al. 1990), whilst the dramatic Upper Clyde Shipbuilders occupation of 1971–1972 in Scotland not only prevented the yards' closure and secured jobs, but was the forerunner for a subsequent wave of sit-ins across Britain throughout 1970s and early 1980s (Dickson and Judge 1987; Coates, 1981). Commentary however on workplace sit-ins in large measure tends to veer between those who simply dismiss them as a temporary phenomena based on ill-conceived notions of economic necessity (Bruno and Sachs, 1985) and those who contend that they offer serious contributions to worker control and industrial democracy (Sherry, 2010).

Whatever the merits of these respective readings, sit-ins can be more plainly understood as a special form of strike action, of which the implications are no more or less economically ill-founded or revolutionary than conventional strikes. As such, conceptually the phenomena of worker occupations can be considered under the sponsorship of bargaining theory. A prominent aspect of this theoretical genre, at least under zero-sum frameworks, is to view bargaining as a means by which each party can enhance its own interests by inflicting, or threatening to inflict, losses on the other party to the negotiation (Pen, 1959; Cramton and Tracey, 1992). Under the auspices of classic wage negotiations for example, a settlement is likely to be reached at the point where the union considers that the potential gains of declining to accept what is on offer, and pressing for more, fail to offset the estimated costs of strike action. Equally, employers will wish to calculate the point at which agreeing to increased wages is less costly than the alternative prospect of risking a strike. Bargaining is conducted within a zone whose parameters consist of an upper limit beyond which employers will prefer strike or shutdown than to agree to higher increases and a lower limit below which the union will opt for strike action rather than agreement (Crouch, 1981). A core assumption is that of a continuing relationship between the parties, which invariably allows for the expectancy that a settlement will at some point be secured within the perimeter of the contract zone (Flanders, 1970). What each party needs to consider is how short-run losses compare with the possible longer-run gains of undertaking an attempt at coercion. The excepted future gains in turn will depend on each party’s assessment of the other side’s likely short-run loss and willingness to settle.

Applying such frameworks to redundancy scenarios, wherein worker occupations most typically occur, requires a degree of adjustment, particularly so when the threatened redundancies are
'across-the-board' as in the instance of a factory shut-down. An ongoing bargaining relationship cannot serve as working assumption, given that the future existence of the relationship itself is uncertain (Redman and Wilkinson, 2006). The threat of strike action in such a context is inexorably a weak one, for if workers stop work at a site which the employer seeks to wind down, than far from imposing any loss on the employer, workers will be granting the employers preferences. In practice, the position may be more convoluted; for example, where a firm seeks to accomplish a measured rundown of production before complete closure or where the proposed closure or redundancies are only a particular fraction of the extant workforce. Under this scenario, a strike or other form of industrial action may rigorously obstruct management intentions.

The threat of a strike for employers consists in the temporary loss of profits on work which would otherwise have been completed. Its enormity will depend on a variety of factors but particularly on the ease with which the product of such work can be sold. Where there is little demand for the company's product or where it cannot be sold profitably, the threat of strike action tends to become shallow. A sit-in, on the other hand, may represent a more direct form of economic sanction. As Gall (2010: 110) has observed:

In a situation of closure, striking puts workers on the outside of the workplace and this means putting themselves in a weaker position. Thus, striking means standing outside the premises...[it] allows the initiative to stay with the employer.

In the first instance, a sit-in can prevent the transfer of assets such as stocks or plant and machinery out of the workplace (Gall, 2010: 110). Where the employer is in a position to utilize such resources elsewhere or to sell them off, a sit-in, like a strike, imposes some economic loss; this loss may also extend to the increased difficulties of selling off a workplace itself or the site if occupied by workers. In general the extent of this threat will depend on the value of stocks and machinery in the workplace at the time of the sit-in. As Greenwood (1977: 31) notes:

Where their value is close to zero or where the company has been declared bankrupt and put into the hands of a receive, therefore, such a potential economic loss becomes considerably less important.

Secondly, sit-ins or occupations have benefits as a type of protest which can serve a form of pressure on third-parties to bring about a settlement more favourable than would otherwise have occurred. In practice this entails an element of pressure on the state to provide support in concluding an agreement. Where the state is viewed as a body whose task it is to resolve serious economic and social problems, as redundancy and the spectre of unemployment undoubtedly is, this will create pressure on the state to intervene. In effect, the bargaining process is broadened out to become a multi-partite social activity between the workers affected, their employers and various third-parties.

Yet if sit-ins and occupations are so effective in this context than the question must be asked as to why they do not occur more frequently. Clearly many workers faced with redundancy choose not to sit-in and occupy and most redundancy cases reported are notable by the absence of the tactic. Thus, despite the spate of redundancies since late 2008, 2009 and 2010, there have been only very few internationally reported instances of sit-ins and occupations occurring (Gall, 2010). The limited use of the tactic might plausibly be explained by the fact that the demands of organizing and maintaining a sit-in debilitate against its widespread use. It is a tactic which is likely to need to comprehensive management in terms of working out rotas, organizing publicity, raising and distributing finance, transport, meals, deputations and so forth. This is far more
demanding than say a strike, which is principally about inactivity except for those in negotiations or on picket duties. As a tactic therefore, worker occupations are likely to require a degree of mobilization, organisation, involvement and dedication from those most directly concerned which may be difficult to either initiate or sustain. Furthermore, many workers may simply baulk at such tactics in light of their legal status – in many countries occupations are unlawful forms of industrial action infringing on property rights and/or failing to accord with the legal requirements for industrial action i.e. balloting (Wedderburn, 1965). Thus the fact that occupations occur at all, and the factors which initiate and sustain them, is an interesting phenomenon in its own right, meriting further attention.

Research Method

The methodology deployed in the paper uses three case studies of worker sit-ins and occupations taken from the Irish Republic. The cases used are Waterford Crystal, Thomas Cook Group and 4-Homes Superstore. Amongst the seven known occupations which have taken place in the Irish Republic since 2007, these three rank amongst the most high-profile. In Waterford Crystal, a workplace occupation occurred from January to March of 2009. In Thomas Cook, an occupation lasted for a week between July and August 2009. In the case of 4-Homes Superstore, an occupation lasted just under two days. In all three cases the total redundancy, real or highly potential, of all workers and factory closure, rather than partial downsizing of the workforce, was the principal background within which each of the occupations took place.

Waterford Crystal was a long-established indigenous company based in Waterford City, becoming part of the Waterford Wedgwood group in 1986. The company was primarily known for its high-quality crystal. The United States was by far its largest market, and the company was critically dependent on the US economy and thus particularly sensitive to dollar fluctuations. At the time of the occupation in January 2009, the company employed 800 people, but had been subject to progressive and recurring job losses since 2003. The company was considered to be strategically important to the Waterford area, not just in terms of employment, but also in terms of its ability to attract a high influx of tourists. It had a well-established, albeit adversarial bargaining relationship with the trade union UNITE. Union density at the plant was over 90%.

Thomas Cook Group PLC is one of the world's leading leisure travel groups operating under five geographic segments across 21 countries. It is the second largest travel company in Europe and the UK employing over 30,000 employees. In Ireland, the company's main facilities were its High Street operations, employing 77 people alongside its call centre operation employing close to 70 members of staff. The Transport Salaried Staff Association (TSSA) is the only trade union recognized by the Thomas Cook Group. Union density in Ireland was by the TSSA to be at 100%.

4-Home Superstore was a DIY specialist store, selling garden, electrical, paint, lighting and fixtures and fittings. A subsidiary of Reox Holdings, a spin-off company of the large dairy manufacturer, Dairygold, 4-Homes Superstores were based in the South and South Western regions of the Irish Republic. These stores employed 150 employees across 16 sites. Union membership throughout various sites was spread across two unions – the Services Industrial Professional and Technical Trade Union (SIPTU) and Mandate. As a whole, union density across the company varied; some sites appear to have been close to 100%, whilst in others, union membership equated with around half of those employed. In the immediate years subsequent to the occupation, there had been a number of long-standing disputes within the company over issues of bonus payments, the removal of service pay and work re-organisation.
The empirical data used in this paper is generated through documentary analysis and a reliance on quality media reporting across a broad range of sources. A limitation of the data is undoubtedly the lack of primary evidence collected from participating workers and trade unions themselves, although this drawback has been minimized through access to a wide-range of worker and union perspectives as relayed through various media sources. Whilst the data consequently suffers from the lack of first hand primary research, the widespread utilization of these sources has nonetheless enabled the paper to determine the antecedent influences and subsequent trajectory of attitudes and behaviour.

Findings

**Waterford Crystal Occupation**

The background to the Waterford Crystal sit-in emanates from a management announcement made in early January 2009 that the company was formally suspending trading in shares on the Irish stock market and going into receivership. Management reported serious financial difficulties, recording a pre-tax loss of €63 million in the second half of the financial year in 2008-2009 and overall debts of €500 millions. It was estimated that €150m in funds was needed to develop a sustainable restructuring plan. As a result of the ongoing global financial crisis however, senior management could only raise 50% of the required amount. This precarious financial state was exacerbated by the soaring value of the euro against sterling and the US dollar which hit crucial trading margins. However whilst the company was undergoing receivership, production at the company was intended to continue as normal.

The implications for workers at Waterford Crystal were two-fold: not only did they face redundancy, but a very real threat to their company pension scheme. The pension scheme was more than €111 million in deficit and under threat of being wound up should the company not be sold as a going concern. Unlike employees in the company in Britain, Irish workers were not covered by any pension insurance scheme. Without a safety net, workers would inevitably find their pension entitlements reduced. Indeed the very existence of the pension deficit made the likelihood of a prospective investor in the company unlikely. Whilst all potential investors indicated a willingness to purchase particular assets of the company, most were taciturn about acquiring the pension fund.

The continued failure to secure a buyer for the company, despite on-going negotiations with potential investors, resulted in the examiner closing the manufacturing aspect of the company down after a week resulting in 480 of the 708 workforce losing their jobs with immediate effect. Two-hundred staff were to continue in customer service and logistics, whilst 30 workers were kept on to maintain the company furnace; a process central to the further production of crystal. Crucially, the examiner’s actions were a reversal of a previous assurance that no operations would be shut down whilst dialogue continued with interested investors.

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15 The costs of the winding up process will have first priority from the scheme’s assets. The next priority will be those who have made additional voluntary contributions to the scheme, or transferred contributions from another scheme. Those already drawing a pension, or those who have passed pensionable age but whose pension has not yet commenced, are next in line. Current contributors to the scheme, namely existing employees, will be the last to receive any assets from the scheme, which means that, if a scheme is wound up in deficit, they will suffer some losses in their pension entitlements.
Yet before the examiners plans could be executed, UNITE officials ‘tipped off’ members of this possibility on a Friday evening (January 30th 2009) through mobile text messages. Workers were encouraged by officials to return to the the company’s manufacturing site that evening and occupy it. 200 workers turned up at the site, and despite physical confrontations with security staff, proceeded to occupy the company's visitor centre. Despite the initial chaos created by the mobilization, order was soon restored by employees: a rota system was put in place providing for 100 people in the plant at any given time, with groups of workers taking turns in six-hour shifts.

The sit-in appears to have generated a considerable element of public support in the local area of Waterford city. The day after the sit-in occurred, up to 2,000 supporters attended a rally expressing solidarity. Three days later, a further crowd of 2,000 people attended a rally in support of the workers at lunchtime, whilst taxi drivers across the city and a smaller number of businesses stopped work between 1pm and 2pm. In this context, the sit-in was further supported by local businesses sending in food and water supplies to the occupiers.

To a degree, workers’ participation in the sit-in appears to have been shaped by a variety of motives. For example, workers hoped to put pressure on the Irish government to provide financial and other assistance to the potential investors to retain manufacturing at the site. If this was not feasible, it was hoped that government intervention might be pushed towards nationalization to maintain the manufacturing facility. Certainly, the sit-in was successful in drawing the government into the negotiation process. Furthermore, as the sit-in continued, and negotiations opened up between the examiners, the government, two potential investors and UNITE proposed that the government should develop a financial package of €30 million to ensure that workers’ redundancy and pension entitlements, not met by any prospective investor, would still be fulfilled.

At a more emotive level, the occupation appears to have been also driven by the unilateral nature of the receivers actions to close-down manufacturing at the plant on the 30th of January and a resulting sense of procedural injustice:

The sit-in at Waterford is a direct result of the receiver’s action in closing the plant with no discussion, no contact or no respect for the working people...They have absolutely no concern for individuals or families that are suffering as a result of this. We put it to them that the receiver is interested in one thing only, making the company as attractive as possible to who they sell it to and increase their own fees. UNITE Official16

Indeed, workers’ ire at the receivership resulted in a small contingent of fourteen plant workers subsequently occupying the examiners headquarters in Dublin for two hours the following week.

The sit-in, negotiations and the search for an investor continued for 8 weeks. At the end of this period, it became clear that a US investment group would make an offer, which would allow it to purchase the Waterford Crystal name, giving it the right to license out manufacturing to contractors and sell the products under the brand name. As part of the proposal, some sales and administrative staff, as well as those working in the visitors’ centre at the site would be maintained in employment. This would retain around 110 full time jobs and up to 66 part-time positions albeit strictly on a provisional basis with their positions to be reviewed after six months. Crucially, from the point of view of the sit-in demands, the investors would not buy the crystal

manufacturing plant. Rather the investment group offered an ex-gratia payment of €10m to the workers who would lose their jobs, with this to be divided amongst close to 700 workers.

Whilst the offer did not meet employees’ initial aspirations, the proposals to end the sit-in was accepted by approximately 90% of the 600 workers and former employees at a mass meeting in Waterford City on March 23rd. With over eight weeks into the sit-in, the strain of the occupation was beginning to affect many workers, who felt that a breakthrough in terms of either saving the manufacturing facility or their pensions was increasingly unlikely. Reports from that period are indicative of the strain being felt by employees:

_People are beginning to feel the strain and the mood is very subdued at the moment because people don’t know what’s happening._ Worker

_Morale among workers is not what it was at the outset, and they didn’t expect the sit-in to go on for so long._ Worker

Further pressures encouraging acceptance of the proposals amongst employees likely stemmed from the examiners warning that the possibility of achieving the operation outlined and €10 million fund would not exist if a transaction was not completed immediately and sit-in of company premises ended. As one employee stated:

_It’s a bitter pill to swallow. The Government didn’t come on board with this whatsoever, we were on our own. The gun was put to our head . . . We had no choice. The union’s back was against the wall._ Worker

The sit-in then largely ended in failure. In its aftermath, UNITE have begun to initiate a legal campaign against the government claiming that it is liable for pensions for retired workers as a result of not implementing a pension protection initiative introduced in other EU countries. Meanwhile the 176 sales and administrative staff were let go at the end of the 6 month provisional period by the new owners. The manufacturing site was closed down in its entirety.

**Thomas Cook Group Occupation**

In the second case study examined -the Thomas Cook Group- plans to close its high street operations, including two branches in Dublin and a Direct Holidays outlet, had been in place and known by employees since May 2009. It was expected that operations would wind-up in September 2009 making 77 workers redundant. Management blamed the closedown on a change in customers’ buying habits and booking trends. Equally it appears that the German conglomerate Arcandor, the major shareholder in Thomas Cook was seeking help to repay significant loans and the closure of the Irish outlets in this regard was a necessary cost-cutting measure to support such a strategy.

On Wednesday July 29th 2009, a demonstration was held in Dublin by TSSA members over the decision to close the outlets. Notably the demonstration publicly attacked the Thomas Cook CEO and his claimed net earnings of £7 million [€8.3 million] in 2008. Subsequently on Thursday July 30th, a ballot confirmed that workers would go on strike. A strike notice was issued to the company on Friday morning, July 31st. The crux of the strike action appears to have revolved

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17 ‘Union to meet as workers feel strain at Waterford Crystal sit-in’, *Irish Examiner*, March 20th 2009
18 Ibid.
around questioning the necessity of redundancies at all, given that the company was reporting significant profits\textsuperscript{20}. However on midday of Friday, July 31st, senior management arrived from the UK to tell staff that the Dublin stores would close with immediate effect with the loss of over 50 jobs. Management claimed that the closures had been brought forward by over a month because the unofficial industrial action taken earlier in the week had caused disruption to customers. A redundancy offer of 5 weeks per year of service was made.

In response, over 40 workers, including two pregnant women, at the Thomas Cook outlet in Grafton Street Dublin initiated a sit-in protest over not only the management decision to close, but equally the redundancy terms (workers sought an 8-week per year of service payment). According to the TSSA union official:

\textit{Management are riding roughshod over the right to take industrial action by marching staff into a room and telling them they are going to close immediately. TSSA Official}\textsuperscript{21}

However, employees were informed their refusal to accept managements' redundancy offer would result in an offer of a statutory two-week redundancy payment. In a further attempt to remove the workers, management also received a temporary High Court injunction the day after the sit-in began ordering that employees leave the premises. However the sit-in continued, despite the TSSA official advising workers to end the occupation. It appears that consequently, the TSSA officials, although aware of their illegality of its actions, continued to back member actions:

\textit{The High Court will only rule on the legality of our actions. We know we have already won the moral argument against a rich German owned company which is treating its Irish staff like second class citizens.}\textsuperscript{22}

The sit-in ended after 5 days with police entering the premises given occupiers refusal to obey the High Court order to vacate. Twenty-seven staff were arrested and appeared in court that same day. The Court found that those arrested had for the most part deliberately breached court orders, and ignored the advice of their legal representatives in doing so. However the Court noted that the workers' actions reflected the anger over their perceived treatment. The Judge hearing the case added that he would not contribute to their distress by imposing a prison sentence and although a fine would be appropriate he considered this an exceptional case and would therefore not impose one.

The sit-in was widely reported not just in the national media, but also internationally by the BBC and International Press Association. It also appears to have received much public support and sympathy. In particular the participation of the two pregnant women - one of whom went into labour at the end of the sit-in - and the nature of the workers eviction by the police force appear to have been important in at least sustaining the occupation, but also wider public interest, with resulting ramifications for how management sought to resolve the crisis.

Whilst management acknowledged there was genuine anger among staff, it accused the TSSA of inciting employees to extreme actions, claiming that union jeopardized the existing redundancy deal by engaging in illegal activities:

\textsuperscript{20}’Save Thomas Cook jobs’, \textit{TSSA Petition}, June 30\textsuperscript{th} 2009.
\textsuperscript{21}’Travel agents stage sit-in over closure’, \textit{Irish Independent}, August 1\textsuperscript{st}, 2009.
\textsuperscript{22}TSSA Press Release, August 2\textsuperscript{nd} 2009
There is an offer on the table for an orderly close down of the store and clearly a lock-in cannot be described as an orderly close down of the store. The saddest point of what happened there is that potentially those actions disadvantaged the people themselves. I struggle to see how a union, which is supposed to act in the best interests of its members, can be supporting actions that could potentially seriously disadvantage those very same members. Thomas Cook UK and Ireland CEO

Subsequent negotiations ensued with the union and management in London, although the union later sought to move negotiations to the Labour Relations Commission, accusing management of company of spinning out the talks to let publicity around the dispute dissipate. However, agreement was reached at the LRC the following week on August 13th. The final deal providing for five weeks’ pay per year of service, inclusive of statutory redundancy, as offered by the company. However, it also provided for ex-gratia lump sums of €2,000 to €6,000 per person, depending upon service terms. The company had offered a month’s pay on top of its severance formula as a loyalty payment, which would have cost it about €100,000. The total cost for the company of these extra payments agreed instead amounted to about €150,000. The company also agreed to pay the 3.5% under the National Wage Agreement, which was included in the severance package. According to the TSSA:

The deal didn’t meet our aspirations but it was a better deal than what was on the table initially.

One outstanding matter arose over the legal costs in relation to the company’s injunction and the contempt of court proceedings. Whilst the company agreed not to pursue individual workers for legal costs, it gave no such undertaking in relation to the TSSA or its officials. These costs incurred were awarded by the national High Court against the union and its general secretary in December 2009. The Court accepted that the general secretary of the union used his best endeavours to persuade employees to cease the sit-in and to comply with the Court’s order. Having done that the Court found that union should not bear any share of the costs burden beyond the end of Monday 3rd August 2009. However, it appears that hardly any costs fall into this category and that this clarification will not significantly reduce the overall cost bill faced by the union, expected to be a five figure sum.

4-Homes Superstore Occupation

Less than a week after the Thomas Cook sit-in in Dublin another sit-in occurred at a 4-Homes Superstore outlet in Co. Cork. In the previous 6 months, seven of the company outlets had been closed down and there had been fears that the stores in North Cork and Limerick could also be closed. The owning group, Reox, had announced earlier in 2009 that it was reviewing the performance of each of its stores in light of the ongoing difficulties in the sector due to the economic downturn. The recession had resulted in significantly less demand for home improvement products.

On Thursday morning of August 13th 2009 management called a meeting with workers at its outlets in Mitchelstown, Fermoy, both in Co. Cork, and in Anacotty, Co. Limerick. At these meetings management informed workers that the Cork stores were to close on Sunday, August 16th, with the Limerick store to close on the following Friday. Forty-jobs were to be lost in Mitchelstown, 8 in Fermoy and 16 in Anacotty. In all three outlets, employees were informed that they would receive a statutory redundancy payment of two week’s pay per year of employment,

23 ‘Thomas Cook staff demand ‘way out of line’, The Irish Times, August 11th, 2009.
24 ‘Thomas Cook workers agree to revised redundancy deal’, The Irish Times, August 14th, 2009.
along with notice payments. Simultaneously, employees, most of whom were of long service in the company at an average of 15 years, were handed their RP50 notices of redundancy. In interviews conducted during the dispute, employees claimed that there had been no prior notice given to staff that their employment in the company was in jeopardy. Similarly the Mandate official responsible for the Mitchelstown store claims that threat to jobs was never previously signaled to the workers’ union. The veracity of these claims however appears doubtful given local media reports as early as the 4th of August. One employee at the Mitchelstown store claimed:

_I have been working here for the past 28 years and we are shocked and devastated at the line that has been taken. They handed us our redundancy notice and told us that the shop would be closing on Sunday. We got two days’ notice after all these years; it’s just not good enough._

Worker

Management claimed that the step was unavoidable because:

_The recession has resulted in significantly lower consumer confidence and reduced discretionary spend, which has impacted hard on the DIY and homewares market. This has resulted in a marked reduction in demand for DIY and home improvement products. With a sustained downturn, and no uplift in consumer spend in sight, the company regrettably has no choice but to close stores which are no longer viable._

On Thursday midday, 16 of the 40 employees at the Mitchelstown outlet decided to undertake a sit-in in the upstairs of the store, whilst endeavoring to lock the front door of the store. The core of their demand was for an improved redundancy package or an offer to relocate for continued employment. As one employee put it, underpinning motivators for their action was that:

_We have little chance of finding jobs elsewhere. We will have no choice but to join the dole queue. But we plan to stay here at the store for as long as it takes, we are prepared to sit it out._

Worker

Interestingly, the sit-in was not replicated in the Fermoy outlet however, where after discussions with the Mandate official, workers opted to undertake a work stoppage and it appears that the Mitchelstown sit-in attracted only a minority of workers in the company. A different tack appears to have been taken in the Anacotty outlet, where workers were SIPTU members. In this case, SIPTU argued that not only were the redundancies in breach of statutory obligations under the _Redundancy Payments Act_, but that it was in breach of an agreement concluded several years ago. Whilst initial expectations were that a second sit-in could be staged here, it appears that a resolution was found through a hearing at the LRC. On that Friday, a SIPTU official declared that:

_If the company does not deal with our concerns on Monday (17th) we will be referring them to the Labour Relations Commission._

The alternative tactics used in these sites may be due to the fact that the full closure of the Fermoy and Anacotty sites was not being sought.

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On Friday afternoon, management issued letters to workers at the Mitchelstown site threatening a High Court injunction unless they vacated the premises by Sunday. However according to their union representative at Mandate:

[Employees] have said they will not be moving from their current position without proper discussions with Mandate and they are prepared to hold out for as long as necessary in order to make their position known. This is clearly a situation neither the union nor the workers want protracted any longer than necessary and it was not an easy decision for the workers to make.29

In the Thomas Cook dispute, it is noticeable that reference was made by unions and workers in their public statements to perceived injustices in the form of wider inequalities; in this case, Mandate officials made reference to the fact that the chief executives of the owning group paid themselves substantial bonuses in the previous year.

Late on the Friday night, some 36 hours into the protest, the sit-in was called off after the National Labour Relations Commission intervened. Employees at the Mitchelstown and Fermoy stores agreed to go back to work as normal with a meeting organized between management, the unions and the workers planned for Tuesday. In a u-turn, management declared that the stores would remain open until talks were concluded with the union.

Subsequent meetings at the LRC did broke down. At the LRC, Mandate, acting on behalf of the staff in Mitchelstown and Fermoy, sought the relocation of its members to 4-Homes' other stores in the north Cork area. They also sought an improvement on redundancy terms: However, according to Mandate:

No progress was made. The company were not willing to budge from their original position of statutory redundancy and no more. Nor were they willing to engage on our request that people might transfer to one of the seven store which Dairygold are considering buying back. We will now be going back to consult with people and then make our decision on what our next step will be.30

A case wad advanced to the Labour Court. Before it, the union contended that the store closure and redundancy process was not carried out in line with long standing procedural agreements between the parties and the legislative requirements. The Court noted the commitments made by the parties in a previous 2006 agreement and thus recommended that the pre-existing package on severance terms as provided for in that agreement should apply. The company accepted the Court recommendation and a settlement was made.

Discussion

Traditional bargaining theory works from the assumption of a continuing relationship between the parties; hence the supposition that a settlement can be reached within the limits of the bargaining arrangement. In the case of threatened wholesale redundancies, the assumption of a continuing bargaining arrangement becomes unworkable, as it is precisely this relationship which is itself in doubt. The threat of a strike will lose much of its power, for if workers refuse to work at a place which the employer wishes to close down, far from imposing any loss on the employer, they will be acceding to the employer’s intentions. Consequently, a sit-in may offer a

more direct form of economic sanction preventing the transfer of assets and allowing the initiative to stay with workers. Yet despite these theoretical benefits, the tactic of sit-ins has been rarely deployed. Sit-ins are likely to demand a high degree of organisation, commitment and resolve from those most directly concerned which may be difficult to initiate or sustain. In a national and international context of declining union activism and membership, and relatively low levels of industrial conflict, it is perhaps not surprising that so few workers are engaging in the tactic. This paper therefore sought to address what precisely the stimulus was in those cases where workers engaged in such tactics, and equally, their overall effectiveness in securing worker interests.

In all cases studied, two principal motivating factors were, the unilateral and abrupt nature in which redundancies were proposed and the fact that management were seeking the total redundancy of the workforce and factory closure rather than simply partial layoffs and gradual run-down. The abrupt nature of the redundancy announcement appeared to have two effects. At a behavioural level, the immediate nature of the announcement provided little alternative avenues for workers in terms of consultation over alternatives or opportunities for amelioration. At an attitudinal level, the evidence suggests that it was inevitably perceived as violation of procedural fairness, thus provoking employee counter-response. Again this served to propel action to occupy. Thus in Waterford Crystal, although workers were well aware of the underlying difficulties facing the company and the very real potential for lay-offs at some point in the future, the receiver's intentions to hastily shut down facilities, without timely warning and against a previous guarantee to maintain plant operations, impelled action. A number of unique supporting factors may well have assisted the dynamism of worker responses in the Waterford Crystal case i.e. a strong history of well-supported militant trade unionism, union collectivism and mobilization. The enormity of employee losses as a consequence of the shut-down in terms of the collapse of pension investments undoubtedly aggravated the scenario. Meanwhile in Thomas Cook, senior management informed staff that the stores would close with immediate effect on the day of the announcement, whilst in 4-Home notice of full store closure just three days was advanced. In the Thomas Cook case, workers had previously displayed an unusually high degree of organisation and assertiveness; two days before the industrial action in Dublin, staff actually travelled to the UK to demonstrate outside the church they believed the company boss attends over the threat to jobs31.

Furthermore it is difficult to discount the possibility that the sit-ins which occurred, particularly in the Thomas Cook and 4-Homes, did so due to a ‘spillover effect’. Spill-over effect, a product of institutional neo-functionalist theory of state interaction (Haas, 1958), outlines how ground level actors take advantage of opportunities presented through interaction with actors from other jurisdictions to learn and create opportunities to advance their interests. The high-profile reportage of the Waterford Crystal case, as well as the Visteon occupation in West Belfast in Northern Ireland, may well have offered a living example, which other groups of workers imitated in the hope of drawing attention to their plight and forcing the employer back to the negotiation table. Noticeably, Irish employers have expressed concern about the spillover potential of the sit-in. In a media interview the chief executive of Irish Small and Medium Sized Enterprise (ISM) association indicated that many Irish employers feared the sit-in could trigger ‘copycat protests’, claiming that employees in SMEs had built up an expectation that they should get redundancy packages similar to those offered by large multinationals:

This leads to a major shock when workers are told it’s statutory, and that’s it. Sit-ins had previously been a ‘last resort’, only used when liquidators were brought in, and has gained major

31 ‘Thomas Cook staff protest over job loss fears’, *Sunday Tribune*, June 28th, 2009
profile during the Thomas Cook row. That dispute is certainly encouraging others, and there is definitely a fear that sit-ins could gain momentum.\footnote{‘Bosses fear more sit-ins in redundancy battles’, \textit{Irish Independent}, August 15\textsuperscript{th}, 2009.}

Yet how effective are sit-ins as a bargaining tactic in response to redundancy? Hostile media commentary on sit-ins often treats the tactic as illogically flying in the face of rationale economic laws. Whilst in all three cases the sit-ins did not secure their initial objectives this is hardly grounds for dismissing the tactic out of hand. In practice, initial worker aspirations in the field of traditional wage bargaining are rarely met either, and as such, this would hardly suffice as a rationale for their discontinuance. What all the sit-ins appeared to be highly effective in was at least coercing employers away from unilateral responses and forcing them back to the table for further negotiation. Allied with this is the often dramatic nature of the sit-in itself, which is enough to capture public interest regarding the workforce’s plight, which in turn has the potential to seriously undermine the employer’s standing. Likewise, sit-ins appear to have a strong capacity to cajole political or state agencies effectively moving the dispute into a tripartite arena, although in the Irish case, state agencies responses are weak, a product of permissive voluntarism (Dobbin, 2010). Ultimately, the very public impact of sit-ins and occupations may have beneficial effects on employer attitudes. Where redundancy is widely accepted as part of hyper-competitive times and largely unopposed, it becomes, in industrial relations terms, an easy option for management (Turnbull and Wass, 2004). But where it is increasingly not accepted and runs the risk of provoking somewhat embarrassing campaigns it may lead to greater caution on management’s part in executing redundancy and fuller consideration of jointly-agreed procedural avenues.

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Fighting Redundancy Under Global Recession: A Cross-sectoral Analysis of Workers’ Collective Action in Belgium

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Introduction

Companies in many industrialized countries have experienced significant changes in the work organization in recent years. Technological innovation and communication supported worldwide production and created global competition. In order to cope with this competition, restructuring occurred both within and across organizations. More specific, more flexible work organization methods were developed and less hierarchical mechanisms applied within organizations in order to fulfill product demand on one hand. On the other hand, mergers and acquisitions between organizations occurred when the competitiveness was threatened. This process took place in the manufacturing as well as in the service sector.

Economic studies investigating the restructuring process have mainly focused on the assessment of its effect on company efficiency (Barrett, Way, McDonald, Parfrey, 2005; Ariff and Can, 2009). Conversely, industrial relations literature have examined the social consequences of company change for employees, as well as the extent to which social partners within national institutions play a role to influence the restructuring process (Edwards, Xavier, Ortiz, Rees and Wortmann, 2006; Pulignano, 2009). Growing attention seems to be devoted to the way workers and unions respond to restructuring while engaging in traditional strike (Zetka, 1995; Choi, 2008) or use occupations which – as this paper attempts to illustrate - seem to take different forms. These different forms depend on the strategic use workers make of traditional occupation within diverse sector which can be explained by using the conceptual distinction between ‘immaterial’ versus ‘material’ labour developed in critical sociology.

In the 20th century, occupation as a means of workers’ resistance was used in a wide range of industries such as the textile-industry, the mining and the metal-industry. Occupation as a form of workers’ resistance is traditionally understood as the control of the employer’s assets from the ‘inside’, that is the factory. As Greenwood (1977) illustrates this can specifically occur through stocks and goods, because they have a market value; through plant and machinery, because they can be sold or removed; or based on preventing the realization of value of the land and buildings by stopping them being sold (Greenwood, 1977: 31). Under Fordism, occupation was shaped by the structural features of the Fordist mode of production. More specific, the Fordist mode of production divided the workers in different departments which disabled them to collectively organize strikes. Therefore, occupations were set up as forms of workers’ resistance in order to concretely interrupt the well integrated Fordist production line while shedding light on the capacity of workers to organize themselves against capital. This means that the extent to which workers could organize themselves depended very much on the capacity they had to break the structural perimetral impediments across the different units or departments within the factory. (Bourdé, 1978; Zetka, 1995; Torigian, 1999). Secondly, it can be also argued that the economic context under Fordism concurred to encourage the engagement of workers in using occupation. In particular, the economic crisis which occurred during this period was characterized by a high unemployment rate and job insecurity, which concurred to boost collective social protest. It is important to point out that economic crisis did not occur in a vacuum; it went along with political circumstances. As a result ‘as workers began to feel powerful
in the streets, they became more assertive in the factory’ (Torigian, 1999, p.339). Finally, occupation occurred mainly within a national context. This means that the strive for job security took place between plants within the same country not between plants across different countries (Zetka, 1995; Torigian, 1999).

Globalization and the increase importance of knowledge (communication, IT) affected the organizations within the industrialized countries. Due to the international competition, the Fordist way of organization no longer could fulfill the market demand. More specifically, the companies had to rearrange the work organization in order to maximize flexibility and vary their product lines. Therefore, work forms as quality circles, teams and problem solving groups were broadly implemented. Besides this functional flexibility, numerical flexibility in the form of temporary work was also used in order to deal with the international challenges (Smith, 1997). Moreover, the manufacturing no longer took up the central position within national economies. The importance and prevalence of the service sector grew. The service sector is thereby defined as ‘organizations whose output are not material goods, but intangible, ephemeral or weightless commodities’ (Bowring, 2004; Herzenberg and Leadbeater in Pettinger, 2006, p.50).

As a consequence of the above mentioned changes in work organization and the organization of production, the following question is formulated: ‘To what extent (and how) is occupation still used as a means of workers’ resistance in current Post (or Neo) - Fordism?’. More specifically, the paper will investigate how the change intervened in Post-Fordist society as a result of growing importance of the service versus the manufacturing sector has affected the way occupation as a means of workers’ resistance occurs and the forms it takes. Under the new threat of international competition, the argument is put forward that occupation still represents an important tool for workers’ resistance in post (or Neo) Fordist society. However, the extent to which workers use occupation and the way it is used seem to depend on the nature of the labour process and therefore it reflects a cross-industry connotation. More specifically, the variety of modes of workers to resist capitalism nowadays is explored by undertaking a cross-industry analysis as well as by looking at the composition of the workforce across different sectors. In order to illustrate this, two case studies on occupation as a form of workers’ resistance will be compared. The first is in the metal industry (in terms of structural machines) and the second is in the health service sector (in terms of cognitive knowledge).

The paper will be structured as follows. The first section analyses the nature of labour in the knowledge society drawing from the concept of immaterial labour by Negri, Hardt and Lazzarato. It attempts to examine the differences in the nature of the labour processes in the manufacturing and the service sector. After a methodological section the second section presents the research findings. More specifically, the dynamics characterizing the development of occupations in the two sectors will be examined and diversity explained.

**The conceptual framework: material and immaterial labour**

One of the features of a Post (or Neo)-Fordist society is the growing importance of service versus industry. More specifically, modernity was understood in terms of industrialization, meaning a decreasing role of the agriculture whereas post modernity has been combined with the use of information technology. An increase of employment in the service sector has also been registered. The central role within jobs in the service sector is taken up by knowledge, communication and information (Negri and Hardt, 2002).

Modernity as well as post-modernity was accompanied by an enhanced use of technology first in agriculture, then in industry and services. More concretely, the industrialization process was
driven by major technological innovations which enabled to industrialize the farming process. As a consequence, manual labour was partially replaced by machines. Nowadays, in post-modern society information and communication technology play a similar role. The production process of a particular product or service occurs in different countries worldwide which necessitates coordination. ICT enables employees to exchange and communicate between the different plants. This means that ICT is a work instrument for employees in many contemporary industrial and public settings (Negri and Hardt, 2002).

Although Negri and Hardt do recognize the importance of communication for the manufacturing, they mainly focus on the nature of labour in the service sector by considering the role of communication, technology and knowledge. The nature of the labour is thereby defined as immaterial labour meaning ‘labour which creates immaterial products, such as knowledge, information, communication, a relationship or an emotional response’ (Camfield, 2007: 23). Accordingly, immaterial labour can be classified in two typologies of professions. The first category includes professions, such as medicine and academics whose tasks are merely intellectual or linguistic. A second category of workers are identified as actors and artists (Camfield, 2007: 23).

Conversely, Lazzarato defines immaterial labour as ‘the labour that produces the informational and cultural content of the commodity’ (Lazzarato; Camfield, 2007: 22). The definition proposed by Lazzarato partly recalls what has been already termed by the literature as “knowledge society” (Huws, 2006 and Camfield, 2007). Central to this type of society is the increasing use of skills involving IT and other forms of work organization such as problem-solving teams and quality circles. Through this, workers have to deal with information which allows them to make decisions. Hence, the concept of “knowledge workers” has been conceptualized, as employees who have access to, learn and are qualified to practice, a body of knowledge that is formal, complex or abstract and who manipulate symbols and ideas (Thompsom in Huws, 2006: 50). The concept of the knowledge worker hereby covers a wide range of professions, not only IT related professions (such as software developers, IT consultants) but also engineers, lawyers and scientist. Next to the concept of “knowledge worker”, Lazzarato identifies what he calls the “cultural content of the commodity”. By this he refers to the activities which set standards, tastes and fashion. This can at best be illustrated through an example. The production process of Apple laptops for example is supported by a marketing campaign (started even before production) which describes the needs that apple laptops fulfill and the profile of an Apple-user. Through the buy and the use (consumption) of Apple laptops, the needs and the profile as described by the campaign are experienced and internalized. As a consequence, even after the laptop is used, the cultural content of the laptop remains.

It can be argued that the difference between the two above-examined arguments lies respectively on the way where both authors see the creation of immaterial labour in the labour process. More concretely, Negri and Hardt assume at first the labour process to be material and the outcome immaterial while Lazzarato focuses on the labour process as initially immaterial (Camfield, 2007).

However, it can be claimed that whatever definition is used, the occurrence of immaterial labour is seen having important consequences for the labour and labour process as such. First of all, the division between work and home is not strictly made. More specifically, because the labour executed is intellectual or relies on communication, there is a possibility that ideas arise outside the factory or that documents are consulted after the working hours (Lazzarato; Camfield, 2007). As a result the value of immaterial labour cannot be measured in units of labour time (Camfield, 2007). A second implication is the increase in autonomy for the workers. In mass-production
factories, cooperation was created by bringing workers together in factories. In contrast, cooperation and communication are inherent to immaterial labour; immaterial labour produces communication and cooperation. Because of this, immaterial labour is associated with self-management. More specifically, knowledge jobs using communication tools and organized in flexible work organizations as well as jobs which produces intellectual commodities (professionals), enables employees to manage their own work.

A related concept to this autonomy is job control. Job control is understood as the control over the access to the job, the security and the work content (Herding, 1972). From the employer perspective, job control is considered as a means in order to secure, maintain and improve the levels of performance. Therefore, employers implement particular reward systems, performance management and job designs. Apart from the mainly economic motive for job control, unions’ strive for job control can be understood in terms of good wages, employment security and working conditions (health and safety).

Taken the above interpretations of job control into account, then the immaterial labour as a process should be revised. From an employers’ perspective, new types of job design such as quality circles and teams are understood as the most competitive work organization in a global economy. In addition, these new jobs are limited in their autonomy. More specific, less hierarchical types of work organization enhance the decision-making role for employees for example to solve problems within the team. However, the role is limited which means that the solutions proposed should be in accordance with the management aims.

The second issue on job control relates to immaterial labour as an outcome. As indicated by the definition of Negri and Hardt, this mainly refers to professions which are mainly intellectual or artistic. Therefore the nature of job control and autonomy is of a different kind. More specifically, the relation between employer and employee does not exist in its narrow sense because the two professional categories to which Negri and Hardt refer are no employees (e.g. doctors are independent in Belgium).

In accordance we can expect that the workers and employers relations as well as the context (industry) will shape the way how job control is enacted. The employee relations can be characterized by cooperation or workers’ resistance. Occupation, as above mentioned, is a form of workers opposing capitalism.

Research design and the company case studies

The present study is based on documents analyses and semi-structured interviews with unions’ representatives and employees within two case studies in the manufacturing and the health service sector. Till now we have done 15 interviews between unions representatives and employees. Interviews are still in progress and we aim at enhancing the number to 30. Because the paper aims to investigate whether and how occupation occurs in post-modern society as a form of workers’ resistance, deviant cases are selected. According to Gerring (2006), this type of case selection enables the researcher to ‘demonstrate a surprising result’; meaning that other conditions then what is traditionally expected explain the occurrence of a particular phenomena. Therefore, two cases are investigated in Belgium: the manufacturing (i.e. metal industry) and the health service sector. The case in the metal industry refers to one particular company whereas for the health care sector two different hospitals within the Brussels Capital Region were investigated. It is known that case study as a research method suffers of difficulty to generalization. Rather than looking for generalization the paper aims at get insight into the historical and socio-economic conditions in which occupations took place in the two different
contexts. These two cases provide an opportunity to enlarge our knowledge of the influence of the sectors (contexts) in which different forms of occupations occurred. Both cases will be described one after the other, followed by the main findings.

The company selected in the metal industry is one of the leading companies in the sector producing steel-wire with different plants in Belgium. In previous years, many restructuring processes have taken place, which have resulted in a decreased employment within the different plants in Flanders as well as in the Wallonia region. However, since mid-2008, a new restructuring process began. Due to the standardization of the production process, standard products could be easily delocalized to countries with lower labour costs, such as Eastern-Europe and China. As a union representative indicated: ‘management could just do copy-paste in the foreign countries.’ (Interview 4/11/2009). Because of the delocalization of production, three subsidiaries in Belgium were closed. The employees of only one subsidiary, and the machines, could be relocated to Aalter – in the west of the country, which is the plant under investigation in this paper.

The real problem started when management announced that the machines from Aalter would have been shortly moved to China or Eastern-Europe. Trade unions’ representatives claimed that new machines should have come replacing the ones leaving in order to guarantee job security. Suddenly at the end of 2008, management announced the relocation of all the machines present till that moment in the factory in Aalter. Moreover, no guarantees were given to the employees in terms of job security. This come out of a management meeting at the European headquarter of the company. Hence, workers and unions’ representatives decided to organize an action in order to protect the machines from being moved abroad.

The occupation of Aalter was not an occupation in the strict sense, meaning no control of the machines from inside the company. The occupation took place outside the company during the Christmas holidays. During the period of the occupation two employees were present every two hours. The dynamic the action took is explained by a combination of contingent factors (time and place) as well as the economic situation at that time. First of all, the plant closed during the Christmas vacations (14 days). According to the unions, due to the threat of removal and the restructuring in the other plants, this was a good moment for management to effectively relocate the machine because employees were not there. Secondly, the other plants’ closure had caused a feeling of job insecurity. This was further reinforced by the high unemployment rate in the weeks before the action took place. In the month before the action, the number of unemployed had risen till one half of the employees. Therefore strike as a means of workers resistance has not been chosen because employees had already lost a lot due to the financial crisis. As the union representative said: ‘Strike has a financial impact whatever they say’. (Interview - 4/11/2009)

Shortly after the workers’ action had ended (after the Christmas holidays), the management took the initiative to set up a dialogue with the unions. The action produced two outcomes. First of all, it caused a shock-effect. Occupation or strikes most frequently occur in case of closure of the plant or high redundancy which was not the case in the factory in Aalter. The action was set up as a form of ‘warning’. As a consequence of the anticipation, the management was forced to make choices regarding the division of machines between the different countries. The ‘outside occupation’ enforced the management to choose within the strategic context which was already set up. This resulted in more machines for Aalter compared to what has been originally foreseen. A second implication related to the position of the plant within the worldwide network. Although the management emphasized the strategic position of the plant, no ‘key learning’(RandD centre) plant was established within Europe, as it occurred conversely in China.
for Asia and in Ecuador for South-America. However recently, new products are brought to Aalter and also the advanced core management will be installed in Aalter what is beneficial for the plant in Aalter. It can be concluded that the action was successful because it did enforce the management to make decisions without affecting the workers and the company financially.

In the medical sector two cases were investigated in the Brussels Capital Regions. The context of Brussels is of particular importance because it has been characterized by an intense process of restructuring as a result of a reduction of offer. At the same time, the medical sector in Brussels has to deal with a shortage of medical staff and more specific specialized nurses and doctors who are bilingual. Being bilingual is important because it enables the hospital to treat Dutch-speaking as well as French-speaking patients, and so enlarging the target customers. The paper focuses on the position of doctors within the hospitals because of their specificity in skills and therefore, their crucial position in the organizational structure of a hospital. More specifically, ‘production’ within a hospital depends on the doctor; meaning production is the doctors’ responsibility. More concretely, if the doctor decides to resign, the production within hospital stops. Related to the nature of the organization is the way the employees are recruited within hospitals in Belgium. As already mentioned doctors are professionally independent, meaning that they can act and work as self-employed. The two cases we have selected for investigation refer to two particular restructuring processes in which the doctors’ position played a crucial role in shaping the way how restructuring evolved and the outcomes it produced. The first case refers to a restructuring process in which employees of the supporting teams (such as cleaning, administration, IT) were directly threatened by dismissal and the medical staff indirectly. This means that the position of the medical staff and specialized nurses would remain even after the restructuring process. However, the nature of their employment would change; doctors would become employees instead of being self-employed; the second case discusses a restructuring process which conversely directly affected the medical staff.

Specifically, the first case refers to the restructuring process of a regional hospital in Brussels where in 2008, a merger with another hospital was proposed due to the decreasing offer of beds in the Brussels capital region and the fact that the hospital was loss-making. Both scenarios lead to a decreasing number of employees in the supporting departments, with even more job loss in the take-over scenario. However, it was foreseen that the two scenarios would not have caused any dismissal within the medical staff although it was predicted that the process of merger would have influenced the employees’ independence and had an effect on their specialization. It was announced that the hospital under study would have been responsible for the aftercare, which was also contested by the nurses. Therefore, doctors and specialized nursing staff supported the actions initiated by the unions (supporting departments) and their members. In addition, doctors tended to leave if their independence could not be guaranteed. They even were willing to give financially support to the hospital if they were guaranteed as professionals). After the period of social dialogue, the hospital merged and no employee was dismissed. Many could go on early retirement or could be transferred within the new hospital. So, the merger resulted in common supporting teams, meaning one administrative department, one cleaning team and one IT department but affected less employees then it would have happened in a take over scenario. The most remarkable results was that the doctors remained self-employed and that no specialization disappeared.

The second case was the first time the Renault Law was applicable in the non-profit sector. In accordance to the framework of the ‘Renault Act’ on the information and consultation of workers in cases of collective redundancies (13 February 1998), an employer wishing to dismiss part of its personnel for one or more reasons not related to the individual workers is obliged to present to the works council (or in the absence of a works council, to the union delegation, or to the
workers in the absence of a union delegation), a written report expressing its intention to proceed with such a dismissal. More specifically, the employer must inform and consult the works council on cases of mergers, closures, business transfers, large scale redundancies, training plans and the introduction of new technology, as well as other major developments likely to have an impact on employment. The employer must then allow employees' representatives to ask questions and submit arguments or counter-proposals, and is obliged to respond. Finally, it is recommended that an agreement on the restructuring measures is approved with the aim of avoiding compulsory redundancies without any compensation (through the redistribution of work, the use of early retirement pension, outplacement measures, premiums for voluntary departures, etc.).

The Law Renault was applicable to the case of the merger between the two hospitals in the centre of Brussels. It took place after a long period of investigation of the (dis)similarities between the hospitals and the possible restructuring plans. These major differences were: the culture and local embeddedness. One of the hospitals is situated in a young, multicultural environment whereas the other was situated in the city centre. The patients of the former were mainly children and women, which was clearly illustrated by the high level of patients in the Gynecology and Pediatrics. Based on the investigation and after consultation of doctors and nurses, it was proposed that there would have been a specialization ‘mother – child’ in this hospital. However, after the restructuring process Gynecology and Pediatrics were suddenly removed. In addition, due to the merger the positions of doctors as well as of specialized nurses disappeared. As a consequence, actions (besides the social dialogue that has started following the Renault Law) were set up in which the ministers of the Brussels Capital Region were personally contacted. In addition, because of the novelty of the application of the Renault Law, the restructuring process attracted the attention of the media. This opened for many specialized nurses and doctors the possibility to have good job opportunities in other Brussels hospitals. As the union representative stated: ‘We call it job shopping: you go to each hospital and where they have the best conditions for you, you can immediately sign.’ (Interview 19/03/2009)

The way the restructuring process had evolved in combination with the increasing job opportunities in particular for certain specialization, caused the pediatrics and nurses to submit their resignation collectively before the bargaining period had ended.

From the floor to professionalism: cross-sectoral variance in the manufacturing and the health service sector

The findings from the case studies are presented in two principal sections. The first examines the labour process in the manufacturing and the service sector. This is developed through an examination of how the labour process changed in both sector due to international competition. The second assesses the evidence relating to occupation as a means of workers’ resistance to deal with restructuring. Three aspects are pointed out in the analysis: materials (natural or raw materials), instruments of work (tools or complex technology) and a man’s activity (Thompson, 1989).

Organization of work in the manufacturing and the service sector

The labour process in manufacturing, and so in the metal industry, has traditionally been associated with mass-production based industries. This production mode, often termed as the Fordist mode, is based on hierarchy, standardization and routinization. Along with hierarchy, standardization and routinization, conception and execution have been separated. Through this, employees are excluded from decision-making (Smith, 1997). However, due to international
competition, the Fordist way of organization no longer could fulfill the market demand. More specifically, the companies had to rearrange the work organization in order to maximize flexibility and so to vary their product lines. Therefore, it was expected that work forms as quality circles, teams and problem solving groups would be broadly implemented. Besides this functional flexibility, numeric flexibility, such as temporary work was also used in order to deal with the international challenges (Smith, 1997).

Opposed to the labour process in the manufacturing, the labour process of professionals is introduced. Professionals are described as “a special category of service-sector occupations with special skills and knowledge which have long been known to occupy positions of power and privilege in society” (Brock, Powell and Hingins, 1999; Abott and Friedson in Devine, Britton, Mello and Halfpenny, 2000, p.522; Evetts, 2003, p.396). Regarding the labour process, professionals are considered within their organization as operators as well as managers and owners (Brock et al., 1999), meaning a great autonomy and focus towards the client. In general, these clients are looking for a professional because they are confronted with risks such as health problems and legal problems. Through their knowledge, professionals empower the clients to cope with these risks (Evetts, 2003). More concretely, within the hospital, doctors define the treatment needs for their client, the patient. Through this, they can for example define operational collaboration for the treatment with an operational unit that does not formally exist in the organization chart. This type of initiative is taken rather independent from management control (Brock et al., 1999) which results in a powerful position for doctors within the hospital.

A short comparison between both sectors shows the different roles of autonomy and knowledge played in their labour processes. Although labour processes differ, both sectors are subjected to globalization and its requirements concerning flexibility. Regarding the metal industry, this demand for flexibility was initially resolved by combining both types of flexibility, numeric and functional flexibility. However in the era of global competition, the use of functional flexibility is more often only applied to the core workers. This first of all, enables the management to maintain the control over the production process; functional flexibility would give the responsibility of planning and problem solving to the employees. Furthermore, numerical flexibility, meaning a force of contingent workers, allows companies to reduce their permanent workforce and so cutting their wage cost. As a result companies recruit temporary contracts if needed and subcontract business function to other companies. This means that functional areas disappear within companies and a large numbers of employees remain in temporary contracts. These contracts are characterized by routinized work and low wages.

The use of different forms of flexibility was also found in the case of Aalter. At the moment 500 employees have a fixed contract (10 years ago, 3000 employees). Contractual flexibility is used as a result of changes in the demand, meaning employees with temporary contracts. An important remark is made by Smith (2000) regarding the concept of temporary contracts. More specific, temporary workers may be temporary from the point of view of the company hiring the employees but not for the companies whose core business is subcontracting. This even emphasizes the result described above, namely a large number of employees executing routinized and low skilled jobs. Within the case of Aalter, numeric flexibility, was also used for the ‘core workers’ on three domains. First of all during the crisis period at the end of October 2008, employees were temporarily unemployed during one month. In addition, the management wants no longer a collective closing period during the summer holidays. The argument was that clients should be delivered at any moment. As a consequence of this numeric flexibility unions strive for more flexibility regarding the choice of holidays. This is contested because the number of employees on holidays within a particular period should be limited in order to guarantee the deliveries. No decision has been made so far regarding the holidays. Next to this, another way of
organizing the shifts was also introduced. Four shifts were reduced to three shifts in order to increase the efficiency because weekend shifts overlapped with nights shifts. Employees of whom child care and transport became more expensive because of the change in shifts, were compensated.

Similar pressure is experienced in professional organizations such as hospitals. One of the main causes of an increased experienced competition is the deregulation of the service market. In order to remain competitive, management style of leading organizations were introduced, meaning an increasing focus on efficiency and cost rationalization. This is also found within the hospitals. More specifically, the number of hospital beds in the Brussels-capital region should be reduced to 5000. At the moment, 7000 hospital beds are available, meaning that within the coming years, 2000 beds should be removed which is a dramatic decrease in the offer of medical services. This process is also reflected in the way nurses are categorized. This categorization is based on the number of complex tasks that are executed by the nurses. As a result, nurses are labeled as employees executing complex tasks, less complex tasks or standardized tasks such as administration is done by less skilled employees which affects the labour costs (Federaal Kenniscentrum voor de gezondheidszorg, 2008). In addition, the role of technology has changed within the hospitals. On the one hand, technology enabled patients to replace visits (e.g. pregnancy tests). On the other hand, more advanced equipments were installed in the hospitals which needed specific training for doctors to control the equipment. As a consequence, hospitals emphasized diversification of services and the relation towards the patients. This led to specialization. As a result, mergers between hospitals and restructuring within hospitals took place (Brock et al., 1999; Devine et al., 2000).

Material and Immaterial Labour and the use of occupation

Job control, as already mentioned is an important concept related to the way work is organized. It is understood as the control of the access to the job, the security and the work content (Herding, 1972). The concept of job control can be considered based from the viewpoint of the employer as well as from the viewpoint of the employees or workers’ representatives. It is respectively driven by an economic motive, meaning securing the performance through several HR decisions and a psychological motive, meaning ensuring job-or employment security. Applied to the metal sector, the uses of temporary unemployment, the threat of machine removal from the management site results in unions’ strive for maintaining the machines. In the medical sector, the rationalization process led to doctor’s leaving in case of restructuring. In reality, the strive for job control from both parties can result in a cooperation as well as in conflict. Occupation, which is investigated in this paper, is a form of conflict between unions and management.

Workplace occupation is traditionally understood as the control of the employer’s assets from the inside. More specifically, this can occur through stocks and goods (because they have a market value); through plant and machinery because they can be sold or removed; or based on preventing the realization of value of the land and buildings by stopping them being sold. In general, occupation is understood as a defense of the materials and the instruments of work. Together with man’s activity, the materials and the instruments of work forms the labour process (Thompson, 1989). Drawing on the definitions of immaterial labour by Lazzarato en Negri and Hardt, the three elements of the labour process will be reviewed for both cases.

The first element of the labour process are the materials needed to create the outcome, be it a product of a service. Materials strictly speaking refer to the natural or raw materials which are transformed during the labour process in order to obtain a final product. This means that what is
labeled as materials is the point of departure within the labour process. Taking into account Negri and Hardt's the definition of immaterial labour, “labour which creates immaterial products, such as knowledge, information, communication, a relationship or an emotional response” (Camfield, 2007, p.23), knowledge can be considered as a material. More specifically, within professional organizations, the professional transforms his or her knowledge into a service for the client. However, a difference should be made regarding the role of knowledge within the two definitions of immaterial labour. Defining the labour process itself as being immaterial like Lazzarato did, refers to what has been labeled as the knowledge society. Within this type of labour, the initial materials remain the raw material in its strict sense. This means that the role taken up by knowledge and more specific information and communication skills in this type of labour process is considered as one of the instruments of work.

Contrary to the instruments of work in the manufacturing are the ones in the professional organizational. Within this type of organization, the professional itself is the instrument of work, meaning that the prevalence of knowledge how to deliver a service, without the professional, does not fulfill the social needs of the client (use value). In addition, the position of machines differs compared to the labour process in the manufacturing. More specifically, knowledge owned by the professional is necessary to control the machine for example the interpretation of a blood tests or a judgment.

The third aspect refers to the man’s activity regarding the labour process. Comparing the employees, with the core employees in the manufacturing and the professionals, the main focus should be on the autonomy within the process. Because of the needed information and communication skills, core employees are enabled to take decisions though characteristics of the final product are determined by the employer. However, this is less applicable in case of professionals. A doctor can determine the treatment for a patient. He can for example define operational collaboration for the treatment with an operational unit that does not formally exist in the organization chart. This independence in combination with the role of knowledge maintains the power of the doctors which is clearly illustrated in the cases of restructuring presented in the previous section. The specialization of the doctors and their professional skills attract patients to the hospitals and, consequently, it becomes a financial income for the hospital. The restructuring process, as the case studies show, jeopardized the position of the doctors who responded by leaving voluntarily the hospital while bringing their patients with them.

Taken into account the general definition of occupation, meaning the defense of materials and work instruments, occupation occurs in the service sector as well. Whereas, in the metal sector, occupation is understood as the occupation of machines, occupation in professional organization is understood as the occupation of knowledge (assets) needed for the labour process. In other words, the professional's occupation is its leave in the professional organization.

**Conclusion**

The importance of globalization nowadays cannot be underestimated. Globalisation is accompanied by a parallel increasing use of well developed technology, IT and communication. The central role taken up by these factors within different industries and jobs lead scholars to rethink the nature of the diversity produced as an effect of globalisation between different sectors across (and within) national economies. More specifically the percentage of employees in the service sector has increased significantly since the last twenty years or so. This does not mean that manufacturing disappeared; though it changed due to the increasing role of communication and IT.
The changes within the national economies in general and in the labour process and job design in particular, have not always been easily implemented. During the 20th century, different forms of workers’ resistance, such as strikes and occupation occurred under particular circumstances. Occupation, as one of these forms, was considered effective in order to interrupt the well integrated Fordist mode of production. It was important and it made sense to consider occupation as such not only in relation to the way work was organised but also with regard to the broader political context where work was developed. Occupation in the 20th, and even more in the 21st century, occupations seem to merely occur in a period of uncertainty and insecurity. This may lead to think that occupations disappeared or transformed itself in something else because of this change.

Based on two cases studies in the manufacturing and health care sector we found evidence of none of the above mentioned hypothesis. On the contrary we could see that occupation is still used as a means of workers’ resistance as it was in the previous Fordist society. Nevertheless, the way how occupation is used changed in accordance to the changes occurred in the labour process across (and within) different industries. The metal industry has been characterized by an increasing use of technology, communication and IT. Together with this growing importance of knowledge in the production process, new types of work organizations, such as quality circles and teams have been introduced. Accordingly, it has been claimed that workers have been enabled to act more autonomously, although under the control driven by the target of production which needs to be daily reached. Therefore, the use of occupation as it was used to disrupt the well integrated traditional Fordist mode of production is no longer seen as effective as it was before. This has lead to the creation of a new form of occupation, what we label “from the outside of the factory”. The context in which occupation occurred in the case study we have analysed was not one of redundancy or a plant’s closure, but the occupation was organized in order to ‘shock’ the management; it was a preventive action. Aalter is a factory with a history of many restructuring processes and belongs to a worldwide multinational of which other subsidiaries were subjected to restructuring in the years before the workers’ action in Aalter was set up. The difference between the traditional type of occupation and how is shaped in the metal industry today, refers to what Greenwood (1977) has argued as the difference between defensive and assertive occupations. These two types of occupations refer respectively to occupations as a reaction to collective dismissal or to a dramatic restructuring. We can refer to ‘pro-active’ occupation, where occupation is used by the workers as a sort of warning rather than directly disrupting instrument against capital.

Conversely in the medical sector, the changes intervened in the nature of the labour process are understood in terms of the nature of the outcomes produced by the process of restructuring. Here the product of labour is an immaterial product such as knowledge, information or an emotional response. In case of the medical sector, it refers to the medical treatment prescribed by the doctor. As a consequence, defining occupation in the medical sector as it is formulated in the metal industry (in terms of machines and/or raw materials), means that the work instruments and the initial material should be defined. In the health sector, the “immaterial” is the doctor’s knowledge and the “work instrument” is the doctor himself. Therefore occupation in the medical sector is understood as the occupation of cognitive knowledge.

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Occupations and Alternative Paradigms of Worker Action: Explaining the changing character and context of alternative and direct forms of worker action in employment relations

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The question of occupations and direct action has returned to the fold of industrial relations discussion. A series of occupations throughout a range of countries in recent years have highlighted the continuing role of such activities. In particular, the current economic and recessionary context has led to a series of occupations in such countries as distinct as the UK and Argentina. This has for some led to a return to questions of worker control and worker mobilization. The context of Spain is interesting from this point of view having witnessed a range of diverse forms of mobilization and actions by workers throughout the past three decades or so.

The paper aims to try and steer some of this discussion to a broader and historical understanding of these worker activities. The tendency to see the current spate of occupations as a resurrection of specific forms of worker mobilizations against the socio-economic system is a reflection of an inbuilt concern with the way more modified and moderate views of industrial relations has emerged during the mid 1980s and mushroomed into a modus operandi for the trade union movement. The pattern of more institutionalized responses to restructuring is such that there appears to be a highly codified and even bureaucratic approach to dealing with closure and redundancies – this is seen to limit (or at best condition) the role of mobilization in the broader sense of the term.

The paper will therefore look at union and worker responses to the current recession in Spain that are both ‘formal’ and ‘informal’ – focusing on the latter, and especially occupations. The role of more direct and interventionist forms of worker action that overtly challenge the structures and assumptions of capitalist ownership systems are an important part of the labour movement’s history. Yet in many cases these have emerged due to a range of factors that can vary in character (Gall 2010). In a detailed study of recent worker occupations he has argued that we need to account for a range of micro level factors in understanding the character and development of occupations: the collectivized nature of redundancy, immediate and unforeseen redundancies, the loss of deferred wage and the issue of compensation, pre-exisiting collectivization, positive demonstration effect, and union or community engagement and support (Gall 2010). These are a vital part of any study.

Hence we need to be alert to both purpose and motives. Tuckman (1984) argues that occupations by workers of their workplaces can be defensive or offensive in character – they can be a last ditched attempt at averting negative aspects of employer behaviour (closures, restructuring, etc.) or offensive in that they can begin to form the basis of a more overt and explicit critique of the way the economy is managed and regulated.

Hence, the question of occupation has to be set against other traditions and activities. They can be part of a tradition or discourse of mobilization and worker action which has a competing view of how to manage the economy or be spontaneous and concerned with sending a signal about the need for limits in the way capital comports itself. The act of occupying may be part of a tradition of alternative worker action such as the use of assemblies and direct forms of participation – or part of a reactive undermining of management attempts to impose change or even closure. In this respect, we have to be aware of the reason why occupations emerge and develop. They way they are framed or not are an important item of discussion and one aspect of that is the way ‘direct’ activities are understood. That is to say we have to understand whether
such acts are linked to forms of democratic engagements of a direct nature, alternative political discourses, and traditions of mobilization based worker action broadly speaking.

They may also be framed by the changing nature of the economy: the way employment has developed in terms of the scale of workplaces, the nature of the employer, and the changing nature of employment contracts. This economic dimension may be important to conceptualizing the relation between the workplace – that which is occupied – and the character and nature of the employment relationship especially in a supposed period of fragmentation (Alonso, 2006).

In addition, there are broader questions of political and social motives. The act of direct action broadly speaking may respond to particular political and social motivations, which may be related to a series of political concerns such as regional and spatial autonomy. In this respect, the economic dimension of worker organization and mobilization may be framed by non-industrial relations agendas. It may be other social agents who use such methods and prioritize them in relation to public/state offices or housing. There is a strange disconnect between these different dimensions in the Industrial Relations debate.

This also raises the issue that the acts of worker occupation and direct action have to be understood in terms of the way they relate to other forms of direct action and cultures of protest. This necessitates a historical approach to occupying and direct action. There are issues of memory to consider in this respect and one feels that how occupations or alternative forms of worker action are culturally and nationally embedded is important (see Gall, 2009).

To these dimensions we need to add the way in which occupations and direct forms of action sit with more formal worker and union responses to change in terms of the economy. This has a two fold explanation. Firstly, direct forms of action may be a response to the way trade unions are responding to economic change and restructuring, i.e. the use of partnership and involvement in supply side activities. Secondly, it may also be conditioned and limited by these very developments in terms of formal approaches by unions to co-manage the politics of restructuring. The link between unofficial and official forms of union and worker action must be understood in terms of how they shape each other, and support or constrain each other. Such terms as ‘official’-‘unofficial’ can be conceptually blunt tools at times but they can help us explain how formal approaches to, for example, restructuring can frame local worker action. Much appears to be related to the way participation as a concept has been re-framed in recent years around more micro-corporatist and employer focused activity.

We need to therefore understand different dimensions to worker action in relation to developments such as occupation and explain why they have not been as prevalent in Europe in the past two years as much of the rhetoric would have us imagine. We need to think beyond isolating or prioritizing occupations as acts because of their episodic and specific/contingent nature. The micro conditions need to be offset against macro level and broader political understandings. In that respect, the paper will discuss occupations as part of a tapestry of activities within the labour movement and beyond – part of the paper will be focused on the context of Spain which has seen a range of developments emerge since the 1960s. The relative absence of occupations in recent years, in terms of the expectations generated, has, therefore, to be a focus for discussion itself.

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Comparing collective and individual conflicts across Europe

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Employment conflict over restructuring, jobs and collective redundancies has surfaced in most European countries in the last few years. Key questions posed in comparing how these conflicts have surfaced in the different countries concern both the degree to which they represent a divergence from any overall trend in employment conflicts, and the extent to which they are presented as collective or individual conflicts? How similar and how different are these conflicts between countries?

The argument developed here is that to understand the changes in forms and methods of conflict requires the development of a broader framework than narrow measures of conflict usually permit. It is necessary to understand how trade unions and workers are still mobilising in face of increasingly remote forces of capital, but using the different institutional and organisational possibilities available within each distinct employment relations system.

This paper reports research findings arising from a study of the trends in collective and individual conflicts, including case studies of responses to collective redundancies, and the role of state-supported conciliation, arbitration and mediation processes in resolving conflicts France, Italy, Poland, Portugal and the UK.33

Employment Conflict Trends

There was one apparent shared trend in collective conflicts in the five countries: over 30 years in France, Italy, Portugal and the UK and over the last 15 years in Poland, the rate of strike action recorded in official strike statistics has shown a significant decline, although in recent years there has been greater variation in this general tendency.

In the UK, for example, the average number of days lost per year in the late 1970s and early 1980s stood at around 7 million working days in official records, or 300 days per thousand employees. By the second half of the 1990s and early years of the twenty-first century, days lost to officially-recorded stoppages had fallen to around 0.5 million per annum or just 20 days per thousand employees and in 2005 there was a record low of just 6 days per thousand employees – although this was quite exceptional if the data for 2006 and 2007 are anything to go by.

33A project funded by DG Employment, 2008-10, Social Dialogue and the changing role of Conciliation, Arbitration and Mediation Services in Europe (CAMS). The national case studies and reports were written by: Sylvie Contrepois (France), Volker Telljohann (Italy), Joanna Unterschutz (Poland), Marinus Pires Lima (Portugal) and Nick Clark, Gill Dix and Fiona Neathey (UK). See www.industrialconflictconciliation.eu.
In France, where strike waves of public sector workers are still important, although far below the levels of 1968-1975, private sector strikes have fallen almost continuously for 30 years from the mid-1970s. From 1985 to 2000 there was an annual average of 1,519 market sector strikes, compared to 3,245 a year between 1969 and 1984 and 1,857 a year between 1952 and 1967. There were market sector strike peaks in the election year of 1995 and, associated with the introduction of the 35-hour week, for the three years after 1998 when there were just 353,000 private sector strike days. But by 2003 the downward trend had resumed and French private sector strikes involved just 15 days per thousand employees, although as the data in Table 1 confirm, the national picture including public sector, transport and teacher strikes in particular, is of still a high level of open conflict.

In Poland, high levels of strikes in the 1970s were partly curbed by martial law in 1981, and then took off again in 1989 before declining sharply from the mid-1990s: over the five years 1990-94 there were annual averages of 836,000 striker days involving 333,000 workers; but from 1997 to 2001 the five year averages fell to 57,000 days a year and to just 13,500 workers, and between 2001 and 2003 they averaged still less, 6,300 days a year involving just 1,500 workers. There was an upturn in strike numbers since unemployment fell considerably from 2005, but with the rising job losses flowing from the global finance crisis since 2008, it is likely that the official strike measures have fallen back again.

In Portugal, after a high level of political strikes during its democratic transition in the mid-1970s and an average of 581 strikes a year between 1981 and 1985, there was a dramatic fall in industrial conflict in the second half of the 1980s down to just 181 recorded strikes in 1988. This trough was followed by a rise in the early 1990s associated with failures in national-level negotiations and then a new decline from 1994 when 300 strikes were recorded to 156 in 2006 and 99 in 2007. Since then the numbers of workers involved has continued to fall.

In Italy strike action also declined from the very high levels of the 1970s and 1980s. Whereas in the five years, 1981-85, strikes took an annual average of 78m hours, by 1996-2000 they averaged only 7.7m hours, ten times less. Strikes in Italy remained, however, above the levels of the four countries described above, with 1.8m striker days a year occurring between 2000 and 2004. Over the most recent period, 2003-2007, the 37 striker-days per thousand employees are only slightly above the EU average of 31, although the Italian figures exclude political protest strikes of which there have been several significant ones over the past decade.

In most countries it must be emphasised, reported strikes have remained concentrated in a relatively small number of sectors, and increasingly, a common pattern is that these are in public services, as shown in Figure 1 (taken from European Foundation, 2008):
However, it does not follow from the evidence of a long-term trend in official strike statistics that the incidence of collective conflict in employment, where several workers express common objections to actions (or inactions) of their employers, has also declined. Some evidence suggests that workers in some countries are using means other than strike action in conflict situations. These may include action short of collective strike action (such as work to rules, overtime bans and petitions) and threats to take strike action; collective publicity drawn to the issues in dispute through newspapers or internet campaigns; or individualised voicing of group discontent through raising grievances within the company’s own procedures. It may also involve indirect action such as high absenteeism or quitting. In some countries there is also evidence of collective conflicts being expressed through individual rights systems, with the instigation of joint, multiple individual claims being taken to the employment courts.

Equally, over the most recent period for which data is available, prior to the onset of the 2008 global recession, the official strike data of numbers of workers involved per 1,000 employees in the five countries showed considerable volatility (European Foundation, 2008) as illustrated in Figures 2 and 3:
Another common long-term European trend shared up to the end of the 20th century was the spread of a general discourse of 'individual rights' and a concurrent rise in the numbers of workers to pursuing individual grievances in defence of those rights through employment courts. In the last five years this trend, like that graphed above for collective disputes has been less clear.
Again, the official statistics of claims going to employment courts suggest contradictory trends. There are several reasons for variations over time in the number of claims taken to the courts: it could be that over time the courts have become more or less accessible to ordinary workers; the process of claiming became more legalistic; the laws themselves were amended with the result that volumes were depressed; or trade unions themselves may have become more or less encouraging of their members’ claims in this area. However, the multiplication in most countries of the number of employment rights issues on which claims can be made to the courts, is a key development helping explain the rise in claims.

To be inserted: Table/chart of individual claim to Employment courts

Mobilising strategies

One explanation of the longer-term decline in officially-counted strikes and of the growth in Employment Court claims is that Europe’s trade unions have become weaker. There is evidence of this in numerical terms. The quarter of a century since 1980 has witnessed the ‘strong’ unions in France, Italy and the UK becoming weaker in terms of membership and influence, while the newly-reconstituted independent trade unions of Portugal and Poland have also both lost membership and become more institutionalised.

In France average trade union membership of 4.5 millions in the 1970s fell to average 2.1 millions through the 1990s, where it has more or less stabilised in the 2000s. Paradoxically, these were years in which legislation strengthened the collective rights of trade unions. In the UK where a similar proportional decline took place, trade union membership fell from a post-war peak of 13 millions in 1979 to just 7 millions by 1997, a level it has remained close to since. In the UK the period witnessed the introduction of many laws making trade union recruitment and mobilisation in strikes and other forms of industrial action much more difficult and membership was just 28 per cent of all employees in 2006.

In Italy, the numbers of trade union members of the three major confederations in work fell from 6.2 million in 1986 to 5.7 million in 1999. In Portugal membership remained at around 1.1 million over the 1990s, although this includes retired workers, while density declined somewhat. Finally, in the much more exceptional circumstances of Poland, where one of the two major trade unions, Solidarnosc, played a leading role in triggering the major transition processes of 1989-91 and for a short period became a national institution both in and out of government in the 1990s, trade union membership decline has been exceptionally dramatic. Today, while still the largest trade union, it counts only just over 4 percent of employees as members compared with estimates nearly ten times greater at its height.

Union membership decline, however, like the measures of trends in collective and individual conflicts should not be represented as indicating lower levels of conflict at work. In all the countries in our study were faced by a changing balance of forces in favour of the employer resulting from combinations of higher levels of unemployment, smaller workplace sizes and more sophisticated human resource management techniques. In consequence they developed new strategies of resistance.

The new frameworks varied from one country to another, but often involved much more conscious use of the media as a mechanism for exerting external pressure on decision-makers, and also resorting more frequently to third party dispute resolution mechanisms. Both of these strategies enable the conflict to be publicly aired – and are adopted where the risks of strike
action failing are high. In other countries, particularly where moral economy arguments about job losses could be employed, this could involve resort to more direct action.

In Poland in July 2007, for example, shortly after signing a collective agreement promising consultation and negotiation with the unions, one logistics company with ten branches across Poland decided unilaterally to restructure its operations by outsourcing some of its front office operations to a new company. The unions protested that these actions were taken without proper consultation as laid down in the collective agreement and in January 2008 a record of differences was signed, as is required in Polish law. A mediator was then jointly selected from the Labour Ministry’s list. In the absence of any progress through the first mediation meetings the unions then organised a two-hour warning strike. Since it is illegal in Poland to strike before the parties go to conciliation and arbitration it is not at all surprising that the strike weapon is relatively unused in Poland. However, as in other countries, other methods of proclaiming the existence of a labour conflict, through leaflets and posters and other forms of publicity such as workers wearing badges, are used to exercise pressure.

An American multinational was involved in a French example, where 283 job losses were declared in Villemur-sur-Tarn in the Haute-Garonne region of France in October 2008, with the company proposing to relocate to China and back to the US. Legal action was taken by the unions here, and six months’ later mediation was initiated at regional level, this time by the regional Ministry of Labour and the Departmental Prefect. However the company continued to prepare for the closure, provoking strikes and then a partial occupation and seizure of two managers by the workers. The media attention that followed forced the government to act and led to a partial settlement with some of the workers getting their jobs back and continuing to work under a new employer.

In the UK, as well, the introduction of conciliation did not entirely avoid strike action in 2008 in one part-privatised company where new working patterns were to be introduced as a part of company restructuring to provide a more flexible service. But after a three-day strike had enabled both sides to gauge the determination and mobilising possibilities of the other, a renewed conciliation took place that finally allowed both parties to retreat sufficiently from their earlier positions and secure a ‘compromise’ settlement. Strike ballots, too, have become an increasingly used armoury in British union negotiations with their managements.34 Despite the high cost they entail they are often a less risky route to put the employer under pressure.

From the trade union perspective, when third party intervention takes place in collective disputes it is generally welcomed. This is partly because it usually arises in circumstances where neither collective bargaining processes nor any local mobilisation have yielded what are considered satisfactory outcomes; and such interventions are also welcome because they may permit the union to ‘demobilise’ its own members through securing a settlement with some improvement on the previous status quo but without losing face.

The unions tend to be somewhat more ambiguous concerning the resolution of individual conflicts through third party intervention. This is partly because they would much rather resolve

34 In order for UK unions to be immune from prosecution, and for their members to be protected from dismissal relating to a strike (or other industrial action), the members involved must vote in favour of action in a secret, postal ballot of all affected members. Management must be given advance notice of the intention to ballot, and to take any resulting action. There must be a “trade dispute” between the union and management (so it may not be over “political” issues, or relate to issues with another employer, for example).
these conflicts collectively within the workplace. However, in the face of a declining union presence in many workplaces, either because they are simply not present or because they lack the membership numbers to influence management methods, trade unions very frequently offer support to individuals taking claims through to the third party employment court system.

A broad concern for trade unions here, particularly in relation to individual conflicts, but also in some instances in relation to collective conflicts is one of an ideological shift in terms of the workplace source of legitimacy over what Goodrich (1920: 27) described as ‘How the worker is treated – what sort of authority he is under, how much freedom he is allowed’. While the extension throughout Europe of many employment rights is to be welcomed, to a greater or lesser degree in the countries studied, there has been a weakening of the idea that social justice in employment is guaranteed by workers collectively organising to ensure that their rights are respected, and a strengthening of the idea that rights can be defended and improved through the actions of a conciliator or judge ‘outside’ the workplace.

Conclusions

In all the countries studied, both individual and/or collective conflicts persist, confirming that the workplace remains a contested terrain between employers and employees.

In all the countries studied the unions were more ready to consider other ways of putting internal and external pressure onto the employers than simply supporting or trying to encourage the workers to withdraw their labour. Internal means included petitions, meetings and strike ballots. External means included developing an argument about the failure of the company or organisation to meet societal norms of behaviour in relation to restructuring, relocation and job losses through the media and other ways of reaching a broad public such as demonstrations and high-profile protests.

Depending on the legal structures in place and the possibilities of successful results, on the extent of access to the media, and the visibility of the target firm, unions make considered choices about how best to progress their collective dispute. In all five countries while the use of third party intervention is significant, it appears that many employers consider that allowing third parties to conciliate or mediate on an ‘internal’ conflict, whether individual or collective, constitutes a potential threat to their managerial prerogatives, making such interventions often a less-preferred solution in on-going employment conflicts.
Resisting Recession and Redundancy – contemporary worker occupations in Britain

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Introduction

Occupations - alternatively known as sit-ins or sit-down strikes - are historically a well-known, if rather infrequently used, response of well-organised workers to employer actions. In Britain, the best and most widely known example is that of the successful UCS (Upper Clyde Shipbuilders) of 1971-1972 in Scotland. The workers’ action prevented the yards’ closure and secured their jobs. It seemed to typify the wider ability of militant workers in Britain in the period of the early 1970s to not only have the capacity to struggle collectively in defence of their interests at work but to also do so in a successful manner and in a way that made a political challenge to the prevailing order in society. In its wake, many other workers took the example of UCS as both template and inspiration for their own actions. Subsequently, occupations have been used by workers in Britain for an array of mostly defensive reasons, ranging from resisting victimisation of union representatives and activists and employer unilaterally imposed changes to working conditions to demanding higher pay. However, and as a result of recession and restructuring, the occupation tactic is potentially a particularly powerful tool by which workers can collectively respond to and resist redundancy for reasons of providing leverage against employers than strikes cannot. But the global recession of late 2007 onwards in Britain has witnessed very few examples of workers deploying this tactic - certainly far fewer than might have been expected given the depth and extent of this recession and when compared with the recessions of the early 1980s and early 1990s.

This article seeks to perform two essential tasks in the study of those occupations that have taken place in Britain since the beginning of the current recession. The first is to understand their genesis, character, dynamics and outcomes in terms of the micro-social processes involved. The second is, using this micro-processual approach, to develop a grounded series of factors and characteristics, to construct a counter-factual explanation of a) why the worker occupations are used so sparingly by those who do deploy the tactic and b) why more workers do not consider or engage in them when faced with comparable situations of redundancy and workplace closure to those that did use the occupation tactic. The contention of this article is that by approaching the issues in this manner more purchase can be gained in explaining the relative balance of action and inaction than can be gained by, alternatively, looking at macro-level factors. The latter would mean examining factors like the overall declines in worker consciousness, union presence and worker combativity in an abstracted way. The consequence of this method of analysis is that while useful in developing an understanding of the overall context of the salient social processes, it remains at too many steps at distance from and above the level of the cognitive processes of the individual worker and the social interaction between co-workers. It is at this level that the decisions about action and inaction are made. Indeed, the macro-level factors are interpreted by workers and shape but do not determine their actions, alongside many more mundane and practical concerns of mounting occupations. So the benefit of the micro-level approach is predicated on being able to focus on more immediate and meaningful factors and processes which concern and affect workers in the decisions about whether to be active or passive in the face of redundancy. This speaks to the appropriate research site – the site for investigation - for explaining the action and inaction being the psychology of the workers, both individual and collective, at that point in time that they face redundancy, and understanding what factors influence this psychology. Here mobilisation theory...
on collective grievances and collective action is of use in identifying these factors in terms of workers making attributions, having the opportunity and resources to act and making cost/benefit calculations for their actions.

Occupations of workplaces – when making a like-for-like comparison on a temporal plane - involve a more fulsome challenge to the rights of capital than do strikes. Indeed, issues of appropriation and expropriation of capital such as property, machinery and materials and the subversion of management are involved which do not come into play during a strike. In this instant, however dimly or weakly, the spectre of a concrete example of workers’ control of the means of production, distribution and exchange can be glimpsed. More importantly, given that workers’ self-agency is involved in occupation and this is required to realise new forms of social organisation, occupations potentially provide for experiments in progressive anti-capitalist social control and ownership. Given this, the occupations of the late 2000s are viewed through this lens, particularly that emanating from the occupations of the 1970s in Britain which were more widespread and took place in relatively more hospitable circumstances.

The article proceeds by discussing the research methods used for examining the occupations. From here it examines the higher degree of purchase of the occupation over the strike in resisting redundancy and then seeks to put the contemporary occupations in a historical and social context. This lays the foundation for a biographical description of each occupation and a focus on their geneses. From this, an identification of their key characteristics of motivation and stimuli is made. Using this framework a grounded explanation is developed. With this done, the article then examines the salience of a number of macro-factors in explaining the impetus to occupy, and the outcomes of the occupations. Finally, the contemporary occupations are subject to examination through the historical lens.

Research Methods

The material for this article draws upon an array of reporting, comprising quality establishment media as well as independent and critical leftwing and progressive media in print and online forms, of the seven contemporary occupations in Britain. The material that is particularly useful are accounts given by the worker occupiers themselves to these media about how the occupations began, this being found primarily in the leftwing and progressive media because of the greater importance attached by these media to acts of worker resistance. The article is reliant upon these various sources because the author was not present at the occupations as they occurred – this arguably being the key juncture by which to witness and understand the moves to occupy - for reasons of timing and the location of the occupations. Those accounts of the occupiers which are specifically or immediately contemporary to the occupations are believed to have a particular purchase on understanding the move to occupy. By contrast, accounts from the occupiers after the occupations have existed for a length of time or even finished have the benefit of retrospective self-reflection on events which often preclude self-reflection because of the pace of events and the tasks to be undertaken in organising the occupation. However, they also arguably lack the ability to focus on the specificity of the impulse to occupy as it took place. For example, accounts of the move to occupy after the event tend to focus on the prima facie reason (anger at the job cuts) rather than process by which workers decide collectively to respond by occupy. In these accounts, there is a tendency to collapse the process from stimulation to action, with more focus on the subsequent organising of support for the occupation because the action has already been taken and support for the occupation seems more critical. But for the purpose of this article, the dynamic to occupy is believed to be different from the dynamic of organising the occupation once this decision has been taken. The one caveat to the utility of contemporaneous accounts is that the questions asked were not
those decided by the author (sic) and, therefore, do not reflect lines of academic inquiry. The one rider to this has been the extent of coverage of the occupation and interviews with the occupiers by some many different media (especially the leftwing and progressive ones) ameliorates this to some extent. Nonetheless, because the research for this article is not based on primary (academic) research – that is direct interviews with the participants of occupations and at the time of their occupations – there is still a limit to how far the article can explore what is regarded as the key variable in accounting for action or inaction. This is the social psychology of the workers, by which is meant the cognitive processes by which individuals deploy ideas and interact with each other in discussion and possible pursuit of ideas. The reason why this is believed to be the key variable is because faced with comparable situations, different groups of workers have acted in quite different ways and only a very small minority have responded by taking the action of occupying. Because the broad material situations faced by workers are comparable, this suggests that the differentiating factor may be the collective social psychology of the different groups of workers. Nonetheless, the article can provide a valuable role in highlighting and exploring this aspect. One final comment on the methodology is warranted. Working on the basis of the key research site being the social psychology of the workers, the most productive form of research to understand the genesis of the act to occupy would be to have matched pairs of workers facing mass redundancy and workplace closure where one group occupied and the other did not. Matched pairs could be constructed along the lines of different interests, regions and unions. This would help tease out the salient factors and processes. Of course, however, a crystal ball would be needed to be in the right time at the right place to facilitate this.

Contemporary Occupations

Since late 2007, the numerical roll call of occupations in Britain has comprised Simclar, Calcast, Prisme, Visteon (two instances), Vestas and the Orchard Lodge care home. These workplaces and employers were all located in manufacturing rather than in public services or in private business services save one, indicating the greater availability of resources like machinery and stock which has a more valuable and manifestly physical nature and lends itself more to capture than information and data which is not necessarily physically embedded in a single workplace. The following gives a brief biography of the each occupation in the order in which they took place:

**Simclar – electronics factories**

The Simclar workforce of over four hundred in two plants in Ayrshire, Scotland were made redundant with immediate notice. The night shift was informed while at work and the day shift was informed when it turned up to work, finding the factory gates were locked. Negotiations with the workers’ union had been going on during the statutory ninety-day notice period over the number of redundancies and the terms for this. A month before the end of this period, the company went into administration and workers were informed that redundancy pay was to be at the statutory minimum. Pickets were organised to try to prevent removal of assets to sister companies (but without success) and at one plant the following weekend workers forced their way in and staged an overnight occupation. Further demonstrations were then also held.

**Calcast – motor car component factory**

The closure of the plant involved some 90 redundancies at the Derry factory in Northern Ireland and the transfer of the remaining twelve workers to another plant. This meant the employer was
not bound by domestic law to engage in a ninety-day consultation exercise over redundancy and closure which is obligatory when more than one hundred workers are made redundant. Instead, the employer imposed a thirty-day consultation period and offered the statutory minimum redundancy payments. Notice of closure was given some weeks earlier but the redundancies and terms of these were not announced at that point. Subsequent to these being announced, a three-day occupation led to the employer conceding to the ninety-day notice period and improved redundancy terms. Dockers at Belfast had pledged not to load any finished components from the factory onto awaiting ships.

**Prisme – cardboard packaging factory**

Twelve non-union workers at the Prisme factory in Dundee, Scotland, were given notice of immediate redundancy by their employer after an order fell through. Seven workers refused to leave upon being told this and began a seven-week occupation to secure unpaid wages, holiday pay and redundancy payments. They withstood an eviction attempt from the building’s owner (who was not their employer) and established a cooperative to provide themselves with jobs in the same line of work. However, they were unsuccessful in obtaining owed monies from the employer.

**Visteon – motor car component factories**

Visteon represents the sell-off from Ford in 2000 of its (previously) in-house car component factories. The workforces, amounting to nearly 600 employees and heavily unionised, at the three plants (Belfast in Northern Ireland, Basildon in Essex, south east England, and Enfield in London) were simultaneously given at mass meetings with management six minutes notice of immediate redundancy following company bankruptcy. The terms of redundancy were less than the workforce believed there were entitled to for upon transfer from Ford to Visteon, the workforce were told that their terms and conditions would remain unchanged. At the mass meeting in Belfast, when the workers were asked to leave, some workers shouted out that they would not leave. From here the occupation started. By contrast, at each of the other two other Visteon factories, workers left and en masse went to a bar to discuss their fate. Upon hearing of the response of their Belfast colleagues, workers at the other two factories attempted to re-enter their workplaces in order to occupy them. At only the Enfield factory was this successful, with the workers there occupying the roof, for the company has secured the entrances to the buildings. The Belfast occupation lasted 37 days while the Enfield one lasted seven days. The occupations, allied to an information campaign and threats of picketing out several Ford factories in Britain, were successful in securing redundancy pay-offs equivalent to those of Ford workers but the payment of pensions per se and pensions commensurate with those of Ford workers remains unresolved.

**Vestas – a wind turbine factory**

A 19-day occupation was undertaken by about 5% of the 500 workers on the Isle of Wight in south-east England. The bargaining tool was control of finished and finished turbines. The announcement of closure of the two factories was made in June 2009 and was to be operational two months later. A month into this timetable and after discussions with Visteon workers and members of some leftwing political groups, a collective will to act amongst a small minority of the workers emerged. The precise time of the act of occupying of the main factory was forced upon the workers as management became aware of the workers’ intentions. The numbers of occupiers was not supplemented by further Vestas workers as factory was sealed off by the police. Those workers who did subsequently the occupation after it began were confined to
providing support from the outside. A small degree of unionisation took place as the occupation developed. Those occupiers who were identified by the company were sacked while the timetable for closure was extended thus giving the rest of the workforce a further period of paid employment (although they were not required to turn up for work). Following the granting of a legal order to Vestas for repossession of its factory, the occupation was ended as the remaining workers were not prepared to resist arrest by the police. An external picket was then mounted which unsuccessfully attempted to prevent the removal of the remaining turbine blades from the factory.

Orchard Lodge care home
Some forty-five staff (65% of the total) at the only secure children’s home in London occupied the buildings after being made redundant and given less than two hours to collect their belongings and leave. The home had been earmarked for closure five months previously but the failure of a legal challenge to stop this gave the green light for the closure to proceed. The occupation lasted for one night and was ended after the (private-sector) employer agreed to come in person to explain the closure and negotiate with their union over redundancy pay and unpaid wages. The motivation of the staff in trying to resist closure equally concerned the impact upon themselves and their jobs as it did the affect upon the children and their care.

Aspects of Genesis

Given that the focus of this article is on the processes and context by which workers do or do not engage in the act of an occupation (rather than on those by which occupations are sustained and then ended), it is worth further exploring the issues around the genesis of some of the contemporary occupations. Indeed, it can be ventured that the decision to occupy or not is more important than any others that the workers may make for without the crossing of this proverbial Rubicon consideration of all other issues about leverage and outcomes is a non-sequitur.

In the case of Prisme, with company being without assets to meet its outstanding liabilities, the workers – in the words of one – decided that ‘After receiving these [redundancy] letters we were told to leave and come back at half nine in the morning but we decided we’re not leaving until we receive what we’re entitled to. We’re not giving them the opportunity to lock the doors while we’re out so we end up with nothing’. The workers recognised that keeping control of the machinery gave them some leverage, either because it had a resale value or because it was necessary for the establishment of a new company by the owner.

Meanwhile, in case of the Vestas, the process of deciding upon occupation was a long-drawn out and complex one. Thus, despite misgivings from the relevant local union about generating a positive turnout, a number of left-wing activists called a public meeting about the closure of the factory. Although well-attended by a hundred people, no collective decision was made about what the attendees at the meeting should then do. Indeed, when the idea of an occupation was raised by some (including a former Visteon convenor), it was dismissed by a number of local opinion leaders during the meeting. Outside of the meeting, a number of young Vestas workers showed support for an occupation but as one worker commented to the left-wing activists: ‘I’m up for it, but no one else will do anything, [so] it’s not possible’. The left-wing activists then organised meetings of these small numbers of mostly young Vestas workers which had small entitlement to redundancy payments. Other workers viewed the situation as being ‘too late’ to do anything about the closure or were glad no longer to have to work under the Vestas regime and just wanted to take their redundancy money and go. While the redundancy pay offered was twice the statutory minimum it, nonetheless, amounted to low sums for the Vestas factories had only been in existence for nine years.
The case of Visteon is more akin to the situation of Prisme. Thus, workers were called to hastily convened mass meetings, where in the case of Belfast, they were told ‘I am John Hanson from KPMG administrators. Our company has been drawn by Visteon UK and as of now Visteon UK is liquidated.’ When questioned about the responsibility of Ford, the administrator denied any knowledge of Ford. In the words of one of the Belfast occupiers:

_We said we were Ford employees, but he said ‘I know nothing about that’. That’s when the debate started. We said ‘We’re not moving until we get this sorted out’. Then he said ‘My colleagues at the back have paperwork for you as you are leaving, take a sheet each and you can read it and get back to us if you need any answers’. Somebody said ‘We’re not leaving’. People thought maybe that’s not a bad idea. [The union convenor] called for a meeting. He said to the managers ‘Can you leave us to talk between ourselves and get things sorted’. ... We all talked between ourselves and decided that’s it, we can’t leave. We’ll be too weak if we leave. Our strength is staying here. Everybody agreed._

**Motivations and Stimuli**

To begin broadening out the analysis, it can be ventured that the foundations for the occupation have been aspects of consciousness, primarily, anger and organisation. Anger exists amongst the affected workers at being at the ‘end of the line’ with nowhere to go and wanting to do something to remedy this grievous situation. Existing social organisation – like a union - allows collectively something to be done about this. This contrasts with other facets of worker consciousness such as a fatalism and resignation that nothing can be done, and that the workers themselves have no power of remedy (even with the social organisation of a union or group that represents workers’ interests). But this is insufficient to explain action compared to inaction as per occupations because there are many situations where workers are angry and organised but take no such action (nor any other like a strike or a political campaign) and the line between creative anger which leads to action and the resentful fatalism which leads to inaction is not a clearly defined and immutable ‘Chinese Wall’. So, to try to flesh out the issues, the main characteristics of the stimuli to the occupations are identified. These are:

i) Compulsory redundancy of all workers and closure rather than partial downsizing of the workforce and maintenance of on-site production or provision of service

ii) Timing of closure announcement: immediate notice of immediate redundancy and closure

iii) No severance pay and loss of pension rights as a result of bankruptcy (genuine or otherwise)

iv) Unionised workforces

v) Support from the members’ unions

vi) Previous high profile examples of occupation in recent times

Now taking these in turn and examining these in more detail, we can observe the following.

**Collectivised nature of redundancy**

This collectivised experience of compulsory redundancy – as opposed to voluntary and/or selective redundancy - helps create a critical mass of aggrieved workers where there is a sense that they are ‘in all this together’ and that they can make a united stand together. This can be contrasted with a situation where only part of the workforce is being made redundant and a divergence of interests, thus, opens up within the workers concerned.
Immediate and unforeseen nature of redundancy

The immediate and unforeseen nature of the announcement of redundancy coupled with redundancies being effective from the time of announcement provides for no period of consultation or dialogue with the employer about measures for amelioration or alternative work. Thus, a greater shock to the 'system' of the workers is created and thus potentially the greater is the workers’ anger. By contrast, significant prior notice is likely to lessen anger as workers accommodate to the new situation they find themselves in.

Loss of deferred wages and compensation

This grave sense of procedural injustice is heightened by the substantial injustice of no redundancy compensation from the employer and loss of pension entitlements (as deferred wages and through worker contributions) because the employer either becomes bankrupt, or goes into administration with many creditors lined up to seek redress and putting the redundant workers in the position of being only one party amongst many seeking financial redress.

Pre-existing collectivisation

Those workers which are already unionised display a higher ability – all other things being equal – to collectively resist the redundancies because they do not have to pass through the additional hoop of forming a collective association of workers at the same time as staging the act of resistance through occupation. Existing collective organisation, relations and consciousness, thus, place them in a better position to step up to the plate here.

Positive demonstration effect

With occupations being relatively infrequent in the present period, workers in countries (or parts of countries) where there have been recent other workers occupations against closure and redundancy stand in a better position to deploy the tactic because they are aware of a living example. In other words, the occupation tactic pricks their consciousnesses and becomes a slightly more possible form of collective resistance.

Support from members’ unions and wider community

Given that occupations in Britain are an unlawful form of industrial action by virtue of whether in terms of violating laws on property rights (like trespass or seizure) and regulations on balloting and notification for industrial action this is potentially brings the workers – where union members – into conflict with their unions. However, unions have been willing to support their members in various ways such as political advocates, lobbyists, negotiators and financial supporters even though they may have repudiated the action as unofficial in order to safeguard their immunity from prosecution. Although this characteristic is not one which is likely to have a direct bearing on whether workers decide to occupy, it is one which may have a bearing on the length and outcome of the occupation. The same applies to the issue of extra-workplace political and financial support from surrounding communities. Both forms of support are necessary to sustain occupations because external social organisation is required to provide the basics of living (food, water, heating, entertainment and so on) and intelligence on, and further leverage over, the employer.

Overview of Characteristics
The potential salience of the first five characteristics lies in their explanatory power, specifically concerning the workers’ willing to act and the ability to act in terms of launching an occupation. In other words, the configuration of these factors of motivation and stimulus may be seen to provide a greater disposition to the act of occupying than their absence. However, it is evident that this initial attempt to grapple with providing a grounded explanation for action provides only limited illumination for not all the occupations had all these features or even a majority of them as Table 1 makes clear.

Table 1: Presence of Key Characteristics

<table>
<thead>
<tr>
<th>Condition/Occupation</th>
<th>Simclar</th>
<th>Calcast</th>
<th>Prisme</th>
<th>Visteon Belfast</th>
<th>Visteon Enfield</th>
<th>Vestas</th>
<th>Orchard Lodge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Collectivised nature of redundancy</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Immediate &amp; unforeseen redundancies</td>
<td>Yes &amp; no</td>
<td>Yes &amp; no</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes &amp; no</td>
</tr>
<tr>
<td>Loss of deferred wages &amp; compensation</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Pre-existing collectivisation</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Positive demonstration effect</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Union and/or community support</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

*Note: In the case of 'yes and no', the impending redundancies were known of but not their exact timing and nor their immediate effect.*

Indeed, even the first condition was only just common to all for in the case of Calcast although not all workers were being made redundant this was a technical ruse to get around legal requirements and the workplace was being closed. Moreover, the second condition was quite common but again not universal. Some examples of this are:

- in a number of cases workers became unionised in the process of an occupation so that social organisation preceded unionisation (such as at Prisme or Vestas)
- cases exist where redundancy payments were to be made but these were felt to be insufficient (such as Calcast and Visteon); and
- a majority of the occupations took place without there being recent examples to have the benefit of.

Moreover, and just as importantly, there were many cases where all the features were present but no occupations were engaged in. This suggests that other factors, and workers’ assessments thereof, were at play. But before proceeding to go down this avenue, it is worth understanding where and how some of the five factors laid out above did operate and did so together.

For example, in the case of the Visteon occupations in Britain in early 2009, it was not just the simultaneous delivered six minutes notice of immediate redundancy given to each of the three factories’ workforces with loss of pension entitlements and no redundancy pay (thereby reneging on the pledge to match the Ford terms and conditions after the sell off from Ford) while the
employer’s other businesses remained in profitable operation that led to the occupation. This is apparent because the Belfast Visteon workers responded by immediate occupation whereas the Enfield and Basildon Visteon workers left their workplaces and adjourned to the pub to discuss their fate. It was only after hearing of the Belfast occupation that their workers at the other two plants re-appraised their reactions and tried to emulate their Belfast colleagues. By contrast, the case of the Vestas occupation in its pre-figurative and initial stages was heavily influenced by the Visteon example, where Visteon workers came down to the Isle of Wight factory to talk to the Vestas workers.

It can be ventured that the high-profile media attention given to occupations, aided by support from various unions, has helped the occupation tactic enter the lexicon of workers. Here we have the potential occurrence of what is known as a positive demonstration effect. However, this does not seem to have occurred in Britain for despite the high levels of attention given to both the Visteon and Vestas occupations for no more have occupations been subsequently forthcoming despite the continuation of combined mass redundancies and workplace closures. This emphasises the point that the transfer of knowledge between workers may be seen as a facilitator rather than a creator, where it helps add to an existing set of factors that may favour staging an occupation.

**External Variables**

Recalling the contention above of the limited purchase of macro-level factors to explain the both action and inaction as well as the relatives balance between the two vis-a-vis occupations, it is now appropriate to consider the influence of these factors having already examined the role of micro-level factors. Thus, rather than providing a direct and tight causal explanation, these macro-level factors help provide the canvass upon which to understand the role of the micro-level factors. In this sense, the macro-factors help shape rather than determine the conscious agency of workers. In regard of the key material factors which vary by region in Britain, are the labour market situation and union strength.

The overall level of unemployment in Britain has risen from 4% to 8% since mid-2007 with considerable regional variation within this rise. Using data from the government’s National Statistics Office, the regions with the highest and fastest rising unemployment rates over the period have been London, north-east England, north-west England, west Midlands, east Midlands, Wales, and Yorkshire and Humberside. Despite the very small population of occupations, it is still worth making some observations about the likely relationship between these and differing levels of regional unemployment. One could conclude from this that either there is no direct relationship because only two of the occupations (Visteon Enfield, Orchard Lodge) occurred in areas of high and fast rising unemployment. Indeed, with regional levels of unemployment hiding significant intra-variations, the areas with unemployment in excess of 10% in late 2009 (namely, Birmingham, Glasgow, Liverpool, Middlesborough, Wolverhampton, and the West Riding and south Wales valleys) confirm more starkly this picture of a likely non-relationship and ‘null hypothesis’. This observation is based on the premise that with the closing down of other, alternative employment options, workers are more likely to fight back collectively to save their present jobs. Another conclusion that could be drawn is that other factors like the micro-factors outlined above or the calculation of cost/benefit (in terms of whether occupation would or could lead to payment or higher payments of wages and the like) were more important. Certainly, it can be concluded here that it is not as simple as saying that workers with no sense of alternative employment opportunities are more likely to think of organising occupations than those that do. If this was indeed the case, then many more occupations would be expected and in certain regions. Nonetheless, it can be ventured that this sense of no alternative employment
is a necessary - without being sufficient - factor. That said, the terms of redundancy have an important bearing on this calculation for payoffs of certain sizes can blunt or delay the impact of redundancy.

Turning to the issue of union strength, there are again marked variations. Using data from the government's annual Labour Force Survey and its annual strike statistics allows union density and working days not worked due to strike activity to be used as the best available proxies for union strength. For the period 2007 onwards, union density has been significantly higher (>30%) in Scotland, Northern Ireland, Wales, north-west England, north-east England, and Yorkshire and Humberside while it has been in the low to mid-twenties in south-east England and London and high twenties in the east and west Midlands. Again bearing in mind the limitations of working with a small population of occupations, it may be expected, nonetheless, that regions with higher levels of union density (and where the presence of mass redundancies through workplace closure comprises a minimum baseline throughout Britain) would experience more occupations than those with lower densities. Here the presumption is that unionisation provides the organisational basis for collective action to be taken. But the contention does not hold universally for while Northern Ireland and Scotland experience two apiece, Wales and the northern regions of England experienced none while London and south-east England experienced three. In terms of days not worked per thousand workers, Scotland, Northern Ireland, Wales, north-west England and north-east England have experienced the greatest number of days not worked in the period. Consequently, the contention again does not hold universally again and in the same way. The pertinence of this brief examination is that is not possible to read off data on unemployment and union strength in order to either anticipate or explain the frequency and distribution of occupations. This adds to the weight to the preceding argument that a micro-factor approach is of more utility.

Outcomes

None of the occupations were successful in preventing the employers from making the redundancies, either their intended number or per se. Neither were the occupations successful in preventing the employer from instituting the closure of the workplaces. Moreover, redeployment was not conceded either. These are sobering points, confirming that occupations should not be seen as a ‘silver’, even ‘magic’, ‘bullet’ against employers in the fight to stop redundancies. Indeed, for none of the occupations – certainly not amongst the majority of the occupiers in each – was stopping the redundancies or closure either an aim or an expectation. The one exception to this was the Vestas occupation where the key demand was for the government to nationalise, that is, take into state ownership, the factories in order for the government to meet its targets on the production of ‘green’ energy. This then turns the focus onto whether, and to what extent, occupations provide leverage over employers to determine the process by which redundancy and closure are instituted and the terms on which they are instituted. In this sense, the procedural and substantive issues involved are very much akin to those of other forms of attempted leverage (like strikes) over employers. It is clear that some of the occupations like Simclar and Orchard Lodge were more intended to allow the aggrieved workers to express their anger, to kickback against the employer and to draw attention to their plight than to act as means of gaining leverage over their employers. By contrast, those at Calcast, Prisme, Visteon and Vestas were more strategically calculated occupations which were determined efforts to exercise leverage.

Nonetheless, the leverage that was created – along with the ensuing sensitivity to damage to employer brand and reputation – did facilitate redundancy payments or enhancements of these, lawful periods of notice of redundancy implemented, extension of periods leading to shutdown,
back payment of due wages, and the guarantee of pension entitlements to differing degrees. This does appear to have been more productive than the use of striking in comparable situations. The outcomes of occupations have not varied a great deal in relation to the proportion of the workforce involved in the occupations. This is because to conduct an occupation which prevents employer access to his or her premises does not require all or even a majority of the workers involved. Rather, there are minimum numbers of workers required in terms of preventing employer (or police) entry relative to the sizes of the occupied buildings, particularly in regard of strategic parts of buildings and the number of entrances to buildings. While superficially it appears to be the case that their duration and the extent of solidarity support raised for the occupiers do not have a direct bearing on the attainment of the occupiers’ aims, those occupations which lasted the longest and generated the greatest amounts of solidarity were attempting to gain ambitious demands and in more difficult circumstances. Thus, Vestas workers sought to keep the factories open by forcing a government to intervene while Visteon workers sought vastly superior terms than they were offered by forcing a huge TNC, Ford, to intervene.

**Conclusion**

This article has sought, firstly, to provide a grounded explanation of the phenomenon and incidence of workers occupations against redundancy and closure. The argument has been that by both starting with and concentrating on a series of micro-factors a more concrete purchase can be gained in explaining why the occupations took place and why there have been so few of them to date. Emphasis was on suggesting that the micro-factors are necessary but not fully sufficient to explain why the occupations happened. Stress was put on the need to understand the complexity and specificity of the contingent social processes involving worker agency as well as the material foundations of concrete circumstances and how the two interact. The complexity relates to workers’ varying assessments of their situation and their expectations about whether occupation will bring useful leverage over their employer in terms of a basic cost/benefit calculation. The contingency and specificity relate to a series of micro-level factors which can help explain in general terms – albeit in a retrospective way - why occupations take place (as opposed to predicting whether they will take place). An analysis of these factors was then related to macro-level factors in order to appreciate how wider societal process can impact on them. But the accent was always put on these providing a foundation in non-determinate and mechanical ways. Nonetheless, it is believed that original research which is contemporary to the occupations themselves would allow the issue of workers’ consciousness and interaction to be explored more fully in a way similar to the way in which Fantasia (1988) explained the social processes of interaction by workers who walked out on strike. The second part of this article sought, using the experience of the 1970s, to understand the barriers to developing more permanent forms of self-management and worker control. The accent was placed upon understanding the contingent and indeterminate processes and contexts by which worker consciousness becomes sufficient in qualitative and quantitative aspects to allow successful and long-lived experiments in worker control and self-management. To envisage this means the transcending and abolition of capitalist market relations.

**Notes**

Moreover, the same number of occupations has taken place in the Republic of Ireland in the same period of time as in Britain even though the size of the workforce is 1.5m compared to 28m in Britain. That said, in a number of other economies in Europe and north America, the
frequency of occupations to resist mass redundancy and workplace has been equally sparse as in Britain or Ireland with the one exception of France (see Gall 2009).

ii National employment legislation governs what the statutory minimum redundancy entitlement and in cases where the employer has no assets to pay this, the state provides this from receipts from general taxation. Nonetheless, the statutory minimum entitlement is set at a low level of financial worth.

iii Wales, through devolution and in the form of the Welsh Assembly government, is the only part of Britain to have a government subsidised short-time working scheme to prevent redundancies. This means that employers can apply through the Pro-act scheme for Welsh government aid to finance putting employees on reduced hours work rather than making them redundant. However, the size of the Pro-act fund is sufficiently small that its influence as a disincentive to workers occupying is negligible.

iv The frequency of mass redundancies through workplace closure on a regional basis has displayed a uniform baseline whereby all regions have been affected by a similar number albeit that those areas with a larger present of manufacturing (like the northern regions of England, and Wales) have been more affected.