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**A comparative study
on industrial relations
and collective bargaining
in East Asian countries**

Youngmo Yoon

November 2009

Industrial
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Preface

This paper is part of a series of studies on industrial relations developments in different countries and regions of the world. It examines the current state of industrial relations and collective bargaining, as well as the varied legal, political, economic and social changes leading to the realities of employment relations in East Asian countries today. Before the 1990s these countries enjoyed relative stability in industrial relations; however, as a result of globalization, they now face increasing competitive pressures and are experiencing a degree of turbulence as the actors attempt to settle into viable models of industrial relations.

The paper provides a comparative analysis of industrial relations systems and collective bargaining practices in East Asian countries. Particularly interesting is the range of workers' and employers' organizations' traditions and practices, in addition to the different of collective bargaining processes present in these countries. In China and Viet Nam, the national trade union centre holds a monopoly over workers' representation, and though this provides for political sway, it does not suggest in each case strong workplace influence. This is different from Japan and Korea which have strong traditions of enterprise trade unionism. This, too, is changing as trade unions in these countries attempt to manage the effects of global competition, the emergence of non-regular forms of employment and declining union membership.

Indeed, employers' organizations are faced with similar challenges. They show as much diversity in their structures as the trade unions. Often employers' organizations are stand-alone bodies whose purpose is to represent their members' interests with regard to labour market issues and policy through tripartite consultation. However, some employers' organizations are part of a broader business organization, as is the case in Cambodia.

Enterprise collective bargaining is the most prominent approach in East Asia, for reasons that vary in each country. In Malaysia and Singapore, the governments imposed enterprise unionism, though recently, there has been a move towards sectoral bargaining. Importantly, collective bargaining in the public sector is seriously underdeveloped in all countries in the region, due in part to legal restrictions placed on workers.

The paper's findings suggest that one must understand the history of democratization and the political background in East Asian countries particularly in the late 1980s and early 1990s in order to grasp the diversity of industrial relations and collective bargaining practices that have emerged in the region.

I am grateful to the author, Youngmo Yoon, for undertaking this study of industrial relations and collective bargaining developments in East Asian countries, and commend the report to all interested readers.

November 2009

Tayo Fashoyin
Director,
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Relations Department

Abbreviations

ACFTU	All China Federation of Trade Unions
AUPE	Amalgamated Union of Public Employee (Singapore)
APINDO	Employers Association of Indonesia (Asosiasi Pengusaha Indonesia)
CEC	China Enterprise Confederation
EAB	Employers' Activity Bureau (Viet Nam)
ECOP	Employers' Confederation of the Philippines
FDI	Foreign direct investment
FKI	Federation of Korean Industries
FSPSI	Federation of All Indonesia Workers' Unions
GMAC	Garment Manufacturers' Association of Cambodia
HRM	human resource management
KADIN	Indonesian Chamber of Commerce
KCTU	Korean Confederation of Trade Unions
KEF	Korea Employers' Federation
NPA	National Personnel Authority (Japan)
NWC	National Wage Council (Singapore)
NTUC	National Trade Union Congress (Singapore)
SBF	Singapore Business Federation
SNEF	Singapore National Employers' Federation
SOEs	state-owned enterprises
STEC	State Trade and Economic Commission (China)
VCA	Viet Nam Cooperatives Association
VCCI	Viet Nam Chamber of Commerce and Industry
VGCL	Viet Nam General Confederation of Labour

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1. Introduction

East Asia has been the most dynamic part of the global economy in the last two to three decades, achieving extraordinary economic growth and social transformation during this period.¹ Its combined share of global GDP rose from 17 per cent in 1980 to 29 per cent in 2005. The region includes major economic powerhouses of the global economy such as Japan, China and Korea – the second, third and fifteenth largest economies, respectively, in the world.²

The countries in East Asia display a great degree of diversity in economic development and political structures. Thirty years ago, Cambodia, China, Laos, Mongolia and Viet Nam were still socialist planned economies. At that time, Japan was already a major global economic power, while the so-called “Asian tigers” – Korea, Taiwan/China, Hong Kong, and Singapore – were on their way to becoming middle/high-income countries, thanks to successful export-oriented industrialization programmes. Following in their stead were the second-tier tigers – Malaysia, Indonesia and Thailand – which had just started their journey towards industrialization.

Until the late 1980s industrial relations in most East Asian countries were relatively stable. In the centrally planned economies, labour relations were regulated by administrative planning and intervention, with little room for independent industrial actors and voluntary negotiations.³ In the market economies of Indonesia, Korea, Malaysia, the Philippines, Singapore and Thailand, the governments kept tight control over union activities and industrial relations, as they saw industrial peace as a prerequisite for rapid economic development.⁴

The late 1980s to the 1990s was a transformative period for the industrial relations systems in most countries in the region. Democratization in Korea, the Philippines, Indonesia and Thailand opened a political and social space for trade union growth and collective bargaining developments in the 1990s. At the same time, profound changes took place in the transition economies of Cambodia, China, Mongolia and Viet Nam, where new market-based employment relations emerged as a result of market-oriented reforms, with accompanying revisions in the legislative frameworks for employment relations and collective bargaining.

These developments occurred in the context of the rapidly globalizing economy and the Asian economic crisis in the late 1990s. As all countries in the region faced increased market competition, firms began to deploy new employment practices, designed to reduce costs and increase flexibility. The combined effects of political democratization, increased competitive pressures due to globalization and the transformation of employment relations interacted with each country’s industrial relations system, resulting in diverse paths of industrial relations developments in East Asia.

This paper analyzes the political and economic contexts in which the particular industrial relations developments in each East Asian country took place. It describes the institutional characteristics of industrial relations actors in each country, before turning to a review of the structures, scope and coverage of collective bargaining. Some innovative practices of collective bargaining and social dialogue are highlighted.

¹ In this study, East Asia refers to member countries of the Association of Southeast Asian Nations (ASEAN: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam), and China, Korea, Japan and Mongolia. However, it does not cover Brunei, Laos, and Myanmar because modern industrial relations practices are yet to emerge in those countries.

² International Monetary Fund, 2009.

³ Though China started its economic reform programme in 1978, the reform of the urban state sector started in earnest only from the early 1990s. Hence, the labour relations system of the centrally planned economy, though modified to a certain degree, remained intact until the late 1980s.

⁴ For a detailed discussion, see S.R. de Silva, 1995.

2. Political and economic contexts of industrial relations developments in East Asia

The legal and institutional frameworks of industrial relations and collective bargaining in East Asian countries have been strongly influenced by the political and economic developments in each country in the second half of the last century.

2.1 Market economies in East Asia

In addition to the formative influence of the old colonial or occupying regime's labour laws (Malaysia and Singapore under the British; Korea, Japan⁵ and the Philippines under the Americans), the region's legal and institutional frameworks of industrial relations were shaped and modified by governments whose priorities between the 1960s and 1980s were firmly on maintaining industrial peace as a prerequisite for rapid industrialization. The overriding concern of these 'developmental states' on industrial peace and economic development found expression in various legal and institutional devices designed to dampen trade union activities, limit the scope of collective bargaining and control industrial conflicts.

In the 1980s, the governments of Malaysia, Korea and Singapore tried to impose enterprise unionism. In Korea, industrial unions were dismantled and restructured into federations of enterprise unions by the military government which tried to copy Japanese enterprise unionism. The government and the NTUC leadership in Singapore pressed the traditional general unions and industry unions to become enterprise unions, also after the Japanese-style cooperative model, while enterprise unionism was imposed in electronics sector in Malaysia. In Malaysia and Singapore, the governments placed legal restrictions on the bargaining agenda, excluding employee transfers, promotions, job assignments or layoffs from the negotiation table, in addition to segregating the managerial staff from 'rank-and-file unions. In Korea, the military government attempted to transplant labour-management consultation committees at the workplaces in order to undermine collective bargaining by offering alternative channels of communication. In addition, the government authority and dispute settlement machinery were given extensive power to intervene in labour disputes with a view to preventing strike actions.⁶

In the late 1980s and 1990s, the relative stability of industrial relations under the authoritarian governments began to give way as political democratization took place in many East Asian countries. The democratization in the Philippines and particularly in Korea opened a new era for trade union and collective bargaining developments in the late 1980s. Later, the Asian financial crisis paved the way for democratization in Thailand and Indonesia, also ushering in a new era for trade union development. As many of repressive legal restrictions on trade union activities were lifted and the monopoly of workers' representation by the officially sanctioned national centres broke down, independent trade unions emerged in Korea and Indonesia; trade union density increased significantly and collective bargaining coverage expanded in Korea.

The growing demand for greater flexibility arising from accelerated economic globalization brought new pressures on the industrial relations systems in East Asia – particularly after the 1990s Asian financial crisis. Enterprises began to actively take cost-reduction measures and to pursue various new strategies on flexible employment and outsourcing. Combined with the effects of the financial crisis on labour markets, these

⁵ It should be noted, however, that Japanese labour law was based on the German labour law of the Weimar Republic, with modern modifications made under U.S. influence following the Second World War; the U.S. influence on Korea came via Japan, while the U.S. had a direct influence on the Philippines.

⁶ For a recent overview of trade unions in Asia, see Benson and Zhu (eds.), 2008).

measures resulted in a huge number of non-regular forms of employment, shrinking the number of stable, regular forms of employment. Even in Japan, where lifelong employment, the seniority-based wage system and enterprise unionism formed the institutional foundation of its highly cooperative industrial relations system, reforms became necessary after the decade-long recession of the 1990s. Throughout East Asia, changing corporate governance emphasizing short-term performance indicators for shareholders, the introduction of new work organizations and the proliferation of flexible forms of employment combined to considerably alter the institutional environment for industrial relations and collective bargaining. These changes were further facilitated by legislative changes designed to increase firms' competitiveness through enhanced labour market flexibility.

These developments contributed to the erosion of the traditional basis of trade unions and enterprise-based collective bargaining system in most East Asian countries, and induced governments and social partners to revisit their traditional approaches. As we will see later, the above changes triggered high profile industrial conflicts in some countries, while prompting industrial relations actors in other countries to take new tripartite approaches.

2.2 Transition economies in East Asia

The evolution of industrial relations and collective bargaining in Asian transition economies (Cambodia, China, Mongolia and Vietnam) took completely different paths from those in market economies in the region. Except Cambodia, where all industries were destroyed by the Pol Pot regime and the civil war, the dismantling of the old socialist enterprise and labour relations systems and the emergence of market-based enterprises and labour relations system took place in the 1990s.

In Mongolia, the collapse of the Communist government in 1990, which ruled the country for 70 years, was followed by the introduction of multi-party democracy and a radical economic programme of wholesale privatization, prescribed by the International Monetary Fund and the World Bank. An economic and political crisis followed. Industrial relations actors managed to produce a series of tripartite social pacts designed to control hyper inflation and stabilize the livelihood of the population. The post-communist experience led to the development of a highly centralized and politicized national tripartite bargaining system in Mongolia, without corresponding development in collective bargaining institutions at the lower levels, including the enterprise level.

In China and Vietnam, where a slower approach was taken, the reform of the once dominant state sectors peaked in the 1990s when large-scale restructuring of state-owned enterprises (SOEs) resulted in massive retrenchment of employees. At the same time, both countries – particularly China – witnessed a rapid expansion of private sector economies, which brought rural migrant workers into new market-based employment relations. In both countries, the first labour laws designed to dismantle the old system and institute the basic legal norms for contract-based employment relations, collective bargaining and labour dispute settlement came into effect in January 1995, signalling the first phase of post-socialist labour reform.

However, actual progress in the new industrial relations was negligible in the 1990s, as the policy-makers had to grapple with dismantling the old system and industrial relations actors were ill-equipped in terms of political orientation and organizational capacity to deal with the newly emerging market-based industrial relations challenges. At the same time, labour law enforcement was problematic, not just because labour administrations were plagued by weak law enforcement capacity, but also because labour law enforcement was conveniently put aside in favour of attracting investment which was seen as the key engine of economic growth and industrialization. In the absence of appropriate protection of workers' rights and of industrial relations mechanisms to

accommodate and adjust conflicting interests, both countries saw explosive growth in labour disputes from the mid-1990s, which began to undermine social stability.

Meaningful changes in industrial relations began to take place from the early 2000s in China and to a lesser extent in Viet Nam. The governments and official industrial relations actors introduced a series of legislative and institutional initiatives aimed at building a new industrial relations system.⁷ After creating the national tripartite consultation committee in 2001, tripartite partners in China issued a series of joint communiqués and new regulations designed to promote collective bargaining and wage negotiation. At the same time, the Chinese legislature passed a number of new labour-related laws, including the 2007 Labour Contract Law, designed to offer better legal protection of workers' rights, to create balance between workers' need for long-term stability and employers' need for short-term flexibility, and to encourage both parties to make decisions through joint consultation and negotiation. It was in this context that modern practices of collective bargaining began to grow, not only in terms of quantity but also in quality.

In Viet Nam, the government was reactive rather than proactive in designing and implementing a new legal and institutional framework for industrial relations in response to the surging number of wildcat strikes. In 2006, the National Assembly revised the dispute settlement chapter of the 2002 Labour Code in its attempt to bring wildcat strikes into the legal framework, while the government, in 2007, set up a new National Tripartite Industrial Relations Commission to design and implement new industrial relations policies.

3. Industrial relations actors⁸

3.1 Trade unions

There are significant differences in trade union structure, orientation and collective bargaining capacity among East Asian countries, reflecting their distinctive historical paths of development.

3.1.1 *China, Viet Nam and Singapore: Strong political voice but weak influence at the workplace*

In China and Viet Nam, there is a monopoly of workers' representation by the official national centres of trade unions, the All China Federation of Trade Unions (ACFTU) and the Viet Nam General Confederation of Labour (VGCL), respectively. Both centres are closely aligned with the ruling Communist Party in each country. All trade unions at the lower levels, including enterprise unions, are required to affiliate with the official national centre. Though there is a dual structure of sectoral and regional union organizations under the umbrella national centres, regional union structures (established along the geographical administrative hierarchy, i.e., province, city and district) have been more important than the sectoral structures. At the workplace level, enterprise union leadership is traditionally placed under the influence of the management and, in the case of SOEs, of the party organization at the workplace level.

Though the national trade union centres are fully incorporated into the political structure of the countries, there are growing conflicts between organized labour and the business community on a variety of labour and social policy issues. The legislative battle surrounding the recent introduction of the Labour Contract Law clearly illustrated the

⁷ C. H. Lee, 2006.

⁸ Analyses of situations in each country in this section are based on unpublished country reports produced as a part of the ILO's East Asia Industrial Relations Network project (2006-2008).

newly emerging labour politics in China, as did the debate on minimum wage adjustment in Viet Nam.

Both the political and trade union leaders in both countries began to recognize that without properly functioning trade unions and collective bargaining, it would be hard to maintain the stability and cohesion needed for sustained economic development. In response to increasing labour conflicts, various attempts were made in both countries to strengthen the capacity of trade unions to represent workers in collective bargaining and social dialogue. The future of trade union influence in both countries will largely depend on whether trade union organizations at the enterprise level can be made genuinely independent from employers' influence and dominance.

The trade union situation in Singapore is somewhat similar to that in China and Vietnam, though different in historical origin and structure. The ruling People's Action Party has actively nurtured its long-term partnership with the National Trade Union Congress (NTUC). There is frequent exchange of personnel between the party and the NTUC which helps to align the policy concerns of the NTUC and the ruling party. This situation provides workers in Singapore with a voice in all forms of decision-making, primarily through various tripartite policy decision-making bodies – uncommon in other East Asian market economies. As pointed out earlier, however, trade unions' influence at the workplace is relatively limited due to administrative restrictions on trade unions' ability to take industrial action, and to legal restrictions on the bargaining agenda which excludes such issues as employee transfers, promotions, job assignments or layoffs.

3.1.2 *Fragmented trade unions at both national and enterprise levels in Cambodia, Indonesia, the Philippines and Thailand*

In Cambodia, Indonesia, the Philippines and Thailand, while the move towards more democratic governance has encouraged trade union growth, trade unions face the risk of marginalization due to their fragmented structure.

There was virtually no trade union in Cambodia when the decades-long civil war ended in the mid-1990s. It is therefore remarkable that trade union density in the garment sector – the country's key export industry which accounts for the majority of the formal workforce outside the public sector – has reached 40 to 45 per cent. In addition, trade unions in the hotel and construction sectors are increasing in number and in collective bargaining capacity.

Industrial relations in Indonesia has undergone radical changes since the late 1990s Asian economic crisis. The downfall of the authoritarian Suharto regime brought to an end the old industrial relations regime where the government-sponsored FSPSI (Federation of All Indonesia Workers' Unions) was given monopoly status. The democratization in the late 1990s led to the ratification of the ILO Convention Nos. 87 and 98, which resulted in the rise of labour activism and the rapid growth of trade unions. According to government trade union membership data, there were around 3.4 million union members out of the total workforce of 110 million workers in 2005. Thus, total union membership is less than four per cent of the total workforce, including agricultural workers. However, against the 23.8 million regular or formal sector employees in the workforce, the union density stands at 14 per cent.

In the Philippines, which adopted the US model of labour relations at the early stage of its independence from the US, the tradition of voluntaristic industrial relations system has survived side by side with highly fragmented trade unions. Approximately 145 competing labour federations are affiliated with rival national centres. Most of the labour federations are engaged in general unionism, organizing across industries. The complicated certification process for determining the exclusive collective bargaining agent has hampered collective bargaining development at the workplace level as employers are provided with ample opportunities to contest the unionization. The proliferation of

irregular working and subcontracting practices has also contributed to the weakening of trade unions' bargaining power.

In all three countries, trade unions have very limited capacity to influence policy decision-making at the national level, as bitter rivalry among competing union federations at the national level further undermines their already weak policy influence. At the same time, the fragmentation of trade unions at the workplace level also gives employers opportunity to refuse negotiation with trade unions on grounds of lack of representativeness of the trade unions for the purpose of collective bargaining.

3.1.3 Gradual changes in enterprise unionism in Japan and Korea

In Japan, enterprise unionism has become a defining characteristic of the industrial relations system since the left-wing unions' attempt to establish industrial bargaining failed in the late 1950s. In the turbulent 1950s, Japanese firms put in place a lifelong employment and seniority-based wage system, which helped to nurture a sense of corporate community among the regular employees of large firms. Cooperative enterprise unions were regarded as a key pillar of the Japanese industrial relations system together with the lifelong employment and seniority-based wage practices.

Recently, however, traditional human resource management (HRM) practices and enterprise unionism have come under increasing pressure as a result of the changing labour market situation and heightened competition arising from globalization and the economic recession of the 1990s. A growing number of enterprises are embracing shareholder models of corporate governance instead of the traditional stakeholder model where the interests of employees were given priority. Thus Japanese firms are gradually altering their HRM practices, adopting numerical flexibility, greater use of subcontracting arrangements, the hiring of non-regular workers, and pay schemes linked to individual performance. These changes have begun to undermine the foundation of the traditional industrial relations system.

Firstly, trade union density has continued its downward trend, as the number of regular employees in large manufacturing sector, which has been the key membership base of Japanese enterprise unions, continues to shrink.⁹ In response, Japanese trade unions made various attempts¹⁰ to recruit non-regular workers, particularly part-time workers,¹¹ who account for around 23 per cent of the total number of employees in Japan. The recruitment campaign resulted in moderate success as the unionization rate of part-time workers increased from 2.5 per cent in 1998 to three per cent in 2003. To make up for the weaknesses of enterprise unions, the national centre, Rengo, pushed for the merger and consolidation of industrial federations, resulting in the merger of the Japanese Federation of Metal Industry Unions with the Metal Machinery Workers Union of Japan, as well as the establishment of a new union federation in the commercial sector.

Secondly, the traditional 'Shunto' (spring offensive) mechanism is weakening. Shunto developed into a highly effective mechanism of coordinated bargaining which produced relatively equitable bargaining outcomes across firms and industries until recently. In the 1990s, the Shunto system lost much of its coordination role as individual firms began to shy away from the Shunto wage settlement formula in their efforts to remain flexible and competitive. Though an innovative attempt was made by some giant

⁹ Shrinking trade union membership and union density is closely linked to the erosion of lifelong employment practices, seniority-based wage system, and enterprise unionism, a phenomenon that accompanied the expansion of 'irregular' employment. Even regular workers in small-to-medium enterprises are also largely excluded from the 'traditional' Japanese model.

¹⁰ The Japanese Trade Union Confederation (Rengo) established Irregular Workers Centers aimed at assisting irregular workers to receive fairer treatment, providing counselling and information service.

¹¹ Part-time workers, who work less than 30 hours (OECD definition) accounted for 18.95 per cent in 2007, while those who work less than 35 hours accounted for 24.6 per cent.

enterprise unions to enhance coordination, it is yet to be seen whether these attempts prove to be viable (box 1).

Box 1.
**Coordinated bargaining by a network of enterprises within
supply chains: The Toyota case**

One noteworthy trend has been an attempt by giant enterprise unions to expand its network activities with the supply chain with a view to coordinating their bargaining strategies so that they can gradually narrow wages and other gaps. For example, the Council of Toyota Trade Unions is being restructured into "Federation of Toyota Trade Unions" with which the unions of smaller suppliers are encouraged to be affiliated.... Though it is yet to be seen whether the declared goals can be achieved, this attempt is noteworthy because it represents an attempt to expand the logic of corporate community and the logic of enterprise unionism beyond an individual enterprise to include the entire supply chain, with a dominant firm at the centre.

In Korea, the trade union movement enjoyed a short-lived renaissance in the late 1980s and early 1990s as the democratization created a favourable legal and social environment for the robust growth of independent unions and collective bargaining. Trade unions successfully negotiated higher wages and expanded their bargaining agenda to include various aspects of HRM issues such as rules on firing, disciplinary actions, transfers and work organization. By the mid-1990s, enterprise unions appeared to have consolidated their power base in large firms.

As in the rest of East Asia, globalization and the Asian economic crisis also resulted in increased job insecurity and the proliferation of non-regular forms of employment. Korean trade unionists acutely felt the need to move beyond enterprise unionism as enterprise unions proved to be ineffective in dealing with firms' aggressive pursuit of numerical flexibility and increasing use of non-regular workers and subcontracting. A nationwide campaign was initiated in the late 1990s to reorganize enterprise trade unions into industry-based organizations. As a result, the percentage of union members belonging to industry unions (and other forms of supra-enterprise-level union organizations) increased from 31.3 per cent of the total union membership in 2003 to 51.3 per cent (865,423) by the end of 2007.

However, the shift from enterprise bargaining to sectoral bargaining has taken place only in a handful of sectors, in spite of the rather impressive reorganization of trade unions into industry-based organizations in many sectors. Employers' strong resistance against trade unions' attempt for sectoral bargaining was certainly an important factor. But equally important has been the vested interests of enterprise unions in large firms, which resisted giving their decision-making powers to the newly created industry-based unions. As a result, except in the hospital and banking sectors as well as in a part of the metal sector, collective bargaining still takes place predominantly at the enterprise level even in sectors where trade unions are reorganized into industry-based unions.

At the enterprise level, enterprise unions continue to represent an ever-shrinking number of regular workers, excluding most non-regular workers from membership, and therefore, from coverage of collective bargaining. Some enterprise unions' attempts to open membership to non-regular workers were rejected by regular workers.

Problems of representational disparity

As in other regions, trade unions in East Asia face a problem of representational disparity by firm size, forms of employment and gender. While trade unions are relatively well organized in large companies, very few workers in small and medium-sized enterprises are represented by trade unions. In Korea, while small firms with less than 50 workers employ 79.3 per cent of the total number of workers, they account for only 3.3 per cent of total union membership in the country. In contrast, 62.5 per cent of union members are employed by large firms with more than 1,000 workers; large firms employ only 5.3 per cent of total number of workers. A similar situation exists in Japan¹² and other countries.

Representational disparity also has a gender dimension, though in varying degrees in different countries. Women account for only 21.5 per cent and 27.6 per cent of union membership in Korea and Japan, respectively. But other countries have more or less equal representation – around 47 per cent and 37 per cent of union members are women in Singapore and China, respectively. In Cambodia, where the dominant garment industry is a key base of the fledgling trade union movement, female workers account for nearly 80 per cent of total trade union membership.

Though workers in various forms of irregular employment workers have come to account for the significant proportion of the worker population – 30.2 per cent in 2005 in Japan and 33.5 per cent in Korea -, a very few of them are represented by trade unions. In Japan only 4.8 per cent of part-time workers were unionised in 2007, rising from 2.5 per cent in 1999, while 2.8 per cent of non-regular workers – temporary and daily workers – are union members in Korea. But there is an encouraging trend that unionization of these workers has been on a steady rise, as can be seen above for Japan, while unionization of irregular workers in Korea increased from 2.4 per cent in 2003 to 2.8 per cent in 2006. As a result, the percentage of non-regular workers among total union membership has shown small but steady increase in Korea – from 11.5 per cent in 2003, to 13.9 per cent in 2004 and 15.4 per cent in 2005.

In China, there still exists a representational deficit with regard to rural migrant workers. Until recently, rural migrant workers, who now account for majority of workers in low-end jobs in both manufacturing and service industries, were not seen as a legitimate part of urban working class by the Party-State and therefore excluded from trade union membership. Only in 2003 ACFTU started its nation-wide campaign to organize rural migrant workers. Since then, 40.9 million rural migrant workers are reported to join trade unions in China.

3.2 Employers' organizations

Employers' organizations in East Asia display as much diversity as their workers' counterparts in terms of structure, roles in industrial relations and collective bargaining, and influence. In some countries, there is clear differentiation between an employers' organization and other types of business organizations; in others, the role of employers' organizations is undertaken by more general types of business organizations.

Most employers' organizations have regional structures, mostly regional associations which are affiliated to the national organizations. In some countries, employers' organizations count as members sectoral associations or associations of enterprises with different types of ownership. Different approaches are used to influence and shape the development of industrial relations: through their involvement in collective bargaining processes, representation in policy consultation processes, participation in statutory tripartite institutions, and provision of services to their members. In general, in

¹² Union membership in Japan is marked by significant representational disparity. In 2006, union density among enterprises with 1,000 or more employees was 46.7 per cent while for enterprises with 100 to 999 employees, it stood at 14.8 per cent, and only 1.1 per cent among firms with less than 100 employees.

East Asia it is rare for peak employers' organizations at the national level to be directly involved in collective bargaining.

In the Philippines, the Employers' Confederation of the Philippines (ECOP) was formed when the Chamber of Commerce of the Philippines and the Philippine Chamber of Industries merged their respective labour and employment units, with the encouragement of the government. ECOP is a specialised industrial relations organization, providing employers a united voice on such issues as labour law, minimum wage determination, and other industrial relations matters. Similarly, the establishment of the Korea Employers Federation (KEF) in Korea in 1970 was led by the Federation of Korean Industries (FKI, a voluntary organization of major business conglomerates), in the context of the rising number of industrial disputes in the late 1960s. The KEF serves as the coordinator of labour and employment related policy issues among various business associations at the national level. All together some 4,000 enterprises, with an estimated aggregate workforce of 2.5 million from all sectors of economic activity are represented by the KEF through institutional and individual memberships,

The division between business organizations and employers' organizations is also found in Indonesia. While the Indonesian Chamber of Commerce (KADIN) is a general business association, the Employers Association of Indonesia (Asosiasi Pengusaha Indonesia, APINDO) is a separate employers' organization recognized for its primary role in matters of employment and industrial relations. The APINDO has 9,537 enterprises (most with more than 25 employees) as members, which represents less than six per cent of the 179,000 employers across the country, according to 2005 figures of the Ministry of Manpower and Transmigration. In Singapore, the Singapore National Employers Federation (SNEF), affiliated to the Singapore Business Federation (SBF), is the main employers' organization. All companies above certain size and all business associations are required to affiliate to the SNEF. The SNEF has 1,800 individual enterprise members of private, cooperative, government and mixed ownership from all sectors of economic activity. The aggregate workforce represented by the SNEF, according to 1996 figures, is approximately 300,000.

A different arrangement is found in Japan, China, Viet Nam, and Cambodia. In Japan, one national organization is responsible for business representation and the function of an employers' organization. The Nippon Keidanren (Japan Business Federation), the main comprehensive business organization, was established in 2002 through the amalgamation of the peak business organization, Keidanren (Japan Federation of Economic Organizations), and the Nikkeiren (Japan Federation of Employers' Associations, which was then the main employers' organization dealing with industrial relations matters. The fusion of the two organizations with distinct functions came about from the common recognition that the country's economic agenda and labour issues had become inseparable. The Nippon Keidanren has 1,662 members, comprised of 1,351 companies, 130 industrial associations, and 47 regional associations (as of June 20, 2006). The actual number of companies affiliated to the Nippon Keidanren would be much larger given that many are indirectly associated through their respective industrial associations or regional organizations¹³

In transition economies such as Cambodia, China, Mongolia and Viet Nam, employers' organizations emerged only recently during their move towards market economies. The peak employers' organization in China is the China Enterprise Confederation (CEC). It was established by the State Trade and Economic Commission (STEC) as country began to experiment with the decentralization of SOEs in the early 1980s. Its purpose was to maintain links between STEC and the SOEs that had formerly been under the direction of the State Planning Commission. In 1998, STEC authorized the

¹³ In 1984, before the amalgamation of the two peak business organizations in Japan, a total of 31,000 companies with a total workforce of 11 million were members of the 104 industrial and regional associations. Before the amalgamation, the employers' organization was regarded as a national federation of industrial and regional associations, with regular national level meetings of the leadership of all sectoral and regional associations.

CEC to act as the representative of all enterprises in industrial relations matters. This historical origin of CEC poses a problem for employers' representation. Because it was originally linked to the state sector, the CEC is yet to develop an organizational capacity to represent all types of employers. In recent years, another business association called the Gongshanglian (All China Federation of Industry and Commerce, an organization of local private businesses) has increasingly become active. It now participates in some tripartite bodies at the provincial level, together with the CEC.

In Viet Nam, the Viet Nam Chamber of Commerce and Industry (VCCI) and the Viet Nam Cooperatives Association (VCA) are recognized by the government as representative organizations of employers in labour and employment policy. Compared to the VCA (which is a national umbrella organization of cooperatives), the VCCI has its base in the modern economic sector, comprising enterprises with different types of ownership. The VCCI set up an Employers' Activity Bureau (EAB) within its structure, which is given responsibilities of developing and implementing the VCCI's strategies and policies as an employers' organization. While the encompassing nature of the VCCI gives it a potential to become a genuinely representative organization of employers, the EAB is yet to develop its full capacity to develop and carry out modern industrial relations policies, including collective bargaining.

The peak employers' organization in Cambodia is the Cambodian Federation of Employers and Business Associations (CAMFEBA), established in 2000. The CAMFEBA is an omnibus organisation with a mixed mandate: as a business organisation it lobbies for the business interests of its members; as an employers' organization it deals with industrial relations matters. The CAMFEBA grew out of the Garment Manufacturers Association of Cambodia (GMAC), which was established four years. The GMAC, representing garment manufacturers which generate over 75 per cent of Cambodia's export incomes, has become an actor in collective bargaining with various trade unions in the garment sector, as we will see in following sections.

In general, national peak organizations of employers in East Asia are not directly involved in collective bargaining with trade unions, with the exception of the Mongolian Employers' Federation which participates in de facto collective bargaining at the national level in Mongolia. However, employers' organizations in East Asia are active in various policy-making bodies and tripartite process. They exercise the right to recommend employer representatives in dispute settlement bodies, minimum wage-fixing bodies, and various tripartite consultative bodies.

For example, the Employers Confederation of the Philippines (ECOP) is represented in tripartite agencies such as the National Labour Relations Commission, the National Wages and Productivity Commission, the Regional Tripartite Wages and Productivity Boards, the Tripartite Voluntary Arbitration Council, the Employees' Compensation Commission, and the Technical Education and Skills Development Authority, among others. In Cambodia, the CAMFEBA participates in the Labour Advisory Committee established by the government for consultation and deliberation on the development of national policy in employment and industrial relations. In Singapore, the SNEF plays a crucial role as the champion of employers through its participation in various tripartite bodies. In Korea, the Korea Employers Federation (KEF) represents employers in various statutory bodies or tripartite organizations such as the Korea Tripartite Commission, the Labour Relations Commission, and the Minimum Wage Council.

In spite of no direct involvement of peak employers' organizations in collective bargaining, they usually have strong influence over the collective bargaining approaches of their member companies. In Japan, the Labour-Management Committee of the Nippon Keidanren (Japan Business Federation) issues an annual report which outlines basic guidelines and recommendations for individual employers in undertaking collective bargaining in their own enterprises. The Nippon Keidanren's annual collective bargaining policy pronouncement does not indicate a concrete wage level, leaving each company to determine its own optimum rate based on a certain set of principles and company-specific

conditions. However, it is regarded as the most important agenda-setting and pace-setting intervention by the Nippon Keidanren in the collective bargaining process.

In some countries where trade unions attempt to negotiate at the regional or sectoral levels, employers' organizations face the challenge of developing sectoral employers' organizations. In China, where sectoral bargaining has been initiated by local unions in many localities, local business associations are gradually developing their industrial relations capacities. Similar change is under way in Vietnam's garment sector where trade unions in the sector have formed a unified garment workers' union for the purpose of collective bargaining at the sectoral level in the near future. In Korea, employers in the banking, hospital and metal sectors have set up some forms of sectoral 'employers' organizations to respond to the sectoral bargaining initiatives of trade unions in those sectors.

4. Collective bargaining and social dialogue mechanisms in East Asia

The transformation of East Asian industrial relations systems is evident in the changing nature and structure of collective bargaining, and in the new roles of tripartite social dialogue mechanisms at the national and local levels.

Until very recently, it was safe to say that the one common defining feature of East Asian industrial relations was decentralized collective bargaining (enterprise-level), with little development of industrial relations institutions above the enterprise level. However, in a number of countries there has been some momentum towards building tripartite social dialogue and bipartite sectoral bargaining mechanisms.

4.1 Tripartite social dialogue

Tripartite social dialogue, mostly advisory in nature, has existed for decades in most market economies of East Asia. In Singapore, various social dialogue channels at the national level have played a key role in shaping the country's social and labour policy framework. In Japan, while there is no single peak social dialogue body for national decision-making on social and labour policy issues, trade unions are involved in various government policy-making processes.¹⁴ Also, some specialized tripartite bodies dealing with minimum wage adjustments, occupational safety and health, and social security have worked reasonably well in other East Asian countries such as Korea, the Philippines and Thailand.

Under the authoritarian governments, however, tripartite social dialogue bodies have not functioned as consultation mechanisms for articulating and accommodating conflicting views and interests of industrial relations actors in national decision-making processes. Things began to change from the late 1990s when tripartite social dialogue became more prominent in many East Asian countries, triggered by the Asian financial crisis. Tripartite social dialogue gained a new life in transition economies as the latter faced an explosion of social conflicts associated with economic changes.

During the Asian financial crisis of the late 1990s, tripartite social accord or pacts were concluded in many East Asian market economies. In the Philippines, the Employers Confederation of the Philippines (ECOP) and the government managed to bring labour in a tripartite forum. The Tripartite Social Accord struck in February 1998 aimed at easing the

¹⁴ There are a plethora of specialized tripartite councils devoted to labour and social policy areas in Japan, such as the Social Security Council, the Labour Policy Council, the Central Minimum Wage Council, and joint governance bodies for various social insurance systems. In policy-related tripartite councils, the government's role is mostly limited to that of facilitator, while academics sit along with representatives of workers and employers.

restrictions on layoffs as a means of promoting economic restructuring and simultaneously to expand social security to give workers more protection from the effects of layoffs. Similarly, the Malaysian government set up the Tripartite National Advisory Council with the participation of the MTUC to draw up guidelines on handling industrial restructuring and on introducing performance-based pay.

In Korea, the Tripartite Commission was set up at the height of the crisis with a view to building a tripartite consensus on labour market and industrial relations reform. In February 1998, the tripartite partners agreed on major agenda items and proclaimed a Social Pact. The key components of the Social Pact were legislative reforms to ensure basic workers rights, including the legalization of teachers' unions, the abolition of the ban on 'third party intervention', and expansion of the unemployment benefit scheme as a part of the social safety net package in return for immediate implementation of the amended regulations on layoffs and other labour market flexibilization measures.

The above examples indicate that tripartite social dialogue was embraced in the effort to overcome the economic crisis. In particular, the tripartite social pact in Korea led to the expansion of the legal and institutional framework for trade union activities and collective bargaining, while the new Tripartite Commission was given a broad mandate for consultation on various social and labour policy agenda issues.

But it seems that the momentum for revitalized tripartite social dialogue failed to survive beyond the immediate aftermath of the economic crisis. After the adoption of the tripartite accords, no tripartite follow-up actions were taken in either Malaysia or the Philippines. In Cambodia, Indonesia, the Philippines and Thailand, the fragmented trade union movement lacked political clout to sustain meaningful engagement with the government and employers on major national policy concerns.

While the Tripartite Commission as an institution continues to exist in Korea, it is significantly debilitated in its effectiveness in producing meaningful outcomes, due in part to the continued failure to bring the Korean Confederation of Trade Unions (KCTU) on board. The impasse remains unresolved as the conflicts among the industrial relations actors over labour market flexibility and basic trade union rights continue unabated.

Among the market economies of East Asia, Singapore stands out as the only country where tripartite social dialogue continues to be actively used by the social partners as a joint-decision and joint-implementation mechanism to deal with a wide range of policy issues, such as the ageing workforce, family-work balance and fair employment practices (see box 2). The decisions made at various national tripartite fora have strong influence over industrial relations processes at the workplace level. The prime example of such vertical coordination is the National Wage Council whose non-binding wage recommendations have exerted significant influence over bargaining patterns and wage settlement at the workplace level, as we will see later.

Box 2.
Tripartite Alliance for Fair Employment Practices in Singapore

The Tripartite Alliance for Fair Employment Practices (TAFEP) was formed in May 2006 following the recommendation of the Tripartite Committee on Employability of Older Workers. The objective of TAFEP is to promote employment practices that are fair and equitable for all workers.

The tripartite partners see discrimination at the workplace as a perennial problem that many countries face. Jointly funded by the three partners, the primary role of the Centre is to promote and bring about the adoption of fair employment practices, providing practical training and assistance for employers. Part of this process is to get more employers to commit to the TAFEP Pledge. Since 2006, more than 500 employers have committed their support by signing the TAFEP Pledge to raise awareness and adoption of fair employment practices.

More specifically, the TAFEP aims to help companies put in place the necessary processes and systems for re-employment of older workers. Employers are encouraged to change their mindsets to see the value in re-employing older workers as a ready source of quality manpower and be willing to make the workplace age-friendly. At the same time, workers are encouraged to see the benefit of staying employed and active and be willing to be flexible and adaptable.

The evolution of tripartite social dialogue in China, Mongolia and Viet Nam has taken distinctively different paths. In these countries, the emergence of tripartite social dialogue practices is closely associated with a common need to contain social conflicts rising from the radical transformation of employment relations, though actual forms and processes of tripartite social dialogue differ among the three countries.

Mongolia has developed a practice of biennial national tripartite negotiation which functions as a mechanism to determine public sector wage adjustment and to consult on social and labour policy issues.¹⁵ This practice evolved out of the tripartite efforts to contain the negative social effects of radical market reform in the early years of the transition in the early 1990s. In the absence of well-functioning trade unions and collective bargaining machinery at the industry and enterprise levels, the centralized form of tripartite negotiation has become a highly politicized process which has sometimes led to national agreements deemed difficult to implement.

In China, the tripartite consultation body at the national level was established in 2001. It quickly spread to provincial, city and district levels across China. This institutional cloning of the tripartite mechanism in the country was driven by the Party-State and the ACFTU unions in their efforts to stabilize labour relations, in response to the explosive growth in labour disputes since the mid-1990s, which were seen to be threatening social stability. The tripartite consultation mechanism was highly effective in spreading new practices of collective bargaining, as evidenced by a sudden increase in the number of collective agreements since 2001. In a similar context, Viet Nam created a National Tripartite Industrial Relations Commission, which is responsible for developing a policy framework for industrial relations reform in a tripartite manner. The decision to set up the Commission was made as the government and the social partners came under pressure from an upsurge in illegal wildcat strikes.

The interlocked political arrangements between the Chinese Party-State and the official trade unions appear to have helped the trade unions in exerting influence over national policy-making, as evidenced by the passage of a series of what were perceived to be pro-worker legislations. This has become more pronounced as the Party-State increasingly places high priority on developing labour market institutions designed to stabilize industrial relations at the workplace. As we will see later, however, the trade unions' growing influence at the national level does not guarantee their influence at the workplace level.

¹⁵ Information on Mongolia is from the author's work as an ILO consultant in 2005 and from follow-up interviews with ILO senior industrial relations expert responsible for East Asia.

4.2 Collective bargaining in East Asia: Scope, structure and trends

4.2.1 *Destabilization of enterprise bargaining structures*

Enterprise bargaining, still the dominant form of collective bargaining in most market economies in East Asia, was established either through the strategic choice of industrial relations actors who developed their bargaining practices corresponding to internal labour market rules of large firms (Japan), or through the government's imposition of enterprise unionism (Malaysia, Singapore), or through a combination of both factors (Korea), or the lack of trade unions' organizational capacity to carry out collective bargaining beyond the enterprise level due to their fragmented structure (Indonesia, the Philippines, Thailand).

In Japan, Korea, Malaysia and Singapore, collective bargaining coverage is roughly the same as, or slightly lower than, union density.¹⁶ Collective bargaining coverage is significantly lower than union density in Indonesia, the Philippines and Thailand. This is in contrast to the situation in Europe where collective bargaining coverage is significantly higher than union density, and the effects of collective agreements at the industry or branch levels are usually extended to cover most workers and employers in the industry or sector concerned. Under the predominant enterprise bargaining structure in East Asia, it is theoretically and practically impossible to extend the effects of collective agreement negotiated at individual firms, thus keeping collective bargaining coverage below union density.

In Japan, Korea, Malaysia and Singapore, where there is usually only one union at a given bargaining unit at the enterprise level, the enterprise unions are generally relatively strong enough to negotiate collective agreements. In Indonesia, the Philippines and Thailand, where there are usually multiple unions at a given bargaining unit at the enterprise level, the determination of the workers' bargaining agent is complicated and difficult if there is no coordination and cooperation among the competing unions.

In Korea, Malaysia and Singapore, governments played a crucial role in shaping the enterprise bargaining structure, along the lines of Japanese-style cooperative enterprise unionism, through legislative and administrative interventions. Even at the enterprise level, trade unions usually face obstacles in collective bargaining, as there are legal restrictions on negotiable agenda in Malaysia and Singapore. For example, varyingly, unions are not allowed to bargain on employee transfer, promotion, job assignments or layoffs. These restrictions, introduced in the early stage of industrialization, were aimed at providing favourable conditions for flexibility, assuring substantial employer control in the workplace. Even though the political influence of the NTUC in Singapore somehow compensated for the weakness of enterprise bargaining through its ability to intervene in macro social and labour policy-making, workplace unions remain relatively weak regarding various human resources issues. The weakness of trade unions at the workplace in both Malaysia and Singapore is further compounded by highly regulated administrative procedures for legal strike actions. In Singapore, approximately 1,000 collective agreements are in force, applying to around 25 per cent of the total workforce of 2.5 million. Each year around 450 new agreements are lodged with the Industrial Arbitration Court for certification.

Enterprise unionism and enterprise bargaining has remained well-entrenched in most large firms in Korea because the emergence in the early 1990s of new internal labour market rules created strong self-interests among regular employees of large firms to preserve enterprise unionism and the enterprise bargaining regime, even after the

¹⁶ In Japan in 1999, 91.5 per cent of all registered enterprise-level unions concluded collective agreements. The coverage of collective agreements is estimated to be around 15 per cent, slightly less than the trade union density of 18.7 per cent. Collective bargaining agreements affect just over 10 per cent of workers in Korea, where the union density hovers just over the 10 per cent mark.

democratization in the late 1980s led to the removal of the legislative provisions forcing enterprise unionism. Similarly, in Japan, the trade unions' campaign in the 1950s for sectoral bargaining failed to win the support of rank-and-file workers in large firms; this was followed by the entrenchment of a strong sense of 'corporate community' among the regular employees on the basis of the well-established rules of internal labour markets on 'lifelong employment' and 'seniority wage'. The internal labour rules of the 'corporate community' were conducive to the development of the enterprise bargaining structure in Japan, as social partners developed a strong incentive to manage their own industrial relations within the boundary of the corporate community through enterprise bargaining and consultation.

However, the 1990s Asian financial crisis altered the collective bargaining structure in Korea, and resulted in radical changes to its corporate governance and HRM patterns. In Japan, the same crisis and the subsequent prolonged recession saw gradual adjustments to internal industrial relations patterns, and the gradual erosion of the traditional HRM patterns.

In Korea, the changes in the labour market were more radical than in Japan, and its industrial relations institutions and practices more brittle; thus the changes in industrial relations patterns were more radical in Korea than in Japan.

In Korea, most large firms abandoned lifelong employment practices and have increasingly taken on numerical flexibility strategies, facilitated by legislative changes in the late 1990s which made layoffs easier and opened the possibility of flexible employment such as dispatched working arrangements and temporary contracts. As a result, instead of the wage issue which was the most important bargaining agenda item in the late 1980s and early 1990s, employment related issues such as job security, regulation of non-regular workers, and sometimes even factory relocation have increasingly become the most contentious issues of collective bargaining.

At the same time, the rapid erosion of internal labour market rules prompted workers to question the effectiveness of enterprise unionism and bargaining in a radically new labour market environment. It is in this context that many enterprise trade unions have regrouped into new industrial union structures since the early 2000s. In 2007, out of a total of 5,099 trade unions operating (with a total membership of 1.7 million), 345 unions organized as 'supra-enterprise' unions such as industrial unions (e.g., the Korean Metal Workers' Union) and regional/general unions, with a total membership of over 860,000.¹⁷ However, due to the long tradition of enterprise bargaining, the restructuring of unions into industrial union has not automatically resulted in corresponding developments in industrial bargaining. Today, three sectors – the banking, health and metal industries – have sectoral bargaining arrangements. As can be seen in box 3, however, sectoral bargaining outcomes clearly demonstrated that collective bargaining above the enterprise level can produce broader impacts which could not be generated by narrowly focused enterprise bargaining.

¹⁷ Kim Yoo Sun, 2008.

Box 3.
Hospital sector collective agreement in Korea

Since 2004, social partners in the hospital sector in Korea have developed a new practice of sectoral bargaining. Medical sector bargaining is seen as the most successful example, because it demonstrated that sectoral bargaining can address broader labour market and public policy issues which cannot be taken on by enterprise bargaining.

In the 2007 agreement, social partners in the sector agreed that 30 per cent of agreed wage increase of regular workers would be transferred to a solidarity fund to finance a newly agreed scheme for conversion of irregular workers into regular workers. Also, both parties agreed to set up a special committee on irregular workers. In a joint effort to ensure equity, social partners agreed that the principle of equal pay for work of equal nature should be respected in pay practices.

As part of continuing efforts to protect irregular workers, the 2008 agreement introduced a sectoral minimum wage – which was higher than the national statutory minimum wage – designed to protect low-paid irregular workers. In this agreement, social partners also decided to conduct training for prevention of sexual harassment at the workplace.

However, the new practice of collective bargaining at the sectoral level has encountered numerous obstacles in Korea due to the problem of determining bargaining agents and bargaining coordination at various levels, which is closely associated with bargaining costs for employers. The Korean Metal Workers' Union faced the difficulty of finding their negotiation partner at the sectoral level, because there was no sectoral association of employers. Employers are often reluctant to participate in sectoral bargaining, as they do not want to lose their managerial autonomy. Under the pressure from the KMWU, employers in the metal sector agreed to set up a loose association. However, there has been significant disagreement among individual employers on how much bargaining authority they want to delegate to the association.

Employers' reluctance to participate in sectoral bargaining is closely associated with the fact that the 'sectoral' union is still largely nominal: the enterprise 'branch' of the 'sectoral' union remains the key decision-making body. Also, the KMWU has developed a three-tier bargaining process – national, regional and enterprise bargaining corresponding to the loose organizational structure of the union – which significantly increased bargaining costs for employers.

The problem of determining the bargaining agents continues to hamper effective collective bargaining developments even at the enterprise level in Cambodia, Indonesia and the Philippines where multiple unionism is very common at both enterprise and national/sectoral levels.

In Cambodia, though each union is given the right to bargain collectively with employer(s), the majority union which represents more than 50 per cent of workers of a given bargaining unit can conclude collective agreements which will be applied to all workers in the given bargaining unit. The minority union(s) can still negotiate an agreement, but the agreement will be applied only to its/their respective members. In Indonesia, the majority union representing more than 50 per cent of workers of a given bargaining unit is given exclusive collective bargaining rights. In an enterprise where no such majority union exists, all employees of the given bargaining unit are entitled to vote to choose one trade union as their bargaining agent. Alternatively, if trade unions form a joint negotiation committee, the joint negotiation committee will become the bargaining agent. This also applies in Cambodia. Modelled after the US model of the exclusive bargaining agent and certification process, workers in the Philippines are called on to vote in a certification election to determine the exclusive bargaining agent when there are multiple unions at a given bargaining unit at the enterprise level. As is the case in US, the rather complicated process of certification election permits employers to wage an 'anti-union' campaign, also often giving rise to disputes over the determination of the bargaining unit. Some observers claim that the certification election is one of the main factors behind very low collective bargaining coverage in the Philippines.

Due to the complexity of determining bargaining agents at the workplace where multiple unions compete for their bargaining rights, collective bargaining coverage is much lower than trade union density in the above countries.

In Indonesia, an estimated 9,154 enterprise-level collective agreements were in force in 2005, while over 18,000 enterprise-level unions were said to be organized.¹⁸ Most of the collective agreements are found in enterprises where older unions (those established before the labour law reforms) are operating. For example, a newly organized union federation with members in the banking, post office, and telecommunication industries has reported its collective agreement coverage to be around 10 per cent, while an older union federation with members in the textile and garment manufacturing sector claims that 60 per cent of its enterprise-level unions have concluded collective agreements.

In the Philippines, while the figures vary due to differences in reported membership by the unions and the distinction between the private and public sectors, it is reported that only 241,668 workers out of a total of 14.6 million wage and salary earners are covered by some 1,674 collective bargaining agreements. This represents a coverage rate of 1.66 per cent of all wage and salary earners and 13 per cent of the 'official' total union membership (or 10 per cent of the 'reported' union membership).

Like their counterparts in Indonesia and the Philippines, Cambodian trade unions at the enterprise level face great difficulties and a lack of capacity in their collective bargaining activities. Still, nearly 50 collective agreements have already been officially registered, covering over 60,000 workers in Cambodia. While most of the agreements were concluded in the garment sector, there are 10 in the tourism industry (covering some 3,000 workers), and one agreement in the construction industry. Over 80 per cent of the agreements apply to all employees in a given enterprise and have been concluded by unions which are recognized as 'most representative' in the appropriate bargaining unit. It has been observed that they generally rely on external assistance and support in addressing issues other than wages. It is in this regard that federations or supra-enterprise level union organizations are seen to be important actors in their provision of advice and support for the development and conduct of collective bargaining.

In this respect, progress is being made toward more coordinated bargaining at the sectoral level in Cambodia's booming garment sector to determine sectoral minimum wage. Although the government abruptly intervened and ended the most recent minimum wage negotiation between the GMAC (the employers' organization in the garment sector) and a group of garment sector unions, attempts to promote industry-wide bargaining reveal a relatively high degree of capacity among participating trade unions to coordinate their bargaining policies (in spite of frequent bitter rivalry and competition among themselves). A similar level of coordination is demonstrated in the GMAC. It should be noted that the legislative provisions in Cambodia envisage collective bargaining and collective agreements to take place at different levels, such as at the enterprise, groups of enterprises, industry, branch of industry, or one or several sectors of economic activities. The provisions stipulate that the scope of application can be established by the collective agreement itself (Labour Code, Article 96.3).

4.2.2 Recent evolution of collective bargaining structures in Asian transition economies

The old East Asian socialist systems did not allow collective bargaining, as there was supposed to be no separation of interest between workers and the enterprises (the workers were supposed to be 'master' of both the state and enterprises). Under the socialist employment regime, jobs were allocated by the central planner. Workers in state-owned enterprises were more or less guaranteed jobs for life, and their social benefits (including pension) were provided by the state. Trade unions at the workplace functioned as a

¹⁸ This can be compared to the 36,500 enterprises which had adopted the legislatively required 'company employment rules'.

transmission belt of the Party-State policy to the working class, mobilizing workers to achieve the economic target, administering corporate welfare benefits and acting as mediator in disputes. These trade unions at the enterprise level were fully integrated into the management structure. Both trade unions and managers were subordinate to the Party organ at the workplace.

In China, Mongolia and Viet Nam, the move towards market economies has dismantled the old employment regimes, which have been replaced by contract-based employment. State-owned enterprises were restructured and the new non-public sector became the dominant economic player and employer.

New collective bargaining practices have emerged, though still burdened by political and historical constraints in China, Mongolia and Viet Nam. In the early years of Mongolia's transition towards political democracy and a market economy, a new practice of national tripartite bargaining emerged as the main form of collective bargaining in the 1990s. In biennial national tripartite negotiation, the tripartite industrial relations actors produced a series of national agreements on public sector wage increases and joint rules affecting utilities and public transport; however, the implementation of these national tripartite agreements was always problematic. In 2008, the tripartite partners began joint deliberation on how to restructure their social dialogue and negotiation system, with special consideration given to decentralization of pay negotiation at the sectoral level and the possibility of sectoral minimum wages.

Although collective bargaining existed during the pre-socialist era in the early part of the twentieth century until the mid-1950s in China and Viet Nam, it was revived only after the two countries embarked on economic and labour market reforms in the mid-1990s. In both countries, the Labour Law (1994 in both countries) and Trade Union Law (1990 in Viet Nam and 1991 in China), though not sufficient at all, laid down rules on collective bargaining for the first time since the mid-1950s. Nonetheless, collective bargaining in the 1990s remained largely a formalistic and bureaucratic exercise, without genuine negotiation. This was largely due to the nature of the old socialist enterprise unionism where unions were treated as a welfare department of the state-owned enterprise management; also, industrial relations actors did not have prior experience in collective bargaining; and finally, freedom of association did not exist at the workplace. As collective bargaining was still new and was not defined as a primary function of trade unions in both countries, collective bargaining coverage was usually lower than the density of trade unions which have an encompassing membership base, a typical characteristic of socialist trade union structures.

From 2000, however, collective bargaining institutions started to develop and spread rapidly across China and to a lesser extent in Viet Nam. At the same time, the quality of the collective bargaining process improved significantly. Particularly in China, where the Party-State began to attach high importance to building modern practices of tripartite consultation and collective bargaining as a social safety valve to ensure social stability and more equitable growth, collective bargaining development has gained considerable momentum.

First, the gap between union density and collective bargaining coverage has narrowed (gradually in Viet Nam and rapidly in China), as more enterprise-level trade unions joined the national campaign for collective bargaining. Second, though there are still many collective agreements which simply replicate the legal minimum conditions, a greater number of collective agreements now include provisions which are genuinely negotiated for better terms of employment than the legal minimum, particularly in China. At the same time, there have also emerged new practices of regional/sectoral collective bargaining in many localities in China. Though the enterprise remains the dominant level of collective bargaining, regional/sectoral bargaining is gaining influence and is likely to develop further in the future (see box 4).

In China, in 2007, the number of workers covered by collective agreements has increased from 42.7 million in 1999 to 61.6 million and 128 million in 2002 and 2007, respectively. Among them, 39.6 million workers are covered by separate wage agreements, while 45.6 million workers are covered by regional/sectoral agreements in 2007.¹⁹ In Viet Nam, it is estimated that around 5,000 collective agreements were registered in 2005, with evidence of slight annual increases over the last three years. 96 per cent of state-owned enterprises are known to be covered by collective agreements. Collective agreements are in force in 25 per cent of private enterprises and 40 per cent of foreign-invested enterprises. Among five million workers who are eligible to be covered by collective agreements, some three million are estimated to be covered. However, there are questions over the quality of many of the existing agreements, as in China.

Box 4.
Regional/sectoral agreements in China

Regional/sectoral bargaining has begun to spread since early 2000s. Chinese trade unions and researchers think that regional/sectoral bargaining has distinctive advantages over enterprise bargaining, because regional/sectoral union organizations can be independent from individual employers' influences. In early days of the development, regional/sectoral agreement contained no more than legal minimum conditions. In recent years, some regional/sectoral agreements succeeded in negotiating higher minimum wages for various occupations than the mandatory local minimum wages set by the government.

Labour shortages between 2003 and 2008 in industrialized localities created also an enabling environment for sectoral bargaining. During the period, employers were struggling with unusually high turn-over damaging their production and high frequencies of labour disputes. Therefore, employers had collective self-interests to join in the regional/sectoral bargaining when they were approached by local unions. In 2007, 45.6 million workers are covered by such agreements.

The regional/sectoral bargaining is relatively well developed in localities where small and medium sized Chinese enterprises are concentrated, rather than in localities where foreign or joint venture are dominant players. This pattern appears to be associated with domestic employers' dense organizational network (and forward/backward industrial links among them), which enable them to aggregate their individual interests into collective ones. Also, the regional/sectoral bargaining appears to be found more often in domestic service sectors, such as hotels and restaurants, as they are shielded from global competition.

Trade unions in China and Viet Nam are increasingly aware of the weaknesses of exclusively enterprise-based industrial relations institutions as these are more often than not dominated by individual employers. That is why trade unions in both countries are making efforts to strengthen roles of trade unions at the upper levels to offer better support to workers and unions at the enterprise level, and to develop bargaining arrangements at the supra-enterprise level. In Viet Nam, a newly formed garment industry union is developing a pilot sectoral bargaining scheme in consultation with the government and the Vietnam Garment Manufacturers' Association.

In both China and Viet Nam, social partners engaged in regional/sectoral bargaining are faced with the problem of representation. Chinese trade unions have only recently begun to develop sectoral union structures at the local level for the purpose of collective bargaining. The sectoral union at the local level is required to set up a workers' representative congress, composed of workers' representatives from various enterprises in the bargaining unit of the region/sector, which will mandate the union representatives for bargaining and ratify draft agreements. In some localities, employers have developed associations which can act as a bargaining agent. In localities where employers' associations do not exist, it is not uncommon for regional/sectoral unions to encourage local employers to elect their representatives for the purpose of collective bargaining – often with the government's push.

Industrial relations developments in Viet Nam were more reactive to pressures created by rank-and-file workers. In China, recent industrial relations developments can be

¹⁹ Cf. C.H. Lee in this series for detailed analysis.

described as more pre-emptive because they try to build encompassing industrial relations institutions at all levels in their efforts to stabilize social relations in the labour market.²⁰ Nevertheless, industrial relations institutions are gradually taking roots in many Vietnamese workplaces. As of December 2007, there were around six million trade union members (1.56 million in SOEs, 2.7 million in public service, 0.97 million in the FDI sector, and 1.3 million in the local private sector). In the domestic and foreign private sector, union density is believed to be around 47 per cent. Collective agreements exist in around 69.9 per cent of SOEs, 14 per cent of FDI enterprises and mere 4.75 per cent of local private enterprises.

A core issue of industrial relations in Viet Nam today are widespread wildcat strikes. Rank-and-file workers in Viet Nam have displayed a great degree of spontaneous solidarity, outside the official unions and the official legal framework, to defend and advance their rights and interests by organizing well-coordinated strike actions. Since the adoption of the Labour Code in 1995, there have been more than 900 strikes, all of which were ‘wildcat strikes’ – i.e. strikes organized not by the official unions but by workers themselves, and without going through legal procedures. Most of the wildcat strikes are not only well planned and coordinated, but were also participated in by a majority of the workers within the enterprises concerned.²¹

The government responded to the wildcat strikes by sending government mediators to the strike scenes. The government’s intervention have tended to legitimize workers’ actions by arguing that workers’ legitimate rights were infringed by employers and that therefore employers should accept the legitimate demands of strikers. Strong public support for workers’ collective actions, helped by local media’s favourable coverage, also generates pressure on the local government to intervene in favour of workers. Trade unions at the higher organizational level in Viet Nam tend to display stronger support for workers on strikes than their counterparts in China. Local trade union cadres, which usually accompany the government conciliators, often sympathize with workers’ causes and put pressure on the management to accept the reasonable demands of strikers, while also persuading workers to return to work. In response to a wave of wildcat strikes in late 2005, the VGCL at the provincial and national levels came out openly on the strikers’ side, criticizing the government’s failure to raise the minimum wage and demanding that it do so.

The strong solidarity of workers, the tolerant attitude of the public authorities and the supportive response of the general public to workers’ collective actions, as well as the sympathetic and semi-autonomous behaviour of higher-level trade union organizations all serve to differentiate Viet Nam from China. It appears that the absence of institutional discrimination against rural migrant workers in Viet Nam, unlike in China, also makes it easier for Vietnamese workers – whether urban or rural in origin – to take collective action. At the same time, the legal recognition of the right to strike in Viet Nam, though somewhat limited by cumbersome procedures, helps to legitimize the workers’ collective actions and to eliminate the political sensitivity and hesitation which dominates the public discussion on the subject in China.²²

4.3 Wage negotiations in East Asia

In some countries, there is a difference between wage negotiations and agreements on one hand, and on the other hand, collective bargaining and agreements which establish conditions of work and terms of employment. Both are regarded as two distinct, but interrelated processes in some countries. For example, in Korea, until a few years ago,

²⁰ C.H. Lee, 2006.

²¹ S. Clarke, 2006.

²² In this respect, different terminologies regarding collective bargaining – ‘collective consultation on equal footing’ in China and collective bargaining in Viet Nam – are not just a question of linguistic differences. This difference is associated with both countries’ different legislative regulation on strikes – it is legally recognized in Viet Nam while not in China.

legislative provisions provided for two different terms of validity for collective agreements and wage agreements. As a result, it is quite common for unions and employers to negotiate the renewal of collective agreements every two years, and negotiate wage agreements every year. Since the turning point of the 1997 economic crisis, collective bargaining and agreements which mainly deal with employment conditions have become more important and involve an increased number of disputes, compared to wage negotiations. Similarly, in Japan, the law fixes the maximum term of validity of a collective agreement at three years. However, collective bargaining partners have developed a system of annual wage negotiations, resulting from the trade unions' 'spring offensive' (Shunto).

In China, there are also indications of a 'separation' between wage negotiations and collective bargaining that covers other employment conditions. There are perceptible trends of pay negotiations being conducted as a separate process from negotiations relating to a collective contract. Collective contracts have a term of validity between one to three years, while wage contracts are supposed to last one year. Separate wage negotiation began to spread from early 2000 when the ACFTU made a policy decision to initiate a nationwide campaign for a separate wage negotiation process. The growing importance of wage negotiations is reflected in the Provisional Methods on Collective Payment Bargaining issued by the Ministry of Labour and Social Security in 2000. This recognizes that the legal effect of special collective contracts on wages and pay is equivalent to the more general collective labour contracts. The wage negotiation campaign helped trade unions in China to move beyond the earlier phenomenon where the proliferation of collective contracts had merely produced 'carbon copies' of the basic labour standards stipulated in the law.

In some countries, wage negotiations are relatively well coordinated vertically and horizontally, in spite of prevailing enterprise bargaining practices. A fine-tuned vertically coordinated wage negotiation was characteristic of Singapore where a two-tier system came to be established for wage negotiations. The national peak organizations of the tripartite partners used to exert strong influence over wage increase rates at the enterprise level, through a tripartite guideline issued by the tripartite National Wage Council (NWC), even though the guidelines are not binding and of an advisory nature. Since the early 1990s, the NWC ceased to issue quantitative guideline on wage increase rates as tripartite partners decided to move to a more decentralized and flexible wage-fixing mechanism. Now the NWC assists social partners at the enterprise level in designing and implementing flexible wage schemes that try to balance the security need of workers and the flexibility need of employers by offering qualitative advice on how to design and combine flexible and fixed components of pay packages. Two-tier or two-dimensional negotiations may also be found in sectors where industry-level bargaining has been established, such as the banking industry. Unions and employers meet at the industry level to deliberate on and set a broad framework on wages and employment terms and conditions in collective agreements. Unions and employers at individual banks then continue the negotiations, taking into account local conditions, to arrive at an agreement and implementation of industry-level recommendations.

In Japan (and to a lesser extent in Korea), enterprise unions, through their industry-level federations and national organizations, have developed an effective system of horizontal and vertical coordination in their wage negotiations. Over decades since the mid-1950s, social partners in Japan developed synchronized bargaining schedules to enable most enterprise unions to commence the bargaining process at the same time. They also developed the capacity to formulate the collective bargaining agenda in a relatively uniform manner across industries, through their industry and national-level organizations. Enterprise-level unions also try to synchronise the bargaining process to enable them to simultaneously engage in industrial action. The nature of such a campaign has come to characterise the collective bargaining system in Japan, known as 'Shunto'. This coordination, which enabled enterprise unions to gain more or less equitable bargaining outcomes across firms and industries even under highly decentralized enterprise

bargaining, was supported by a high degree of capacity on the part of employers to coordinate their bargaining policy through their employers' organizations and informal networks of major employers in Japan. As has been noted, the effect of Shunto has considerably weakened in recent years: while it still exists, it has lost much of its coordination effects on negotiated outcomes as heightened competitions force individual firms to seek greater flexibility, reducing coordinated bargaining outcomes across firms.²³

In many developing and transition countries where the average wages for unskilled workers remain relatively low, minimum wage-setting processes have had a great influence over the wage negotiation process at the enterprise level. In Cambodia, the garment and footwear sector (where collective bargaining is the most developed among all other industries) presents an interesting interaction between minimum wage negotiations at the sectoral level, government intervention, and enterprise-level bargaining. Since 1998, a group of trade unions have campaigned to set the sectoral minimum wage through negotiations with the GMAC (Garment Manufacturers' Association of Cambodia), sometimes accompanied by public demonstrations. The first minimum wage in the sector was set in 1999, and raised in 2000 as a result of bipartite negotiations. However, the outcome was not registered as an industry-wide collective agreement. Instead both parties requested the Ministry of Labour to endorse and issue a notification on the agreement to make it applicable to all enterprises in the garment industry. At the same time, enterprise-level collective bargaining in this sector has focused mainly on bonuses or incentives other than the basic wage, and also addressed issues of working conditions such as maternity leave, health care facility, canteen, working hours, overtime, and employment contract status.

In Viet Nam, minimum wage adjustments became a national issue when a cumulative total of more than 200,000 workers went on sporadic wildcat strikes demanding higher minimum wages in 2006. The government issued a decree which increased minimum wages by around 30 per cent in early 2006. In the absence of a well-functioning wage negotiation mechanism at the enterprise level (such as in Cambodia), minimum wage determination has become de facto the most important wage negotiation process in Viet Nam. It is to be noted that rank-and-file workers' strike action outside the official industrial relations framework has triggered the legislative increase in minimum wage in Viet Nam. At the enterprise level, collective negotiations have become increasingly important on matters of non-wage benefits and welfare provisions, such as meals between shifts, vehicle maintenance allowance, annual vacation allowance, family event allowance – somehow similar to Cambodia.

In Indonesia, much of the post-1998 industrial relations landscape is marked by various attempts of union restructuring and consolidation at the national and industry levels, combined with new union organizing at the enterprise level. This has provided a certain degree of momentum for union building, despite the various difficulties faced by a growing number of individual enterprise unions in drawing on the resources of national and industry-level organizations for collective bargaining efforts. The post-1998 industrial relations system may be said to be in its formative stages. Efforts to develop an effective collective bargaining system may have been further thwarted by the recent decentralization of government functions, which has led to the devolution of the labour administration (including its all-important labour inspection capacity) to local governments. This has resulted in the weakening of the central government's ability to coordinate actual labour relations activities, limiting its function mainly to policy-making. A new and effective system of government direction, guidance, coordination, monitoring, and capacity building – including transparency – is much needed to create meaningful roles for all industrial relations actors. Compared to labour and the government, employers appear to be better situated to play an important role in industrial relations, as they have emerged as a consolidated and unified body in the process of recent changes. However, very little is known about how trade union and employers' organizations at the industry and national

²³ For the latest analysis of the changes in Japan, see www.jil.go.jp/english/laborsituation/2009-2010/chapter2.pdf

levels are contributing to the development of collective bargaining at the enterprise level and also at the industry level.

The assistance and guidance given to enterprise unions by upper-level trade union organizations in China have a great significance for the future development of collective bargaining, and more generally, industrial relations. This is particularly so because the representational capacity and integrity of many enterprise-level unions in China remain problematic. While Viet Nam shares many common features of industrial relations and collective bargaining with China due to their socialist planned economy legacy, the pace of collective bargaining developments in Viet Nam has been much slower than in China. The national trade union centre in Viet Nam, the VGCL, has yet to develop a comprehensive strategy to promote collective bargaining, though it has recognized its importance. While it is possible to find a number of enterprises (particularly foreign-invested enterprises) where collective bargaining is gradually emerging, the absence of nationwide concerted efforts by the official trade union body has not helped to spread collective bargaining practices across the country, in contrast to China.

The collective bargaining system in Viet Nam has been designed for enterprise-level bargaining and conclusion of collective agreements. There are no legislative provisions to enable bargaining at levels other than the enterprise, such as those found in China. The current provisions governing collective bargaining could not be construed as facilitating any kind of supra-enterprise-level bargaining. The provisions relating to organizing and recognizing a bargaining unit and bargaining representative are seen as prohibiting the gathering of workers employed in various enterprises in the same region or industry to form a bargaining unit for the purpose of collective bargaining and representation.

4.4 Collective bargaining in the public sector

Collective bargaining in the public sector is seriously underdeveloped in all East Asian countries, mostly due to legal restrictions imposed on employees in the public sector. In many countries where the right to organize and join trade unions is permitted for public sector workers, the right to collective bargaining is often restricted and the right to strike is denied. The degree of the legal restrictions on basic rights of workers (freedom of association, collective bargaining and the right to industrial actions) varies, depending on subcategories in the public sector – the civil service, the public service, and SOEs.

4.4.1 *Restriction of collective bargaining rights in the public sector*

In most East Asian countries (Cambodia, China, Indonesia, Japan, Korea, the Philippines, Singapore, Thailand and Viet Nam), industrial relations in public sectors are often regulated by separate laws or other legal instruments, not by national labour laws governing industrial relations in the rest of the economy.

For example, the Trade Union and Labor Relations Adjustment Act in Korea (Article 5) stipulates that “public servants and teachers are subject to other enactments”, which has led to the adoption of separate laws concerning the exercise of trade union rights by government employees in the civil service and by teachers. On the other hand, trade union rights are guaranteed for employees of SOEs and various statutory bodies. However, there are specific mechanisms for disputes in ‘essential public services’, such as an extended period of mandatory mediation and provisions for compulsory arbitration and/or emergency arbitration. Finally, the military, police, fire fighters, prison guards and senior civil servants are excluded from the exercise of trade union rights.

A similar system of distinguishing public sector employees also exists in Japan. While public servants are excluded from the application of the Trade Union Law, there are differentiated levels of access to trade union rights. For example, while all public servants have the right to form their own trade unions, the extent to which they can exercise the

right to bargain collectively (and also the right to strike) differs for other categories of employees. Only blue-collar workers in the various government organizations and agencies have the right to bargain collectively, while white-collar workers such as teachers and officials in government ministries nominally do not have the right to conclude collective bargaining agreements.

Box 5.

A proposal to improve collective bargaining in public sector in Japan

In October 2007, the Special Examination Committee of the Promotion of Administrative Reform issued a report on "How fundamental labour rights ought to be in the public service", proposing that the right to conclude collective agreements be granted to certain (white collar) public employees. Although the report did not go further than enumerating both positive and negative views on "the right to organise", "the right to strike" and "the labour-management consultation system", the remarkable thing was that a proposal was made to reform the present framework of fundamental labour rights in the public service in view of the fact that very few reforms have been made over the past 60 years.

In Singapore, public sector workers do not have the right to form trade unions, but the President of Singapore can set exemptions, which has allowed for the existence of the Amalgamated Union of Public Employees (AUPE), with over 16,000 workers organized. The scope of representation has been periodically widened over the years and virtually all public sector employees, except the most senior civil servants, have been able to join a union. In addition to the AUPE, 15 other public sector unions, including public employees paid on a daily rate, are exempted from the ban.

In transition economies such as Cambodia, China and Viet Nam, the legislative regimes governing trade unions and industrial relations do not contain clear indications concerning the trade union rights of public employees. In China, the labour law provides that all workers in enterprises, institutions and government departments have the right to organize or join trade unions. However, the right to collective bargaining can only be exercised by those workers who are engaged in employment on labour contracts. A similar situation exists in Viet Nam as well.

In Cambodia, there is no specific legislative provision regarding public sector employees. However, personnel governed by the Common Statutes for Civil Servants and some categories of public employees are exempted from the application of the Labour Law. It is not clear whether this exemption from the Labour Code (regarding the determination of employment terms and conditions) also applies to issues of trade union rights. Due to the ambiguity, while a teachers' union has been active, its legal status as union is not officially recognized and therefore its right to collective bargaining is also denied.

4.4.2 Practices of collective bargaining in the public sector

In most East Asian countries, the role of collective bargaining is very restricted in the civil service. In Indonesia and Thailand, collective bargaining in the public sector is mostly limited to state-owned enterprise sectors where right to collective bargaining is recognized. Even when the right to collective bargaining is recognized, collective bargaining coverage is often very low. In the Philippines, for instance, though there are 1,428 registered unions in the public sector with a total membership of 293,704 (as of June 2005), only 508 registered unions have secured bargaining agent status, and 136 unions have been actually successful in concluding 'collective negotiation agreements' that cover 23,917 government employees, which is less than 10 per cent of all public sector union members.

However, this does not necessarily mean that there are no industrial relations processes in the public sector. In Japan where collective bargaining rights are restricted for

majority of public sector workers, the industrial relations partners have developed an elaborate arrangement for various levels of dialogue and consultation, founded on mutual good faith, to allow for worker representation in decision-making processes concerning working conditions.²⁴ In particular, the wages of public sector workers who do not have the right to bargain collectively are determined by the independent National Personnel Authority (NPA) and local personnel commissions. In making the pay determination for those public sector workers, the NPA closely follows the outcomes of wage negotiations in the private sector, which is influenced by the Shunto.

Perhaps Korea is the country where collective bargaining in public sector is most advanced in spite of problems with the freedom of association and right to bargain. In the public service (not including the civil service), a total of 266,600 workers in the public sector are organized into a number of unions affiliated to two national centres in 2006. This represents a union density of over 60 per cent, out of a total of some 360,000 workers. While the public sector industrial union aims to secure sector-wide collective bargaining and agreements, negotiations mostly remain at the level of individual establishments. In 2007, The Korean Public Service Workers' Union began collective bargaining in 170 establishments (81.3 per cent) of the total 209 establishments represented by the union. This meant 32,362 workers (97 per cent of the total union membership) came under collective bargaining.

With the new Korean law governing industrial relations in the civil service, collective bargaining is slowly spreading to civil service workers. The civil service workforce stood at 921,299. Of the total public service personnel, those who are eligible to join a trade union under the new law was deemed to be 300,000 at the maximum. Out of these eligible workers, a total of 173,125 public/civil service employees are organized into 98 unions, representing a density of 59.7 per cent. The organizational density is higher (66 per cent) if those workers who are not members of unions but are organized into Public Official Workplace Councils are included.

The first ever collective bargaining in the Korean civil service sector following the enactment of the law was concluded on December 14, 2007. The national-level central bargaining was complimented by lower-level collective bargaining at individual organizations. In June 2007, negotiations were in progress at 53 individual government organizations. The concluded central collective agreement contained provisions for trade union activity, personnel and compensation, welfare provisions, and education matters, within the bounds of the issues defined by the law to be eligible for collective agreement. At the same time, it contained an agreement to provide measures to extend the retirement age for public officials of grade 6 and below. The parties also agreed to institute a process for the reform of the pension system where the unions would be invited to participate.

²⁴ For detailed analysis and discussion, see M. Ebisui, 2004.

5. Conclusions

The industrial relations landscape in East Asia has undergone considerable adjustments and transformation in the last two decades under the confluence of economic globalization, political democratization and the transition towards market economies. The era of relative stability in industrial relations in many countries has been replaced by a new period of experiments and turbulence since the early 1990s.

Industrial relations actors in the region face the same challenges as their counterparts in Europe and other parts of the world. There are many challenges associated with globalization and heightened competition, which undermine the traditional models of industrial relations and necessitating adjustments in industrial relations practices. These include the pursuit of companies for flexibility and cost reductions and the accompanying changes in employment practices, changing corporate governance geared more towards shareholders rather than stakeholders, and changing regulatory regimes facilitating labour market flexibility. Together with technological innovations and changing industrial structures, the above factors have contributed, at least partially, to recent developments such as declining union density and collective bargaining coverage, and the decentralization of collective bargaining in the advanced economies of Europe and North America. To a certain extent, a similar process has been under way in a number of East Asian countries, notably Japan.

Overall, however, it appears that the direction of changes in East Asian industrial relations is not the same as in the advanced economies. In East Asia, evolutionary paths of industrial relations display more diverse complexity. Trade union membership and collective bargaining coverage have declined in Japan and Korea, but remained relatively stable in Malaysia and Singapore. In Cambodia, China and Viet Nam, both trade union memberships and collective bargaining coverage have increased significantly in the last decade. In Indonesia, the Philippines and Thailand, the influences of collective bargaining institutions continue to remain very limited.

As regards collective bargaining structures, decentralized enterprise bargaining continues to be the predominant form of collective bargaining in most East Asian countries. The weakening of Shunto-coordinated bargaining in Japan, and the shift from quantitative wage guidelines to qualitative advice on wage restructuring in Singapore through the National Wage Council are evidences of further decentralization of collective bargaining in East Asia.

However, it is noteworthy that there are moves towards collective bargaining beyond the enterprise level in a number of countries such as Cambodia, China, Korea, Mongolia and Viet Nam, with varying degrees of progress. The move towards regional/sectoral bargaining has been particularly pronounced in China where industrial relations actors and observers share a view that this form of bargaining has clear benefits over enterprise bargaining, as it enables trade unions to be independent from individual employers' influence. In fact, industrial relations institutions at the enterprise level in China, Mongolia and Viet Nam have serious structural flaws, as these are often under the control or dominance of employers – as they were under the control of the Party-State previously. Collective bargaining arrangements beyond the enterprise level are seen as a better alternative for collective bargaining in those countries – particularly China and Viet Nam.

To understand the divergent evolutionary paths of industrial relations in East Asia, it is essential to take into account the political factors. As noted earlier, democratization in the late 1980s and 1990s has opened political and social opportunities for independent trade union movements and collective bargaining developments in a number of countries, such as Korea, Indonesia and the Philippines. The political factors are also crucial for understanding the recent transformation of industrial relations in the transition economies

of China and – to a lesser extent – Viet Nam. In China, the recent rapid expansion of trade union membership and collective bargaining coverage has been driven by the Party-State as a key component of its policy to stabilize social relations in the delicate period of economic transition, which can be described as a ‘pre-emptive corporatist strategy’. The interplay of political and economic factors will continue to shape industrial relations models in East Asian countries.

Collective bargaining spread rapidly in the transition economies of East Asia in the 2000s – at least in terms of the number of collective agreements and of workers covered by the agreements. Trade union density and collective bargaining coverage in China and, to a lesser extent, in Viet Nam have sharply increased. Problems concerning the quality of collective bargaining processes and agreements remain, partly attributable to their early stage of development and to the political constraints on the representational foundation of industrial relations in both countries. As the recent findings suggest, however, it is very likely that collective bargaining will increasingly become important institutions for governing labour relations and determining conditions of employment at the workplace beyond legal minimum conditions – particularly in China, but also in Viet Nam. Considering that China has effectively become a pacesetter in the setting of prices of products and labour in the global market, the rapid development and gradual improvement of collective bargaining in this country would have great impact on labour markets elsewhere.

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