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STUDYING WESTERN EUROPE TRADE UNIONS' CRISIS: THE CASE OF SPAIN  
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## Studying Western Europe Trade Unions' Crisis: The case of Spain



## ABSTRACT

Are the trade unions in crisis? The answer would appear to be yes. The drop in the number of members, the gradual reduction in their mobilization power in the face of recent social and employment cutbacks and the change in the production model, together with the lack of job security, seem to answer this question in the affirmative. In this work, we have focused on the crisis of the majority trade unions in Spain, a country that has been particularly affected by social and employment cutbacks as a result of the financial crisis of 2008. To that end, two more specific aspects concerning the role of trade unions have been studied, namely: 1) their role as political actors capable of exerting influence and reaching agreements with the government; and 2) their role as bureaucratic institutions which have been progressively distancing themselves from their rank and file. These aspects have been examined through the theories of *Political Exchange* by Alessandro Pizzorno (1978) and the *Iron Law of Oligarchy* by Robert Michels (1911), respectively. In order to analyse the former, we have focused on the agreements signed by the Spanish majority trade unions (CCOO and UGT), employer federations (CEOE and CEPYME) and the government from the Spanish democratic transition (1977) to the financial crisis of 2008, then onwards until the present day. Those agreements have served as paradigmatic study cases on how the political exchange referred to by Pizzorno came into being. For the analysis of the second theory, we have focused on the rift between the leaders and trade union structures from the rank and file, as well as on the change in internal organizational structure and the adoption of transparency measures by the trade unions as ways in which to bridge that rift. To that end, official documents, press articles relating to trade unions, the trade unions' own websites and a questionnaire completed by an ex-member of CCOO have been analysed. According to the analysis performed, the Political Exchange theory is suitable for explaining the institutional role of trade unions

in Spain, as political actors who negotiate with the government. This political exchange was nevertheless broken during the financial crisis of 2008 since, due to the measures imposed by the Troika, the government-driven labour reforms ceased to be subject to negotiation with the trade unions. As regards Michels' Iron Law of Oligarchy theory, it would appear to be applicable, at least in part. The analysis shows how the current trade union crisis can be partly explained by an increasing disaffection, both on a social level and on the level of the workers themselves. Such disaffection can, in turn, be explained by the trade unions' inherently bureaucratic structure and oligarchic functioning. Majority trade unions such as CCOO and UGT are currently huge, heavily bureaucratic macro-structures, with little leadership accountability in respect of the rank and file. The work concludes by indicating that Spanish trade unions have decided to base their legitimacy, at least partly, on their power to influence the government's political and economic decisions, and seem to have placed less importance on their legitimation through the link with their rank and file.

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## 1. INTRODUCTION

I worked as a labour lawyer in Madrid for almost 10 years, from 2005 until 2014 –a period which coincided with the financial crisis. Those were not easy times in Spain. I saw how people were fired on a daily basis, how their working conditions were deteriorating by the day and the drama that was behind this.

What inspired me to study law and specialize in the field of labour law was my belief in the importance of trade unions and their role in the defence of workers' rights. In fact, during my degree course I carried out my work experience in *Comisiones Obreras* (CCOO), one of the two main trade unions in the country, initially close to the Communist Party, though becoming progressively de-ideologized over the years. I was, to a certain extent, disappointed by that initial experience, although that likely had more to do with the lawyer who had been assigned as my mentor than with the workings of the trade union *per se*. Years later, when I was practicing as an employment lawyer, I resumed contact with the trade unions, this time with CGT (a more minority trade union that had split away from the anarchist trade union CNT). I worked as an external lawyer for that trade union from 2009 until 2014, thus coinciding with the toughest years of the crisis. In my personal experience, each and every one of the workers who came to us through the trade union had its full support.

Throughout my years in the profession, I also had dealings with the two majority trade unions in the country, namely, CCOO and UGT, or *Unión General de Trabajadores*, a union linked to the Socialist Party. Unlike my experience with the minority trade union CGT, there was a series of aspects of its behaviour that I found difficult to understand, which, at least in part, prompted me to choose this topic for my master thesis.

On the one hand, as a citizen, I did not get the impression that they really mobilized against the various labour reforms which have taken place in Spain since the beginning

of the crisis, and which have led to some of the largest cuts in workers' rights since the democratic transition. Although they were officially against those labour reforms, in many of the large-scale redundancies that took place in their wake the majority trade unions, far from defending workers' rights, tended to reach agreements with the company so that the layoffs could be implemented. Only the minority unions adopted an opposite stance. Some members who arrived at our firm through the majority trade unions told us that their legal advisers had informed them that their claims would be to no avail. In some cases (always according to the workers' version), they were even told that they were not going to file a complaint since their case was considered "uncertain", a euphemistic way of saying that winning was not "entirely" guaranteed. In a great deal of those cases, the complaint in the "uncertain" case ended up being filed by our firm and the case was won.

On the other hand, despite their official opposition to the labour reform, the two majority trade unions resorted to dismissal "on objective grounds"<sup>1</sup> to lay off part of their own workforces. Dismissal on objective grounds, which had already existed under the previous legislation but which was broadly reinforced by means of the latest labour reforms, has cleared the way for employers to pay less in certain cases of dismissal. The trade unions' application of the labour reform to their own workers made me see, ironically but also tragically, their progressive weakening, as well as their gradual irrelevance both as political actors and as champions of workers' rights.

Many of my colleagues in the profession maintain that the trade unions' progressive weakening and irrelevance is somewhat inevitable. In fact, they put forward a vast range of reasons to illustrate this. Some allude to globalization and the change in the economic

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<sup>1</sup> Dismissal justified by a series of grounds specified by law (economic, technical, organizational or production-related) which, consequently, imply a lower amount of severance pay than so-called unfair dismissal, i.e., dismissal without just cause.

model, which is moving further away from the industrial model that saw the birth of the first trade unions. Others point out the disappearance of class awareness in an increasingly complex postmodern society, where ideologies and identities inherent to modernity seem to give rise to more liquid (Bauman, 2005) and unstable ways of life. Lastly, others cast part of the blame on the reforms imposed by Brussels and their repercussions on job insecurity, an insecurity which, in turn, inhibits workers' membership of trade unions.

These reasons certainly illustrate how the historical, political, social and cultural landscape has been changing over the past decades. Nevertheless, my professional and life experience of trade unions leads me to wonder about the role that they have played as political actors: to what extent have the unions themselves been able to adapt to those changes? How can it be that in times of worsening job security, trade unions are increasingly losing power and protagonism when it comes to both negotiating with governments and companies and mobilizing workers? To what extent has the conciliatory role that trade unions have played in recent years in countries such as Spain ultimately weakened them vis-à-vis governments and damaged their credibility vis-à-vis their rank and file?

### **1.1. Research Question**

In short, *why are the majority Spanish trade unions in crisis?*

This question will be the research question that will guide our work. This general question will be addressed via two more specific aspects relating to the role of trade unions: 1) their role as political actors capable of influencing and reaching agreements with the government; and 2) their role as bureaucratic institutions that have become progressively distanced from their rank and file. These aspects will be examined, respectively, through the *Political Exchange* theory by Alessandro Pizzorno (1978) and the *Iron Law of*

*Oligarchy* theory by Robert Michels (1911). In this work, we will thus set aside other factors which may also have an influence on the current trade union crisis, such as globalization, the change in the production model, the fact that the unions are out of touch with a certain sector of workers with more unstable employment conditions (e.g., temporary workers, immigrants, young people, women, etc.), de-ideologization and the crisis of conscience of the working class, etc. Ultimately, our analysis will focus exclusively on the majority Spanish trade unions. Minority trade unions in Spain and unions in other neighbouring countries, situated both within the Mediterranean model of trade unionism and within the other European trade unionist models (Gumbrel-McCormick & Hyman, 2016), will therefore fall outside the scope of this work.

## **1.2. Methodology**

To study the Political Exchange theory, we will concentrate on the agreements entered into by the majority Spanish trade unions (CCOO and UGT), employer confederations (CEOE and CEPYME) and the government, insofar as those agreements serve as a paradigmatic example of how the Political Exchange referred to by Pizzorno is materialized. By performing a chronological analysis of those agreements, from the Spanish democratic transition (1977) until the present day, we will attempt to illustrate the dynamic of the political exchange between trade unions and government. Due to the extensive nature of the period under analysis, the latter will be divided into three chronological periods.

To study the Iron Law of Oligarchy theory, we will focus on the rift between the leadership and the rank and file (using an interview with an ex-member of CCOO as an example), and on the shift in the internal organizational structure and the adoption of transparency measures by the trade unions. To that end, we will analyse official documents (such as laws, or the various reports presented by the Economic and Social

Council each year on trade union activity, among other matters), press articles relating to the trade unions, particularly those which echo what is said by the unions themselves (as a way of hearing and offering their version), the trade unions' websites and, as mentioned previously, a questionnaire completed by an ex-member of CCOO.

## **2. THEORETICAL FRAMEWORK. THE EXTERNAL AND INTERNAL DIMENSIONS OF TRADE UNIONS: STUDYING THEIR ROLE AS POLITICAL ACTORS AND THEIR BUREAUCRATIC STRUCTURE**

As will be shown in the overview section, majority Spanish trade unions (CCOO & UGT) have built their power, at least partly, on their capacity to influence the government's political and economic decisions, and they seem to have placed less importance on legitimation based on the link with their rank-and-file members. It is thus useful for the purpose of this work to seek out theoretical frameworks that explain both dimensions, namely, the more political external dimension and the internal dimension concerning the relationship that trade unions have with their rank and file.

The external dimension, that is, the capacity of majority trade unions to influence government decisions, will be explained by the Political Exchange Theory (by Pizzorno), which provides us with a theoretical framework for understanding trade unions' actions, strategies and decisions vis-à-vis their political role. Political Exchange will thus be the main theoretical framework used in this work, and will be complemented by Robert Michels' theory of the Iron Law of Oligarchy, to explain the relationship between trade unions and their rank and file from an internal point of view. This theory is intended to be applied to any kind of organization, including trade unions, and can be summed up in the famous sentence "who says organization, says oligarchy".

## **2.1. The external dimension: trade unions as political actors. Examining Pizzorno`s theory of Political Exchange**

The Political Exchange Theory was created by Alessandro Pizzorno (1978) in his paper *Political Exchange and Collective Identity in Industrial Conflict*. The theory examines trade unions as political actors, their political dimension or role; in other words, their political power.

Building on the existence of two kinds of exchanges in the labour market, the individual exchange and collective bargaining, the author proposes a third kind of exchange –the Political Exchange–, which is defined as the step subsequent to the other two, particularly, collective bargaining. On an individual level, workers exchange work for a reward (a salary), and they are willing to make a greater individual effort in exchange for a greater reward. This results in increased production and thus a universal advantage for both workers and employers. On this level of exchange, the weapon of the individual worker is to quit the job (where this is possible).

The second level of exchange is the market of collective bargaining, which implies the concept of the organized worker through a trade union. On this level, employers are willing to pay more in exchange for a guarantee of continuity of production, which can be threatened by strike action. The trade union, as the actor capable of organizing the strike, is also the agent capable of guaranteeing that continuity of production. In this sense, collective bargaining is defined by Pizzorno (1978) as the “normative process, through which the unions together with the management become a kind of private government.” (p. 278). On this level, the most relevant aspect of the trade union is thus its character as an organization, which allows it to have strategic power as a workers’ representative vis-à-vis the company’s management.

However, trade unions can also exercise political power and act in the political market, where their negotiating tool is social consensus or social support. This kind of exchange is explained by Pizzorno (1978) as follows:

“An actor (generally the government) which has goods to give is ready to trade them in exchange for social consensus with an actor who can threaten to withdraw that consensus (or, which is more or less the same, to endanger order) unless he receives the goods he needs. In a situation of pure collective bargaining, industrial action means threat to withdraw continuity of work. The exchange becomes political when the threat is withdrawal of the wider social consensus or social order.” (p. 279)

In the political market, trade unions are not the only authorized representatives; a number of actors may compete or concur with the trade unions in ‘mediating consensus’, among them the political parties. From a more traditional perspective, trade unions are responsible for defending the immediate goals of the working class, while the political parties have the task of pursuing their long-term goals. However, according to Pizzorno (1978), “since housing, welfare, transport, education and the health system affect both social life and the organisation and conditions of work, the scope of demands which pass through the representation of labour is widening. Unions tend to replace political parties in some of their traditional functions” (p. 296).

For Pizzorno, differentiation between short-term and long-term goals is necessary in order to understand how the balance is achieved in the political market. The achievement of current objectives may have unintended consequences that could endanger future goals. Consequently, **moderation is necessary** if the aim is to control or guarantee those future objectives. Nevertheless, for that to be true, two requirements must be satisfied: on the one hand, the representative must be large enough to affect the system; and, on the other

hand, it must be interested in coordinating a wide range of groups with different claims which could be adversely affected by the excessive achievement of one of them. When the representative is a trade union, the above means that workers trust its interpretation of the future consequences of present actions for their interests. However, it also means that the union is capable of convincing its members that moderating their claims is the best way to achieve their most important future goals, or that it has a strong organization capable of withstanding members' demands or pressure to meet short-term objectives.

But, as the author points out, "in both cases the union is seen as an actor on its own in the exchange situation, capable of autonomously defining the ends towards which collective action should be directed. It has a preference function of its own, which, from a certain point, tends to diverge from that of its members." (p. 284)

As for what the trade union gains from the political exchange, the answer is **power as an organization**. Nevertheless, if the trade union holds the monopoly in the legitimate interpretation of the true interests of its members, then a gap between the interests of the representative and the interests of the represented may open up, not so much due to deficiencies in union democracy, but because of the interpretation gap produced by the negotiation process. This **interpretation gap** can become even wider because of the long-term nature of the benefits that the trade union can achieve for its members in the exchange with the State, which makes it difficult for anybody (let alone the ordinary rank and file) to assess whether the results of the bargaining are positive or negative.

**Disequilibrium or imbalance** may occur when the interpretation gap becomes too wide, "when the 'power of' bears no relation to the 'power over', and the objectives of the rank and file appear too distorted by the action of the organisation, then the danger of a **breakdown of representation** is approaching. The same may happen when new groups which are not, or do not feel themselves to be, represented as such in the existing system

express a collective will to be represented. A process of formation of collective identity sets in, which tends to disrupt the pattern of mediation.” (Pizzorno, 1978, p. 285).

According to the author, the balance in the political market operates via two forms of control, namely, control over the entry of new collective identities, and control over the dispersion of decisions (applying a centralized strategy over decentralized bargaining). Conversely, **the balance can be broken, and periods of destabilization and conflict arise when the trade union does not have the power or willingness to offer moderation in exchange for social consensus**. This happens when the trade union loses control over the above factors.

As has already been pointed out, **stable periods** are characterized by the existence of the representation link between the trade union leadership (the agent) and its principal (the workers), so that the former is entitled to interpret the long-term goals of the latter, to act according to that interpretation and to ask for sacrifice of immediate achievements, i.e., restraint in the workers’ claims. This also rewards the union in terms of power, which is obtained in exchange for the social consensus that it guarantees.

However, **periods of imbalance** occur when the trade union does not have a centralized strategy. Then, the justification for the political exchange, “legitimizing more or less centralised co-ordination by the union, loses ground. Not only does restraint become pointless, but so does acceptance of a coordinated industrial action. Autonomy of decision-making by subunits and possibly unofficial action become more likely.” (Pizzorno, 1978, p. 293).

Periods of imbalance also arise when new collective identities are formed. In this case, “the logic of exchange and negotiation is unknown or abolished. The real end is non-negotiable, since it consists in the formation of the very subject which has successively to become the actor of the exchange and the bearer of gains and losses.” (Pizzorno, 1978,

p. 293). Nevertheless, the process of formation of new identities also has restabilising effects, when the new collective identities are identified and recognized, so that they become a component of a new system of representation.

All in all, for Pizzorno, trade unions are not merely actors circumscribed to the field of employment; they are also actors with an important role in the political market, in which they negotiate with the State via “Political Exchange”. In this exchange, the trade unions offer social consensus in exchange for power for the union itself as an organization, its main tool for exerting pressure being social mobilization. This strategy of bargaining and pressure, by threatening social mobilization, has been dubbed by some authors inspired by Pizzorno (Huzzard, Denis & Regan, 2004) as “dancing and boxing”. In this vein, other authors (Culpepper Regan, 2014) interested in the moments of imbalance in the political exchange, explain that imbalance as the trade unions’ loss of ability to combine what they call the “stick” and “carrot” strategy. Whilst the former refers to trade unions’ capacity for protest and social mobilization, the latter concerns their ability to propose solutions to the government based on social consensus. In the authors’ own words, “unions in the new European periphery have lost the capacity either to threaten governments with the stick of protest or to seduce policymakers with the carrot of problem-solving” (ibid, p. 723).

Some authors have included “political exchange” theory within the broader theory relating to corporatism, and specifically, competitive corporatism. In this regard, authors such as González Begega and Luque Balbona (2015) understand corporatism as a political theory referring to practices whereby governments partially share their public policy competencies with certain civil society interest groups which, due to their mobilization capacity or influence, are recognized as being particularly representative. According to those same authors, (ibid.), corporatism is based on a Political Exchange where interest groups, such as trade unions, win institutional power in exchange for offering

governments social legitimation in the agreements reached, thus endowing them with additional stability in public decision making. In this way, “social pacts constitute the materialization of this political exchange in the socio-economic sphere and incorporate governments, trade union organizations and business associations, as representatives of the interests of workers and employers, respectively.” (González Begega & Luque Balbona, 2015, p. 3).

## **2.2. The internal dimension: trade union (democratic?) organizations.**

### **Examining Michels’ theory of Iron Law of Oligarchy**

The theoretical framework of the relationship between trade unions and their rank and file, from an internal point of view, is provided by Robert Michels’ Iron Law of Oligarchy theory. The theory, which in this work is used to complement the political exchange theory, is intended to be applied to any organizations, including trade unions.

Michels wrote his *Political Parties* work in 1911, following his experience within the German Social Democratic Party which led to his disenchantment. Michels was particularly critical of the leaders of the party, whom he accused of organizing a profoundly anti-democratic party, whilst at the same time mobilizing the rank and file with discourse on social equality and democracy. In light of his disappointment, he left the party, but his former career had “marked” him, preventing him from being able to practice as a university professor in Germany. This prompted him to move to Italy, where he took up a position as a professor at the University of Turin. He initially joined the Italian Socialist Party, but abandoned it in 1907. Some time later, in 1924, he joined the Italian National Fascist Party and supported Mussolini, arguing that a strong leader was more effective (Collins & Makowsky, 2005), something for which he would later be criticized (McIlroy, 2014).

As indicated previously, Michels' theory has been applied to different kinds of organizations, from political parties to trade unions and even economic corporations, as Tolbert and Hiatt (2009) have done. As those authors have pointed out, in Michels' view, it is the very success of the organization which triggers the oligarchic mechanisms. Thus, as organizations grow, it becomes increasingly difficult for their members to directly participate in decision-making processes, due to both the problem of finding the right time and place to hold mass meetings and the dynamic of such meetings. In this sense, Michels ([1911] 1962) states that "it is easier to dominate a large crowd than a small audience. The adhesion of the crowd is tumultuous, summary, and unconditional. Once the suggestions have taken effect, the crowd does not readily tolerate contradiction from a small minority, and still less from isolated individuals. A great multitude assembled within a small area is unquestionably more accessible to panic alarms, to unreflective enthusiasm, and the like, than is a small meeting, whose members can quietly discuss matters among themselves" (p. 64).

Therefore, the growth of the organization necessarily forces most members to delegate their decision-making capacity to a small subunit of members, which thus causes them to lose control over what the organization decides. The difficulty in implementing effective control mechanisms over the delegates leads the latter to have increasing power to establish the organization's agenda, decide on its strategy and, in short, make decisions on behalf of all its members.

Added to that is the fact that the growth of the organization also implies more complex internal functioning, giving rise to different areas of action requiring the performance of specialist tasks, for which all members do not possess the necessary knowledge. This bureaucratization, in turn, gives rise to problems of coordination among different subunits of the organization that perform interdependent tasks, and those problems often lead to

the development of formal or tacit rules so that those tasks can be coordinated or incorporated. Knowledge of these formal and informal rules, or “administrative secrets”, cannot be accessed by the majority of the rank-and-file members who, as a result, feel that they are being deprived of the ability to question, and are certainly not permitted to challenge, the decisions made by the leaders, whose power over the rank and file increases. This power is also bolstered by the difficulty in replacing the leaders, whose specialist knowledge also expands with experience in the performance of their functions. “Thus, the leaders, who were at first no more than the executive organs of the collective will, soon emancipate themselves from the mass and become independent of its control” (Michels, [1911] 1962, p. 70).

Going one step further in this argument, Michels states that as the leaders acquire more specialist knowledge of the organization, their interest in remaining in that role also increases, due to both the exercise of power that this entails and the financial benefits that it yields. Michels ([1911] 1962) is referring to the exercise of power by the leaders when he indicates that “he who has acquired power will almost always endeavour to consolidate it and to extend it, to multiply the ramparts which defend his position, and to withdraw himself from the control of the masses” (p. 206); and to economic reasons (which also tie in with the exercise of power) when he states that the leaders “hold firmly to their positions for economic reasons, coming to regard the functions they exercise as theirs by inalienable right... loss of their positions would be a financial disaster” (Michels, [1911] 1962, p. 207).

This, according to the author, means that decision making on the part of the leaders is not aimed at maximizing the objectives of the organization identified with the rank and file, but at guaranteeing an inflow of benefits, particularly for themselves. Since their economic fortune is linked to the organization’s survival, they tend to seek its

perpetuation and avoid making decisions that could lead to its dissolution. And when they receive attacks from within the organization itself, by insurgent members, if they do not manage to suppress them, they bring those members into the inner leadership circle. Consequently, the rank and file, deprived of their own independent leaders, lose all possibility of resistance against the established leadership.

As a result of everything that has been indicated so far, Michels ([1911] 1962) concludes his book by stating that “oligarchy depends upon what we may term the psychology of organization itself, that is to say, upon the tactical and technical necessities which result from the consolidation of every disciplined political aggregate. Reduced to its most concise expression, the fundamental sociological law of political parties (the term “political” being here used in its most comprehensive significance) may be formulated in the following terms: ‘It is organization which gives birth to the dominion of the elected over the electors, of the mandataries over the mandators, of the delegates over the delegators. Who says organization, says oligarchy’” (p. 365).

As we have seen, Michels’ predominantly Marxist perspective portrays organizations as power structures in which leaders pursue their own interests, which are not necessarily the same (if indeed they ever are) as those of the rank and file. In other words, as far as Michels is concerned, the gap between the leaders and the rank and file implies a democratic deficit intrinsically derived from the organization’s very structure, which is moreover detrimental to the interests of the majority of workers. Pizzorno takes a different stance and sees the gap between leaders and rank-and-file members not so much as a democratic deficit, but as something necessary in the course of negotiations between trade unions and the government. This is due to the rank and file’s difficulty in having a more global idea of what is at stake in the negotiations, i.e., renouncing their present claims to

the detriment of a more general and long-term interest. Lastly, it is worth pointing out that some authors (Pérez de Guzmán, Roca, & Díaz-Parra, 2016; Keeler, 1987) who apply the Political Exchange theory consider that in this political exchange, trade unions gain benefits not just for the organization, but also for their leaders, thus adopting a halfway stance between the theories of Michels and Pizzorno.

In this theoretical section, drawing from Pizzorno's Political Exchange theory and Michels' Iron Law of Oligarchy theory, we have addressed the role of majority trade unions as political actors and as organizations with a structure that is, to a certain extent, oligarchic. As we had indicated at the beginning, these are the external and internal dimensions of trade unions (their bargaining power and internal legitimacy). Nevertheless, are those two dimensions related? For instance, can the oligarchic structure of trade unions weaken their power in political negotiations? Can the result of political negotiations reveal and aggravate the breach between leaders and the rank and file? Do trade unions base their legitimacy on their strength as political actors capable of influencing the decisions adopted by the government in matters of public policy? We will attempt to tackle these issues in the analysis section by examining the role of Spanish trade unions since the democratic transition to the present days, with especial emphasis on the 2008 financial crisis period.

### **3. OVERVIEW**

This section aims to provide an overview of the majority unions in Spain. To do this, we will first refer to the current legal framework of the Spanish trade unions, placing special emphasis on aspects which determine or affect their bargaining and representation power. Next, brief reference will be made to the recent history of Spanish unions, covering from the end of Francoism to the democratic transition, a key period in respect of the current shape and structure of trade unions in Spain. Reference will then be made to the actions

of the majority unions during the financial crisis of 2008, a period that has also marked a turning point in union action and power. Finally, certain aspects that could contribute to the current crisis of the trade unions in Spain will be identified.

### **3.1. Legal Framework of Trade Unions in Spain**

The Spanish Constitution (hereinafter referred to as SC) recognizes trade unions and employers' associations as entities that contribute to the defence and promotion of their respective economic and social interests. The SC also explicitly regulates the right to freedom of association and the right to strike, which are recognized as fundamental rights under the Spanish legal system. Both rights enjoy the highest protection on a constitutional level and can be directly invoked by citizens before the courts.

Finally, collective bargaining and industrial action are also included in the Spanish Constitution, specifically, in art. 37, according to which "the law shall guarantee the right to collective bargaining between workers and employers, as well as the binding force of collective agreements." Collective bargaining is further regulated in the Workers' Statute (hereinafter referred to as WS), which is the law that contains the basic rules of the employment relationship, including its normative sources (collective bargaining being one of them), content and the different forms of termination.

In Spain, worker representation in companies is implemented on a twofold level: so-called unitary representation (UR) or workers' representative bodies (work committees and personnel delegates) and trade union representative bodies, or trade union representation (TUR).

Trade union representation (TUR) is implemented through the sections that unions can form in each company. These are known as trade union sections which, in turn, designate the corresponding trade union delegates. Trade union delegates are workers who are

affiliated to and elected by a trade union. Union delegates therefore exercise trade union functions within the enterprise on behalf of the trade union that they represent. They may also act in a workers' representative capacity, though this is not necessarily the case. Trade union delegates have similar rights to workers' representatives.

Unitary representation (UR) or workers' representative bodies are composed of representatives designated by the companies' employees themselves in elections held every four years. Workers' representatives do not necessarily have to belong to a trade union; however, in most cases they do and thus act on their behalf. Workers' representative bodies are divided into works committees in companies with 50 or more employees, and personnel delegates in smaller companies.

Both worker and trade union representatives have a number of rights and guarantees recognized by law, some of which have sparked some controversy. For example, they enjoy priority over other employees in relation to their continuity within the company in specific cases of termination of employment. Furthermore, they cannot be dismissed or punished during the exercise of their duties, a privilege that extends for one year following expiry of their mandate. Undoubtedly, however, one of the characteristics of Spanish trade unions most criticized by employers and by some other minority trade unions (CNT, for example) are the so-called trade union hours and, particularly, the concept of **full-time trade union representatives**. Worker and trade union representatives are entitled to a number of paid hours per month to perform their duties, during which time they do not have to work. There is also the possibility of accumulating these hours, so that one or several worker or trade union representatives are exempted from working, but yet receive their full remuneration. This is what is known as a full-time trade union representative. As indicated, both trade union hours and, above all, full-time trade union representatives have been criticized for potential misuse.

One of the most noteworthy institutions in Spanish trade unionism is so-called **Greater Trade Union Representativeness**, regulated by law. The most representative trade unions are those which obtain a certain level of representation in elections for worker representation (which varies between 10% and 15%, depending on the territorial scope). Thus, it can be said that in Spain elections for worker representation in companies are real trade union elections, given that representativeness determines issues that are fundamental for the power of a union, such as its participation in state institutional bodies, its collective bargaining capacity and, also, the funds that the unions will receive from the State. Thus, greater trade union representativeness is essential in determining the power of the union as a political actor, as well as –at least to a certain extent– its economic power.

As indicated previously, the most representative trade unions have, among other capacities, **collective bargaining power**. This is a key factor in the shaping of their power, since in Spain collective agreements have *erga omnes effects*, that is, they extend to all subjects included with their scope of application (state, regional, provincial, sectoral, company, etc.). In fact, as can be noted in Figure 1, Spain is one of the EU countries with the highest rate of collective bargaining coverage, i.e., where collective agreements (negotiated by the trade unions) affect the highest number of workers.

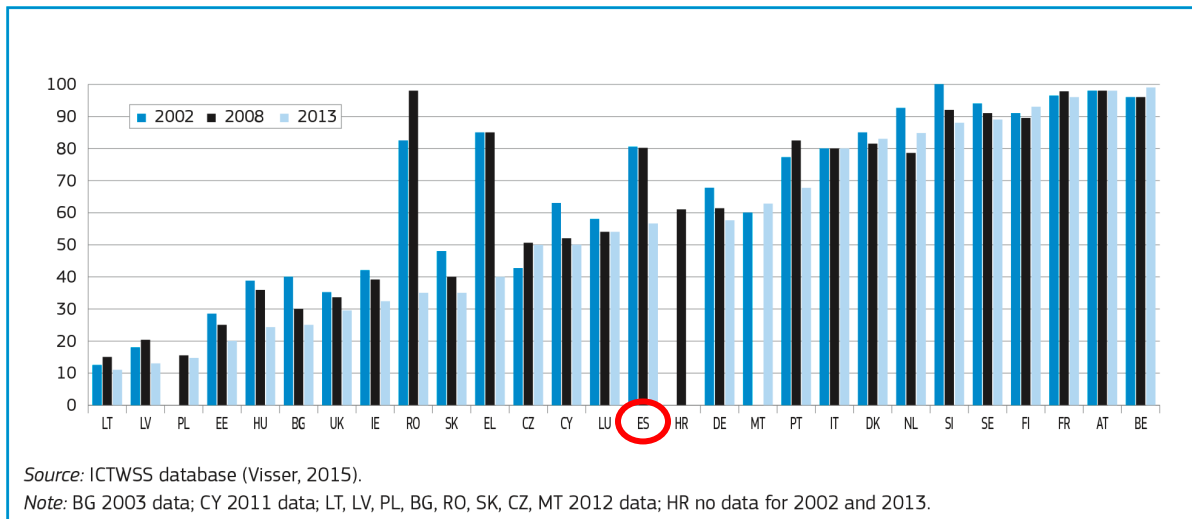


Figure 1. Collective bargaining coverage in EU Member States, 2002-13

From a workers' perspective, the aforementioned *erga omnes* effects mean that it is not necessary for a worker to join a trade union in order to benefit from the result of its negotiations, resulting, as authors such as Alós (2014) and Beneyto (2014) point out, in the so-called *free rider* concept or effect.

This *free rider* effect is also present as a consequence of the double representation channel of workers in companies through TUR and UR; both worker (UR) and trade union (TUR) representatives have similar functions within the company. Thus, any worker in a company with UR is represented when it comes to negotiating with the company's management; in other words, workers' interests are defended without the need to form part of a trade union.

This would at least partly explain the strong presence that trade unions have in companies in Spain (as worker representatives), as shown in Figure 2.

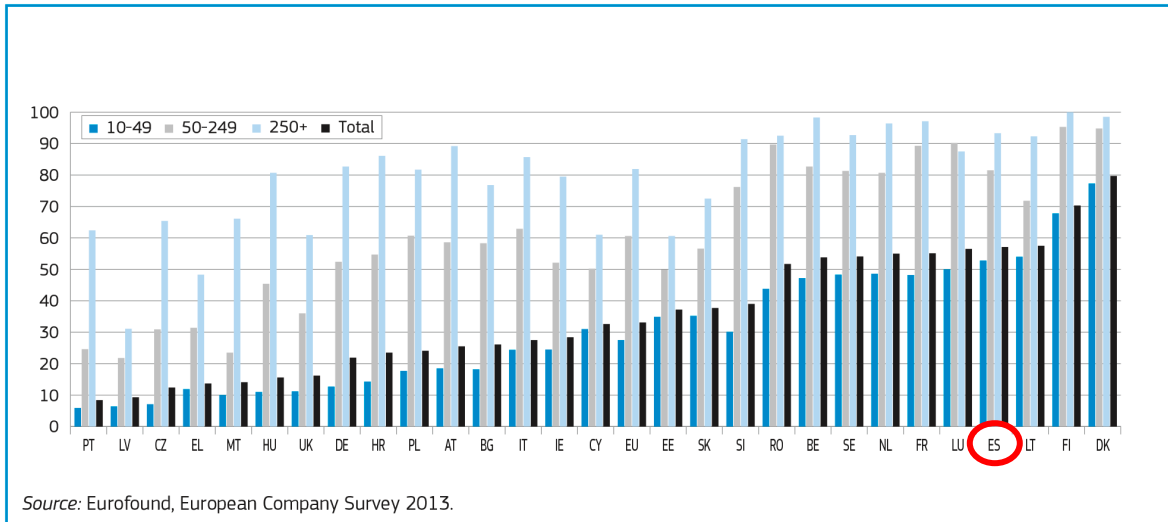


Figure 2. Presence of an official structure of employee representation at establishment (>= 10 employees), in EU Member States, 2013.

Consequently, in Spain there is a double *free rider* effect as a result of collective bargaining and UR. This may explain, at least in part, why Spain is one of the countries with the lowest trade union membership in Europe, as shown in Figure 3.

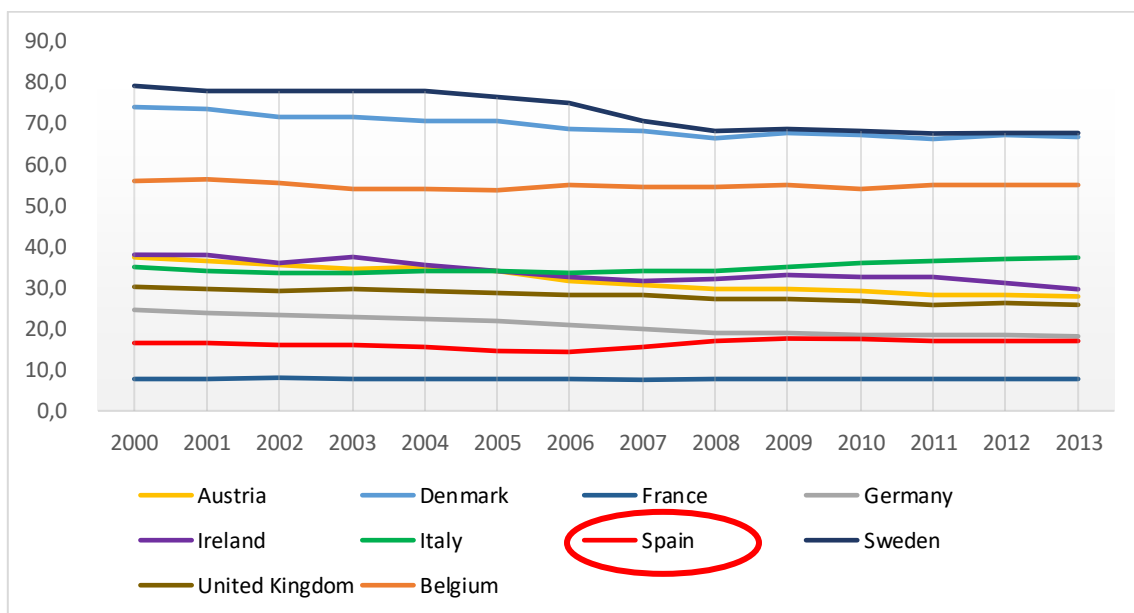


Figure 3. Trade Union density evolution during the period 2000-2013 in Austria, Belgium, Denmark, France, Germany, Ireland, Italy, Spain, Sweden and the United Kingdom (Source: Prepared by the author based on OECD database).

### **3.2. Brief Historical Review of Spanish Trade Unionism**

As it was said above, this section will be divided in three parts, due to the long extension of the examined period.

#### ***3.2.1. From Francoism to the 2008 Financial Crisis***

In the previous section, the current legal framework of trade unions in Spain has been outlined. However, in order to understand the functioning of trade unions today, it is necessary to go back to the period known as the democratic transition; a period stretching from the death of the dictator Franco (1975) to the first democratic elections (1977) and the adoption of the current Constitution (1978). This period is important because it forged the foundation of the current shape of trade unions in Spain. As we will see, Spanish unions – which, during the final years of Francoism, played a combative role against the dictatorship – adopted a more relaxed stance during the democratic transition in the name of "social peace", in their bid to maintain the peaceful nature of the political process that eventually gave rise to the current democratic period in Spain.

During Franco's dictatorship (1939 - 1975), trade unions were forbidden. There was only one official union, the Spanish Trade Union Organization, also known as the Vertical Trade Union, membership of which was compulsory for both workers and employers alike. This was a time marked by tight state control of labour relations and prohibition of collective bargaining. However, in the wake of the country's economic improvement in the mid-1960s, the regime's grip on labour relations became progressively looser.

During the Franco years, the old leftist unions which had existed before the civil war attempted, albeit precariously, to engage in clandestine trade union activity. The most important of them were CNT (*Confederación Nacional de Trabajadores* -National

Confederation of Workers-, of an anarchist ideology) and UGT (the socialist inspired *Unión General de Trabajadores* -General Union of Workers). Only the latter reacted in the final years and managed to restructure itself in order to construct a possible future trade union alternative. At the same time, from the sixties onwards, new trade union platforms started to operate clandestinely, the most important of them being USO (*Unión Sindical Obrera* -Workers' Trade Union- formed by left-oriented Christians with no links to political parties) and, in particular, CCOO (*Comisiones Obreras* -Workers' Commissions-, linked to the illegal Communist Party). Both organizations – without renouncing their clandestine actions against the regime – began to infiltrate the very structures of the Vertical Syndicate to exercise their trade union activity.

The last years of the Franco regime and the beginning of the transition coincided with the economic crisis of the 1970s which, albeit to a lesser extent than in other countries, also affected Spain. However, during this period, the union CCOO – by then one of the main platforms of opposition to the regime – took advantage of both the regime's weakness and the conjuncture of political change to launch a strong protest movement against the government's plan to freeze salaries. It was, therefore, a period of political transition, social unrest and economic crisis; a period in which the openly confrontational strategy of unions such as CCOO - for example, using strike action as an instrument of struggle - could force legal changes aimed at improving workers' social rights.

However, as the transition towards democracy progressed, there was a turning point in union strategy. Influenced by the political parties, major trade unions started to reduce confrontational strategy so as not to jeopardize the incipient democratizing process. This new strategy would eventually pave the way for the Trade Union Association Act (1977), which eliminated Franco's Vertical Syndicate and legalized the illegal unions that had already been operating *de facto*. Business organizations were also legalized, among them

the CEOE (Spanish Confederation of Business Organizations, the main employer organization in Spain) and CEPYME (Spanish Confederation of Small and Medium Enterprises).

Spanish society has always taken pride in its peaceful political transition towards democracy – as was actually the case –, and this has obviously shaped the non-confrontational character of the Spanish trade unions to a certain extent. In effect, trade unions were subordinated to the general process of peaceful democratic transition, also mediated by the conciliatory strategy of political parties, with which they often maintained very close bilateral relations. As Redero San Román and Pérez Delgado (1994) point out, "by clearing the way for the transition to democracy, the government was also able to channel trade union reform and steal from trade unions the possibility of playing a decisive role in it, thus appeasing the unions' potential for protest" (p. 210).

Since the beginning of the democratic period, UGT and CCOO were consolidated as the main two Spanish trade unions. Their activity would be characterized by their policy of unity of action which, among other things, implies "their determined struggle to prevent the emergence of any trade union alternatives" (Redero San Román & Pérez Delgado, 1994, p. 216). This objective would be ensured by means of the legal concept of *greater trade union representativeness*, mentioned above. This more institutional vision on the part of the unions would be reflected in the so-called Moncloa Pacts (1977), aimed at addressing a number of economic issues arising from the financial crisis of the 1970s. These agreements, signed by the government and most of the parliamentary forces, would also have the support of CCOO and, later, UGT. CNT refused to sign.

This would be the first of many pacts and agreements entered into between trade unions and the Spanish government henceforward, thus shaping a negotiating strategy that has marked trade union action in Spain. This strategy has been singled out by some authors.

According to Cruz Villalón (2015), such strategy, based on dialogue and social agreement, would be "an element of unquestionable singularity and real impact in Spain".

The aforementioned negotiating character of trade unions in Spain has sometimes been complemented by more conflictive strategies, in what has been called *dancing and boxing* (Huzzard, Denis, & Regan, 2004). Thus, periods of harmony between governments and unions (dancing) have been interspersed with moments of confrontation (boxing), materialized by means of the call for general strikes. Until the economic crisis of 2008, only on specific occasions has there been certain disagreement between the majority unions and the government, manifested by the call for general strikes; strikes that, in turn, have also put trade unions' mobilizing power to the test.

Along these lines, Köhler and Calleja Jiménez (2017) highlight the importance of the dancing and boxing strategy since the democratic transition period. According to these authors: "in the 1980s and early 1990s social protest and pressure led by the unions motivated the establishment and extension of social welfare institutions. Since the mid-1990s a network of tripartite social dialogue and institutional participation in public administrative bodies has been established and the unions participated in the main reform acts on pensions, health care, minimum income and social services. Since the outbreak of the financial and economic crisis in 2008 and the crisis of social dialogue the unions find themselves again taking a social protest stance against cutbacks and privatisation of social services." (p. 67).

Throughout Spanish democracy, trade unions have called for ten general strikes, which can be placed into three different historical periods: *1) Period of socialist government (1982-1996)*, in which the first strike was called in 1985 by CCOO alone, since UGT was still closely linked to the socialist party (PSOE). However, the strike of 1988 marked a turning point in relations between UGT and the PSOE, thus giving way to a new period

of unity of trade union action between CCOO and UGT. That unity of action was evidenced by the joint call by both trade unions for the 1992 and 1994 strikes. 2) *Period of conservative government (1996-2004)*. Initially marked by close harmony between the People's Party (Spanish conservative party) government and trade unions, that harmony was shattered as a result of the absolute majority obtained by the former in the second term of office. This led to the adoption of a series of unilateral decisions by the government, opposed by the strikes of 2002 (against labour reform) and 2003 (against the Iraq war). 3) *Period of financial crisis (2008-2012)*. As a result of the crisis of 2008 and the pressure exerted by the Troika, both the socialist government of Zapatero and the conservative of Rajoy were forced to approve various labour reforms, which were countered by the strikes of 2010, 2011 and two strikes in 2012. Due to the importance of this period in relation to the role of trade unions, we will examine it in more detail in the next section.

### ***3.2.2. Financial Crisis and Labour Reforms (2008-2012)***

In 2008, the financial crisis broke out worldwide, deeply affecting countries such as Spain, whose unemployment levels soared dramatically. The financial crisis also hit Spanish banks, closely linked to the real estate bubble and, more specifically, savings banks<sup>2</sup> whose poor and even corrupt management left many of them bankrupt. Their rescue by the State resulted in a large public debt issuance, the interest rates of which ended up being unsustainable. For this reason, Spain received economic assistance from the ECB (European Central Bank) in 2012 to clean up the banking system. The bank bailout was unconditional. The Troika established the condition whereby the public

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<sup>2</sup> Financial entities characterized, among other things, by the fact that they are publicly owned, at least in part, they do not operate for profit and they are under the obligation to allocate part of their profits to social projects.

deficit and unemployment rates had to be reduced by means of labour reforms aimed at making the labour market more flexible.

The approval of the last two labour reforms is framed within this context. The first one, approved in 2010 by the socialist government (PSOE), was a softer reform. However, the second one, approved in 2012 by the centre-right People's Party, was probably one of the most, if not *the* most, profound reform in the legal regulation of the labour market ever made since the period of transition to democracy in Spain. Its fundamental purpose was to make the labour market more flexible, both in terms of more flexible working conditions and easier dismissal conditions. Both reforms, as has been pointed out, were met with four general strikes which barely achieved any results (particularly the last two strikes held in 2012).

This flexibilization in the labour market also targeted collective bargaining, where the reform made two fundamental changes: On the one hand, before the reform, agreements that had ceased to be in force continued to apply until signature of the next agreement. What the new reform did was limit the validity of those agreements to a maximum of one year following their expiry. This, apart from resulting in a diminution in workers' rights, also affects the power of trade unions, inasmuch as what they have negotiated in the previous collective agreement is revoked automatically by the mere passage of time, forcing them to negotiate under pressure. On the other hand, the reform prioritizes collective agreements at company level, that is, those which are negotiated by employers and worker representatives within the company to which they belong. The reform assumes that the traditional structure of collective bargaining is rigid and prevents collective agreements from adapting to the specific circumstances of each company. To that end, the company level of negotiation is promoted to the detriment of other higher levels, both intermediate (provincial collective agreements) and at the 'cusp' (state

collective agreements), the latter being the one mainly used by trade unions to establish the collective bargaining general guidelines and the one which gives them more power or control over the collective bargaining.

This reform works to the disadvantage of trade unions for the abovementioned reason and also because they usually have a weak presence in smaller companies. In this regard, it should firstly be borne in mind that in the Spanish business fabric most companies fall into the group of what are known as SMEs (small and medium enterprises), having less than 250 employees and an annual business turnover not exceeding 50 million Euros. Moreover, within the SMEs, “micro-enterprises”, i.e., companies with between 1 and 9 employees, constitute over 90%, a percentage that is somewhat higher than the figure for the EU (Figure 4). This group of companies employs almost 75% of workers, with micro-enterprises once again standing out, employing over 40%, compared to 29% of workers employed by companies of this kind in the EU (Figure 5).

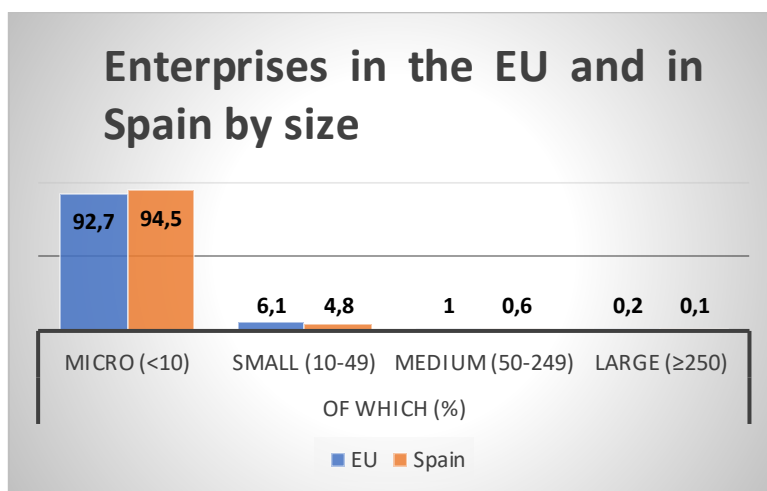


Figure 4. Percentage of EU and Spanish enterprises according to their size. Source:

Prepared by the author based on Eurostat Press Release 201/2015.

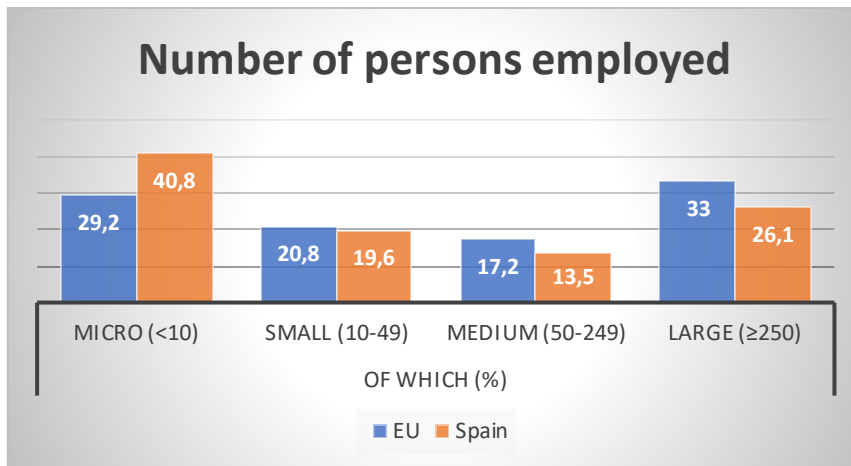


Figure 5. EU and Spanish enterprises according to their size and number of persons employed. Source: Prepared by the author based on Eurostat Press Release 201/2015.

As we had mentioned previously, trade unions have a weak presence in smaller enterprises. Specifically, barely 9% of micro-enterprises have UR (Figure 6). Therefore, by prioritizing the company agreement over the State agreement (the one mainly used by the majority trade unions), the reform stripped the trade unions of their bargaining power in a broad Spanish business sector.

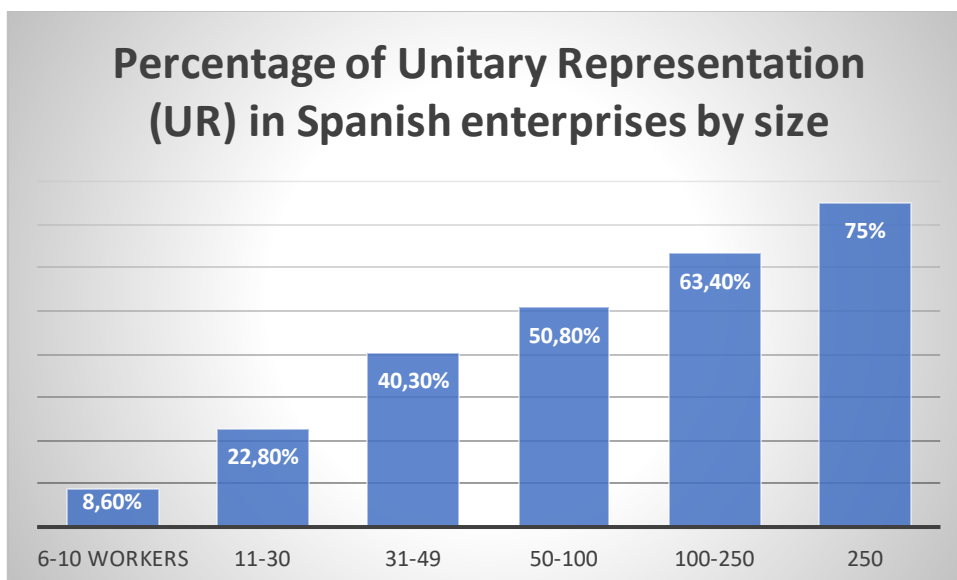


Figure 6. Spanish enterprises with Unitary Representation by size. Source: Prepared by the author based on data provided in Alós, 2014, p. 5.

As will be seen in the analysis, not only would the unions' ability to call strikes test their mobilization capacity, but also their bargaining power with government. This power to force the amendment of laws – used with some success during the first two periods of socialist and conservative governments – would be seriously affected during this third period of financial crisis. In such a period, not only were trade unions disregarded when negotiating the reforms, but they would also be unable to challenge those reforms, since they called up to four general strikes with little success.

### ***3.2.3. Spanish Majority Trade Unions since 2013***

From 2013 on, Spain began to produce better macro-economic figures, despite the fact that employment (and within it, youth employment), continued to be its primary outstanding issue. Nevertheless, in recent years not only has the unemployment rate stopped rising, but it has gradually been decreasing. Trade unions and other social actors have nevertheless been claiming that the reduction in unemployment figures has come at a price, namely, the creation of unstable employment characterized by a high number of temporary and involuntary part-time contracts. Moreover, the jobs that are created relate mainly to activities with low added value (such as employment in the hospitality industry, auxiliary services and construction).

Against this backdrop of recovery, but also of increasing social inequality and cases of corruption built up in the past, the general elections of December 2015 produced a result that was unheard of since the transition to democracy. These were the elections that put an end to the two-party system, in which power had alternated between the PSOE (Socialist Party) and the PP (Conservative Party). From then on, the emergence of new political parties such as Ciudadanos (centre-right), and particularly Podemos (heir to the 15-M movement, which channelled social discontent against corruption and austerity measures) changed the Spanish political landscape. This was so much so that in view of

the failure to reach an agreement in the 2015 elections, repeat elections had to be held in June 2016 when, after considerable effort, the PP managed to form a minority coalition with Ciudadanos.

This, on the one hand, gave the PP less room for manoeuvre, since it was sitting in a minority government. On the other hand, however, it seemed that the Troika's demands were softening, although it continued to ask the government for more labour reforms aimed at reducing temporary employment.

Meanwhile, the majority trade unions have not been impervious to all these changes either. After the worst years of the crisis, and having been affected by some much talked about cases of corruption, the trade unions seem to have recovered part of their lost initiative, particularly in the face of a minority government. This initiative is reflected, *inter alia*, in two publicly visible changes: on the one hand, in the appointment of new general secretaries, marking a generational shift away from the former leaders (in the case of UGT, the former leader had held the position for over 20 years); and on the other hand, in an attempt to clean up their image by means of internal transparency measures, including the creation of transparency portals on their websites, where they make information such as their accounts, membership details, supervision of trade union hours and trade union representatives, etc. available to the public.

### **3.3. Trade Union Crisis**

From what has been discussed in this overview, it seems that the financial crisis has greatly reduced the Spanish trade unions' capacity for negotiation and mobilization. In this sense, as several authors point out (Gumbrell-McCormick & Hyman, 2013; González Begega & Luque Balbona, 2015), one can speak of union crisis. As mentioned at the beginning of this work, proof of this would be the application of the latest labour reform

by the same unions who had strongly opposed them by holding strikes. Just a few months after those reforms were approved, trade unions applied them in order to carry out mass layoffs of their own staff.

However, there are other factors of a more structural nature which could also account for the crisis situation suffered by trade unions in Spain. One of them concerns the system for financing the Spanish trade unions, also affected by the economic crisis, since trade union funds are partly obtained from the State. Other factors would explain the progressive lack of credibility and legitimacy of the unions, as perceived by the population (Gumbrell-McCormick & Hyman, 2013). Cases of corruption involving unions are certainly among those factors. Other aspects relating to the structure and method of operation of trade unions have also contributed to the decline of their public image. This would be the case of full-time trade union representatives, workers who are exempt from working in order to perform trade union functions. As mentioned above, the concept of union representatives gives rise to misgivings on the part of employers, workers, and even minority trade unions (CNT, for example). Finally, there is another factor of a more large-scale nature, which relates to the consequences deriving from the change in the productive model in the labour market, not just in Spain, but worldwide. We are talking here about the increasing presence of temporary workers (or workers with unstable employment conditions) who seem to fall outside the scope of trade unions, which were traditionally aimed at the full-time working man, with a permanent contract and some seniority in the company (Gumbrell-McCormick & Hyman, 2013).

The following paragraphs will be devoted to these factors (financing, corruption, full-time trade union representatives and worker instability), where we will try and explain how they have contributed to the current trade union crisis and, more specifically, to the

two dimensions or aspects that this paper seeks to explore, namely, trade unions' bargaining power with the government and their representational capacity.

The financing of trade unions has often been used as a weapon against them. On the one hand, part of their income comes from State subsidies (either from direct budgetary allocations, or from earmarked grants, which they receive like any other NGO), whereas the contributions of their members amount to between 30% and 50% (depending on the union concerned) of their total income. On the other hand, there has been criticism regarding the lack of transparency in the financing of trade unions, which have also been accused of not overseeing the proper use of resources obtained through public money. Criticism against the lack of control over the activity of full-time trade union representatives can also be included here. Finally, this lack of control and supervision has also been linked to corruption in trade unions, which have been affected by a number of scandals, especially during the financial crisis. We will look at those cases in more detail in the analysis section.

Faced with this criticism, trade unions claim to be the target of a media smear campaign to delegitimize their claims and, therefore, legitimize the cutbacks. However, trade unions have somehow reacted to this criticism and have undertaken a series of measures aimed at providing greater transparency in both their management and financing.

There are also more structural causes that could be behind the trade union crisis. Here, changes to the productive model in the general economic market, of which labour is obviously also part, would be included. Thus, the profile of a full-time working man, with a permanent contract and some seniority in the company (the typical profile of the worker during the 1980s and 1990s) is now becoming an exception, as it has been replaced by workers with unstable conditions (mainly immigrants, young people and women on

temporary contracts), to whom trade unions do not seem to reach out (Gumbrell-McCormick & Hyman, 2013).

Vidal, Alós, Beneyto y Jódar (2016), based on the *Quality of Life in the Workplace Survey* conducted by the Spanish Ministry of Employment in 2010, provide data in this sense. First of all, the rate of trade union membership among men (20.6%) is higher than among women (16.8%). As regards immigrants, few of them are members (membership rate of 6.6%). In terms of age, just 12% of trade union members are young people (aged between 16 and 34), and their membership is moreover very short-lived. Lastly, job instability is also reflected in membership. There are twice as many union members who are permanent, full-time, senior employees as members with temporary or part-time contracts, who have little seniority in the company.

This data, together with that which has been provided throughout this section, could explain the progressive fall in membership of the two main Spanish trade unions as of 2012, the year when the consequences of the financial crisis were felt most severely, particularly in terms of unemployment (see Figure 7).

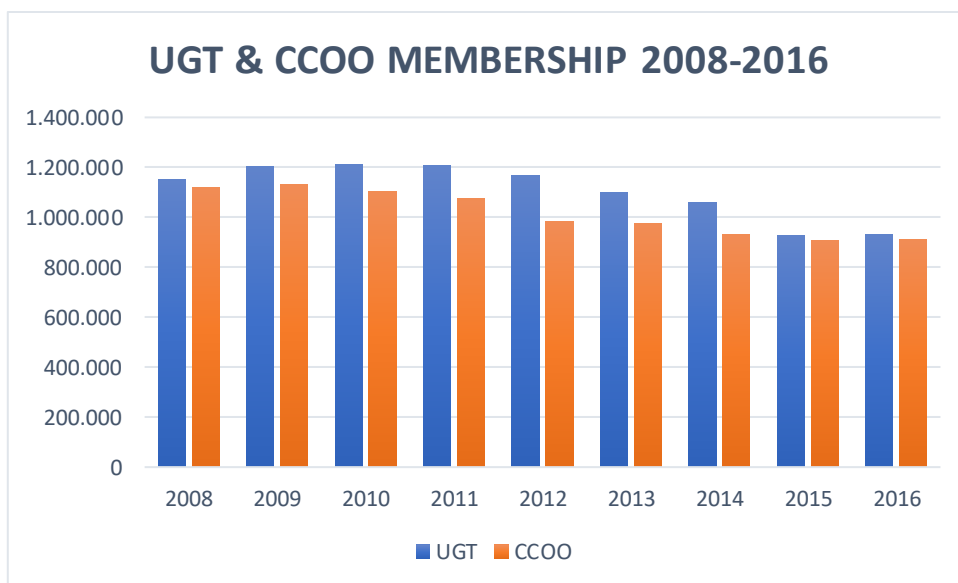


Figure 7. UGT & CCOO membership evolution in the period 2008-2016.

Source: Prepared by the author based on data collected from the UGT webpage (transparency portal) and the CCOO Report (Vidal, Alós, Beneyto & Jódar, 2016).

These factors give rise to a crisis in trade union representation, with unions appearing to have become out of touch with the workers collective and with society in general. This crisis of representation is also reflected in the reduction of trade unions' convening power. In the last general strikes convened in the hardest moments of the financial crisis, and in the calls for the traditional May 1 marches, majority unions have managed to mobilize fewer and fewer people.

In this way, the lack of representativeness also has an impact on the bargaining power of trade unions, which are not always seen by the government as necessary for legitimizing labour cutbacks and, in general, unpopular social measures. In turn, this inability to influence government decisions can have a negative impact on how unions are seen by their constituencies as a useful tool for defending their interests. Thus, lack of representativeness and lack of negotiating capacity go hand in hand and feed each other, further deepening the crisis of the unions.

Köhler and Calleja Jiménez (2017) explain how this representation and negotiation crisis feed into each other. In these authors' own words, "the recent economic and institutional transformations have diminished trade unions' capacity to impose their views even more. Loss of structural power means loss of effectiveness with negative effects on the ability to recruit and retain members and this also reduces the associational and organisational power of trade unions. In consequence, their social and political influence is fading away. In the past two decades, Spanish unions have neglected to maintain and develop independent sources of union power and have been overconfident about their growing institutional power. With the onset of the economic crisis from 2008, a neoliberal and anti-union crisis management approach has made unions extremely vulnerable." (p. 67).

Both crises of negotiation and representation can be explained through Pizzorno's theory of Political Exchange, which studies the role of trade unions as political actors, and Michels' theory of Iron Law of Oligarchy, which focuses on the inner workings of trade unions as organizations.

#### **4. ANALYSIS**

In this section, we will apply the theories of Pizzorno (Political Exchange) and Michels (the Iron Law of Oligarchy). For the former, we will focus on the agreements entered into by the majority Spanish trade unions (CCOO and UGT), employer confederations (CEOE and CEPYME) and the government, insofar as those agreements serve as a paradigmatic example of how the Political Exchange referred to by Pizzorno is materialized. For the latter, we will focus on the rift between the leadership and the rank and file (using an interview with an ex-member of CCOO as an example), as well as internal structural changes and the adoption of transparency measures in the management of trade unions.

##### **4.1. Political Exchange: Studying social dialogue as an example of political exchange.**

The political exchange theory, as described by Pizzorno, consists of an exchange between trade unions and governments whereby the unions offer moderation or social consensus in exchange for greater power as an institution. Meanwhile, governments allow trade unions to participate in the shaping of public policies in return for greater legitimacy when it comes to applying those policies, which thus enables them to achieve a higher level of social consensus. In line with Pizzorno's views, the lobbying tool held by trade unions is social mobilization, for which they require broad social support.

Social dialogue, as a way in which the agreements reached by the trade unions and the government are materialized, offers a way in which to verify whether or not this theory

holds true in the case of Spanish trade unions. Specifically, it seeks to analyse what the government and trade unions have obtained through social dialogue in Spain from the transition period until the present day, as well as the trade unions' capacity for social mobilization during that period.

To that end, we will divide the time period in question into the following three sections, based on the moments in which negotiation or harmony prevailed and those dominated by rupture and unrest: 1) From the political transition until the financial crisis of 2008; 2) Financial crisis (and its aftermath); from 2008 until 2016; and 3) A new era? From 2016 until the present day.

#### ***4.1.1. From the political transition until the financial crisis of 2008***

An era marked by continuity in social dialogue, albeit with ups and downs. A period characterized by consolidation of the trade unions' power and their ability to influence government policy, as well as by their capacity for social mobilization as a tool for exerting pressure on the government.

##### *4.1.1.1. From the transition until the end of the 80s. The beginning of the political exchange between the socialist government (PSOE) and the trade unions.*

As indicated in the overview, social dialogue in Spain commenced with the signature of the Moncloa Pacts in 1977, where social actors negotiated a series of measures with the government to deal with the consequences deriving from the economic crisis in the 70s, the effects of which hit Spain later, as the country was more concerned with resolving political issues than economic ones. At the end of the 70s and beginning of the 80s, government, trade unions and employer confederations signed a series of agreements (Basic Interconfederal Agreement and Interconfederal Framework Agreement) which,

besides continuing along the lines of adopting measures against the repercussions of the economic crisis, were fundamental since they established the basic structure that would govern collective bargaining in Spain. They also made a decisive contribution towards the stabilization of the fledgling Spanish democratic regime. Additionally, during the first years of the 80s, a series of agreements<sup>3</sup> aimed at establishing wage moderation in exchange for job creation, more holidays, or a limit on the maximum working week (20 Minutos Newspaper, 2012), were signed. Temporary employment was also promoted as a means of job creation (this would end up weighing negatively on the Spanish job market, with high temporary employment rates).

The trade unions reaped significant benefits from signing this set of agreements. First of all, there was the decisive possibility of influencing the actual shaping of the collective bargaining system. Also, and particularly following the 1982 victory of the PSOE—at that time still linked to UGT—, both trade unions benefited from the amendment of the Workers' Statute (WS)<sup>4</sup> and the approval, in 1985, of the Ley Orgánica de Libertad Sindical (LOLS - Organic Act on Freedom of Association). Both laws facilitated the establishment of the large trade unions in companies as UR (through the creation of the concept of the most representative trade union, as a union privileged by law). They also benefited trade union representatives, or TUR, whose rights were extended by the LOLS, putting them on a par with those of unitary representatives, or UR (Albardíaz García-Portillo & Delgado Núñez, 2013). With respect to the moderation of the positions of the majority trade unions, González Begega and Luque Balbona, (2015) point out that “the institutionalization of the shared responsibility of social actors in the design of public policy contributed towards settling the democratic transition process, favoured

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<sup>3</sup> The National Employment Agreement, in 1981; the Interconfederal Agreement, in 1983, following the victory of the Socialist party in the general elections; and the Social and Economic Agreement, in 1984.

<sup>4</sup> A law which, *inter alia*, regulates collective bargaining in Spain.

moderation of conflict and accompanied the effort to extend social rights in education, health and social security matters”. (p. 2).

*4.1.1.2. From the end of the 80s until 1996. First imbalance in the political exchange between trade unions and the socialist government.*

The second half of the 80s was marked by the adoption of more neoliberal positions by the PSOE, which culminated in a definitive rupture in the harmony between that party and the union UGT. The context in which that rupture took place is demarcated by the PSOE’s approval, in 1988, of the Youth Employment Plan, which made dismissal cheaper and brought in temporary contracts for young workers. This plan was met with a general strike called by both majority trade unions. The action’s resounding success led to the withdrawal of the plan.

During the 90s, social pacts were used to implement the reforms required in order to achieve the Economic and Monetary Union (EMU)’s convergence objectives. The EMU demanded that the Member States undertake a series of reforms that implied bringing in somewhat “orthodox” discipline (caps on inflation, the deficit and public debt), as well as measures to increase the flexibility of, and deregulate, employment. In this context, tripartite agreements (between government, trade unions and employers) were used to implement restrictive reforms in the emerging Spanish welfare state (Sánchez Mosquera, 2016).

During the first half of the decade, the socialist government approved, without the trade unions, two laws<sup>5</sup> which restricted rights concerning unemployment protection and made contracting and collective bargaining legislation more flexible. A new contract of apprenticeship commonly known as the “trash contract” was also created. Those laws

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<sup>5</sup> Decree-Law on Reform of the Employment Market (1992) and the Labour Reform of 1994.

prompted the trade unions to call general strikes in 1992 and 1994, respectively. Nevertheless, the PSOE government decided to approve most of the amendments unilaterally and in opposition to the trade unions, which led to a temporary rupture in social dialogue. Moreover, CCOO and UGT reached an agreement over the equal division of institutional representation and the sums earmarked for both unions in the General State and Autonomous Community Budgets (Albardíaz García-portillo & Delgado Núñez, 2013). This period was therefore characterized by a breakdown in dialogue between the government and trade unions and by unity of action of the majority unions.

*4.1.1.3. From 1996 until 2002. Restoration of balance in the political exchange between trade unions and the conservative government (PP).*

Following the victory of the conservative People's Party (PP) in 1996, the social dialogue that had broken down during the PSOE's last term of office was struck up once again. The new Executive, which was governing in a minority, reached out to social actors in order to secure a consensus regarding the application of social policies in exchange for greater "moderation" on their part. This moderation in the trade unions' stance not only came about in the form of wage restraint, but also in the adoption of measures to render the job market more flexible. In this period, important agreements<sup>6</sup> concerning, *inter alia*, pensions, training and collective bargaining were signed. As compensation for moderating their positions, the unions obtained institutional reinforcement by acquiring greater protagonism and financing in continuous training, supervision of contracts and job security (Sánchez Mosquera, 2016).

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<sup>6</sup> Agreements on the pensions system ("Toledo Pact"), Out-of-Court Dispute Resolution Agreement (1996) for Employment Stability and concerning Collective Bargaining (1997). Tripartite agreements on Continuous Training (2000), on the Out-of-Court Resolution of Labour Disputes (2001) and on Collective Bargaining (2002).

4.1.1.4. *From 2002 until 2004. Second imbalance in the political exchange with the conservative government.*

The abovementioned good relations between trade unions and the conservative government broke off in 2002 due to a proposal for a labour reform that changed the unemployment protection system; a proposal that was met with a general strike. The strike had sufficient support for the government to almost fully withdraw the proposed reform (which was moreover declared unconstitutional by the Spanish Constitutional Court in 2007<sup>7</sup>) and for the Employment Minister to stand down. However, a number of substantial aspects of the reform survived, particularly as regards making dismissal cheaper and more flexible.

4.1.1.5. *From 2004 until 2008. Restoration of balance with the PSOE.*

The PSOE won the elections again in 2004, and the beginning of its term was once again marked by good relations with social interlocutors. In May 2006, a new labour reform aimed at reducing temporary contracts and lowering social contributions was approved. On this occasion, it also had the approval of the trade unions and employers. However, in this reform, amendments made by the previous government which had, in principle, been rejected by the unions, were unaltered (in matters concerning dismissal, and particularly, more flexible working conditions). Consequently, for authors such as Sánchez Mosquera (2016), the aforementioned reform “actually meant consolidating and extending the flexibility achieved by the previous centre-right government in the in and outflow of workers in companies.” (p. 11). The agreements were then extended to issues such as dependence, women’s equality and social security reform, among others. This period of consensus coincided with a time of economic expansion, which saw the generation of economic growth and employment.

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<sup>7</sup> Judgment 68/2007 of the Spanish Constitutional Court

During this era, the most representative trade unions made uninterrupted progress in terms of membership and electoral audience in elections to designate unitary representatives of the workers, which also coincided with the expansion of their political sway due to their participation in social agreements. Also, the influence achieved through social dialogue allowed a deeper social and labour penetration through the implementation of training, gender equality plans, occupational risk prevention, etc. (Sánchez Mosquera, 2016).

To summarize, from the democratic transition until the beginning of the economic crisis of 2008, the political exchange has characterized the relationship between government and trade unions in Spain. As regards the former, it has offered the unions, by means of various agreements, greater institutional power, in the form of financing, representativeness and the capacity to influence public policy. Meanwhile, the trade unions have had much to offer the government as well. In years marked by democratic consolidation in Spain, they have been fundamental when it comes to legitimizing social reforms carried out by the government, which has favoured social consensus around them.

#### ***4.1.2. Financial crisis (and its aftermath): from 2008 until 2016.***

This is a period characterized by the economic crisis and the breakdown in social dialogue between government and trade unions. During the crisis, the governments, including both the PSOE and the PP, under pressure from the Troika, adopted a series of profoundly stringent social measures in a completely unilateral manner, without involving the trade unions, which were unable to change that behaviour through social mobilization.

Agreement reached during this period are included in Anex I. As it can be seen in the Annex, the social dialogue continued during the initial years of the financial crisis, although the number of agreements reached was cut drastically. The breakdown in dialogue took place in May 2010, when the socialist government announced –due to international pressure– a strict shift in its economic policy in the form of a tightening of

the budget. This led the trade unions to call a general strike, which was weakly supported and did not bring about the amendment of the measures that had been adopted. Nevertheless, this did not prevent the achievement of a consensual reform of the pensions system some months later, which delayed the age of retirement, toughened access to the maximum benefits and cut the average income of future retirees. By signing this agreement, the unions revealed what the priority underlying their negotiating strategy was, namely, trying to keep their leading role as institutional actors in the political exchange with the government, even if it implied sacrificing workers' rights.

The new PP government that emerged from election victory at the end of 2011 continued with, and further toughened, the policies of adjustment and deregulation of the employment market. The Peoples' Party had barely arrived in office when it presented a roadmap for the labour reform to the social actors. The reform addressed the following areas: the role of collective bargaining, the types of contract, absenteeism, training and out-of-court dispute resolution. In January 2012, trade unions and employer confederations signed a series of agreements relating to some of the points included in the roadmap (flexibility and wage moderation), thus demonstrating their bargaining power and capacity. In the same vein, as Gago (2013) indicated, "for fear of being excluded from the political exchange arena, the majority unions, CCOO and UGT, signed the Second Agreement for Employment and Collective Bargaining 2012, 2013 and 2014 on 25 January 2012." (p. 1087).

The first statements by the trade unions following signature suggested that by means of the concessions that had been made, they were attempting to prevent the government from unilaterally imposing the labour reform (Gago, 2013). In their statements to the press, Cándido Méndez and Ignacio Fernández Toxo, the leaders of UGT and CCOO, respectively, affirmed that the pact had "relaunched social dialogue at a time when Angela

Merkel's German government was putting pressure on Mariano Rajoy's Executive to undertake more drastic reforms" (Nueva Tribuna, 2012).

The agreement, by which the trade unions sought to save their role as bargaining agents in the political exchange, did not, however, pay off. This was, on the one hand, due to the fact that the labour reform was ultimately approved by the government unilaterally, without the trade unions' involvement, and on the other hand, because their institutional role as interlocutor in the political exchange had also clearly deteriorated: they had yielded in the defence of workers' rights in exchange for nothing. In other words, not only did the sacrifice of social rights –justified by the need to save social dialogue or political exchange– not achieve anything in return, but it was worsened by the tremendously restrictive labour reform that was finally approved by the PP, as illustrated in the overview.

Despite the fact that the labour reform was harshly criticized by the trade unions, they, aware that it was inevitable, reduced their claims to keeping their role as bargaining agents in the political exchange with the government. In the words of Gago (2013), "in view of the unions' interpretation that it was impossible to demand the withdrawal of the reform, CCOO and UGT began to ask if they could at least be part of the process of drawing it up." (p. 1088). In this regard, CCOO and UGT organized a demonstration on 19 February 2012, where they managed to mobilize around two million people in 57 cities. Once again, however, their main objective was to urge the government to rekindle social dialogue. Proof of this lay in Toxo's statements, in which he explained that "trade unions do not seek confrontation but correction of the labour reform" (El Mundo, March 2012). In other words, the trade unions showed that they were willing to find elements of consensus by means of agreement, not by confrontation.

In view of the PP government's silence, the trade unions finally decided to call a General Strike on 29 March 2012. Not only was the general strike against the labour reform, but also against the severe tightening of the Budget. In a press release, the CCOO announced that it was "prepared to maintain social pressure after that date in order to substantially amend the reform if the government does not rectify and agree to negotiate" (Público, 2012). The unions tried to exhaust all forms of social dialogue, leaving confrontation as a last resort, a path that they would only go down in the event that they were totally excluded from the decision-making process. Nevertheless, the strike revealed the trade unions' progressive loss of mobilizing and bargaining power: not only did it not bring about the withdrawal of the PP's labour reform, but the opposite occurred and the final draft of the reform was approved a few months later.

Just a few days following the general strike, the government approved the general Budget for 2012, which implied a cut of 23,700 million Euros in essential aspects of the welfare state. The budget also dealt a blow to the trade unions' economic revenue, given that their budgetary allocation was reduced by 30%. There was also a direct attack on social dialogue with a 42% reduction in trade unions' economic compensation for participating in the advisory bodies of the Ministry of Labour and Immigration, its independent organizations and the Social Security managing bodies. This aspect of financing is key to understanding the inclusion of trade unions as institutionalized actors within the State, and a reduction in same attacks the foundations of social consensus. Moreover, this cutback constituted a statement of principles by the government, which sought to exclude trade unions from decisions on economic policy (Gago, 2013).

On 14 November 2012, the trade unions called another general strike, this time in concert with various European trade unions and collectives. For the first time in the history of the European Union, a day of industrial action was held simultaneously in different States

(Cyprus, Malta, Portugal, Italy), all seeking a common objective. In Spain, however, a broad sector of the population could not be mobilized, and in any case, the mobilization did not achieve the desired effect, since the government maintained the labour reform and continued to follow its agenda of planned reforms. It thus seems that the trade unions have been losing mobilizing power over the years, with the loss being particularly acute during the financial crisis, as can be seen in Figure 8.

### HUELGA Y CIERRES PATRONALES

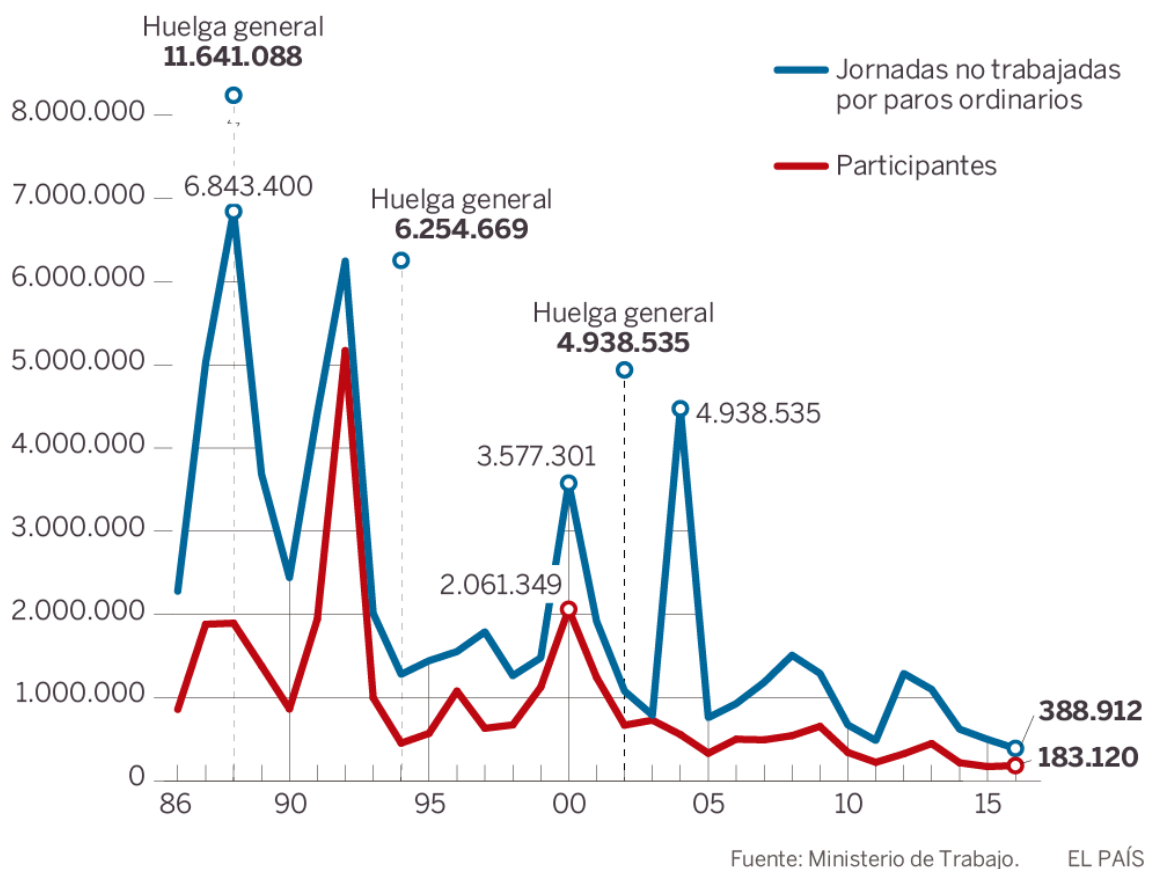


Figure 8. Evolution of strikes and lockouts (1986-2016). Source: El País Newspaper

Lastly, it should be noted that the upturn in the general conditions of the Spanish economy as of the second half of 2013 has allowed the relationship between government and trade unions to recover slightly. This has been illustrated, *inter alia*, by signature of a number of agreements between government and the trade unions, for instance, the Agreement on

proposals for tripartite negotiations to strengthen economic growth and employment (2014), or the Agreement on the extraordinary programme to kick-start employment (2014). Both agreements were nevertheless demarcated within the specific context of job creation in Spain (which still had dramatic unemployment figures). It seemed that the government was once again taking trade unions into account in matters requiring social consensus. However, it continued to take a unilateral stance on issues that, until then, had been fundamental for the unions, such as the exclusive management of funds for training for employment. Thus, in March 2015 the government unilaterally approved the reform of the vocational training system, taking away the unions' monopoly over the management of those funds, which had constituted a source of union income.

In short, in this period, which runs from the economic crisis until the last general elections in June 2016, the trade unions have been virtually excluded from the political exchange. The main reason for this is that they had practically nothing to offer the government. In the first place, following the various reforms approved over recent years, the unions have been very much worn out in their role as negotiators and political actors. As a result, they have gradually lost their power of social mobilization when it comes to challenging government reforms. Secondly, the government reforms, imposed unilaterally, have been legitimated by the economic crisis situation and the pressure exerted by Brussels, which has thus made it unnecessary to reach a social consensus around them. In this context, the role of the trade unions has become virtually irrelevant, since everything suggests –in light of what has happened in other European countries– that not even a strong mobilizing power could have avoided the approval of the measures demanded by the Troika.

#### ***4.1.3. A new era? From 2016 until the present day.***

Since the end of 2015, the political setting in Spain has been marked by two general elections which have altered the traditional two-party system, leaving the current

government in a situation of fragile parliamentary minority. This has gone hand in hand with sustained economic growth, which had started two years earlier. In this context, the Troika has eased its demands on the Spanish government, though it continues to press the latter to go further down the path of labour reform already undertaken.

Aware of the fragile situation of the new conservative government ensuing from the last elections in 2016, the trade unions appear to have taken advantage of this more favourable conjuncture and recovered their traditional role as bargaining agents in the political exchange. Indeed, the unions never stopped calling for renewed social dialogue, both unofficially and officially. In this regard, the first thing that the trade unions did was ask for the re-establishment of social dialogue –both bipartite and tripartite– by means of a formal institutional declaration (Economic and Social Council, 2017). Moreover, with the worst years of the crisis now behind it, and without the constant pressure from the Troika, the government could not continue to legitimate measures that placed restrictions on social or labour rights by citing exceptional circumstances or external pressure. Consequently, it once again needed the trade unions to endow its labour and social policies with legitimacy and to achieve a higher social consensus quota around them.

Thus, in this new context, it seems possible to glimpse the elements that could outline the framework of a new period of political exchange between government and trade unions, insofar as both actors would have something to offer each other. Perhaps the beginning of this period, marked by a new (albeit precarious) balance between both actors, might be the so-called Agreement for Improved Public Employment (2017). In any event, it seems that the period of economic crisis has changed the landscape in which said political exchange will unfold, in the near future at least. Although the weakness of the government and the unions may bring about a new phase in which they have a mutual need for each other, entailing the rekindling of the political exchange, that exchange may require other

ingredients in order to bear fruit. Thus, as has been indicated previously, the current government (unlike all the governments before it since the democratic transition) is in a fragile minority, and is therefore no longer the only interlocutor vis-à-vis the trade unions. Meanwhile, as we will go on to mention, the progressive weakening of the unions during the crisis years has run in parallel with the birth of other social movements which *have* been capable of channelling social discontent and, therefore, of mobilizing the people. For that reason, the trade unions, faced with the emergence of the so-called “social tides”, have undertaken a series of internal measures and reforms in an effort to recover and expand their rank and file and establish more democratic and transparent relations. We will refer to this in the following section.

#### **4.2. The Iron Law of Oligarchy. Studying disaffection towards trade unions**

As we had mentioned in the theory section, according to Michels, the very success and growth of the organization gives rise to its progressive bureaucratization. This triggers a series of oligarchic mechanisms that make it difficult for its members to participate directly in decision-making processes, which are delegated to a small subunit of members. This increasingly specialized subunit begins to distance itself from the rank and file and look out for its own interests. Meanwhile, the rank and file find it more and more difficult to control what is done and decided at the top of the organization, which thus gives rise to a progressive disaffection.

It should be pointed out, as we had indicated in the methodology section, how challenging it is to test Michels’ theory on the real operation of a trade union. In our view, not only would this imply being familiar with the organic structure of trade unions as described in their bylaws but, above all, it would imply observing from the inside how that formal structure translates into specific decision-making mechanisms in different areas of union operation, something which goes beyond the boundaries of this work. Consequently, as

we had also indicated, the analysis focusing on Michels' theory will be secondary and, to a certain extent, supplementary to Pizzorno's theory.

In this analysis section, we will begin by addressing the progressive disaffection with trade unions: 1) Based on a general survey evaluating trade unions; 2) we will then focus on the results of a survey completed by an ex-member, in which some of the main problems currently affecting trade unions are raised; and 3) lastly, we will look more closely at some of those problems, examining how trade unions have endeavoured to reform their internal structure and increase transparency.

#### ***4.2.1. Citizens' confidence in trade unions.***

In 2015, the CIS (*Centro de Investigaciones Sociológicas* - Sociological Research Centre), the official body responsible for compiling public opinion— published the degree of confidence of Spanish society in the country's main institutions, including trade unions. As can be seen in Table 1, the unions generate a very low level of confidence, only ahead of the political parties, who were seriously damaged on account of the financial crisis and the countless corruption scandals. This information, though very general, could be interpreted as a measure of Spanish society's disaffection towards, and distancing from, an institution such as that of the trade unions, perceived as something that is increasingly alien to citizens' problems and needs. It is thus significant that the unions generate virtually the same level of distrust as the institution on which Michels based his theory.

	Media	Desviación típica	(N)
El Gobierno	2,77	2,62	(2.413)
El Parlamento	2,83	2,49	(2.279)
El Gobierno de su comunidad autónoma	3,20	2,70	(2.374)
El Parlamento de su comunidad autónoma	3,14	2,65	(2.193)
El Tribunal Constitucional	3,40	2,60	(2.087)
El Defensor del Pueblo	3,96	2,68	(1.962)
Las Fuerzas Armadas	5,51	2,97	(2.330)
La Policía	5,95	2,66	(2.417)
La Guardia Civil	6,02	2,82	(2.389)
La Monarquía	4,34	3,13	(2.346)
Los partidos políticos	2,23	2,25	(2.409)
Las organizaciones empresariales	3,19	2,52	(2.175)
Los sindicatos	2,61	2,43	(2.309)
Los medios de comunicación	4,57	2,49	(2.374)
La Iglesia católica	3,61	3,17	(2.389)
El Consejo General del Poder Judicial	3,54	2,62	(2.096)

Table 1: Degree of confidence in the Spanish institutions, rated from 1 to 10.

Source: CIS (*Centro de Investigaciones Sociológicas* - Sociological Research Centre), Barometer, 2015.

#### 4.2.2. Views of an ex-member of CCOO.

In order to examine in more detail the reasons behind this distrust in the institution of trade unions, it was decided that an ex-member of CCOO would be interviewed. The specific participant chosen for the interview is a 57-year-old male, who has worked as a civil servant in a public library for 32 years. He was a member of CCOO for 33 years, from 1979 until 2012, which coincides with one of the worst years of the economic crisis in Spain.

In the interview, conducted online, an attempt was made to address some of the reasons why the subject ceased to be a member in light of a number of concepts considered relevant for the purpose of testing Michels' theory, such as: internal structure and democracy; representativeness of the interests of the rank and file; and corruption. There

were also more general questions concerning the crisis and the current validity of trade unions.

The subject's reasons for leaving the union were connected with the treatment that he had received from the union lawyer. In his own words:

“The duty lawyer's having treated me as a subordinate instead of as a colleague requiring advice and assistance. Not understanding, or trying to understand, my complaints. Not acting swiftly enough, which meant that it was too late to make subsequent claims due to the statute of limitations. Not acting in defence of all the employees, only their members. Not being up to speed on the problems that employees of the company's peripheral bodies are going through.”

When asked whether there was democracy within the majority trade unions and whether they reflected the interests of the rank and file, the interviewee replied in the negative:

“They [the trade unions] are too far removed from their ranks. Assemblies are held with just a few in mind. The results of those assemblies are insufficiently explained.”

“The trade union leaders do not reflect or pursue the interests of the ranks. In the end there is a move towards corporate unions. Professional associations are stronger than trade unions.”

When asked whether trade unions' internal structure could facilitate cases of corruption, the interviewee answered in the affirmative, indicating that:

“Trade unions' federal and confederal models only answer to the name: ultimately, we only know the general secretaries. There is little transparency in the accounts: they should publish, in real time (even if it is a utopia), even the smallest expense.”

The subject was then asked for his opinion on the concept of full-time trade union representative, discussed in the overview of this work (see page 23). In his view:

“For a small and medium-sized company, this is an incomprehensible expense for the business owner. This situation is all too often abused. The number of hours accumulated for trade union duties in certain cases causes jealousy and upset among other colleagues: they should be personal and non-transferable. In large companies, this often –too often- only implies work insurance, zero trade union activity, paid holidays and even being a temporary tell-tale.”

Lastly, when asked about the crisis that trade unions are currently suffering, and their current validity, the interviewee attributed the union crisis to the following:

“Not being aware of employees’ current problems in the face of abuse by private companies and the public administration. Being anchored in past actions. Not having stood their ground during the toughest moments of the economic crisis. Being more concerned about manners and show in demonstrations [...]. Not having been at the head of the 15-M [socialist movement] [...], thus allowing a proliferation of anti-systemic movements which, despite being necessary for keeping utopian ideas alive, are far removed from “actual” reality.”

However, he believes that the institution of the trade union is still valid today, although:

“they need to redirect their activities, claims, organizations. Increase their presence in all kinds of companies without making any distinctions based on size or branch of activity. Attracting self-employed business people would be

a fundamental achievement and a radical shift in the concept of trade unions in society.”

Thus, in light of the replies given in the interview, Michels’ theory would be suitable for explaining the interviewee’s views and even his disaffection in respect of trade unions, which have treated him “as a subordinate instead of as a colleague”. Although the interviewee continues to support unions as an institution that is necessary nowadays for the purpose of defending workers’ rights, we can see how he criticizes certain aspects of their internal structure and democratic deficit. In that regard, the interviewee proposes some necessary reforms so that trade unions can connect with society once again. Besides the fact that trade unions are trying to reach out to sectors that union action had virtually not touched up until now (SMEs and self-employed business people), we can also note how the interviewee points to the need for greater transparency in accounts, as well as in decision-making processes and in the explanations given for their results. In short, the interviewee’s perception of trade unions as institutions far removed from the rank and file and from society would come close, at least partially, to Michels’ view on the bureaucratization and oligarchic structure of institutions, such as trade unions.

The unions somehow seem to be aware of this criticism, since they have adopted measures geared towards modifying their internal structure, increasing transparency and, basically, becoming “refounded” by means of a generational overhaul in their leadership. We will go on to look at those three aspects below.

#### ***4.2.3. The trade unions’ reaction to their crisis: internal restructuring and transparency.***

The two majority trade unions have recently undertaken a series of measures designed to improve their battered public image.

#### 4.2.3.1. *Internal restructuring*

One such measure is their internal organizational restructuring, by reducing the number of their federations for the sake of greater transparency, efficacy and proximity to the workers. In December 2013, CCOO reduced its federations from eleven to eight, “to gain efficacy, operability and flexibility, in the aim of being more present in the daily lives of companies, alongside the workers.” Those mergers formed part of the internal restructuring process, which “also entails the creation of a centralized financial management and human resources centre [...] which will enable *transparency and efficacy to be achieved, reducing bureaucracy*.”, (CCOO, 2013, italics added). In this vein, UGT also carried out an internal restructuring process in March 2016, whereby it halved its federations, going from six to three. The objective of that restructuring, the most large-scale since 1929, was to “modernize structures to adapt them to the changes occurring in society and to *bring the trade union closer to the workers, the rank and file and the members*”. It also sought to create a more flexible structure that would enable the union to “free up resources” to be used for “union action in companies and *to share debates and decision making with members and delegates*”. (UGT, 2016, italics added). These internal restructuring measures can be understood in light of Michels’ theory. As we can see, such measures are essentially aimed at remedying a bureaucratic and opaque structure, as well as the rank and file’s resulting lack of control over the decisions adopted by the leadership.

#### 4.2.3.2. *Transparency Portals*

Along these same lines, CCOO and UGT have created transparency portals on their respective websites<sup>8</sup> where, among other things, they explain who they are and where

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<sup>8</sup> CCOO: [http://www.ccoo.es/Portal\\_de%C2%B7Transparencia](http://www.ccoo.es/Portal_de%C2%B7Transparencia),  
UGT: <http://www.ugt.es/SitePages/NoticiaDetalle.aspx?idElemento=2206>

they come from (their history), they publish their accounts, sources of financing, codes of conduct or ethics, they offer details on membership and representation, etc. In the case of UGT, this portal opened just a few months before the presentation of this work, in May 2017. In the case of CCOO, it was earlier, but also rather recent (2016).

It should nevertheless be pointed out that both portals opened as a result of the entry into force of the Transparency Act in 2014. That Act was directed at institutions supplied with public money, including the trade unions. That Act attempted to repair the negative image of a large number of Spanish public institutions, which had been shaken by cases of corruption. The trade unions were no exception. In fact, they seem to echo this explanation, which appears in the explanatory memorandum of the transparency portal.

The following can thus be read on CCOO's website:

“In recent years and as the best response to the irregularities and cases of corruption that have been observed in the public sphere, a number of organizations have pledged to commit to ‘honour and transparency’. Parties, trade unions and civil society organizations have led remarkable advances in making their human and economic resources publicly available, and this can only contribute to improving the quality of democracy. However, CCOO wants to take one step further. It is not just about being transparent when society or the media so require. We have to turn the provision of information on the union's economic and financial situation, activity, resources and assets into normal practice. To that end, we have created the transparency portal.”  
(CCOO, 2017).

At the beginning of this section we have seen the low level of confidence that Spanish citizens have in the trade unions, which can be interpreted in terms of a rift between the

unions as an institution and the workers' needs. This rift was also reflected in the interview with an ex-member of CCOO. As we have observed, the main reasons for that person's departure from the union include issues close to Michels' theory, such as lack of transparency in the unions' functioning and accounts and, in short, the breach between the leadership and the rank and file. We can therefore say that Michels' theory holds true when it comes to explaining the union crisis. As we have seen, this is so much the case that the trade unions themselves have undertaken a series of measures designed to reduce bureaucracy and increase transparency by means of internal organizational restructuring, resulting in a simpler and more democratic format.

## **5. CONCLUSIONS**

As has been demonstrated, both Pizzorno's Political Exchange theory and Michels' Iron Law of Oligarchy theory are, to a certain extent, applicable when it comes to explaining the current crisis of trade unions, both as political actors and as highly bureaucratic institutions which are, as a result, distanced from their rank and file. Some nuances or provisos may nevertheless be made in respect of such conclusions. For instance, it is difficult to know what exactly the trade unions have gained in the political exchange, especially as regards economic power or other benefits for the institution itself or even for its leaders. This, in turn, stems from the inability to access that information as a result of the lack of transparency described above. With respect to Michels, the main limitation lies in the difficulty in testing his theory. As indicated previously, examining the situation of the unions in light of this theory would not just involve taking into account their formal structure, but also the unions' internal functioning, including decision-making mechanisms. We also understand that the results of a single interview with an ex-member of CCOO obviously cannot be generalized. In order to gauge widespread opinion, not only would it have been desirable to interview a larger number of subjects, but also to

have subjects with more varied profiles, ranging from trade union leaders to the rank and file.

With respect to the research question concerning the current crisis of the majority Spanish trade unions, in this work we have focused on just two of the aspects that may explain that crisis, namely, the relevance of unions as political actors on the one hand, and their connection with their rank and file, and with society, on the other.

The Political Exchange theory proves suitable for explaining the institutional role of trade unions in Spain, as political actors who bargain with the government, at least up until the financial crisis of 2008. Until that point, the trade unions had based their bargaining power on the dancing and boxing strategy (Huzzard, Denis & Regan, 2004), on the one hand, going along with the government in the signature of social and labour agreements, occasionally of a restrictive nature (dancing), and on the other hand, exerting pressure on the government in times of discord, using their bargaining power and capacity to break social consensus (boxing). Meanwhile, we have seen how the government has also adapted to that strategy, on the one hand, by legitimizing its social policies in exchange for granting the unions greater institutional power and, on the other, by relaxing or even withdrawing certain restrictive measures in order to avoid general strikes and, ultimately, a rupture in social consensus.

However, this political exchange dynamic can only continue if there is something to negotiate or exchange. Where there is nothing to negotiate, as occurred in the situation generated by the financial crisis of 2008, the political exchange loses its *raison d'être*. The government did not need to legitimize its social cutbacks through the trade unions, since that legitimation came from the “emergency” situation created by the crisis, together with international pressure (by the Troika and the international markets). In such a setting, the role of trade unions as political actors and negotiators seems to dissipate. In line with

the stick and carrot notion (Culpepper & Regan, 2014), the unions have little to offer the government (carrot), and their mobilizing capacity (stick) has to be very strong if it is to change policies already decided by powers other than the government.

In short, we can say that Pizzorno's Political Exchange theory applies in periods of certain institutional stability and normality, where different political actors are in a position to reach agreements, where both parties have something to offer and something to which they can yield. By contrast, Pizzorno's theory would not appear to apply in exceptional situations where that stability is broken and government imposes its measures instead of negotiating them. Taking a critical stance, we can say that politics, just like the art of negotiation, disappears (for example, in the case of the 2008 crisis, politics seemed to succumb to economic orthodoxy).

With respect to Michels' Iron Law of Oligarchy theory, despite being more than a century old, it would still seem to be valid, at least in part. As we have seen, the current union crisis can be partially explained by increasing disaffection, both on a social level and on the level of the workers themselves. That disaffection can, in turn, be explained by the unions' inherent bureaucratic structure and oligarchic functioning. Majority trade unions, such as CCOO and UGT, are currently huge, heavily bureaucratic macro-structures, which have little leadership accountability in respect of the rank and file.

Initially created by civil society itself as a vehicle through which to channel various political and labour-related claims, trade unions and political parties often started out as social movements which, over time, have grown and become increasingly complex until they become bureaucratic structures that are progressively disconnected from society. This, as we have indicated, illustrates the current crisis of the trade unions. That crisis has gone hand in hand with the emergence of social movements (such as the so-called "Tides" in Spain) with structures that are much more accessible, flexible, simple and democratic.

This greater proximity to the people has endowed such social movements with a strong capacity for mobilization, often stronger than that of the majority trade unions. Sometimes clashing and sometimes allying themselves with these new social movements, the trade unions seem to be suffering from an identity crisis which has partly resulted in the transparency measures and internal organizational restructuring analysed in this work. In that regard, they seem to endorse and respond to Michels' criticism concerning the excessive bureaucratization and lack of transparency of these organizations.

In light of both theories, we can say that the importance and legitimacy of trade unions is twofold. Under Pizzorno's theory, trade unions, as political actors, gain or lose legitimacy and importance depending on their power to bargain and reach agreements with the government. Meanwhile, according to Michels' theory, trade unions, as bureaucratic structures, gain or lose legitimacy depending on their ability to create democratic mechanisms capable of reaching the rank and file.

With respect to what has been analysed in this work, we have seen that Spanish trade unions have decided to base their legitimacy, at least partly, on their power to influence the government's political and economic decisions, and seem to have placed less importance on their legitimation through their link with the rank and file. This strategy may work in periods of normality, where trade unions are capable of reasonably defending workers' interests. While things are going well, it may be worthwhile for workers to delegate their decision-making power to the union leaders, within a hierarchical structure. Nevertheless, when the trade unions lose their ability to defend workers' rights, due to situations where stability is shattered (Pizzorno), or because the leaders are looking out for their own interests (Michels), they also lose legitimation vis-à-vis their rank and file. Bearing in mind that many union members joined for practical, rather than ideological, reasons, they will likely leave when the union loses its power to

influence government policy. At the same time, the loss of union members reduces the mobilizing power of those institutions, something which, in turn, can weaken their ability to bargain with the government. As we can see, both theories illustrate two complementary phenomena which, on occasion, mutually affect each other.

The majority trade unions in Spain have perhaps based their legitimation almost exclusively on their ability to negotiate and influence government policies. This is most likely because this was the strategy that had enabled the majority trade unions to become a mighty institutional and economic power since the democratic transition period. However, one cannot live off the past forever. Legitimacy must be earned day by day. As the great poet Antonio Machado once said, *caminante, no hay camino; se hace camino al andar* (traveller, there is no path, the path is made by walking).

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## ANNEX I

Main bipartite (between trade unions and business organizations) and tripartite agreements signed in the period 2008-2016.

Date	Government	Negotiation / Agreement	Nature
07/2008	PSOE (minority)	Declaration to boost the economy, employment and competitiveness	Tripartite agreement (Government and social actors)
09/2009	PSOE (minority)	Government-trade union agreement on civil service (2010-2012)	Two-party agreement (Government and trade unions)
11/2009	PSOE (minority)	Commitment to act on pending collective bargaining, 2009	Two-party agreement (social actors)
12/2009	PSOE (minority)	Urgent measures to maintain and boost employment and to protect the unemployed.	Aborted tripartite negotiations
01/2010	PSOE (minority)	Agreement on employment and collective bargaining. AENC I (2010-2012)	Two-party agreement (social actors)
06/2010	PSOE (minority)	Public sector austerity plan (2011-2013)	No consultation or negotiation
06/2010	PSOE (minority)	Reform of the employment market	Aborted tripartite negotiations. Unilateral reform
01/2011	PSOE (minority)	Social and Economic Agreement for Growth, Employment and Pension Security	Tripartite agreement (Government and social actors)
06/2011	PSOE (minority)	Collective bargaining reform	Aborted tripartite negotiations. Unilateral reform
01/2012	PP (majority)	Agreement on employment and collective bargaining. AENC II (2012-2014)	Two-party agreement (social actors)
02/2012	PP (majority)	Agreement on independent dispute resolution (V ASAC)	Two-party agreement (social actors)
02/2012	PP (majority)	Reform of the employment market	No consultation or negotiation
12/2013	PP (majority)	Reform of the pensions system	Informal consultation with trade unions Unilateral reform
06/2013	PP (majority)	Entrepreneurship and youth employment strategy (2013-2016)	Prior tripartite consultation
07/2014	PP (majority)	Agreement on proposals for tripartite negotiations to strengthen economic growth and employment	Tripartite agreement (Government and social actors)
12/2014	PP (majority)	Agreement on the extraordinary programme to kick-start employment	Tripartite agreement (Government and social actors)
03/2015	PP (majority)	Reform of the vocational training system	Consultation with social interlocutors without agreement Unilateral reform
06/2015	PP (majority)	III Agreement on Employment and Collective Bargaining. AENC III (2015-2017)	Two-party agreement (social actors)
09/2016	PP (acting)	Petition to re-open social dialogue, both bipartite and tripartite	Joint request by CCOO and UGT
03/2017	PP (minority)	Agreement for the improvement of public employment	Government and trade unions

Source: prepared by the author based on data retrieved from González Begega & Luque Balbona (2015) and CES 2016, 2015 and 2014 Annual Reports on the socio-economic and employment situation in Spain.

## ANNEX II

### QUESTIONNAIRE.

#### INTRODUCTION

Below follows a brief questionnaire aimed at obtaining your opinion on the current role of trade unions in Spain, so that it may be included in the final thesis prepared as part of the Master's Degree course undertaken at Aalborg University.

Before completing the questionnaire, we would ask that you reply to a brief section for the purpose of gathering some sociodemographic details.

The information shall be processed in a strictly confidential manner and shall be used exclusively for the purpose of the aforementioned thesis.

Thank you for participating.

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#### SOCIODEMOGRAPHIC DETAILS

- Sex: Male
- Age: 57
- Occupation: Librarian
- Years spent at your company: 32
- Type of contract (Temporary, permanent, full-time, part-time, etc.): Permanent

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#### QUESTIONNAIRE

1. **Do you currently belong to one of the two majority trade unions in Spain, UGT or CCOO?** ☐ NO ☐ If so, which one?
2. **Have you ever been a member of one of those two trade unions in the past?** ☐ YES ☐ CCOO ☐ If so, what were the main reasons why you ceased to be a member?

The duty lawyer's having treated me as a subordinate instead of as a colleague requiring advice and assistance. Not understanding, or trying to understand, my complaints. Not acting swiftly enough, which meant that it was too late to make subsequent claims due to the statute of limitations. Not acting in defence of all the employees, only their members. Not being up to speed on the problems that employees of the company's peripheral bodies are going through.

3. **Do you believe that the trade unions are in crisis?** ☐ YES ☐ Why/Why not?

Not being aware of employees' current problems in the face of abuse by private companies and the public administration. Being anchored in past actions. Not having stood their ground during the toughest moments of the economic crisis. Being more concerned about manners and show in demonstrations (so much pitter patter and what good does it do? More protests with pots and pans are how you show mobilization). For example, achieving objectives in Burgos through

residents' movements. Not having been at the head of the 15-M<sup>9</sup> (*ex aequo* with the United Left Party), thus allowing a proliferation of anti-systemic movements which, despite being necessary for keeping utopian ideas alive, are far removed from "actual" reality.

**4. Do you think that there is internal democracy within the main trade unions? \_\_NO\_\_ Why/Why not?**

They are too far removed from their ranks. Assemblies are held with just a few in mind. The results of those assemblies are insufficiently explained.

**5. Do you believe that the trade union leaders reflect and pursue the interests of the ranks? \_\_NO\_\_ Why/Why not?**

No. In the end there is a move towards corporate unions. Professional associations are stronger than trade unions.

**6. Do you believe that the actual internal structure of trade unions can facilitate or give rise to cases of corruption? \_YES\_\_ Why/Why not?**

Their federal and confederal models only answer to the name: ultimately, we only know the general secretaries. There is little transparency in the accounts: they should publish, in real time (even if it is a utopia), even the smallest expense.

**7. What do you think of the notion of full-time trade union representative?**

For a small and medium-sized company, this is an incomprehensible expense for the business owner. This situation is all too often abused. The number of hours accumulated for trade union duties in certain cases causes jealousy and upset among other colleagues: they should be personal and non-transferable. In large companies, this often –too often– only implies work insurance, zero trade union activity, paid holidays and even being a temporary telltale.

**8. Do you believe that the institution of the trade union is still valid today?**

Yes, but they need to redirect their activities, claims, organizations. Increase their presence in all kinds of companies without making any distinctions based on size or branch of activity. Attracting self-employed business people would be a fundamental achievement and a radical shift in the concept of trade unions in society.

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<sup>9</sup> Anti-austerity movement in Spain, which took place on 15 May 2011.

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## LIST OF ABBREVIATIONS

CCOO	<i>Comisiones Obreras</i> -Workers' Commissions
CEOE	<i>Confederación Española de Organizaciones Empresariales</i> - Spanish Confederation of Business Organizations
CEPYME	<i>Confederación Española de Pequeñas y Medianas Empresas</i> - Spanish Confederation of Small and Medium Enterprises
CIS	<i>Centro de Investigaciones Sociológicas</i> - Sociological Research Centre
CNT	<i>Confederación Nacional de Trabajadores</i> - National Confederation of Workers
ECB	European Central Bank
EMU	Economic and Monetary Union
EU	European Union
LOLS	<i>Ley Orgánica de Libertad Sindical</i> - Organic Act on Freedom of Association
NGO	non-governmental organization
PP	<i>Partido Popular</i> – People's Party
PSOE	<i>Partido Socialista Obrero Español</i> – Spanish Socialist Party
SC	Spanish Constitution
SMEs	Small and medium enterprises
TUR	trade union representation
UGT	<i>Unión General de Trabajadores</i> -General Union of Workers
UR	unitary representation
USO	<i>Unión Sindical Obrera</i> -Workers' Trade Union
WS	Workers' Statute