

Title: Polish Trade Unions Locked in a Historical Conflict - A Historical Institutional Study of Polish Trade Unionism

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Abstract: This master's thesis analyses the current problems of fragmentation of the Polish trade unionism from a historical institutionalist approach. A combination of the two main trade unions foundation on a structure of a plurality of independent unions and with the hatred they shared for each other has been found to create increasing returns, making it difficult to mend the situation. Two recommendations based on the analysis are given. These are research, education and information on the one hand and continued cooperation in the tripartite commission and in works councils on the other.

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1 Introduction

In this project I seek to answer the problem statement: why is the Polish trade unionism so fragmented and how can it be mended? The Polish trade unions are dealing with a series of problems both internally, between them, and in relations with authorities and social partners both domestically and on the European level. On top of that they are also having (serious) problems with gaining members. Polish trade unionism is a very interesting topic but it takes a long time just to get a grasp of the situation. To really get in to the details is a slow process. The number of trade unions and their very similar abbreviations makes it even more confusing. Polish trade unionism is naturally related to party politics which is also a complex matter. As a young democracy Poland has experienced a turbulent time with politicians changing parties, parties changing names and politicians and parties changing coalitions. The trade unionism is a somewhat more stabile affair as it was mainly developed in the eighties and has not changed dramatically since.

The inspiration for this project came when I was in Wrocław and was told about a strike at the local post office. I asked why it was still open for customers when there was a strike going out, and I was told that only some of them were striking. That they can not force the others to strike. Coming from Denmark, a country with strong unionisation this was very puzzling to me. I therefore began to look in to the details of the Polish labour market and got not only more and more puzzled, but also academically curious.

The following part named problem field will serve as documentation as to the background for the problem statement and will present a lot of the problems of the current Polish labour market as they are portrayed in the academic literature, which is rich on examples of “challenges” to the trade unions. I have put theory, approach and data in one chapter. This includes my two main theories, historical institutionalism and pluralist industrial relations, and a presentation of data and sources. The remaining parts are analysis, conclusion and bibliography.

2 Problem Field

Industrial relations in Poland is said to be, among other things, an example of failed tripartism: “In spite of the timidly neo-corporatist ‘Enterprise Pact’ of 1993 and the creations of the Tripartite Commission in 1994, industrial relations remained highly fragmented (24,000 trade unions are officially registered), often adversarial and dependent on political conflicts.” (Meardi 2002: 83). Such a number of registered trade unions (the figure is a decade old, but still qualitatively valid) combined with the fact that union coverage is below 20% is by itself alarming. Meardi continues to describe the difficulties of representation and influence during a period of strong rivalry between OPZZ and Solidarity in the nineties. Another paragraph:

“In spite of institutional and legislative efforts (four laws on industrial relations between 1991 and 1994, and a new Labour Code in 1996), centralization and institutionalization, whether at peak national or sector level, have not advanced. Collective bargaining is highly decentralized and its coverage uneven [...]. The economic landscape is extremely unequal: regional differences in wages, unemployment and economic structure are huge, and important cleavages between sectors and between state, national-private and foreign-private ownership have emerged.” (Meardi 2002: 84).

2.1 Polish Industrial Relations – General Description

Data from Eurostat (see tables) clearly shows that the employment situation has improved from 2002 onwards and strongly from 2005. And although it rose again in from 2008 to 2009 it was below the level of EU27.

Unemployment rate (%)										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
EU27	8.7	8.5	8.9	9.0	9.0	8.9	8.2	7.1	7.0	8.9
EU15	7.7	7.2	7.6	7.9	8.1	8.1	7.7	7.0	7.1	9.0
CZ	8.7	8.0	7.3	7.8	8.3	7.9	7.2	5.3	4.4	6.7
DK	4.3	4.5	4.6	5.4	5.5	4.8	3.9	3.8	3.3	6.0
DE	7.5	7.6	8.4	9.3	9.8	10.7	9.8	8.4	7.3	7.5
HU	6.4	5.7	5.8	5.9	6.1	7.2	7.5	7.4	7.8	10.0
PL	16.1	18.3	20.0	19.7	19.0	17.8	13.9	9.6	7.1	8.2
SK	18.8	19.3	18.7	17.6	18.2	16.3	13.4	11.1	9.5	12.0
UK	5.4	5.0	5.1	5.0	4.7	4.8	5.4	5.3	5.6	7.6
US	4.0	4.8	5.8	6.0	5.5	5.1	4.6	4.6	5.8	9.3

Source: Eurostat
<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&language=en&pcode=tsiem110&plugin=1>

Employment was almost at sixty percent in 2009 and long term unemployment which hit 11 percent in 2003 is now down at 2.5 percent.

Employment rate (%)										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
EU27	62.2	62.6	62.4	62.6	63.0	63.6	64.5	65.4	65.9	64.6
EU15	63.4	64.1	64.2	64.5	64.8	65.4	66.2	67.0	67.3	65.9
CZ	65.0	65.0	65.4	64.7	64.2	64.8	65.3	66.1	66.6	65.4
DK	76.3	76.2	75.9	75.1	75.7	75.9	77.4	77.1	78.1	75.7
DE	65.6	65.8	65.4	65.0	65.0	66.0	67.5	69.4	70.7	70.9
HU	56.3	56.2	56.2	57.0	56.8	56.9	57.3	57.3	56.7	55.4
PL	55.0	53.4	51.5	51.2	51.7	52.8	54.5	57.0	59.2	59.3
SK	56.8	56.8	56.8	57.7	57.0	57.7	59.4	60.7	62.3	60.2
UK	71.2	71.4	71.4	71.5	71.7	71.7	71.6	71.5	71.5	69.9
US	74.0	73.1	71.9	71.2	71.2	71.5	71.9	71.7	70.9	N/A

Source: Eurostat
<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&language=en&pcode=tsiem010&plugin=1>

Long-term unemployment rate (12 months and more)										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
EU27	4.0	3.9	4.0	4.1	4.2	N/A	3.7	3.0	2.6	3.0
EU15	3.4	3.1	3.1	3.3	3.4	N/A	3.2	2.8	2.6	3.0
CZ	4.2	4.2	3.7	3.8	4.2	4.2	3.9	2.8	2.2	2.0
DK	0.9	0.9	0.9	1.1	1.2	1.1	0.8	0.6	0.5	0.5
DE	3.8	3.8	4.0	4.6	5.5	5.7	5.5	4.7	3.8	3.4
HU	3.1	2.6	2.5	2.4	2.7	3.2	3.4	3.4	3.6	4.2
PL	7.4	9.2	10.9	11.0	10.3	10.3	7.8	4.9	2.4	2.5
SK	10.3	11.3	12.2	11.4	11.8	11.7	10.2	8.3	6.6	6.5
UK	1.4	1.3	1.1	1.1	1.0	1.0	1.2	1.3	1.4	1.9
US	0.2	0.3	0.5	0.7	0.7	0.6	0.5	0.5	0.6	N/A

Source: Eurostat
<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&language=en&pcode=tsisc070&plugin=1>

Data from OECD shows that trade union membership has halved since 1999 and was at 14.4 percent in 2006 which is comparable to the US.

Trade union density									
	1999	2000	2001	2002	2003	2004	2005	2006	2007
CZ	35.1	29.5	25.6	21.7	22.0	22.3	21.6	21.0	N/A
DK	74.9	74.2	73.8	73.2	72.4	71.7	71.7	69.4	69.1
DE	25.3	24.6	23.7	23.5	23.0	22.2	21.6	20.7	19.9
HU	26.1	24.2	22.5	20.5	18.5	18.2	17.8	17.3	16.9
PL	26.0	21.8	17.6	18.4	19.2	17.4	15.8	14.4	N/A
SK	38.3	36.3	32.8	31.1	29.9	27.8	25.8	23.6	N/A
UK	29.9	29.6	29.1	29.1	29.0	28.8	28.8	28.2	28.0
US	13.4	12.8	12.8	12.6	12.4	12.0	12.0	11.5	11.6

Source: OECD
<http://stats.oecd.org>

Both Eastern and Western Europe saw decrease in union membership in the time after 1990 but it was “sharper” in the east, and it fell 70 % in Poland between 1993 and 2003 to 14% which is said to be one of the lowest rates in EU. The industrial conflicts in east are at the same level or lower than in the west (Mrozowicki and Van Hootehem 2008: 198). This is reflected in the two following tables:

Working days lost per 1000 workers (disputes)									
	2000	2001	2002	2003	2004	2005	2006	2007	
EU27	54.12	38.16	80.76	21.13	41.52	41.09	31.89	37.47	
EU15	56.14	42.44	91.19	21.84	44.7	46.76	36.41	38.67	
DK	48.5	21.52	74.52	21.43	29.81	19.82	32.6	34.33	
DE	0.31	1	9	5	1	1	12	12	
HU	55	3	1	1	7	0.29	2	10	
PL	8	0.43	0.01	1	1	0.04	3.25	18.66	
SK	0	0	0	0	0	0	0.01	0	
UK	20	20	51	19	34	6	28	38	

Source: Eurostat
http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=strk_dw_ec&lang=en

Workers involved per 1000 workers (disputes)								
	2000	2001	2002	2003	2004	2005	2006	2007
EU27	25.25	21.14	73.54	12.13	12.60	16.92	16.77	19.27
EU15	28.20	23.97	82.62	12.40	13.30	19.18	18.69	21.26
DK	29.31	18.99	42.65	17.26	29.38	12.67	30.38	23.36
DE	0.21	2.27	12.43	1.22	2	0.92	4.72	4.46
HU	9.9	8.25	3.32	4.46	2.3	0.43	7.59	22.81
PL	0.85	0.14	0	0.46	0.61	0.17	2.6	6.24
SK	0	0	0	9.88	0	0	0.72	0.04
UK	7.35	6.85	36.34	5.73	11	2.48	26.47	27.19

Source: <http://epp.eurostat.ec.europa.eu>
http://nui.epp.eurostat.ec.europa.eu/nui/show.do?dataset=strk_ww_ec&lang=en

The tendency seems to be the same in all three of the transition countries in the tables: the strike action is clearly lower than in western countries. Furthermore it can be seen that there has been a rise in the disputes in Poland in 2007. This increase has been noticed by Rafał Towalski and has continued through 2008 although it is said that the strikes are growing smaller in duration, many of them lasting just a few hours. The low unemployment rates recently had lead to more demands from unions, but the slowdown in the economy and the rise in unemployment in the end of 2008 and beginning of 2009 have resulted in a lessening of demands and disputes (Towalski 23-02-2009).

2.2 Polish Labour Law

Piotr Zientara of “Gdansk Higher School of Administration” is criticizing the rigidity of Polish labour law and giving it as an obstacle to progress in “How Trade Unions are a Roadblock to Poland’s Economic Renaissance”. An obsolete labour code and general rigidity is mentioned as one of the fundamental problems of Polish labour market: “It dates back to 1974 and is deeply rooted in the ideology of ‘a job for life’.” (Zientara 2007: 47). He puts the trade unions as the source and cause of detriment, and argues that their influence should be reduced (Zientara 2007: 44). Zientara further argues that EPL is very strict and, for instance “Polish union officials enjoy virtually total protection against dismissal by virtue of the Law of 23 May 1991” (Zientara 2007: 50, note 2). It is the labour code that regulates the hiring and firing and its job-for-live philosophy is similar to the French (Zientara 2007: 47). The author generally argues that the English labour market in the seventies is similar to the current polish one and that EPL should be

loosened and trade union privileges removed (Zientara 2007: 47). The strictness of legislation is also said to cause an insider-outsider problem, when those in jobs don't want changes that could endanger their security and those without jobs don't benefit from the strictness (Zientara 2007: 47). Another issues pointed at by Zientara is payroll taxes, causing an employer to pay \$160 to the government on top of \$200 to the employee (Zientara 2007: 47). The labour code can however be set aside for some time, if the economy of the company in question is bad. This issue is handled by institutions on the regional level (Mailand and Due 2004: 186).

2.3 Social Dialogue

There seems to be little social dialogue going on in Poland and what is going on is quite faulted. This is among other things, because of the small unionization and the lacking organizational capacity of the unions – both trade unions and employer's unions. It seems to be dominated by the state and that has consequences for income and minimum wages (Mailand and Due 2004). Collective bargaining is company centred and on the sectoral and national levels it is under developed (Mailand and Due 2004, Mrozowicki and Van Hootegem 2008: 198). Poland finds it self on the “midway between high-wage and low-wage areas, and try to consider both sides of the cost-competition problem” (Meardi 2004: 170) as it is has Ukraine and Lithuania as neighbours. Low wages are thus not a problem to everyone. Higher wages are desirable to many but could lead to fewer jobs.

One unit of social dialogue is the European Works Councils (EWC). They have been imposed on the EU member states through directives. As Poland entered in to the EU on 1 May 2004 it also had to adopt the legislation. It is supposed to help facilitate the social dialogue but not all see them equally positively. To Meardi the role of EWCs is:

“strictly one of information and consultation, not negotiation ... [and] tend to be used by national representatives to defend national interests ... they promote transnational networking among unions, which, even if it does not produce immediate results, is an important step towards the Europeanization of industrial relations.” (Meardi 2004: 165).

In Poland EWC are based on the so called Czech model of implementation of the EU directive 2002/14/EC. According to the Czech model, a works council need only to be in place, in case there is no trade union representation, resulting in very few workplaces actually having one (Kohl 2008). The social dialogue is furthermore damaged by the conflicts between trade unions (Mailand and Due 2004: 193-194).

2.4 The Trojan Horse for the Americanisation of Europe

The issues of social dumping, race to the bottom and similar projections are ever present in the literature on labour markets and industrial relations in CEE and beyond. One of those projections is the idea that Poland will function as a Trojan horse for American IR in Europe. This Americanisation is identified with individual agreements rather than collective bargaining, and more jobs and less cohesion. Thus in relation to the Polish labour market and social regime one can not afford to exclude the international and especially European Union level of such issues. Poland is being influenced by the surrounding world in many ways and Poland has direct influence on especially EU level policies and indirectly on labour markets and social regimes of the other member-states of the EU. Convergence and EU integration have consequences for Poland as an outside pressure from the other member states and EU institutions, and Poland is pressuring back at the other member states and the EU institutions in a complexly woven web, broadly named EU politics. Some of these issues will be presented in this part. Poland and Polish IR are for sure experiencing a pressure from abroad, and whether this is for the better or not, it will have consequences for the EU through convergence and integration.

The enlargement of the EU to the CEE was expected to be a challenge to the EU in many ways and especially to the social agendas. Fears of social dumping and related issues were at the fore and are still being a cause of concern. These fears that are often labelled as pessimistic however do not stand alone. There is also optimism. From the pessimistic point of view the “Americanization” of the EU social model is one concern (Meardi 2002). To multinational companies “the flexible environment of the CEE can be used as a ‘test bed’ for new arrangements suitable to be imported to the West at a later stage.” (Meardi 2002: 79), and “[the candidate countries’] actual policies may increase

western fears of Eastern Europe as a ‘Trojan horse’ of deregulation.” (Meardi 2002: 80). He dismisses optimistic reports from the European Commission and the Economic and Social Committee (Meardi 2002: 80). He points the attention to a number of political implications of enlargement that he finds to have been omitted in the evaluations, and which runs counter to the establishing of a European Social Model (Meardi 2002: 80-83). Seen from that perspective the future of the Polish labour market could have dire consequences for the EU at large, or at least its social model. Kees J Vos (2006) backs up that thesis:

“Recent refocusing of the Lisbon strategy on growth and employment [...] suggests that realization of the Lisbon objectives will be impossible without a ‘renewal’ of the EU social model, which might bring it much closer to the Anglo-American neoliberal model because of the downward competition of national social models [...]” (Vos 2006: 318).

Kees J. Vos also points to an Americanization of the EU social model through the CEE member states, and more specifically a competition between “the Rhineland or Neo-Corporatist model and the Anglo-Saxon or American model. Europe has become a platform where the two models increasingly meet and mix.” (Vos 2005: 366). Furthermore it is said that the purpose of the multinational employers is to obstruct convergence in EU:

“It is true that transnational mobility and integration of capital, which the single-market project both reflects and reinforces, may be in some respects a powerful force for convergence in Europe; but transnational employers have their own interests (divide-and-rule) in perpetuating national differentiation in practice and procedures.” (Hyman 1995: 35).

2.5 Trade Unions

The situation at the Polish labour market is very complicated and any attempt to simplify it is frustrating. Just the sheer number of unions and organisations present is staggering. As mentioned earlier there are some 24,000 trade unions registered in Poland and there are for instance 40 trade unions in the postal sector alone.

There are two major trade unions in Poland and a few minor ones. The largest one is OPZZ which is social democratic and holds about 3 million members, including half a million of pensioners. The other major one is NSZZ “Solidarność” with a liberal orienta-

tion and about 900,000 members. Among the smaller ones are “the Solidarity '80 Independent and Self-Governing Trade Union” and some specific ones as the railway workers union, the teachers union and the union(s) of private farmers and agricultural workers (poland.gov.pl 2008). According to worker-participation.eu (2010) trade union coverage or density is estimated at 15% covering “probably” between 1.5 and 2 millions trade unionists. It is stating that “precise figures are impossible to obtain, as union membership figures are not published” (worker-participation.eu 2010) which should be clear as the numbers clearly does not add up.

The development of trade unionism in Poland is, among others, described by Juliusz Gardawski. He explains how there was only one union before 1980, which was the CRZZ (Centralna Rada Związków Zawodowych, or the Central Council of Trade Unions). NSZZ Solidarność (Niezależny Samorządny Związek Zawodowy Solidarność: Independent and Self-Governing Trade Union Solidarity) was established in 1980 with Lech Wałęsa as leader and joined by 7 million workers or 60% of the workforce, and a few smaller independent, neutral unions were formed at the same time (representing tens of thousands of workers). The CRZZ had been discredited since the arrival of Solidarność and the Government chose to replace it with so called “branch Unions”, building on the same underlying structure and representing about one million members, mainly those in higher positions and party members. This gave rise to a period of union pluralism in Poland, until martial law was declared in December 1981, banning all trade unions (Gardawski 21-08-2002, Gardawski 2008). In 1982 the government allowed new trade unions to be formed, provided that they were loyal to the ruling authorities. These were “of an autonomous character, with federal features.” (Gardawski 21-08-2002). In 1984 they made the trade union centre OPZZ (Ogólnopolskie Porozumienie Związków Zawodowych: All-Poland Alliance of Trade Unions), covering more than 100 federations, and in 1986 it was said to cover over 5.6 million workers, representing 45.5% of workers – at the same time an underground Solidarity movement still existed (Gardawski 21-08-2002).

Solidarity was legalised in January 1989 and in August the same year, a number of members from the organisations formed government and abandoned its plans for trade union reformation in order to focus on privatised market economy (Gardawski 21-08-2002). The leaders of Solidarity even discouraged people from joining the union – a clear shift in function of the movement:

“The leader of 'Solidarnosc', Lech Walesa, and his close colleagues declared that the reborn 'Solidarnosc' should not increase its membership, as a large union centre assembling industrial workers could hamper the programme of indispensable reforms. This statement shocked many workers and, to a certain extent, discouraged them from joining 'Solidarnosc' during the first stage of economic and political transformation.” (Gardawski 21-08-2002).

Today OPZZ describes itself as a “nationwide inter-union organisation of a confederation structure [that] associates 86 nation-wide trade union organisations (uniform trade unions and federations) grouped in 9 branches” (OPZZ 2010a). Since 2006 it has been a member of both ETUC (European Trade Union Confederation) and ITUC (the International Trade Union Confederation) (OPZZ 2010a).

The NSZZ “Solidarność is “established on the basis of the Gdańsk Accords signed on 31st August 1980 by the Inter-enterprise Strike Committee and the Government Commission” (Solidarnosc 2010a), which in other words mean that it claims direct continuation of the Solidarity trade union formed in 1980. It claims to have 722.000 members in all branches of industry and services including retired and students (Solidarnosc 2010a). According to its “programme” it relies heavily on the Catholic Church: “The social teaching of the Roman Catholic church remains the source of knowledge upon which we will be building social order.” (Solidarnosc 2002: 1). Solidarnosc is a member of both the ETUC and ITUC (Solidarnosc 2010b). According to a report following the twentieth national congress, it was realized that the political role of the union, although a necessity at the time, was a key to the current not so fortunate situation of the union, and a return to basics would be in order (Solidarnosc 2006). They do however still get involved to some degree, as they have actively been supporting Jarosław Kaczyński in the current presidential elections.

There is one more trade union of considerable size, which is FZZ or “Forum” which is an umbrella organisation for a number of smaller trade unions. This was established in order to reach the 300,000 members which were required to be represented at tripartite negotiations.

2.6 The problems of Trade Unions

The trade unions are having a multitude of problems to deal with but probably the biggest problem is the lacking membership. The causes, problems and cures for this are complex and interrelated and some points will be mentioned here. More on the matter will naturally follow in the analysis of this thesis. One problem seems to be the unions’ engagement in politics and functioning as broader or more general social movements, and their lacking function as basic trade union, representing the workers and their interests in negotiations with employers (Ost 2002). Mrozowicki and Hootegem have made an analysis of workers life strategies and suggest a revitalization of unionism through refocusing on economic goals. As to the reasons for the current situation they point mainly to the choices of employees: “Collective commitments decreased not only because of unions’ passivity and their structural disempowerment, but also because of the pragmatization of workers’ strategies” (Mrozowicki and Hootegem 2008: 213). Gardawski (2008) is pointing at the transition from fordism to post-fordism as well as “the specific nature of Polish unionism” when “institutionalization of Polish trade unions followed a dead end path.” (Gardawski 2008: 1).

The political past of the trade unions also plays an important factor in the legitimacy of trade unions today. Most notorious is the communist past of the OPZZ but Solidarność has played the role of the modernizer in the transition from communism to capitalism and has thus become a catalyser of the closing down of many large, old traditional places of work: “Solidarność [...] was more of a social movement standing in opposition to the ruling regime than a trade union.” (Gardawski 21-08-2002). The OPZZ and Solidarity both had strong political influence, or have been components of political parties, throughout the nineties, but neither of them tried to stop market reforms (Meardi 2002: 84-85).

According to Zientara the introduction of trade unions in the political system and in parliament caused “a schizophrenic conflict of interests, which ran counter to the principles of democracy and marked the culmination of trade union politicisation.” (Zientara 2007: 46) and furthermore both OPZZ and Solidarity and their political influence caused “reinforcing both employment protection legislation (EPL) and union protection regulation as well as increasing public spending.” (Zientara 2007: 46). As a result of the political role of the trade unions in Poland, they are supporting proposals from governments that they favour and try to obstruct proposals from governments that they don’t like (Mailand and Due 2004: 193).

Another problem pointed at is the poor economical situation of trade unions which is related to the size, as more members give more money. This means a shortage of experts and hence shortcomings in the areas of bargaining, training, public relations and campaigning (Kohl 2008: 2). Another result of the lacking funds is that exerting influence in Brussels for instance is far too costly to many small unions (Meardi 2002: 90).

2.7 Summary

The term fragmented as I use in my problem statement is doing a poor job at encapsulating the state of current Polish trade unionism. With more than twenty thousand trade unions active and a general density of less than twenty percent, and three main unions covering the first couple of millions of employees (and a good number of the unions), there are many, very small unions with very few members. Having any kind of concerted collective dialogue is thus problematic. This of course is a problem to the employees who are poorly represented in the social dialogue and hence experience lower increase in wages than with better representation. It is also perceived as a problem to trade unionism in the rest of the European Union, especially in the west, where the structures could spread to and undermine existing industrial relations. This is of course mainly a problem to the employee side of this issue as most employers enjoy the flexibility. There are however employers who actively seek stabile industrial relations for a number of issues, which will be explained later in the next chapter. Among those are Heineken, as can be read from the analysis. Stabile IR requires good representation from both sides of the

table – both employee and employer. The rivalries of trade unions and their mixing of trade unions and politics are surely not contributing to the stability. So in other words I will seek to find out why the polish trade unionism is so utterly failed, flawed, anarchistic, partisan, and not least fragmented.

3 Theory, Approach and Data

The problems are evidently many and complex. Many studies have already been made on the topic and a lot more are needed to give the full picture of the situation. Analyses will always be partial and can never cover all aspects of it. Since the current situation of trade unions is building on the incidents that took place in Poland in the years 1980 to 1984 I have chosen to adopt a historical institutionalist approach. This approach builds on the concepts of path dependency and increasing returns. In order to adapt the approach to the special circumstances of the labour market and trade unions I have in this part included a review of some traditions of industrial relations.

3.1 Pluralist Industrial Relations

In giving a theoretical insight into the industrial relations I will take my off-set point in one text by Budd, Gomez and Meltz (2004) on pluralist industrial relations giving a definition of the core of industrial relations: “The pluralist industrial relations paradigm analyzes work and the employment relationship from a theoretical perspective rooted in an inherent conflict of interest between employers and employees interacting in imperfect labor markets.” (Budd, Gomez and Meltz 2004: 1). The individuals in these relations are considered human rather than economical agents, which means that they are subjects to emotions and can not be treated solely as rational, profit-maximizing actors (Budd, Gomez and Meltz 2004: 1). On top of that, which is also integrated in the definition, there is a conflict of interest between employer and employees and they work in imperfect markets (Budd, Gomez and Meltz 2004: 7). It is also assumed that the employer-side usually has more or better bargaining power than individual employees, which is why the latter seeks the collective bargaining as a means of balancing the relationship (Budd, Gomez et Meltz 2004: 17). According to the pluralist school, the relationship is pluralistic, in contrary to unitarist and Marxist or critical views, and the: “employment relationship is characterized by a variety of competing interests - higher wages versus lower labor costs, employment security versus flexibility, safe work pace versus high output - as well as shared interests - productive workers, profitable employ-

ers, a healthy economy” (Budd, Gomez and Meltz 2004: 7-8). According to the authors, the pluralist school sees laws and unions as means of helping the non-perfect market, rather than interfering with it, and it does it by “leveling the playing field between employers and employees” (Budd, Gomez et Meltz 2004: 8-9).

In the view of the writers there has to be found a balance in the relationship between employer and employee. They argue that it is not normative, but a testable prediction, to say that “the employment relationship works best when competing interests are balanced” (Budd, Gomez and Meltz 2004: 13). This balance is put in relation to democracy and the rights of the worker in the following paragraph:

“To understand the workings of the employment relationship and to create policies and practices that will promote broadly-shared prosperity and long-lasting democratic freedoms, the pluralist paradigm argues that the employment relationship should be modeled as a complex bargaining problem between human agents operating in imperfect markets – one where competing interests need to be balanced in order to ensure not only efficiency, but also fulfillment of workers’ rights.” (Budd, Gomez and Meltz 2004: 29-30).

What the employee is seeking is what is called equity, and the aim of the relationship is then to strike a balance between equity and efficiency, which is what the employer seeks. Equity includes both quantitative and qualitative remunerations for work, and is in the text defined by Jack Barbash (Budd Gomez and Meltz 2004: 5-6).

The relationship between employer and employee – the relationship in question in IR – is marked by tension. Jack Barbash is one author, and many follow his definitions, which states that the tension is over efficiency versus equity. In his words: “... union agitation is a result, not a cause, of the inequity tensions. The union simply calls attention to the tensions already there. As a result, the elimination of unions does not eliminate tensions. Something needs to be done to alleviate tensions or tension will overwhelm efficiency.” (Barbash 1989: 117). The equity is what the employee wants in return for efficiency, if we are to believe the author, and he defines equity thus:

“The bundle of practices we call equity consists, in the main, of (1) employee participation in employment decisions including bargaining; (2) due process in resolving perceived injustice; (3) security of expectations through job rights, work rules and compensation structures; and (4)

job design of a sort that is responsive to technology and organization, as well as job-holder needs. More briefly, human as distinguished from inanimate commodities require fairness, voice, security and work of consequence to make their maximum contribution to real efficiency.” (Barbash 1989: 116-117).

Not only do the unions bring attention to the equity issue but they are attracted to the inequities that are inherent in industrialism. The unions can be disregarded, but then either the state or management will be fulfilling the role as equity provider, and the cost will be the same or of the same amount (Barbash 1987: 168-173). The management has been the provider of equity in many workplaces through the traditions of human resource management, but Barbash is arguing that this function is better carried out by the trade unions than by either management or the state (Barbash 1987: 175-176).

3.2 A European Tradition of IR

In 1995 the journal “European Journal of Industrial relations” issued its first volume, containing an article by Richard Hyman, one of the founders of the journal and a Professor Emeritus at London School of Economics and Political Science, and he is a renowned researcher in comparative IR (lse.ac.uk 2009). In the article Hyman describes the revival of theoretical IR in continental Europe about the time of the publication, at a time when it was on the decline in the US and UK. At the same time IR in practice was influenced by transnationalism in the Western Europe and deregulation in the Eastern Europe. These aspects were shaping IR theory into a new European version (Hyman 1995). One point visible from the above is that one has to distinguish between IR theory and IR in practice. Another is that there is a European version of IR theory and that it is taking its offset point in the Anglo-Saxon IR theories.

In general the name “industrial relations” is not popular among academic traditions in continental Europe as it seems to imply a focus on industry and thus not apply to contemporary labour market relations which are the subject of the studies of IR (Hyman 1995). That is to say that industry is synonymous with blue-collar work-places whereas today’s IR or labour market relations also include white-collar work-places and a lot more.

The European version was developed by scholars from different traditions, as there was no strong tradition of IR scholars, and the results were diverging due to the scholars' different theoretical background. Managerial studies however did develop as a distinct field of studies but usually focusing on employer-employee relations rather than trade unions. Furthermore, this was a West European tradition, as the countries behind the so called iron curtain did not allow independent trade unions nor labour disputes and hence no (independent) research could be carried out (Hyman 1995: 24).

Hyman concludes in his review of the evolvement of the IR traditions of continental Europe that they have been based on managerial legacies and are torn between the various disciplines of the researchers. Whether or not to consider IR a separate field of studies is a question that has also torn researchers (Hyman 1995: 33-35).

France was one country that imported IR theory from the Anglo-American world primarily through Canada and the French tradition is very much based on management, law and sociology. In real life, the French traditions were based on legislation and state intervention (Hyman 1995: 25-26). Italy was influenced by its corporatist traditions and legislation inherited from the fascist period, but saw a big theoretical new-thinking especially after 1968 (Hyman 1995: 26-28). Germany has a coexistence, cooperation and even interdependence of legislation and "free collective bargaining" in a historically and culturally linked framework. The German academic traditions come from different approaches such as especially law, sociology, economics and general social science, but no tradition of specific or dedicated IR scholars (Hyman 1995: 28-30). In the Nordic countries the subject of IR has also been studied in a number of different fields (Hyman 1995: 31-33).

Whereas there did not seem to be much convergence in practice at the time around 1995, a convergence of literature, that is theory, was found (Hyman 1995: 35). There was also a crisis and the studies of IR and it was suggested that a new paradigm had to be made from the different European traditions (Hyman 1995: 35).

In general the trade unionism is in crisis or in a state of head-wind. There is a number of reasons for that, among others the change in the character of work-place from industry

and production to other types of work, but also the international and multinational role of employers. The phenomenon is most distinct in the USA and UK (Hyman 1995: 35-36).

A parallel to the US is made about Central and Eastern Europe:

“Perhaps the closest parallels to the US situation can be found in central and eastern Europe, where the old institutional structures based on centralized economic direction have to varying degrees been demolished. In most countries, political transformation and economic disorientation have entailed a desperate search for new guidelines for the organization of production, employment and the labour market. Key features of the socio-economic trends of the 1990s have been the incomplete invention of private employers; in most cases, a fragmented and economically weak system of trade unionism; and a partial and contested deregulation of employment. Institutions of industrial relations, in the western sense, are unstable and undeveloped, and academic approaches to employment relations are frequently closely linked (often through consultancy arrangements) to public and private policy-making, typically with the uncritical importation of the latest enthusiasms of western business schools.” (Hyman 1995: 37).

In general Hyman (1995) is arguing that Europe was at a “watershed” in industrial relations and at the same time a synthesis of traditions was slowly emerging (Hyman 1995: 37-41). That implies a bit of a paradox: The academic traditions are slowly forming a distinctive European tradition of labour market studies or industrial relations and at the same time, the subject of those studies is evaporating. The generally perceived threat seems to be the managerial traditions of the USA and UK combined with deregulations in Eastern and Western Europe, for various reasons.

One perceived problem of IR research and practice in Europe is the insulation of national traditions (Hyman 1995: 42). Hyman finishes with advocating a greater cooperation and synthesis along with integration of micro, meso and macro levels of the subject (Hyman 1995: 42-43).

A central point in the future role and organisation of trade unions is the purpose of their being. Mrozowicki and Hootegem have three strategies in consideration for strategies: “...three different expectations of unions might develop: orientations towards collective representation (‘integrating’), towards basic protection (‘getting by’) towards support for

individualized life projects ('constructing')." (Mrozowicki and Hootegem 2008: 212). Further they say "that union revival in Poland can only be sustained by endorsing the centrality of economic goals." (Mrozowicki and Hootegem 2008: 213).

3.3 Historical Institutionalism

Historical Institutionalism is a powerful concept among social scientists and there can be no doubt that it has its points, but as an analytical tool it is much debated. The central question is whether or not it can be used to predict the future. Theories based on rational choice claim for their theories just that. The question is if theories can predict the outcome of a given situation based on the conditions at that time and place – any theory can find support in the results afterwards, but only a good theory can outlive "better" explanations. Any claim can be confirmed and that is why falsification is so central to natural science, and is also being used in social science. A large part of the discussion about HI vs. rational and economical theories is about (pre-) determinism. If people have preferences and act rationally, we should be able to predict outcomes if we have enough information available. If we do not have enough information available it does not mean that rational theories are wrong. If people seem to act irrationally, it could be that we simply just don't know their preferences. Then a natural question is: how do we know if we have enough information? Another is if actors make bad choices due to lack of information or because they are somehow bound by former choices, which would mean that they are locked-in?

One author on HI is Paul Pierson, who has been called "the approaches' leading advocate" (Greener 2007: 101) referring specifically to path dependence, and as his work is very well organised and formalised. I will let Pierson introduce the approach:

"The main properties of increasing returns processes provide considerable support for many of the key claims of "historical institutionalist" analyses in political science. The phrase is a fortunate one, as it captures two critical themes explored here. This work is historical because it recognizes that political development must be understood as a process that unfolds over time. It is institutionalist because it stresses that many of the contemporary political implications of these

temporal processes are embedded in institutions – whether formal rules, policy structures, or norms.” (Pierson 2000: 264-265).

Path dependence is a central element of HI. It can be seen as a broad concept, according to which path dependence has the rather trivial meaning, that history matters, and a more narrow concept where a chosen direction leads to further advance in the same direction, due to increasing returns (Pierson 2000: 252). Increasing returns is said to create several possible outcomes or equilibriums, making them unpredictable, as opposed to more traditional economics where decreasing returns leads to a stable equilibrium (Pierson 2000: 253, 263). An illustration of this is the variety of democratic regimes in the world. It would be natural to assume that preferences are and were similar, but different nation-states developed different regimes. This is attributed to historical conditions (for instance David Held 1996: 1-10).

Liebowitz and Margolis (1995) are putting path dependence to the test. They argue that what they call “third-degree path dependence”, that is when “sensitive dependence on initial conditions leads to an outcome that is inefficient” and continue: “is the only form of path dependence that conflicts with the neoclassical model of relentlessly rational behavior leading to efficient, and therefore predictable, outcomes.” (Liebowitz and Margolis 1995: 207). First degree is when “sensitivity to starting points exists but has no implied inefficiency” (Liebowitz and Margolis 1995: 207) and second degree involves imperfect knowledge and although they do yield sub-optimal results they “are not, however, inefficient in any meaningful sense, given the assumed limitations on knowledge.” (Liebowitz and Margolis 1995: 207). One further requirement to the third degree is that errors are remediable – that is that there are or were alternative paths available (Liebowitz and Margolis 1995: 207). The above illustrates the conflict between rational approaches and institutionalism: the central point is whether we can predict outcomes in the matters we study, from initial conditions. The central point is not whether sub-optimal results occur, which we all know is the case, but whether we should study institutions from a rational or sociological approach.

One point to the rational man vs. institutionalism and path dependence is that perhaps the main problem is shortness of sights and preferences rather than preferences being forged in the institutions. According to Liebowitz and Margolis (1995) there really is no lock-in but rather lack of information. Perhaps the wrongdoing is to assume that everybody have long-term honest and decent preferences. Ignorance, stupidity and adherence to traditions and ideals/ideologies can obscure the preferences and make irrelevant all assumptions of rationality. A central point for the analysis of trade unions is thus on the one hand, if they can make free rational choices based on rational preferences or if they are to some extent locked-in by history, thus limiting their range of choices, and on the other hand, if there are individuals or groups present with preferences that our counter to the rational choice as judged or inferred by observers, such as researchers. Difficulty of coordination is not a problem of path dependence as such.

Liebowitz and Margolis argue that the famous case of VHS vs. Beta is not an example of the superior product loosing the competition, but rather of the more desirable one winning. They state that Beta was not of superior quality and that the VHS format had longer playing time, which was what the consumers wanted (Liebowitz and Margolis 1995: 218-222). In a response to W. Brian Arthur the authors argue that the question is if sequence matters – if not history becomes a (in Arthur's own words, cited in the article) "mere carrier - the deliverer of the inevitable" (Liebowitz and Margolis 1995: 223, Arthur 1989: 127). The locus of this discussion is if consequences follow inevitable from the preferences with the help of time, or if seemingly insignificant matters can cause unpredictable results. If the former is the case, then studying preferences and rational choice will be the logical approach, but if the latter is the case, then HI is advisable. The article that Liebowitz and Margolis respond to, by Arthur (1989) gives mainly theoretical reasoning to support his claims but is exemplified with a few technological stories. It continues to suggest that a central authority could make the choice, when there is the possibility of an inferior choice being made by the market (Arthur 1989).

Although giving some merit to the arguments by Liebowitz and Margolis, Paul Pierson (2000) dismisses the conclusions. He argues on the one hand that non-remediable path

dependence is relevant to the researcher who wants to understand what happened and why, even though those who made the decisions were not able to foresee the consequences. On the other hand that remediable path dependence is not that rare after all. It might be the case in economics, but in politics and for the development of institutions it is very present. One argument from Pierson is the economy is underpinned by institutions, such as patent offices, to facilitate the mechanisms of market forces and to counter short-sightedness and free-riding, whereas such institutions do not exist in politics (Pierson 2000: 256-257).

A number of factors make politics differ from economics and path dependence is more difficult to curb in politics, because of three factors identified by Pierson (2000) in a response to Liebowitz and Margolis (1995): “Three characteristics of politics change the picture considerably: the absence or weakness of efficiency-enhancing mechanisms of competition and learning; the shorter time horizons of political actors; and the strong status quo bias generally built into political institutions.” (Pierson 2000: 257). Furthermore actors may be in positions to change things to their own advantage, making path dependence feed back even more (Pierson 2000: 259).

Quoting Douglass C. North, Paul Pierson describes “the interdependent web of an institutional matrix” which “produces massive increasing returns” (Pierson 2000: 255) and continues: “If the institutional matrix creates incentives for piracy, North observes, then people will invest in becoming good pirates. When institutions fail to provide incentives to be economically productive, there is unlikely to be much economic growth.” (Pierson 2000: 256). All this does not mean that it can not be changed: “Nothing in path-dependent analyses implies that a particular alternative is permanently “locked in” following the move onto a self-reinforcing path. Identifying self-reinforcing processes does help us to understand why organizational and institutional practices are often extremely persistent – and this is crucial, because these continuities are a striking feature of the social world.” (Pierson 2004: 52). The increasing returns do not cause determinism as several possible outcomes are possible in the initial. The different paths can be chosen be-

tween easily in the early stage when the process is open but later the process gets stable and difficult to change (Pierson 2004: 54).

Path dependence and increasing returns arguments run counter to the traditions of preferences and rational choice. Katznelson and Weingast (2005) write about the synthesis of rational choice institutionalism (RCI) and HI. Preferences are not only exogenous to institutions but are made and shaped by them. Furthermore the individuals are embedded in the institutions and are never independent (Katznelson and Weingast 2005: 15). This implies that institutions are more important as subjects in analyses than the preferences of the individuals. Pierson (2000) argues that the rational choice approach has been focused on “relatively transparent economic issues” (Pierson 2000: 261) and that it is not able to explain the more opaque issues. Furthermore, what he calls rational and functional arguments state that institutions exist because they serve a function, where he argues that they could exist rather from historical, non-rational reasons, rather than rational (Pierson 2000: 263-264).

One important element of the HI is junctures: “With respect to questions, the most important implication is the need to focus on branching points and on the specific factors that reinforce the paths established at those points.” (Pierson 2000: 263).

According to the HI approach events and the timing of them are of utmost importance, and it is therefore necessary to investigate further how to identify them and their relevance. In the analysis I will try to locate events that have locked in or locked out choices to find out why things are the way they are today and what forces there are to be dealt with, if change is to occur. “Path dependent arguments based on positive feedback suggest that not only “big” events have big consequences; little ones that happen at the right time can have major consequences as well.” (Pierson 2000: 263, original emphasis).

John Hogan argues that “the critical junctures concept lacks rigour (Hogan 2006: 663) and adds that at the point of the critical juncture there must exist other possibilities (than the chosen) and that they will vanish afterwards (Hogan 2006: 664). In his work on building a framework for critical junctures, he moves away from contingency, which he states excludes linking to path dependence (Hogan 2006: 664). Furthermore critical

junctures are strongly linked to cleavage theory and Hogan builds on the concept of generative cleavage (Hogan 2006: 664-665), and he adds that critical junctures must be significant (although he is not able to define this), swift rather than incremental, and resulting in encompassing change meaning that it includes (almost) all of the population or segment that is of relevance to the institution in question (Hogan 2006: 665-666). He continues to fuse those together, and say that only when all four conditions are in place, can it be a critical juncture (Hogan 2006: 666-667).

Laurence R. Helfer (2006) gives a good theoretical framework for analysing institutional changes in his study of ILO. By combining rational choice theories, neofunctionalism and historical institutionalism he gives a broader framework of theories that compliment each other. The fact that the subject of the study is a labour institution makes the theories even more relevant for this study. The text is focused on international organisations (IOs) and may not be that directly applicable. HI is more recent than related theories (rational choice and neo-functionalism) (Helfer 2006: 667).

Helfer writes that one of HI's strengths is that it considers multiple sources of change, but that it also poses its biggest challenge, as isolating causal explanations can be difficult (Helfer 2006: 668). The consequences of blending the three theories are summed up in the following:

“Change can be either positive or negative, abrupt or slow. Change can be path dependent, its direction marked out by the increasing returns and positive feedback that result from first-generation decisions. Or it can be more fluid and adaptive, evolving incrementally but producing “transformative results.” It can result in modifications to formal institutional structures or to informal practices and working methods. Perhaps most importantly, change can emanate from within the organization, from outside it, or from a mix of endogenous and exogenous sources.” (Helfer 2006: 666-667).

3.4 Approach

I have chosen an approach based on historical institutionalism, but modified as to fit my specific focus, which is on institutional change – that is, how they change and why. HI is being criticised from many sides, and is said not to constitute a fully bred theory, and is

hence said not to be able to explain enough by it self. Furthermore, there is a big tradition of combining elements to tailor one's analysis, and I find that a suitable endeavour. I am not an adherer to strict "catch all" theoretical models. According to my view, the world is far too complex to be fully depicted by over simplified models. Instead I use theoretical causalities as analytical tools for explaining observations.

The normative element in IR theories is a point worth great attention. In my opinion it is related to the most basic normative questions of social science. Not many would doubt that crime is bad (for all of us) and it should be prevented. Murder can be justified, and continues to be sought justified all over the world, and also in social science. That stabile employer-employee relations build on dialogue and trust are productive for the employer, the employee and the society is well documented. That a well-trained work force is good for the society is self-evident, but it might not be that to an employer, and it might not even be in that employer's interest. Many employers have very short interests, so when pluralist industrial relations theories argue that a balance is best, it might be that for the workers and for the society, but it might not be that for the employer. And it might not be in the interest of the employee either in particular situations. A resourceful employee might be able to negotiate a better deal, both in the shorter and the longer run, than he or she will be able to do through collective agreements. I will argue that in the interest of society and the general well-being of our people, the emphasis on well organised trade unions is an acceptable norm. I adhere to the believe that research can not be entirely value-free and I do not see this as a problem, as long as we are aware of it. I use the first person in my thesis to underline the presence of myself as the writer.

I will not put too much emphasis on the concept of equity as I think it is rather overstated. It seems obvious, and in the texts used above totally forgotten, that the main demand of trade unions is cash and after that a number of other remunerations as well as good and safe working conditions. A say in the work relation is very likely desirable, but it must be remembered, that many people will suffer bad conditions for a smaller raise or can live with not having a say if they get a good pay. This is ever more relevant with short-term workers and temporary workers who work in almost all fields of what IR ex-

amines, including nurses and teachers. That is not to say that they won't care about working conditions, but that there is a trade off between cash and equity.

The relationship between employers on the one side and employees and trade unions on the other is the main object of study. The relationship has to include former, future and prospect individuals and organisations. It is not to be assumed that conflict is inherent and unavoidable, but rather that conflict is a result or a consequence of other factors, such as for instance different interests or lack of knowledge.

Inspired by HI I will start with reconstructing the historical events that lie behind the current industrial relations of Poland. This will be with special attention to the details around the formation of Solidarność and OPZZ and the events that led to the demise of the communist regime. As a next step I reconstruct a series of instances of disputes and evolutions of Polish trade unionism over the past decade, organised thematically to give greater understanding of the sequence and order of the events. I make those two parts without much commenting to it as I want the events to speak for them selves. This does not mean that I as the analyst am passive in that part. It is strongly edited to highlight the storyline I have found. As a final step I round off my analysis with a discussion to make my findings explicit.

3.5 Data and sources

My analysis relies heavily on secondary sources. Those are history books by Norman Davies and Frances Millard and the online archive from The European Industrial Relations Observatory (EIRO). The latter contains a large number of accounts of IR related issues, as seen by specially invited scholars. These writers will be presented below. The usage of second hand sources comes with benefits and drawbacks. Among the benefits are that the long history is organised and comprehensive. Among the drawbacks are that the data can be indistinguishable from opinions and conclusions. When it comes to history, I generally assume that the stated is correct, if I have no reasons to doubt it, or if it is not contradicted. In the sources used for the analysis several tens of trade unions are mentioned by name and perhaps two hundred can be counted among those mentioned as

involved in the cases. Going through meeting records of all those unions, even if they were available in English, would be beyond possible in the course of a master's thesis. Making interviews of key persons involved would be a good alternative, but would face another problem as memories are subjects to time and they might not remember incidents and sequence correctly. Using EIRO articles gives insight to observations made almost in real time by respected scholars and is a sound alternative for my purpose.

The writers of the reports made for EIRO, used in my analysis are as follows:

Jan Czarzasty, ISP, Warsaw School of Economics

Juliusz Gardawski, ISP, Warsaw School of Economics

Adam Mrozowicki, ISP, University of Leuven, Belgium

Jacek Sroka, ISP, Wrocław University

Piotr Sula, ISP, Wrocław University

Rafał Towalski, ISP, Warsaw School of Economics

In the above ISP means that scholars are also associated with Institute of Public Affairs, Warsaw. This is an independent non-partisan public policy think tank established in 1995 (isp.org.pl 2010).

4 Analysis

It is not easy to pick a time for starting the analysis of Polish trade unionism, but I have chosen the year 1980 and the forming of Solidarity, but this still calls on a look to the past.

On 31 August 1980 an agreement, the so called Gdańsk Agreement, was reached, following initially a strike over food prices, and later over pays and costs of living and general dissatisfaction. On the one side were workers and intellectuals, joined by grass-root communists, all lead by the shipyard electrician Lech Wałęsa. On the other was the Polish communist government. Strikes had been no rarity and the government had till then been able to control them. In this case, the strikers refused settlements unless they would benefit the entire country and not only the local strikers. Hence the name *Solidarność* or Solidarity (Davies 2005b: 482-484).

The Gdańsk Agreement contained 21 points including the right to strike, freedom of speech and the guarantee that the resulting trade union should be independent and self-governing (Davies 2005b: 484).

The freedom of *Solidarność* lasted till 13 December 1981 when General Jaruzelski announced “state of war” and martial law and had the leaders of the free trade union arrested and struck hardly on the resulting strikes (Davies 2005: 491-492). Jaruzelski had been promoted from Minister of Defence to Prime Minister in the meantime (Davies 2005b: 487-488).

The *Solidarność* grew in strength in its less than 16 months of legality and became more than just a trade union: “It became a social movement, a countrywide mutual aid society for anyone and everyone who wished to be shielded from the Party’s dictates.” (Davies 2005b: 485). In anticipation of difficulties with the central authorities, Wałęsa rejected centralization of *Solidarność* and instead “he argued for the sovereignty of the existing regional strike committees, whose delegates would henceforth be free to approve or to ignore the recommendations of a National Co-ordinating Commission.” (Davies 2005b: 458). This was to “resist and survive” attacks on its organisation but came with the price

of “obvious difficulties in formulating common policies.” (Davies 2005b: 485). Norman Davies parallels this organisational relationship to the “historic relationship between *Sejm* and *Sejmiki* in the ancient Polish-Lithuanian Republic” (Davies 2005b: 485, original emphasis) and continues to state that either “the Polish working class was reviving the long lost principles of the Noble Democracy” or “[a]t the very least, it was a fascinating historical parallel.” (Davies 2005b: 486). The Sejmik or dietine was “the basic unit of constitutional life in Poland-Lithuania” (Davies 2005a: 247) and was the regional assembly of the nobility, who saw itself as “the supreme authority in the state” (Davies 2005a: 250). The Republic of Poland-Lithuania was in place from 1569 to the Third Partition of 1795 when Poland ceased to exist. In the meantime “political anarchism” was one of the guiding principles, expressed in the slogan that translated to English means: “it is by unrul[e] that Poland stands” (Davies 2005a: 246-247). Norman Davies concludes that the Polish-Lithuanian Republic’s “laws and practices were inspired by deeply rooted beliefs in individual freedom and civil liberty which, for the period, were exceptional.” (Davies 2005a: 246). At that time the king was elected by the nobility. He was to be elected unanimously by the assembly, in which any nobleman of the Republic could attend and usually ten to fifteen thousands did, but beforehand, the Sejmiki or dietines would discuss the matters locally (Davies 2005a: 253-254). The Sejm, which consisted of two chambers, the Senate and the Chamber of Envoys, “in many ways was subordinate to [the dietines]. It certainly depended on them for the execution of its decisions.” (Davies 2005a: 253).

Before 1980 there was the CRZZ (“Centralna Rada Związków Zawodowych” or the Central Council of Trade Unions) which was an extension of the central authorities to the workplaces (Gardawski 2008: 2). After its founding *Solidarność* quickly rose to a size of around 7-12 millions of members, depending on the sources (Gardawski 2002, Millard 1999: 111) as people fled the CRZZ to join *Solidarność* (Gardawski 2008: 2). Around one million members, mainly members of the communist party and foremen, stayed in the branch unions that constituted the CRZZ and some 50,000 were members of smaller independent unions (Gardawski 2002, 2008: 2-3).

With the martial law the CRZZ was banned along with Solidarność and all other unions, however in the case of CRZZ it had already been discredited beyond repair (Gardawski 2008 2-3, Millard 1999: 110-111). Based on the branch structure of the old CRZZ a new union came to life in 1984, known as OPZZ (“Ogólno-Polskie Porozumienie Związków Zawodowych” or the All-Poland Alliance of Trade Unions) (Gardawski 2008: 3, Millard 1999: 111). The central authorities tried to bring back Solidarność as a puppet-organisation, but as Wałęsa refused to cooperate, OPZZ was invented as new union, unrelated to both Solidarność and CRZZ (Gardawski 2008: 3, Millard 1999: 111). The OPZZ was build from the bottom up through union fragmentation, as Gardawski put it, in a three step process, where each step would take one year. Firstly local independent unions having legal personality were allowed, resulting in more than 5000 company-level unions. Secondly, the unions could form federations without losing legal entity and hence being able to leave at any time. Thirdly the unions could form confederations still giving the branch unions separate legality alongside the confederation. A new centralized union was thus formed, although it had an intrinsic problem, as local unions could be rather protective of their independence (Gardawski 2008: 3-4). OPZZ attracted some 6 million members as it appeared independent and gave substantial benefits to its members, however it was least successful in Solidarność strongholds (Millard 1999: 111).

Solidarność continued to function, although underground but not fully suppressed, or as Gardawski put it, it: “gradually experienced less and less persecution over the time and its presence in various companies became an open secret” (Gardawski 2008: 4). It was only part of a larger underground in place at the time, which Jaruzelski could have chosen to struck upon more harshly, but in the light of the obvious economical problems, he preferred an approach of “popular co-operation” (Davies 2005b: 496-497).

In anticipation of Solidarność’ return to power/to the fore, OPZZ initiated a principle of one union in one enterprise in order to block out Solidarność as OPZZ was sure to be preferred by the (communist run) enterprises – under the pretext of avoiding rivalry at the work places (Gardawski 2008: 4) (this has only one source and needs documentation).

Two notes should be made on the nature of the time: Firstly, property shifted ownership between the Solidarność and the communist unions, causing another reason for hard feelings (sources). Secondly,

The combined effects of a lot of factors eventually caused the end of the regime, which was gradually replaced with a democratic one, resulting in the Third Republic, and a constitution in 1997.

4.1 The Regime Change

The Polish communists led by Jaruzelski initiated negotiations with Solidarność as a part of a strategy to solve the economical and political problems of the time. They did not want to empower Solidarność but rather sought to “disarming their critics by absorbing them into the system.” (Davies 2005b: 501).

Davies (2005b) is arguing that Poland was very much on its own in its move away from totalitarian control, and that the changes under way in the Soviet Unions under Gorbachev had already been implemented in Poland. State terrorism was still a real threat, although “low-level” and the secret police was still carrying out political murders (Davies 2005b: 501-502).

In 1989 Round Table talks were held between the communist Government and Solidarność and as a result – on 5 April and after long negotiations – was that 35% of the seats in the lower house, the Sejm, were to be elected in free elections, as well as all the seats of the upper house, the Senate. Solidarność was to be re-legalized and many bans on press and culture were to be lifted. The Presidency was to remain in the communists’ hands and everybody was happy. The communists because they managed to please Solidarność and still keep absolute power and Solidarność because they obtained far more than they hoped for (Davies 2005b: 502-503). 4 June 1989 elections were held and Solidarność got 252 of the 261 seats subject to free elections and two weeks later, they won 99 of the in total 100 seats of the Senate. Jaruzelski got elected president (just barely) and two communist satellite parties, the ZSL and SD, decided to support Solidarność in Parliament, and as a result, Tadeusz Mazowiecki became Prime Minister on 24 August

(Davies 2005b: 504). Changes followed quickly. The Constitution was changed 29 December 1989 to make Poland an independent republic and much of the formal Marxism was abolished. Balcerowicz launched his economical reforms from 1 January 1990, and PZPR, the Polish Communist Party, ceased to exist, making Jaruzelski a President without a party. After pressure, He gave up his position and Wałęsa was elected President in the second round 9 December 1990 (Davies 2005b: 504-508).

Three things have to be stressed here: Firstly the transition was not an overnight change from the one system to the other. Secondly, Poland is a unique case in many ways. Thirdly, rather than one change it makes more sense to talk of a range of changes to be made in all aspects of the country.

On the gradual change: “Solidarity did not emerge from a vacuum but drew upon existing social networks and shared Polish national-religious cultural myths and traditions.” (Millard 1999: 8). The wide underground had been thriving for a long time and gradually became stronger and stronger. Much of the honour of the fall of the communist regime is ascribed to Solidarność, but it should more correctly be ascribed to long term effects of this underground, not only the Solidarność (see reference from essay). Some institutions were in place before 1989 (Millard 1999: 3), the emergence of civil society predated the regime change (Millard 1999: 4). There was a gradual change from hard dictatorship to corrupt authoritarian with many “outbursts of social discontent (Millard 1999: 6). Already since 1980 changes to the economy were taking place with a growing private economy, with the earliest signs dating back to 1970 and much of the change happened already under the communist regime. The party itself was never strong as it was “wracked by factionalism” (Millard 1999: 7).

On the particularity of the Polish case Millard wrote that comparisons often made of Central Eastern Europe with Southern Europe and Latin America come up short (Millard 1999: 1-3) and that Poland was different from the other post-communist countries, but not substantially (Millard 1999: 6). The rule of the communist party was not absolute, private farms were allowed and the catholic church “challenged the supremacy of Marxism-Leninism.” (Millard 1999: 6).

On the broadness of change Millard is writing that “five sets of inter-related and interdependent institutional relationships were involved if liberal democratic-capitalist aspirations were in some fashion to be met in more than strictly procedural terms.” (Millard 1999: 3). These five were building accountable institutions based on the rule of law, dismantling institutions of central planning and price fixing, reshaping the institutions of the welfare state as to fit a competitive society, a fundamental change of the political culture, and the development of new international trade and security relations (Millard 1999: 3-5).

After the semi free elections of June 1989 things started to get problematic within the Solidarność movement as the liberal wing had little sympathy for the workers’ cause. Wałęsa led a “war at the top” against his own friends and allies as they doubted his capabilities as president. This led to a first split within the movement and the formation of separate parties for the different groups. Wałęsa got elected President in 1990 but many voted against him. When the first free elections for the Sejm were held in 1991 his support had grown even smaller because of his support for the economical reforms, and there was conflict between him and the Sejm. In the election 29 parties got elected, many only gaining one seat. The party “Friends of Beer” won 16 seats. Wałęsa’s party Democratic Union (UD) only got 12.31% of the votes whereas the social democratic party SLD got 11.98%. Another Wałęsa friendly party managed to form a minority government and the coalition managed to survive until 1993 when the President dissolved the Parliament. A 5% threshold was instituted to reduce the number of parties and only six parties got elected, and at the top was SLD which could form a government in coalition with the centre party PSL. In the presidential election in 1995 Aleksander Kwaśniewski got elected. He represented the SLD and the party thus controlled both Sejm and the President post, until 1997 when the Solidarity Election Action (AWS) won the election. They had slowly learned the power of building alliances (Millard 1999: 80-95).

Various parties and alliances have held the post since. As to recent developments it can be told that parliamentary elections were held in September 2005. It was expected that PiS (conservative) and PO (liberal) would form a coalition, but instead PiS formed a mi-

nority government with Kazimierz Marcinkiewicz as its leader. The government was backed by Samoobrona RP, PSL and LPR. Later members of PiS, Samoobrona RP and LPR formed a new government and Jarosław Kaczyński (of PiS) became Prime Minister (Sroka and Sula 13-06-2007). He was replaced in 2007 by Donald Tusk of PO who is still the Prime Minister. In 2005 Lech Kaczyński got elected President and served until his death in a plane crash 10 April 2010.

4.2 Tripartite Commission

The legislation on industrial relations comes from several sources of law: “labour relations and employment matters in Poland are already regulated by the Labour Code, the Act regarding trade unions, the Act regarding employers' associations, the Act regarding collective disputes and various other sources of law.” (Towalski 30-09-2004). For a decade the social partners have been trying to conclude a social pact, with major attempts in 2003 and 2006 ending in little more than talks. The only such pact made after 1989 is the 1993 “Pact on state-owned enterprises undergoing transformation” which paved the way for the TK (Jan Czarzasty 13-07-2009). Both laws and social pacts are two of the most important issues of the tripartite commission.

As troubles arose after the initiation of the reforms – the Balcerowicz plan – three acts were passed on 23 May 1991, on trade unions, employer unions and dispute resolving (Gardawski 28-10-2002, Sroka 15-09-2009). According to Gardawski one of the purposes of the laws was to shift the responsibility from government to the enterprise level, except for the cases when the state is the employer (Gardawski 28-10-2002). In 1992 there was the idea of making a social pact, although trade unions were sceptical about the idea (Gardawski 28-10-2002). In 1993 the Minister of Labour and Social Affairs, Jacek Kuroń, presented a proposal for a State Enterprise Pact including a Tripartite Commission (Komisja Trójstronna, KT). This Tripartite Commission was supposed to “assess economic mechanisms and present its opinions and resolutions concerning remuneration and employment policies in the public sector, social services policy, pay policy instruments etc.” (Gardawski 28-10-2002). The Government invited the Confederation of Polish Employers (KPP), OPZZ, Solidarność and all other registered national

trade unions (the text gives the number seven) but since *Solidarność* refused to negotiate alongside OPZZ, the negotiations had to be held separately. The pact was signed in February 1993 (Gardawski 28-10-2002). After the signing of the State Enterprise Pact the government was dissolved, and the new government initially departed from the given course, but the matters were resolved, and in February 1994 a resolution was issued, establishing the Tripartite Commission for Social and Economic Issues, consisting of four representatives from each of the following sides: Government, KPP, OPZZ and *Solidarność* plus one from each of the remaining seven trade unions. The Commission was still to be consultative and to issue non-binding guidelines (Gardawski 28-10-2002). In December 1994 legislation was passed, which entered in to force in the beginning of 1995. According to it, the commission is discussing increases of pay based on inflation. The result of the discussion is not binding and the government has the right to overrule it (Gardawski 28-10-2002). According to studies, real remunerations in the years 1995-1997 were actually higher than proposed by the commission (Gardawski 28-10-2002).

There was a number of problems with the commission, as it did not represent the private employers and it did not represent local structures. Gardawski is referring to one source (Kazimierz Frieske) saying that the trade unions as well as the employers union were not able to influence those networks they represented and that others say that the commission, although not having legislative power, had a strong impact as governments relied on it for social legitimacy (Gardawski 28-10-2002). According to Frieske, as told by Gardawski, The Tripartite Commission furthermore became a battleground for the political issues of the time around the end of the nineties as the trade unions had strong political involvement. It is further noted that the commission became multipartite rather than tripartite (Gardawski 28-10-2002). At the same time, 1996-2001, there were tripartite bodies at lower levels, and one of these was negotiating the employment level in the metalworking sector. Trade unions, employers' organisations and relevant government bodies agreed to reduce employment from 140,000 to 40,000 (Gardawski 20-06-2002).

The problems of unions and political relations as well as inter-union disputes are summed up in the following quote:

“The most important problem, however, was that close connections between the trade union organisations and the political parties cast a shadow over the activities of the Tripartite Commission. The union organisation that was part of the governing coalition at any given moment did not take the opinions of the other trade unions in the Tripartite Commission into account. This induced the other unions to leave the Commission, making its work difficult or even impossible. NSZZ Solidarność and OPZZ periodically shifted between the ruling coalition and the opposition, which periodically paralysed the activities of the Commission.” (Gardawski 28-10-2002).

In July 2001 a new law was passed on the Tripartite Commission and voivodeship social dialogue commissions. To be members of the Tripartite Commission representativeness is required, meaning that trade unions need to have at least 300,000 members and employers’ organisations need to represent workplaces with a total of employees amounting to the same number. Hence a number of problems were solved and there were great hopes for the commission (Gardawski 28-10-2002). Parliamentary elections held in September 2001 changed the nature of relationship between trade unions and representatives or perhaps rather the strategies. Before the election the unions adhered to the idea that they should participate directly in politics but both unions saw a decline in both membership and working conditions. That means that they failed on both objectives. Gardawski concluded that it pushed the trade unions towards the Tripartite Commission. He does however also note that OPZZ at the time still held 19 seats in parliament (Gardawski 28-10-2002).

In June 2002 KT had the following members: OPZZ and Solidarność from the trade union side and from the employers’ side: PKPP, KPP and the Polish Craft Association (Związek Rzemiosła Polskiego). The trade union Forum (FZZ) the employers’ organisation Business Centre Club were both representative and waiting to be accepted in (Gardawski 20-06-2002). At that time there were negotiations in KT over relaxing the labour law to make it easier to (collectively) dismiss employees. OPZZ and Solidarność made a common stance against one part of the proposed changes, which would allow government to dissolve collective agreements against the wishes of the trade unions. Although the two trade unions made a common stance there was disagreement between them, as to how strongly they should oppose the changes. OPZZ was much more positive towards

the changes (of the left-wing government) and even sided with two of the employers' organisations whereas Solidarność opposed much more strongly and organised a demonstration in Warsaw on 26 April 2002. This naturally led to worries over the future fate of the Tripartite Commission (Gardawski 20-06-2002). The government's proposals were also criticised from a conference held in cooperation with the Friedrich Ebert Stiftung (Gardawski 20-06-2002).

Legislation of 10 October 2002 states that the Tripartite Commission each year is to find consensus on the minimum wages for the next year. If consensus can not be reached the Council of Ministers sets the minimum wages (Sula 22-05-2007).

In February 2003 in a session of the Tripartite Commission on a "Pact for labour and development" problems between the top of Solidarność and the comprising elements surfaced. The parties to the session were the government, the five non-governmental organisations that were already members for longer time, plus the new member the BCC and the topics were a broad range of reforms regarding taxes, privatisation and the labour law. The first step was to sign an initial declaration to mark the starting point (Towalski 29-07-2003). The National Commission of Solidarność opposed the government's proposal and criticised their Chairman Janusz Śniadek for wanting to sign the document over their heads. They saw the draft pact as a tool of silencing protests ahead of the EU accession referendum to be held in June 2003. The representatives of the unions that comprise Solidarność were of the opinion that negotiations between them and the government regarding regional issues were long overdue, and that reforms of the social dialogue institutions were not necessary to reform the economical situation. The solution was to give up the title and abandoning the concept of a "pact" (Towalski 29-07-2003). The Tripartite Commission continued negotiations on 13 May 2003, following a period of reconsideration internally in the parties. The range of topics had been expanded and FZZ was now also mentioned as a party to the commission. There was again high hopes for and trust in the commission. But the author is warning that negotiations could become impeded with stiffened positions (Towalski 29-07-2003).

A new law on the formation of the minimum wages was passed by the Sejm in July 2005. The new legislation, which will cause higher minimum wages, was welcomed by the three trade unions, Solidarność, OPZZ and FZZ, and criticised by the employers' unions (Czarzasty 28-07-2005).

In 2007 talks on another social pact took place. The initial declaration to commence negotiations was signed 3 April 2007. There was clear divides between the three sides to the negotiations, but no signs of inter-union disputes at the off-set, however Solidarność expressed desire to negotiate with the President rather than Government (Towalski 14-05-2007). The Prime Minister of the time was Jarosław Kaczyński and that Solidarność expressed such distrust in the government led by him surprises me. On a further note, Lech Kaczyński was the President. The dating of the exclamations of the Solidarność leader could be helpful.

Solidarność signed an agreement on increase in wages on 27 August 2007 with the Polish Government. This agreement followed negotiations including more unions, but since they could not reach an agreement between themselves as to the size of the increase, Solidarność made the agreement without other members of the Tripartite Commission, or rather outside the Tripartite Commission, much to the disappointment of OPZZ. Note that the government is entitled to overrule the KT if no consensus can be made (Czarzasty 22-10-2007). Prior to the agreement, in March 2007, OPZZ had been campaigning under the slogan "Who stole your 36%?" which was the difference between increased "work effectiveness" and "real increase of the average remuneration" whereas Solidarność had been campaigning more pragmatically, arguing that the low wages led to skilled labour migrating and thus endangered the development of Poland (22-05-2007).

The following year the unions were able to reach a consensus and stood together, and reached an agreement with the Government after the latter had increased its offer (Czarzasty 22-09-2008) (could be expanded). This expresses convergence by the unions and the benefits are clear: they successfully put pressure on the Government.

A number of initiatives has been made to counter the effects of the economical crisis of 2008 and onwards. 28 January 2009 a session of the Tripartite Commission was held to

debate the economical crisis. The employers wanted increased flexibility to adjust to the changing market conditions, but the unions were of the opinion that legislation was flexible enough already. The trade unions stood united and on the 2 February the same year a follow up meeting was held bilaterally (trade unions and employer's unions) on which a common ground was found, in order to fight the consequences of the crisis (Sula 02-04-2009).

In March 2009 the two sides presented their agreements in 13 points and expected it to be translated in to a single, temporary legislative instrument, which in the unions view should prevent it from being exploited under more normal circumstances. The government, now lead by PO, had by May still not managed to address all points in their proposals, pushing the patience of the trade unions. The government then passed on a draft legislation to the Sejm for consideration in June, which annoyed the trade unions who felt set aside. They therefore threatened to leave the tripartite commission. The employer side welcomed the proposed legislation and pushed for it to be passed in to law before summer break (Towalski 10-08-2009). A different source dated less than one month earlier was anticipating the tension because of the discrepancy between the result of the bipartite negotiations and the proposed legislation, but is also being very optimistic because of the results made by the two sides, giving hopes for the future of social dialogue (Czarzasty 13-07-2009). One of the four main employer organisations, BCC, had already in 2006 suggested a bipartite commission to replace the tripartite. This suggestion came along with a long list of other changes to all areas of society (Sroka 01-09-2006).

4.3 Regional Tripartite System

The regional social dialogue commission (WKDS) is functioning at the voivodeship level and there are 16 of them, since changes were made to the administrative levels of Poland. They came in to force 1 January 1999 dividing the country in to 16 regions or voivodeships on the second level, and on the third level comprising local government 373 counties (powiat) and 2,489 communes (gmina) (Gardawski 29-07-2003). The system of WKDS was established in 2001 along with the national KT and the law was amended in October 2004 with the new provisions entering in to force in 2005. It meets

four times a year, and is presided over by the local governor (Voivode) who represents the national government. It also includes representatives of representative trade unions and employer's organisations and representatives of the regional government (its senior official), representing themselves. Representatives of the lower levels, communes and counties, and non-representative social partners can also be included in advisory roles (Gardawski 29-07-2003, Sroka 15-04-2005). It is the regional bodies or members of the organisations present at the national KT (trade unions and employer's organisations) that sit in the WKDS, and the organisations represented Solidarność, OPZZ, FZZ from the employee side and KPP, PKPP, BCC and ZRP from the employer's side (Sroka 15-04-2005). Their range of issues is rather broad, their function is purely advisory, and they work on basis of consensus. If consensus can not be reached, the partners can issue individual opinions (Gardawski 29-07-2003). The law on WKDS was amended in 2002 increasing mainly the scope of issues to be considered to include also conflict resolving. Furthermore there were at the time efforts to make them: "a platform for fostering a culture of dialogue and of compromise." (Gardawski 29-07-2003). The WKDS is not a decentralised structure of the KT but an independent unit operating at the regional level and the 2004 amendment clarified the mechanisms by which the TK refers to the WKDS. Other changes were the right of the WKDS to make social pacts and that the social partners can force the Marshal (of the regional government) to present draft strategies of regional development for the WKDS to review (Sroka 15-04-2005).

4.4 Works Councils

Another issue in the industrial relations of Poland is works councils. Following the EU directive 2002/14/EC Poland in April 2006 made a law on the establishment of works councils. They are to be established in companies with at least 50 employees. The Polish version of the law to implement the directive is following a Czech example and is therefore called the Czech model. The basic idea is that works councils should only be established where no unions are present. In that case, the members are elected by the employees. If there is one or more unions present, the trade unions will elect the members of the council. If a union establishes itself at the workplace after the council, then the council is

to step down, and the union will elect the council. Furthermore, the members of the council can not be laid off, as they are covered by the same rules that safeguard the members of the trade unions (Czarzasty and Towalski 12-07-2006).

The law was passed after much controversy over its contents. It was mainly the employers that objecting to the idea and in particular the specific model, saying that it would not fulfil the aim of the directive which is to arrange direct consultations between employer and employees. Furthermore they opposed having to pay for the works councils in the cases where no trade unions are present and also the protected status of the members (Czarzasty and Towalski 12-07-2006).

The implementation of the EU directive 2002/14/EC and had been long delayed. The delay was due to differences of opinion between trade unions of the one hand side and employer's organisations on the other (Sroka 21-04-2006). The implementation was due to be done by 23 March 2005, but instead it was in 2006 decided that the deadline for forming the works councils was to be 23 March 2007 for enterprises of more than 100 employees and 23 March 2008 for those having more than 50 employees (Sroka 21-04-2006). As for reasons to the delay, Sroka is stating that unions opposed the works councils as they had been the representative body and feared that their position would be undermined. The employers expressed concern over extra expenses and the passing over of information to parties outside the workplace, undermining their privacy (Sroka 21-04-2006).

Seen from the year 2004 just after accession in to the EU trade unions were the main bodies of information and consultation where they were present, which was in around ten percent of the workplaces. Other than that, the only body representing employees at the workplace was so-called "workers' councils" in the state owned enterprises (Towalski 30-09-2004). The workers' councils have their roots in the communist times and were the units of representation of the workers in the state owned companies in relations to the employer (the state) outside the control of the trade unions. According to legislation building on acts from 1981 which were still in use in 2002 the workers' councils had a strong say in the management and economics of the enterprise (Towalski 27-08-

2002). The workers' councils were being abolished when state owned companies got privatised and where they were still in place they usually did not have any power compared to the trade unions at the same workplaces (Towalski 27-08-2002). In the cases of commercialisation, that is where state owned companies became only partly privatised as the state would keep shares in it, the employees got represented in the supervisory board of the enterprise, but they did not have more than a symbolic function. In other companies, which were either directly privatised or just private from scratch, there was no employee representation other than through trade unions (Towalski 27-08-2002). At the time of the source, August 2002, Poland was working on the implementation of directive 94/45/EC on European Works Councils which made the author comment that the trade unions monopoly was likely to be challenged by the works councils (Towalski 27-08-2002).

The employers' organisations were opposing the works councils but many employers were willing to accept some sort of employee representation. The trade unions were also having reservations over expected competition. The unions furthermore pushed to postpone the legislation on works councils, complaining that they had not been heard in the process of making the law (Towalski 30-09-2004).

4.5 Recent cases of disputes

In 2002 Juliusz Gardawski wrote about the rift between the two major trade unions Solidarność and OPZZ and also about their attempts at cooperation. He wrote that the unions had problems sorting out their organisation especially in relations to the local, regional and national levels. He notes that it is not uncommon in Europe, but that it takes a special form in Poland because of the bad relations between the two unions. The differences has however been put aside mainly in multinational companies where their cooperation was needed, and in the cases of the presence of European Works Councils their cooperation had been even stronger. Still, the cooperation seemed to be only temporary and occasional. Specifically the two unions worked on "a number of initiatives towards the establishment of joint, inter-union 'operating platforms' at levels above that of the individual company, to address crisis situations." (Gardawski 19-12-2002). In the mining sector

in Silesia, where the authorities were planning restructuring, the joint activities had had their biggest success when an alliance was formed consisting of “more than a dozen union organisations at the sectoral and regional levels” (Gardawski 19-12-2002). There are several other examples and it is noted that it resembles a pattern but is not institutionalised. It is emphasised that the unions have difficulties reaching agreements on the higher levels, but on the enterprise level, where they have to work together in a work council, they are not having the same problems. Gardawski refers to a study from the brewery Żywiec group, owned by Heineken, where a EWC gathered union members from all of Heineken’s breweries. The union density was high in the Żywiec group, around 56%, with 10 different unions affiliated with either OPZZ or Solidarność and several other independent unions within a single facility, and the group had four breweries and some of them had several facilities. The Heineken EWC invited two Polish trade union representatives initially and in 2001 two additionally. The unions saw an opportunity in working together and even formed a joint trade union for the employees of the Żywiec group. The trade union was functioning (and presumably is) democratically and professionally, aiming to be the trusted social partner in relations to the management, rather than a tough opponent and was engaged in negotiating a number of issues. The successful story owes a lot of credit to the policies of the Heineken breweries who has been actively pursuing such relations. Referring still to the study, Gardawski writes:

“This policy, it is concluded, is certainly a favourable one, animated not by a desire to 'buy off' union leaders in the short term (or, more simply put, to corrupt them) but, rather, to achieve the institutionalisation of dialogue within the company and establish a solid base of collaboration with the workers. Such collaboration runs up against natural limitations, and some conflicts are inevitable – particularly as regards the need to shut down less profitable brewing operations - but overall the cooperation has been quite successful.” (Gardawski 19-12-2002).

Gardawski adds in a comment that the approaches of the OPZZ and Solidarność at individual workplaces have caused another problem which is bad relations between the lower level organisations and the higher levels (Gardawski 19-12-2002).

In 2007 a cooperation agreement was made between seven trade union organisations functioning in seven factories in the Polish automotive sector – one in each. The organi-

sations in question are all affiliated with Solidarność and they are from the same region in Poland: Silesia. This was done in order to strengthen their negotiating powers. They faced negotiations with multiple employers, who they expect to be working together in negotiations so they decided to form this pact. The negotiations are still to be done by the individual unions but the pact will enable them to coordinate their efforts (Towalski 12-11-2007). In April 2010 a controversy between Solidarność and Sierpień 80 was observed at the Fiat factory in Tychy, Silesia. The management of the factory had voiced intentions of producing the Fiat Panda III in Italy rather than in Tychy where the Panda II had been produced. It was at the time not known for how long the production of the Panda II would continue, but it had not been announced to stop and there had been no warnings of dismissals. Sierpień 80 stated that plans of Fiat would lead to heavy dismissals – up to 10,000 employees in the sector. The President of Solidarność, Wanda Stróżyk, did not see any danger to the employees and argued that Sierpień 80 was making a political game of the situation. The dispute between the two unions is nothing new and as Sierpień 80 was formed at the same factory, as a radical competitor union to Solidarność in 1993, it has been seen as an attempt to raise awareness of the trade unions existence. It is however also noted that it is difficult to imagine that the decision by Fiat will not have consequences for the factory in Tychy (Mrozowicki 23-06-2010).

In November 2006 postal workers went on strike in Gdansk and three days later they signed an agreement with the management of Polish national postal service Poczta Polska. The management soon thereafter cancelled the agreement saying the agreed pay increase would be a too heavy burden on the company as it was calculated to amount to some PLN 340 million. The employees went back on strike and by 18 November some 25,000 employees were involved. On that day management offered to increase minimum monthly wages for postal delivery workers from PLN 900 to PLN 1100 and to meet all other demands. On the 17 November an inter-union strike committee, counting eight unions including Solidarność, formally went in to dispute with the employer and on 21 November “trade union officials and the Postal delivery workers’ Protest Committee of Warsaw” addressed directors of Poczta Polska in Warsaw, demanding PLN 1500 for the couriers, PLN 300 in average raise for others and a number of other demands. 27 No-

vember the strike committee and management again went face to face in negotiations and signed a document declaring their respective positions. The unions demanded PLN 1300 as minimum pay and a monthly increase of PLN 150 whereas management offered PLN 80. On 4 December a second round of negotiations were held in which the employer offered a total of PLN 190 million to be shared among the employee, with PLN 120 million as increases to wages, and the rest to be paid in the form of coupons for goods. It was their intention that those with the lowest wages should receive the highest increases. This would averagely give PLN 160 per month extra to some 27% of the employees and leaving the remaining with an average increase of PLN 60. Another scenario was also presented but the union side demanded that the total sum should be increased, so no compromise was reached. The same was the case on the third round which was held on 6 December (Sroka 19-02-2007). The dispute continued in 2007 but without major strikes. From 3 June 2008 strikes broke out again as Solidarność and ZZSP (the Postal Guard Trade Union) refused an agreement signed between Poczta Polska and 32 smaller trade unions. The agreement would give a raise of PLN 400 (plus and equal amount in the form of coupons) but the Solidarność side demanded PLN 537.50. Solidarność expected the strikes to involve around 20,000 of the 100,000 employees but the number never exceeded 4,000 and only around 250 of 8,000 workplaces were entirely shut down (Sroka 15-09-2008). Some 40 trade unions are supposed to be active in the sector but their activities can be seen as rather modest: “Neither rivalry nor cooperation exists among the trade unions. The only exception to the rule was the protests held at the end of 2006, when eight trade unions initiated cooperation in Polish Post” (Sroka 16-07-2008). Or in an earlier review:

“Unionisation among Poczta Polska employees stands at approximately 60%. Despite this relatively high union involvement, representation is rather fragmented and, in many instances, the individual trade unions compete with one another. That said, the protests in the autumn of 2006 demonstrated the postal unions’ capacity to work with one another if they deem such cooperation to be warranted.” (Sroka 14-11-2007).

The iron and steel sector has a stable IR situation with good and long (for Poland) traditions of social dialogue and collective bargaining especially due to the social partnership

being established as early as 1996 (Towalski 30-10-2003, Towalski 22-09-2009). On the sectoral level there are five unions present, of which one is affiliated with Solidarność, one is affiliated with OPZZ and the three remaining are affiliated with FZZ. There are also a multitude of smaller unions at the company level with up to 25 unions active in a single company. There is considerable competition between unions, mainly over members, but they also seek to exclude each other from collective bargaining and participation in consultative bodies. The union density is stated as 50-60% and around 27,000 of the sector's 29,039 in 2007 were covered by a multi-employer collective agreement (Towalski 22-09-2009). Employment in the sector had been as high as 123,000 in 1993 but severe restructuring of the sector has cut down the number in order to secure competitiveness and thus survival of the companies. The restructuring has been carried out with the consent and support of the trade unions and strike activity has been low, but not non-existent. The rich presence of trade unions is given as one main reason for the low level of dispute, as they can mediate and negotiate, but another reason given is the costly consequences of strikes, which could push some enterprises over the cliff of bankruptcy (Towalski 30-10-2003). One example of dispute was the laying off of 1,400 of 10,000 at the Huta Stalowa Wola (Stalowa Wola Steelworks) in 2003. Trade unions arranged strikes with two main aims: to arrange special benefits for the redundant workers and for the government to provide loans for the steelworks. Loans had already been issued to the plant but it could not be used for the part employing the 1,400 employees, due to agreements with EU, so this failed to please the trade union activists. Furthermore the government offered the redundant workers to participate in a program of courses and training but this was seen as a waste of money by the trade unions (Towalski 08-09-2003).

Plans to reform the Polish health sector, and perhaps also to privatise it, has caused disputes in Poland over a longer time. On 29 July 2008 representatives of the trade unions OPZZ, Solidarność, OZZOiP (the all-Poland Trade Union of Nurses and Obstetricians), and NRL (the Polish Chamber of Physicians and Dentists) met with the President Lech Kaczyński. They feared that the ruling coalition of PO and PSL would force privatisation of the health sector and wanted the President to veto the expected decision. They

furthermore saw the Government's preparation of the policies to be out of sync with social dialogue and existing agreements:

“the representatives of healthcare trade unions contended that the proceedings of the governing coalition ‘violate any rules of social dialogue, contribute to the dissemination of misinformation and fail to recognise solutions and arrangements agreed upon earlier in the past’.” (Sroka 22-09-2008).

The largest trade union for physicians in Poland OZZL (All-Poland Trade Union of Physicians) was not involved in the protest. This was seen as a result of it being the most market oriented of the trade unions of the health sector and is in support of the Government's privatisation policies. The President responded to the talks with support as neither he was in favour of privatisation of the health sector. He encouraged the Government to enter into dialogue with the opposing trade unions, and that he would only use veto as a last resort. Such a veto could not be overruled by the ruling coalition as they lack the required number of votes in the Sejm (Sroka 22-09-2008). This would require three fourths of the 460 members of the Sejm.

Half a year later, in January 2009, OZZL protested over low funding for hospitals. This protest mainly took form of an information campaign. The trade union had observed a decrease in funding of the health sector but this was denied by the NFZ (the National Health Fund) and another part of the dispute concerned the calculations done by NFZ, which OZZL thought was flawed (Sroka 13-02-2009).

In July 2002 workers on the Szczecin Shipyard formed an “All-Polish Inter-Company Protest Committee (OMPK) as a result to the bankruptcy of the shipyard. It put forward demands and encouraged strikes all over the country. It was organisationally supported by “Solidarity ‘80” and criticised by OPZZ, Solidarność and the Minister of Labour and Social Policy. The Committee bore resemblance to the events of 1989 (Towalski 11-09-2002).

4.6 Discussion

The history shows a number of important points. The two most important trade unions in Poland, Solidarność and OPZZ were both built on a structure of autonomous trade unions. The third one, FZZ, was made as an umbrella organisation to gather enough members to be representative in the tripartite commission. This has given a landscape of thousands of unions fighting for their own causes. Those causes include representing the members in collective bargaining and to gain more members. More evident is the cause of Solidarność first to work against the communist regime and later to reform Poland from a centrally planned economy to a market economy. It should not be forgotten that one of the main reasons for that is to save jobs in the longer run, but it did involve a lot of restructuring of enterprises and a lot of people got laid off. Lately one of the main causes of Solidarność has been to oppose OPZZ in a lot of cases primarily to make distance between them. This distance is symbolic to them as OPZZ was a part of the communist system and was per definition and also in practical terms the enemy. The hatred between them is hard to distinguish from competition for members and influence which is going on at the same time.

The cases reviewed above do not all show the conflict explicitly. The building of the tripartite commission shows a long and hard process in which the social partners obstructed each other continuously. A lot of these problems can be ascribed to difference of opinions. The most significant problem appears to be the mixing of party politics and social dialogue. The social partners' lack of influence on the lower levels of is a sign of serious problems. It undermines the legitimacy of the negotiating party and reveals the cracks in the alliances behind it. In 2001 there were hopes that the unions had given up the direct involvement in politics but they soon showed that they still had strong relations to the political parties and their support for or dismissal of propositions often coincided with their political affiliations. The regional system of tripartite commissions seem to have been less involved in the problems if I am to assume that no news is good news. At least there is not anything mentioned about problems of disputes. It is unlikely that there have been no disputes at all, even though they have less powers than the parties at

the KT, for it is after all industrial relations. I will have to conclude that it just did not have the attention of the writers.

Examination of the more recent cases has shown that although the rivalry continues, the unions are able to cooperate on specific issues. This relationship has mainly been on the issue and usually not longer than necessary. The unions have been able to cooperate in the tripartite commission to some extent but the real improvement has been on the sectoral and workplace level, strongly helped by works councils. The introduction of works councils have made institutionalised cooperation between representatives of the unions and they have been focused on the issues at hand and needed to cooperate. These successes have caused concern with the main unions over the rapprochement of the delegates. There is also an example of how a lower level union felt bypassed in the negotiations of the tripartite commission. This has little to do with rivalry but a lot to do with the autonomous nature of the unions. There are cases of unions undermining each other's negotiation powers by making deals or separate negotiations with the adversary. There is also the example of Sierpień 80 who is acting very much on its own, most likely to get members and attention.

To summarise the issues in play here are the rivalry or competition, the hatred, the underlying structure, the bad negotiation tactics and rogue union. Are any or all of these issues the results of increasing returns? The underlying structure surely seems to be the cause of many of the problems. It facilitates rivalry and opposes cooperation. Following the historical institutionalist way of thinking there should have been a moment when other forms of organisation were theoretically possible. After a certain moment the chosen form created increasing returns and changing the structures become ever more difficult. OPZZ was built on the structures of the former communist union CRZZ, which was also a series of separate units. OPZZ was also built to absorb the many unions that had formed between 1980 and 1981. Solidarność built its organisation around a model of independent unions to make it resist attempts to overtake it by the central authorities. Although it got banned it continued to operate underground and in 1989 it got legalised again and kept its organisation. It is not difficult to imagine that other forms of organisa-

tion could have been chosen around the time of legalisation of trade unions in 1980. It could have been demanded that they should be nationwide and open to all sectors. Solidarność might not have been in favour of such provisions but they most likely would have accepted it. After the introduction of martial law and Solidarność going underground would have been almost impossible. This is a juncture that sealed the fate of Polish trade unionism. The rivalry that ensued deepened and broadened the cleft between the two unions till the two issues of rivalry and autonomous unions got interwoven and inseparable. The combination got locked in and caused increasing returns.

But how about sequence? Would the results have been different if the sequence had been different? Following the same counterfactual argumentation as above, it is not difficult to imagine that things could have been very different if the communist government had seen Solidarność coming and separated the CRZZ from the state and made it independent. It would still have been based on a group of smaller entities but it could have been much more tightly run with a central authority, and still be independent. This would have caused a complete different series of events. Counterfactual analysis is not a proof of anything, to say the least, but it does help see things in a different perspective.

It should further be noted that the rogue nature of Sierpień 80 can not be seen as an indicator of increasing returns. Such examples can always be found and should be treated as outliers. But the fact that Sierpień 80 is a breakaway union of Solidarność shows how the interwoven dispute is also influencing other than just the two main unions. Difference of opinion is of course no indicator of increasing returns either. The examples of negotiations where one union is undermining the activities of the other is however a different issue. It is definitely an extension of the divide between the two unions. The fact that seven affiliates to the trade union Solidarność have to sign a cooperation agreement with each others, as in the case of the automotive industry, shows the nature of one of the two main trade unions in Poland and also how severe the fragmentation is.

If one hypothesises that the current situation of Polish trade unionism, and to some degree industrial relations in general, is only a result of the chaos of transformation and will stabilise naturally with time, one makes a grave mistake. A comparison to the state

building and building of the political party system is rewarding. In the latter case stabilisation did come naturally but with trade unionism it is different. The trade unions are built on a foundation of independent, autonomous unions who may or may not cooperate. There is a dialectic relationship between this institutionalisation and the disputes taking place in their reign. The trade unions approach each other at the company level time and time again as they see reasons for acting together or coordinated. But they do this at only one point at the time, and higher levels oppose the rapprochement at the same time. The unions can act together in the KT to put pressure on their opponents just to find out that at a lower level someone feels set aside. In other words I do not think that HI overstates the importance of history. Trade unionism and party politics has had very parallel circumstances but they have shown very different developments. Remember once again that difference of opinion, as is the case in politics and trade unionism alike, is not a sign of path dependence. The difference is in the institutional development. In party politics they learned the value of coalition building quickly – in trade unionism they did not.

The works councils seem to be a good forum for cooperation and can be a step towards solving the problems. There are a few of good examples of cooperation between unions, namely in multinational companies. The Czech model however seems to be quite problematic. When the members of the works council is appointed by the union, although elected by employees, there is a chance it could become a body of further inter-union dispute. Towalski points out, that the case of the iron and steel sector has shown that the best approach to building an IR system is to build on the sectoral level (Towalski 30-10-2003). There are also attempts to make cooperation at the cross-sectoral level in proposed legislation from 2009, which would make the cross-sectoral unions liable as individual actors. Why this would be advantageous he explains himself:

The current Polish Labour Code provides that the trade union organisation in the workplace is fully autonomous. Only the specific trade union organisation is liable for the actions that it takes, even if it is affiliated to a cross-sectoral trade union. This limitation can be controversial, especially when trade union headquarters officially declare conciliatory attitudes, while union structures at local level pursue conflict strategies. (Sroka 28-07-2009).

When it comes to theories of industrial relations a few things are clear already from the surface of things. Actors are not rational actors and the actors do function in an imperfect market. There is nothing much to support the claim that workers seek equity. They seem to be striving for basic goods and not fulfilment of any potential as workers. The case of works council at the Heineken owned breweries is a good example of how employer and employees can share some of the same goals. There is probably a lot to be learned for Polish trade unions and employers alike when it comes to be less militant and pragmatic in their relations, but the conflict between the two unions makes this difficult. Trade unions have a habit of taking strong positions and get as much attention to themselves as possible in order to differentiate them.

Trade unions in Poland will most likely have to redefine themselves. As Mrozowicki and Hootegem have pointed at, they need to refocus on the economical role. This means to represent the employees in negotiations with the employer and maximise the outcome of those negotiations. They will also have to adapt to the new life strategies of workers. Many seek new forms of employment and many oppose the blue-collar mentality of trade unionism.

There is not much evidence to support the hypothesis that trade unionism is evaporating in Poland. There are certainly a lot of unions and they seem to have a lot of influence and they are clearly able to increase the wages, although wages are still very low. Management does not seem to be taking over the role of trade unions. From this analysis I will have to conclude that the only ones looking out for the employees, except for the employees themselves, are the trade unions. Even if they are not doing a perfect job of it.

Another way of repairing the current situation is through education and information. It seems likely that much improvement can be made if the trade unions collect the experiences of collective bargaining and especially the good examples of coordination and cooperation that have been described above. This of course takes money and as already mentioned, the small size of unions means lacking funds and then they can not hire the required personnel to handle education and research. This presents a vicious circle in the case of the small unions, but the larger unions should be able to work on it.

Another issue in all this is to what extent the unions are at all unhappy about the multitude of unions. It seems that many take pride in the autonomous nature of their unions. This leads to the question of there is a deeper relationship between the anarchistic nature of the Second Republic and the trade unions. It can be speculated that the true reason for the fractioned trade unionism lies in the noble traditions of sovereign individual noblemen who no one should impose any regulation on.

5 Conclusion

In this project I have sought to answer the problem statement: why is the Polish trade unionism so fragmented and how can it be mended? The fragmentation is illustrated by the numbers of trade unions and the number of trade union density. Some 24,000 trade unions are active in Poland and around 15% of the workforce is a member of a trade union. Most of these unions are small and this leads to shortcomings in the organisation as their funds are also small. The social dialogue is very modest and is being damaged by the rivalry between the unions, and the failed dialogue leads to low remuneration for work. The perceived weakness of trade unions could have consequences for the rest of Europe as the Polish labour market could be the testing-bed for deregulations, or an Americanisation, of the European industrial relations.

I have chosen to adopt a historical institutionalist approach to reconstruct the history and thus to find signs of path dependence or increasing returns. I have supplemented the historical institutionalist theory with a number of interesting points from pluralist, American industrial relations theory and from an overview of the theoretical traditions of industrial relations in Europe. As for sources I have used history books to give the historical context for the current trade unionism. Further I have used reports on the Polish labour markets available from the European Industrial Relations Observatory. These are written by a group of respected scholars over the years from 2002 to 2010 and give a good insight in to the events that make up today's Polish industrial relations.

Foremost I have found the combination of many autonomous trade unions and the conflict between OPZZ and Solidarność to be an institution that is creating increasing returns. Solidarność was formed in 1980 and accepted as a legal trade union side by side with the communist CRZZ. Both unions were banned in 1981 with the introduction of the martial law. From the old structures of CRZZ rose OPZZ as a trade union to gather the small unions that had been created to cover workplaces. This led to an organisation which was already fragmented. Solidarność was built to resist oppression from the communist government, so a partisan structure of independent unions was chosen. Dur-

ing the years it was banned it operated underground and when it got re-legalized in 1989 and brought the government to the negotiation table, which in turn led to the fall of communism, it chose to continue its structure to show direct descent from the original union of 1980. The third trade union active at the tripartite commission is FZZ which was formed as an umbrella organisation to gather enough unions as to represent 300,000 employees. Thus the three main unions are all built on structures of autonomous trade unions.

The hatred between OPZZ and Solidarność was strong from the beginning. The combination of the hatred and a multitude of trade unions on both sides of the cleft has had a self reinforcing effect. There are many examples of the two trade unions working together on specific issues in specific sessions. This can be at the national level in the tripartite commission, on the regional level in the regional tripartite commission or at sectoral or company level, mainly in works councils. Time after time have these cooperations been met by disapproval by the trade union bodies on the other levels. The unions are locked in an institutional matrix which makes it were resistant to change.

As to solutions to the problem I will point at continued cooperation on as many levels and as many occasions as possible. The introduction of works councils, following an EU directive, has helped facilitate the institutional arrangements that have made the representatives of several unions work together on concrete problems of employee representation. Unfortunately the directive has been implemented in the so-called Czech model, which makes the works councils rather rare. Furthermore, in the case of at least two unions present in the same enterprise the union will present representatives for the employees to choose from. It is this construction that has given the unions the opportunity to cooperate but it also has the possibility of becoming an arena for inter-union disputes.

This solution should not stand alone. Knowledge is required to break out of the dispute which is damaging to all parties. That requires research, education and information, which again requires money which the small unions do not have. That means it is up to the larger unions to do it. They will only do so if they see a purpose to it and since it is

the smaller unions that have the biggest disadvantages of the situation, the larger unions might not be pushing that decision themselves.

This analysis only covers a small part of Polish industrial relations. It is a large and complex topic. I will not overemphasise my findings and claim that if this problem is dealt with, then all problems will be solved. I have already hinted at the possibility that the fragmentation perhaps should be traced back to the Second Republic and the Noble Democracy. But after all the approach does give a clear result and the comparison of the development of party politics and industrial relations amplifies the findings.

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