Union Organising, Union Recognition and Employer Opposition: Case Studies of the Irish Experience[1]

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ABSTRACT

In the last few years a dramatic decline in union density has prompted the Irish Congress of Trade Unions to seek a formal procedure to support union recognition. This has resulted in the institution of new codes of practice and the passage of the Industrial Relations Amendment Act, 2001. In this paper, using a number of case studies, we examine the practical application of these initiatives and their effectiveness in creating conditions for union recognition. The evidence from the case studies suggests that the Act is inadequate in facilitating independent collective representation and provides little protection for union activists and members in the recognition and dispute process.

INTRODUCTION

In the ten years between 1990 and 2000 union membership in Ireland has increased by 14 per cent. Nevertheless, since 1980, there has been a steady decline in union density (D'Art and Turner, 2002). Union density is now at its lowest point since the 1950s, which was a period of economic stagnation. However, union density in the public sector is in sharp contrast to this general picture of decline. Union density is estimated to be in the region of 80 per

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cent, covering approximately 270,000 employees in the public sector (see McGinley, 1997). Unfortunately, there are no separate union membership figures for the Irish private sector. Yet there appears to be a general consensus that in recent times the sector has experienced a dramatic decline in union density. The Private Sector Industrial Committee of the Irish Congress of Trade Unions estimates that union density in the sector is now a little over 20 per cent (D'Art and Turner, 2004).

According to D'Art and Turner (2002), one factor contributing to the steady decline in union density may be the increasing difficulty experienced by trade unions seeking recognition. Union recognition is the formal acceptance by management of a trade union(s) as the representative of all, or a group of, employees for the purpose of jointly determining their terms and conditions of employment. Union recognition can be seen as incorporating two distinct but complementary steps. Firstly, the employees have a right to join a union of their choice. While crucially important, this right alone may be insufficient. The second essential factor is the willingness of employers to recognise and negotiate with the trade union as representing the collective interests of a group of workers. Recognition, it has been argued, is the key determinant of union growth. Bain and Price (1983) suggest that union recognition and growth enjoin what they call a 'virtuous circle' of cause and effect whereby the more unions obtaining recognition the more they are likely to grow (see also Green, 1990). The weight of the available evidence points to increasing employer resistance to granting recognition to trade unions for collective bargaining in the workplace (see for example Roche and Geary 1995; D'Art and Turner, 2005). A recent analysis of union recognition cases in the Labour Court shows that few of the companies involved acted on the recommendations issued by the court (Gunnigle et al., 2001). Furthermore, case study evidence indicates the hostility of management towards unions and the difficulties experienced by workers in securing recognition for collective representation in small and medium enterprises (McMahon, 2001).

In this paper, using two case studies, we examine the effectiveness of the recent Industrial Relations (Amendment) Act, 2001 in facilitating union recognition. In particular, we assess the practical

application of this Act and its effectiveness in creating conditions for union recognition.

THEORETICAL EXPLANATIONS OF UNION DECLINE

In many countries between 1980 and the mid-1990s trade union density registered a considerable decline (Ebbinghaus and Visser, 2000). While unions in Ireland and the UK experienced a sharp decline, density levels in Sweden and Finland increased. Other countries such as Norway, Belgium and Denmark experienced only marginal fluctuations. Thus, while some countries experienced substantial decreases in union density, others registered increases or only marginal decreases (D'Art and Turner, 2003). A popular explanation ascribes union decline in the private sector to long-term socio-economic changes. A number of structural variables such as shifts in employment from manufacturing to services, changes in industrial structure, product markets and capital intensity have been advanced to account for variations in union membership across industries (see Deery and De Cieri, 1991).

Yet there is substantial evidence to suggest that the significance of structural factors in union decline may be exaggerated. These factors, Disney (1990) claims, have played little part in the decline in British union density during the 1980s. Structural factors, it has been estimated, account for at most three percentage points of the eight-point fall in British union density between 1980 and 1986 leaving nearly two-thirds of the decrease attributable to other factors (Freeman and Pelletier, 1990). In the US, union decline has been precipitous and largely a private sector phenomenon (Lipset and Katchanovski, 2001). Private sector union density dropped from approximately one third in the 1950s to below 9 per cent in 2001 – lower even than union density at the end of the 1920s, the lowest ebb of organised labour in the 20th century (Nissen, 2003). Several reasons for the decline in private sector unions have been advanced in what is now an extensive literature on the topic in the US. However, the general consensus regarding structural change is that it cannot explain all or even most of the union decline (for an alternative view see Troy, 2001).

An implicit assumption of the structural explanation is that union representation is unnecessary and that there is no demand from the

growing number of employees in the new sectors of the economy. For example, Troy (2001) argues that in the new age of Adam Smith, it is not employer but employee opposition that is the principal ingredient in the union decline across the G7 countries. Given that the union redundancy argument appears to receive greater currency in the US, it is useful to examine the evidence for attitudinal change towards trade unions over time. According to a recent attitude survey, negative attitudes towards unions have declined from one out of every three Americans to one out of every four since 1997 (Hart Research Associates, 1999). In the six years since 1993 there has been an eleven point drop in negative attitudes from 34 to 23 per cent. A majority of those polled (52 per cent) believed it would be good for the country if more workers had union representation (Hart Research Associates, 1999). These findings are broadly supported by a review of Gallup Poll results for the 1947 to 1999 period (see Nissen, 2003). In the context of the active aggression of anti-union employers, along with an unfavourable cultural and political climate for collectivism, these findings are remarkable (Human Rights Watch, 2000). A similar conclusion can be drawn from the limited available evidence on workers' attitudes towards trade unions in Ireland. In a 1998 survey of men and women aged 18 and over living in Ireland, 59 per cent of the respondents, who were employed but not currently members of a union, said that they would join a union if they had the opportunity (ICTU, 1998, p. 14). The percentage of those between the ages of 18 and 24 who would join if given the opportunity was even higher at 65 per cent.

In contrast to the structural perspective, the institutional explanation focuses on the effects of each country's particular historical development and the specific national institutions governing industrial relations. Changes in unionisation have been attributed to a range of institutional factors and processes such as the nature, scope and depth of collective bargaining, labour legislation and more recently the effects of management strategies on union organisation. According to Freeman and Pelletier (1990), the Thatcher government's labour laws and the consequent change in the legal environment for industrial relations account for the vast bulk of the 1980s decline in UK union density. In their analysis of the changing shape of industrial relations in the US, Kochan et al. (1986) suggested that

industrial relations processes and outcomes were increasingly determined by corporate strategies that often had adverse consequences for trade unions. Indeed, the increasing intensity of legal and illegal hostile managerial action, ineffectively checked by an unsympathetic state, are the principal reasons for union decline in the US (see D'Art, 2002, p. 37-39). The supply or availability of unions at the workplace and the supporting legislation for a union presence are the key elements in the institutional explanation of union growth and decline. Union membership is a function not only of the individual demand for membership but crucially dependent on the availability of a union to join. From this perspective, a country's institutional arrangements and the extent of legitimacy accorded to worker collectives is the most important factor in union growth and decline. The evidence from a number of comparative studies would suggest that the prevailing institutional arrangements are the principal determinant of union growth or decline in the European countries (for example, see Ebbinghaus and Visser, 1999; Blascke, 2000).

Declining union density in the private sector prompted Irish trade unions to seek a more formal procedure to achieve recognition for collective bargaining in the workplace. These procedures were embodied in the Industrial Relations (Amendment) Act (IRAA) 2001 (see Appendix 1). A recent analysis concluded that the Act was extremely unlikely to improve trade union availability in the workplace, especially where employers are opposed to unions and would do little to reverse the decline of union density in the private sector (D'Art and Turner, 2002). A second flaw noted in the Act was the absence of any legal protections for union members involved in a recognition dispute exposing union activists to hostile employer pressure. Finally, cases could take from six to twelve months to process through the codes of practice. In the absence of legal protection this inordinately lengthy process could leave union activists vulnerable to employer pressure.

CASE STUDIES OF UNION RECOGNITION CAMPAIGNS

As we have seen in the Irish case, union recognition has become more difficult to achieve. Employer behaviour and the institutional context are two factors likely to determine the outcome of a recognition request. Hostile employer behaviour towards trade unions is likely to

intimidate employees, raise the cost of union joining and make a campaign for recognition less likely to succeed. However, the particular institutional context may exacerbate, moderate or neutralise such employer behaviour. There is a growing theoretical and empirical literature on union organising in the US and, to a lesser extent, in the UK (Heery et al., 2000). The case study format followed here draws on the union-organising experiences described in this literature. It is possible to identify a number of distinct stages in the union organising process (see Markowitz, 2000). The first stage describes the background triggers to unionisation. Secondly, the extent of the demand for unionisation is described. Thirdly, the union's campaign for recognition and the employer's response is considered. An additional consideration in the Irish context is third party intervention by the Labour Relations Commission and the Labour Court, which has become an essential part of this process. Fourthly, the outcomes of the recognition campaign for the union members and the employer are assessed. Overall, drawing on our case study evidence two propositions are explored. Firstly, the effectiveness of the IRAA, 2001, in facilitating union recognition and secondly, whether the Act provides adequate protection for union activists and members who seek to organise and bargain as a collective.

Case study 1: A small/medium size Irish owned firm

The company is located in a rural area in the south. It was established in 1991 to cultivate, harvest and process Irish rope mussels mainly for export. It employs 95 workers, of whom 76 are operatives, the grade seeking formal discussions on terms and conditions of work. The work tends to be seasonal and there is no guarantee of a consistent or continuous full working week for many of the employees. Material for the case study was provided from interviews with the union official involved in the case and a local part-time union branch secretary. An interview by telephone was sought with the main activist but unfortunately he declined.

Background triggers to the demand for unionisation

In early 2002 the company appointed a new chief executive. Up to this time there appears to have been quite a good relationship between management and workers. Under the new regime there was a distinc-

tive shift to a more autocratic management style. There was now little personal communication between management and workers. Workers were merely 'told what to do'. Against this background, the immediate triggers to the demand for representation were:

- The absence of written contracts of employment;
- The absence of any discipline and grievance procedures;
- The refusal of the employer to give the national pay awards in the Programme for Prosperity and Fairness (PPF).

Demand for unionisation

In general, for those who sought union representation, the principal reason was protection from arbitrary and unfair treatment. Although the rate of hourly pay was judged by workers to be 'good', there was no guarantee of a full working week. This was the union's second attempt to organise this firm. Approximately three years before the present attempt, the union approached the workers at the request of two workers in the firm. The union official arranged a general meeting but it was poorly attended and the campaign fizzled out. The current campaign for union representation began in early 2002, when about ten workers joined the union. Subsequently up to 30 or nearly 40 per cent of the operatives (the relevant bargaining unit) joined the union. According to the full time union official involved in the case, four or five of these members could be categorised as active members, i.e. willing to act on behalf of the union and encourage other employees to join the union. However, there was only one main activist who was central to the union organising campaign. Initially, the union official wrote to the company seeking recognition and bargaining rights to discuss the issues noted above. The company refused to recognise the union and the union official referred the case to the Labour Relations Commission (LRC).

Campaign for recognition

In this section we explore the employer's reaction to the demand for recognition, the union's campaign and the intervention of the LRC and the Labour Court (LC).

Employer's reaction: A preliminary reaction by the employer to the union's request for recognition was to isolate the main union activist in the company by assigning him first thing in the morning to the Cold Chamber (an area in which he did not usually work), initially without protective clothing and with the fans turned on. This produces an extremely uncomfortable cold and wet climate. Although he was eventually allowed protective clothing after some two hours, he was ordered to remain working in the cold chamber for two full days (work in this area is normally rotated regularly). During break times, the activist was followed around to ensure minimal contact with other workers (at this time he ate his lunch alone in his car). According to the union official these actions were also intended to intimidate other union members.

A second response of management was to request that all workers sign a letter stating they did not wish to join a union or wished to resign from the union. While about ten union members signed such a letter and sent it to the union out of fear, nevertheless they remained as secret members of the union. Thirdly, the company refused to co-operate with the LRC process for dispute resolution and the case was referred to the Labour Court (LC). The employer's response can be summarised as:

- Isolation of the main activist;
- Intimidation of union and potential union members;
- Non-co-operation with third party agencies.

The union's campaign: According to the union official, it was difficult to counteract the employer's actions. The union activists feared losing their jobs if they resorted to industrial action. The union official attempted to build solidarity among union members by arranging meetings outside the company in the local town. Meetings had to be arranged clandestinely. An example is one meeting held at 10.00pm at night in an activist's house to ensure that members were not seen gathering together. Members were careful not to draw attention to their activities and usually arrived in ones and twos to the meeting. Indeed, when walking through the local town on weekends, union members were afraid to be seen talking to the union official or part-time branch secretary. If such activity became

known to the employer, members feared it would result in dismissal. In any case, the meetings were not successful as few members attended. According to the union official it was just not possible to protect union members in the workplace.

Third party intervention: As noted above, the case was initially submitted and processed through the Code of Practice on Voluntary Dispute Resolution. The company refused to participate at this stage and the union's application was referred to the Labour Court in accordance with Section 2 of the IRAA. Since the Act precludes any reference or negotiation on arrangements for collective bargaining, the immediate claim by the union was employer refusal to meet with the union to agree formally a contract of employment for members. In addition, the union raised the employer's tactic of issuing letters of resignation to employees as an unfair labour practice. The LC issued a recommendation on the case in August 2002 (see details below). The Irish Business and Employers Confederation (IBEC) represented the company at the Court hearing.

Outcomes

The union failed to gain recognition from the employer. The Labour Court found that the distribution of the letters of resignation to employees could only be interpreted as an unfair practice and recommended that the employer 'provide each employee with a written statement to the effect that it is company policy to respect the right of each employee to join a union if they wish'. Furthermore, that this statement should point out that no employee will suffer as a consequence of exercising that right.

A second element of the recommendation was that the employer put in place discipline and grievance procedures within one month of the date of the recommendation – and that these procedures should also provide for the full utilisation of the normal dispute resolution machinery of the state. However, the recommendation pointed out that the 'Court cannot and does not recommend that the parties engage in collective bargaining in relation to terms and conditions of employment and [that] nothing contained in this recommendation should be construed as providing for collective bargaining'.

Since the issue of the recommendation in August 2002 the union members have failed to meet and vote on the Labour Court recommendation. The union official attempted to organise a meeting but only three members attended. Union members were also individually written to with a copy of the recommendation and also to ascertain whether the employer had complied with the recommendation and issued a statement to each employee. It appears that the employer has so far failed to comply with the Court's recommendation. Nor have the company responded to written inquiries from the union official regarding compliance with the Court's recommendation.

The lack of response from union members most likely reflects the stress and difficulties experienced by the union activists during the organising campaign. Out of the five members categorised as active during the campaign, one has moved to another job, the main activist now prefers to stay out of trouble and keep a low profile – his spouse experienced considerable stress at the time. Indeed, the union official described the activist as occupying a 'courageous and lonely position'. Similarly, the remaining three activists wish to keep a low profile. According to the union official it is difficult to assess the number of workers who are still members of the union – possibly around fifteen to twenty – as the union now operates a membership facility on the internet, which allows people to join or remain a union member with strict confidentiality assured.

The future: As noted earlier, the union official made a submission on grievance and discipline procedures to the company and IBEC but received no reply. The next step is to contact the Labour Court and seek a determination under the IRAA 2001. However, over one year later, no union member from within the company is willing to come forward to be party to the process. Consequently, the union official has not sought a determination.

Case Study 2 – A Multinational Subsidiary

The company 'Cargo Handling' is located at Dublin Airport with its headquarters in France. It is a baggage and cargo ground handling operation and contracts its services to a number of airlines and freight firms who use Dublin Airport. Overall it employs a total of 130 employees of which 70 are general operatives, 50 are clerical

workers and the remaining 10 are managerial staff. Material for the case study was provided from interviews with the union official involved in the case.

Background triggers to the demand for unionisation
There were three main triggers to the demand for union representation. Firstly, the pay and shift allowance was significantly below that paid to workers doing the same jobs in similar companies at the airport. For instance the weekly shift allowance at Cargo Handling was 30.52 while the allowance for operatives in similar companies was 73.11. Secondly, the general terms and conditions of employment were perceived to be inferior to other companies. Thirdly, there was general dissatisfaction with the grievance procedure and representation at Cargo Handling.

Demand for unionisation
In December 2000 ten employees of the company approached the Services, Industrial, Professional and Technical Union (SIPTU) official at Dublin Airport. They wished to join the union so it could negotiate an improvement in pay, conditions and representation on their behalf. Initially the official was cautious and suggested more members were required in order to strengthen their case. To that end two leaflets were produced addressed to operatives and clerical staff pointing out disparities in pay and conditions at Cargo Handling compared with similar companies at the Airport. A meeting or question and answer session was arranged for all staff interested in union representation. Forty employees attended the meeting and at its conclusion all became union members. In turn they distributed union membership forms to their colleagues that brought total union membership at Cargo Handling to 80, or a little over 61 per cent of the workforce. It was at this point the union official wrote to Cargo Handling seeking union recognition.

Campaign for recognition
In all, three letters were sent to the company requesting recognition but all were rejected. A fourth letter outlining a claim for improvements in pay and conditions was ignored. Consequently the union official referred the case to the Labour Relations Commission

(LRC). On the day of the hearing (June 15th, 2001) the company did not appear or send a representative. The union official requested the LRC not to use the 2001 Act, as he believed it was not appropriate in this case. Nevertheless it recommended that the union pursue a resolution according to the criteria laid down in the Act and appointed an Industrial Relations officer to the case. The Industrial Relations Officer handling the case made it clear that the outcome could not deliver union recognition. However, the IRO recommended the establishment of an in-house committee, elected by the workers to represent their interests to management. These internal procedures, it was suggested, should be given time to work.

Employer's reaction: The employer complied with this recommendation and established a committee. However, the expectation was that employees would elect the committee members. Only one of the committee members was elected, while the other two were management appointees. Furthermore, the company insisted that the subject of wages and conditions or representations on these matters by the committee was excluded. By February 2002, union members in the company were complaining that both the procedures and the committee were ineffective. In March, the union submitted or resubmitted the pay claim.

The union official now called a general meeting of union members in the company. Owing to the high turnover of staff there were some new members but the generality of members were young and with little experience of trade unions or industrial action. The official reviewed progress to date, the failure of the procedures and outlined various possible courses of action. It was decided to conduct a ballot for industrial action. When the shop steward attempted to conduct the ballot on the company premises she was called to the manager's office and suspended. Representation from the union official reduced the suspension to four days. The ballot was now run in the baggage hall at Dublin Airport, but as many workers were frightened to be seen entering the hall this proved unsatisfactory. Eventually the ballot was completed in the SIPTU office at the Airport. The result was 87 per cent in favour of industrial action and the company was notified on the 27th June.

Third Party Intervention again: Both parties were now called back to the Labour Relations Commission. The company argued that they had implemented the previous recommendation and established a committee. The union offered to negotiate with the company immediately but Cargo Handling requested a two-week moratorium on any discussion or negotiation, a request refused by the union as it believed the interim period would be used by the company to intimidate workers, spread anti-union propaganda and undermine solidarity. Subsequent events were to confirm union apprehension. During the two three hour stoppages of 3 and 4 July, workers involved in the action were threatened by the company with the loss of their jobs. In the two-week lull that followed these stoppages, unionised supervisory staff demanded a meeting to call for the withdrawal of industrial action. When a meeting was duly convened arguments were heard for and against industrial action, but on its conclusion a majority voted for its continuance.

A full strike was called for 28 August and in the run up to this date many workers were nervous, probably due to their inexperience, youth and the company's hostility. Nevertheless on the day union members did not attend work, though some simply stayed at home. In all there were 27 workers on the picket line. However the company continued to operate and one of its customers served a number of injunctions on the strikers. The union official and strikers made a partially successful attempt to seek support from workers at other airports and French workers at Paris. In the meantime the company replaced the striking workers with employees from an employment agency and continued to operate. By the end of the year many of the strikers had returned to work and eventually the pickets were withdrawn as there were only 10 members still in receipt of strike pay. Though the strike collapsed these ten members still receive strike pay. Within the company there are still twenty-five union members who continue to pay their membership dues.

Outcomes

Apparently the employer has successfully avoided the granting of union recognition. Despite the efforts of the union and the members, their campaign for recognition failed. Nevertheless, in the immediate

aftermath of the strike, up to approximately 35 per cent of the operatives within the company retained their union membership.

Future: The campaign for union recognition was bitter, protracted and ended in defeat. Nevertheless, there remained a core of workers loyal to the union. It seemed that these might provide a base from which in the future another campaign for union recognition could emerge. However, within a year all members, save one, who had participated in the strike were paid off by the company.

CONCLUSION

Two questions were posed earlier. Firstly, whether the IRAA 2001 is effective in facilitating members seeking union representation and recognition. Secondly, whether the Act provides adequate protection for union activists and members in the recognition and dispute process. The evidence from both case studies provides substantial evidence that the Act is inadequate in both of these areas. In case study 1, the Labour Court issued a recommendation regarding letters of resignation and the establishment of procedures. Yet neither has been acted on by the employer. In case study 2, the employer failed to engage in the Labour Court process. In both cases, it was made clear to the union officials and members that the Court could not adjudicate on the central issue of union recognition. As we have seen, the Court is explicitly precluded from doing so under the Act. However, even if the specific recommendations of the Court had been acted on by the employer, there is no effective mechanism for dealing with future industrial relations issues, except via a return to the cumbersome and lengthy state dispute resolution machinery. This was certainly the situation in case study 2.

In both cases employer hostility and intimidation of union members were features of the organising campaigns. The ineffectiveness of the Court's recommendations and the vulnerability of union activists were major factors in the failure of the organising drive.

Yet how representative are these case studies of the general experience of employees attempting to secure union recognition in the private sector? Given the levels of employer hostility and coercion involved, they might appear as aberrations, radical departures from the norm of managing industrial relations in a democratic polity. In

a survey of Irish trade union officials organising in the private sector over a ten year period, only 2 per cent reported that union recognition had become easier to secure, while 40 per cent felt it had become more difficult and 23 per cent that it had become much more difficult to secure. Indeed in attempting to defeat recognition campaigns, a sizeable proportion of employers used coercive tactics. According to union officials surveyed 48 per cent of employers victimised union activists, 38 per cent threatened plant closure, while a further 22 per cent, acting illegally, sacked union activists (D'Art and Turner, 2005). Thus the case studies in this paper do not appear to be atypical. A number of conclusions can be drawn from these case studies. Where the employer resists a demand for union representation, the codes of practice and the Act appear relatively ineffective in supporting a desire for a collective employee voice. Unions initially supported the legislation in order to stem the decline in Irish private sector unionism. The evidence from these case studies suggests that such an outcome is unlikely. Finally, the decline in private sector unionism cannot be simply ascribed to a fall in employee demand for union representation. Indeed, it can be argued that the demand for union membership in private sector workplaces has not been met.

Subsequent to the completion of the above case studies an amendment to the IRAA 2001 was passed. The purpose of the Industrial Relations (Miscellaneous Provisions) Act 2004 is to enhance the effectiveness of existing procedures. Firstly, by the introduction of a time frame of between 26 and 34 weeks, beyond which a determination must be issued if there is no agreement between the parties. Secondly, the Labour Court no longer reviews a determination and the union involved can apply for its immediate enforcement. Finally, the introduction of an anti-discrimination code designed to protect union activists. While the shortened time frame will be welcome to trade unions and members seeking recognition it is still substantially longer than the estimated twelve week maximum in Britain. Both the case studies in this paper and our more recent work (D'Art and Turner, 2005) clearly demonstrate the vulnerability and victimisation of union activists. Indeed, in the latter work, union officials attempting to organise in the private sector reported that 28 per cent of employers acted illegally and

sacked union activists. It remains to be seen whether employers will be constrained to any great extent by the anti discrimination code. However, it seems unlikely that the 2004 amendment will fundamentally alter employer hostility towards union activists and members outlined in the case studies. Only further research will determine whether, in practice, the 2004 amendment protects union activists and facilitates the legitimate demand by workers for union representation.

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APPENDIX

Disputes over union recognition are referred in the first instance to the Advisory section of the Labour Relations Commission (LRC). Though the primary issue in contention is generally union recognition, this cannot be considered by the LRC as the dispute is processed through the Code of Practice on Voluntary Dispute Resolution (SI 145 of 2000). This Code of Practice is solely designed to settle disputes or claims regarding pay and conditions. The issue of union recognition is outside its scope and cannot be addressed directly. Indeed, the Irish Congress of Trade Unions (ICTU) advises unions seeking recognition to add specific claims relating to pay, conditions of employment or procedures in relation to grievance and disciplinary matters (ICTU, 2001: 3).

When the issues in dispute are not resolved or the employer refuses to cooperate the union may refer the dispute for investigation by the Labour Court under section 2 of the IRAA. However any recommendation by the Court cannot provide for arrangements for

collective bargaining (section 5(2)). Indeed, the Act explicitly excludes any recommendation on collective bargaining. Since the passage of the IRAA, unions seeking recognition under section 20(1) of the Industrial Relations Act, 1969 are now being referred to the Advisory section of the LRC to be processed through the Code of Practice. Yet under the 1969 Act unions could receive an unequivocal recommendation for union recognition. Now under the Code of Practice and the IRRA, this is no longer possible. Thus it can be argued that the IRAA may serve to hinder rather than assist unions in pursuit of recognition.