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**Occupation as resistance:
The case of worker sit-ins in the Irish Republic**

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Abstract

Replicating global trends, the Irish Republic has been mired in a deepening fiscal and economic crisis since 2008. At workplace level there has been a steady increase in cash-strapped firms forced to restructure and/or close operations. Consequently, a number of employers have imposed redundancy, often without negotiation, and based on minimum statutory entitlements. In reply, worker mobilization has increased in both a scale and form not seen in the Irish Republic for some decades. Specifically, small numbers of employees have responded through the deployment of direct action with sit-ins and mass occupations of company premises. This paper outlines the context, form and trajectory of worker occupations as a tactical response to organizational restructuring and financial crisis management using a case study of three Irish occupations in 2009. The analysis will examine the antecedent influences and factors surrounding the phenomenon of worker sit-ins as well as points of comparison and difference in respective cases. Finally, examining disputes where sit-ins have been deployed, the paper seeks to evaluate its capacity for securing workers' concerns in countering the threat of redundancy.

Introduction

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

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

Although the full picture of worker and trade union responses to employer actions remains uncertain, and no comprehensive data sets exist upon which to draw more generalizable conclusions, indicative patterns are evident. Whilst there is evidence of employee passivity and resignation to redundancy, Irish unions have

increasingly challenged employers, not so much on the fact of redundancy itself, but rather on attempting to secure the best possible for members in the form of severance pay and supportive measures. Thus unions have sought recourse to the national Labour Court for recommendations and increases in ex-gratia settlements already offered by employers or some level of enhanced ex-gratia severance payment on top of statutory entitlements (Higgins, 2010). Furthermore, there has been increasing use of strike action (Farrelly, 2010).

Within this context of resistance to redundancy and firm closure, is a noteworthy minority response of an unusual and somewhat dramatic character. This is the use of sit-ins and workplace occupations as an employee tactic to influence employer behaviour on the use of redundancy. This tactic is of long historical vintage, albeit infrequently used. In Ireland there have been several high-profile instances of worker occupations since 2008 occurring in instances where the near total redundancy of the workforce has been proposed by the employer or where the employer has sought to execute redundancy and workplace closure with immediate effect; often with little or no consultation with those affected.

This paper explores the dynamic of worker occupations as have occurred in the Irish Republic in recent years. It asks what are the factors giving rise to such responses and how effective are they in securing workers' objectives. The paper utilizes a detailed case-study of three instances where occupations have been deployed, examining the influences, form and trajectory of such occupations. The paper contributes to re-emerging interest in the phenomena of worker occupation and to knowledge and understanding on why workers might deploy this tactic when face with situations of redundancy and workplace closure (Gall 2010).

The paper begins however by tracing some of the core conceptual considerations for industrial relations scholars around analyzing worker occupations, raising a number of pertinent questions. It then outlines the methodology and case study

settings. Following from this are the main descriptive findings. The paper concludes with further analysis and discussion.

Conceptualizing Occupations

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

Whatever the merits of these respective readings, sit-ins can be more plainly understood as a special form of strike action, of which the implications are no more or less economically ill-founded or revolutionary than conventional strikes. As such, conceptually the phenomena of worker occupations can be considered under the sponsorship of bargaining theory. A prominent aspect of this theoretical genre, at least under zero-sum frameworks, is to view bargaining as a means by which each party can enhance its own interests by inflicting, or threatening to inflict, losses on the other party to the negotiation (Pen, 1959; Cramton and Tracey, 1992). Under the auspices of classic wage negotiations for example, a settlement is likely to be reached at the point where the union considers that the potential gains of declining to accept what is on offer, and pressing for more, fail to offset the estimated costs of strike action. Equally, employers will wish to calculate the point at which agreeing to increased wages is less costly than the

alternative prospect of risking a strike. Bargaining is conducted within a zone whose parameters consist of an upper limit beyond which employers will prefer strike or shutdown than to agree to higher increases and a lower limit below which the union will opt for strike action rather than agreement (Crouch, 1981). A core assumption is that of a continuing relationship between the parties, which invariably allows for the expectancy that a settlement will at some point be secured within the perimeter of the contract zone (Flanders, 1970). What each party needs to consider is how short-run losses compare with the possible longer-run gains of undertaking an attempt at coercion. The expected future gains in turn will depend on each party's assessment of the other side's likely short-run loss and willingness to settle.

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

The threat of a strike for employers consists in the temporary loss of profits on work which would otherwise have been completed. Its enormity will depend on a variety of factors but particularly on the ease with which the product of such work can be sold. Where there is little demand for the company's product or where it

cannot be sold profitably, the threat of strike action tends to become shallow. A sit-in, on the other hand, may represent a more direct form of economic sanction. As Gall (2010: 110) has observed:

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

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

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

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

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

Research Method

The methodology deployed in the paper uses three case studies of worker sit-ins and occupations taken from the Irish Republic. The cases used are Waterford Crystal, Thomas Cook Group and 4-Homes Superstore. Amongst the seven known occupations which have taken place in the Irish Republic since 2007, these three rank amongst the most high-profile. In Waterford Crystal, a workplace occupation occurred from January to March of 2009. In Thomas Cook, an occupation lasted for a week between July and August 2009. In the case of 4-Homes Superstore, an occupation lasted just under two days. In all three cases

the total redundancy, real or highly potential, of all workers and factory closure, rather than partial downsizing of the workforce, was the principal background within which each of the occupations took place.

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

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

4-Home Superstore was a DIY specialist store, selling garden, electrical, paint, lighting and fixtures and fittings. A subsidiary of Reox Holdings, a spin-off company of the large dairy manufacturer, Dairygold, 4-Homes Superstores were based in the South and South Western regions of the Irish Republic. These stores employed 150 employees across 16 sites. Union membership throughout various sites was spread across two unions – the Services Industrial Professional

and Technical Trade Union (SIPTU) and Mandate. As a whole, union density across the company varied; some sites appear to have been close to 100%, whilst in others, union membership equated with around half of those employed. In the immediate years subsequent to the occupation, there had been a number of long-standing disputes within the company over issues of bonus payments, the removal of service pay and work re-organisation.

The empirical data used in this paper is generated through documentary analysis and a reliance on quality media reporting across a broad range of sources. A limitation of the data is undoubtedly the lack of primary evidence collected from participating workers and trade unions themselves, although this drawback has been minimized through access to a wide-range of worker and union perspectives as relayed through various media sources. Whilst the data consequently suffers from the lack of first hand primary research, the widespread utilization of these sources has nonetheless enabled the paper to determine the antecedent influences and subsequent trajectory of attitudes and behaviour.

Findings

Waterford Crystal Occupation

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

The implications for workers at Waterford Crystal were two-fold: not only did they face redundancy, but a very real threat to their company pension scheme. The pension scheme was more than €111 million in deficit and under threat of being wound up should the company not be sold as a going concern. Unlike employees in the company in Britain, Irish workers were not covered by any pension insurance scheme. Without a safety net, workers would inevitably find their pension entitlements reduced¹. Indeed the very existence of the pension deficit made the likelihood of a prospective investor in the company unlikely. Whilst all potential investors indicated a willingness to purchase particular assets of the company, most were taciturn about acquiring the pension fund.

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

Yet before the examiners plans could be executed, UNITE officials 'tipped off' members of this possibility on a Friday evening (January 30th 2009) through mobile text messages. Workers were encouraged by officials to return to the the company's manufacturing site that evening and occupy it. 200 workers turned up

¹ The costs of the winding up process will have first priority from the scheme's assets. The next priority will be those who have made additional voluntary contributions to the scheme, or transferred contributions from another scheme. Those already drawing a pension, or those who have passed pensionable age but whose pension has not yet commenced, are next in line. Current contributors to the scheme, namely existing employees, will be the last to receive any assets from the scheme, which means that, if a scheme is wound up in deficit, they will suffer some losses in their pension entitlements.

at the site, and despite physical confrontations with security staff, proceeded to occupy the company's visitor centre. Despite the initial chaos created by the mobilization, order was soon restored by employees: a rota system was put in place providing for 100 people in the plant at any given time, with groups of workers taking turns in six-hour shifts.

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

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

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

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

UNITE Official²

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

The sit-in, negotiations and the search for an investor continued for 8 weeks. At the end of this period, it became clear that a US investment group would make an offer, which would allow it to purchase the Waterford Crystal name, giving it the right to license out manufacturing to contractors and sell the products under the brand name. As part of the proposal, some sales and administrative staff, as well as those working in the visitors' centre at the site would be maintained in employment. This would retain around 110 full time jobs and up to 66 part-time positions albeit strictly on a provisional basis with their positions to be reviewed after six months. Crucially, from the point of view of the sit-in demands, the investors would not buy the crystal manufacturing plant. Rather the investment group offered an *ex- gratia* payment of €10m to the workers who would lose their jobs, with this to be divided amongst close to 700 workers.

Whilst the offer did not meet employees' initial aspirations, the proposals to end the sit-in was accepted by approximately 90% of the 600 workers and former employees at a mass meeting in Waterford City on March 23rd. With over eight weeks into the sit-in, the strain of the occupation was beginning to affect many workers, who felt that a breakthrough in terms of either saving the manufacturing

² 'Waterford Crystal workers stage sit-in over closure', *The Irish Times*, February 1st, 2009.

facility or their pensions was increasingly unlikely. Reports from that period are indicative of the strain being felt by employees:

People are beginning to feel the strain and the mood is very subdued at the moment because people don't know what's happening.

Worker³

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

Worker⁴

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

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

Worker⁵

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

³ 'Union to meet as workers feel strain at Waterford Crystal sit-in', *Irish Examiner*, March 20th 2009

⁴ Ibid.

⁵ 'Workers left bitter and resentful after calling off action', *The Irish Times*, March 23rd, 2009.

Thomas Cook Group Occupation

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

On Wednesday July 29th 2009, a demonstration was held in Dublin by TSSA members over the decision to close the outlets. Notably the demonstration publicly attacked the Thomas Cook CEO and his claimed net earnings of £7 million [€8.3 million] in 2008. Subsequently on Thursday July 30th, a ballot confirmed that workers would go on strike. A strike notice was issued to the company on Friday morning, July 31st. The crux of the strike action appears to have revolved around questioning the necessity of redundancies at all, given that the company was reporting significant profits⁶. However on midday of Friday, July 31st, senior management arrived from the UK to tell staff that the Dublin stores would close with immediate effect with the loss of over 50 jobs. Management claimed that the closures had been brought forward by over a month because the unofficial industrial action taken earlier in the week had caused disruption to customers. A redundancy offer of 5 weeks per year of service was made.

In response, over 40 workers, including two pregnant women, at the Thomas Cook outlet in Grafton Street Dublin initiated a sit-in protest over not only the management decision to close, but equally the redundancy terms (workers

⁶ 'Save Thomas Cook jobs', *TSSA Petition*, June 30th 2009.

sought an 8-week per year of service payment). According to the TSSA union official:

Management are riding roughshod over the right to take industrial action by marching staff into a room and telling them they are going to close immediately

TSSA Official⁷

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

The High Court will only rule on the legality of our actions. We know we have already won the moral argument against a rich German owned company which is treating its Irish staff like second class citizens.⁸

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

⁷ 'Travel agents stage sit-in over closure', *Irish Independent*, August 1st, 2009.

⁸ TSSA Press Release, August 2nd 2009

sentence and although a fine would be appropriate he considered this an exceptional case and would therefore not impose one.

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

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

There is an offer on the table for an orderly close down of the store and clearly a lock-in cannot be described as an orderly close down of the store. The saddest point of what happened there is that potentially those actions disadvantaged the people themselves. I struggle to see how a union, which is supposed to act in the best interests of its members, can be supporting actions that could potentially seriously disadvantage those very same members.

Thomas Cook UK and Ireland CEO⁹

Subsequent negotiations ensued with the union and management in London, although the union later sought to move negotiations to the Labour Relations Commission, accusing management of company of spinning out the talks to let publicity around the dispute dissipate. However, agreement was reached at the LRC the following week on August 13th. The final deal providing for five weeks' pay per year of service, inclusive of statutory redundancy, as offered by the

⁹ 'Thomas Cook staff demand 'way out of line'', *The Irish Times*, August 11th, 2009.

company. However, it also provided for ex-gratia lump sums of €2,000 to €6,000 per person, depending upon service terms. The company had offered a month's pay on top of its severance formula as a loyalty payment, which would have cost it about €100,000. The total cost for the company of these extra payments agreed instead amounted to about €150,000. The company also agreed to pay the 3.5% under the National Wage Agreement, which was included in the severance package. According to the TSSA:

The deal didn't meet our aspirations but it was a better deal than what was on the table initially.¹⁰

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

4-Homes Superstore Occupation

Less than a week after the Thomas Cook sit-in in Dublin another sit-in occurred at a 4-Homes Superstore outlet in Co. Cork. In the previous 6 months, seven of the company outlets had been closed down and there had been fears that the stores in North Cork and Limerick could also be closed. The owning group, Reox, had announced earlier in 2009 that it was reviewing the performance of each of

¹⁰ 'Thomas Cook workers agree to revised redundancy deal', *The Irish Times*, August 14th, 2009.

its stores in light of the ongoing difficulties in the sector due to the economic downturn. The recession had resulted in significantly less demand for home improvement products.

On Thursday morning of August 13th 2009 management called a meeting with workers at its outlets in Mitchelstown, Fermoy, both in Co. Cork, and in Anacotty, Co. Limerick. At these meetings management informed workers that the Cork stores were to close on Sunday, August 16th, with the Limerick store to close on the following Friday. Forty-jobs were to be lost in Mitchelstown, 8 in Fermoy and 16 in Anacotty. In all three outlets, employees were informed that they would receive a statutory redundancy payment of two week's pay per year of employment, along with notice payments. Simultaneously, employees, most of whom were of long service in the company at an average of 15 years, were handed their RP50 notices of redundancy. In interviews conducted during the dispute, employees claimed that there had been no prior notice given to staff that their employment in the company was in jeopardy. Similarly the Mandate official responsible for the Mitchelstown store claims that threat to jobs was never previously signaled to the workers' union. The veracity of these claims however appears doubtful given local media reports as early as the 4th of August. One employee at the Mitchelstown store claimed:

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

Worker¹¹

Management claimed that the step was unavoidable because:

¹¹ 'Workers continue sit-in at Cork DIY store', *Belfast Telegraph*, 14th August, 2009.

The recession has resulted in significantly lower consumer confidence and reduced discretionary spend, which has impacted hard on the DIY and homewares market. This has resulted in a marked reduction in demand for DIY and home improvement products. With a sustained downturn, and no uplift in consumer spend in sight, the company regrettably has no choice but to close stores which are no longer viable.¹²

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

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

Worker¹³

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

¹² 'Redundancy plan prompts shop sit-in', *The Irish Times*, 14th August, 2009.

¹³ 'Workers agree to call off sit-in protest', *The Irish Times*, August 15th, 2009.

If the company does not deal with our concerns on Monday (17th) we will be referring them to the Labour Relations Commission.¹⁴

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

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

[Employees] have said they will not be moving from their current position without proper discussions with Mandate and they are prepared to hold out for as long as necessary in order to make their position known. This is clearly a situation neither the union nor the workers want protracted any longer than necessary and it was not an easy decision for the workers to make.¹⁵

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

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

¹⁴ 'Workers agree to call off sit-in protest', *The Irish Times*, August 15th, 2009.

¹⁵ 'Staff begin sit-in over job losses', *Irish Examiner*, August 14th, 2009.

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

No progress was made. The company were not willing to budge from their original position of statutory redundancy and no more. Nor were they willing to engage on our request that people might transfer to one of the seven store which Dairygold are considering buying back. We will now be going back to consult with people and then make our decision on what our next step will be.¹⁶

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

5. Discussion

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

¹⁶ 'Talks to end 4-Homes jobs row break down', *Irish Examiner*, August 29th, 2009.

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

In all cases studied, two principal motivating factors were, the unilateral and abrupt nature in which redundancies were proposed and the fact that management were seeking the total redundancy of the workforce and factory closure rather than simply partial layoffs and gradual run-down. The abrupt nature of the redundancy announcement appeared to have two effects. At a behavioural level, the immediate nature of the announcement provided little alternative avenues for workers in terms of consultation over alternatives or opportunities for amelioration. At an attitudinal level, the evidence suggests that it was inevitably perceived as violation of procedural fairness, thus provoking employee counter-response. Again this served to propel action to occupy. Thus in Waterford Crystal, although workers were well aware of the underlying difficulties facing the company and the very real potential for lay-offs at some point in the future, the receiver's intentions to hastily shut down facilities, without timely warning and against a previous guarantee to maintain plant operations, impelled action. A number of unique supporting factors may well have assisted the dynamism of worker responses in the Waterford Crystal case i.e. a strong history of well-supported militant trade unionism, union collectivism and mobilization. The enormity of employee losses as a consequence of the shut-down in terms of the collapse of pension investments undoubtedly aggravated the scenario. Meanwhile in Thomas Cook, senior management informed staff that

the stores would close with immediate effect on the day of the announcement, whilst in 4-Home notice of full store closure just three days was advanced. In the Thomas Cook case, workers had previously displayed an unusually high degree of organisation and assertiveness; two days before the industrial action in Dublin, staff actually travelled to the UK to demonstrate outside the church they believed the company boss attends over the threat to jobs¹⁷.

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

This leads to a major shock when workers are told it's statutory, and that's it. Sit-ins had previously been a 'last resort', only used when liquidators were brought in, and has gained major profile during the Thomas Cook row. That dispute is certainly encouraging others, and there is definitely a fear that sit-ins could gain momentum.¹⁸

¹⁷ 'Thomas Cook staff protest over job loss fears', *Sunday Tribune*, June 28th, 2009

¹⁸ 'Bosses fear more sit-ins in redundancy battles', *Irish Independent*, August 15th, 2009.

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

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