

The Dialectic of Institutional and Extra-institutional Tactics: Explaining the Trajectory of Taiwan's Labor Movement*

MING-SHO HO | NATIONAL TAIWAN UNIVERSITY

This article offers an interpretation of the development of Taiwan's labor movement as an evolving dialogue and conflict between two tendencies. Due to democratization and liberal labor law reform, the usage of institutional tactics in the form of parliamentary lobbying and tripartite participation became the mainstream strategy of the movement over the years. This current, however, was periodically contested by the radical wing, which relied on extra-institutional social movements. This divide reflected an organizational division within Taiwan's working class, that is, the growing gap between unionized workers and marginalized workers (foreign workers, laid-off workers and part-timers). While the contention between two streams might seem irreconcilable, I shall argue there have been possibilities for mutually beneficial cooperation.

Keywords: labor unions, social movements, democratization, Taiwan

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Introduction

Labor activism has been an accompanying phenomenon in the global wave of democratization since the mid-1970s (Adler and Webster 1995; Collier 1999). During the transition away from authoritarianism, workers not only struggled to improve their class situation, but also attempted to obtain political rights. In Brazil (Alexander 2003; Keck 1995; Parker 1994), South Africa (Seidman 1994; von Holdt 2002), and South Korea (Koo 2001), observers have identified a common variety of labor activism. “Social movement unionism” embraced a conception of workers as more than merely union members; as workers, but also community residents and citizens. As such, this activism allied with prodemocracy and other social movements in its promotion of labor’s interest. In contrast to the labor unions in advanced countries, workers’ pursuit of their own class interest aimed for progressive reforms.

Taiwan’s march from one-party authoritarianism to electoral democracy witnessed a similar pattern of labor insurgency, although it was much less discussed in the English-language literature. In her global survey of labor movements in the late twentieth century Moody (1997, p. 218) noted that Taiwan’s pattern shared many features of social movement unionism, but that the government’s control remained stronger. However, while most scholarship focused on the emergence of labor movements in the late 1980s (Chu 2003; Chu 1996, 1998; Ho 2003; Hsiao 1992; Huang 2002; Sen and Koo 1992, p. 63), the development since the 1990s received much less attention. With some exceptions (Chiu 2011; Ho 2006a, 2006b; Lee 2006, 2011), the consequences of labor activism, especially its policy impact, were little analyzed.

This article seeks to fill the lacunae by providing a concise interpretation of Taiwan’s labor movement over the past three decades. A continuum of activism with such a long history certainly deserves monograph-length treatment, but what I attempt here is to identify a particular tension that has structured the dynamic of Taiwan’s labor movement. In order to change their subordinate position, Taiwan’s workers face a tactical choice: they can either use institutionalized avenues, such as parliamentary lobbying and other formalized channels of policy participation; or extra-institutional methods, such as protests and strikes. Over the years, due to democratization and liberal reform of labor laws, Taiwan’s labor movement gravitated toward the institutional course, thus gradually abandoning its earlier radicalism, a course

which ultimately limited its policy influence. However, marginal workers (the laid-off workers, foreign workers, and part-time workers) who felt left out by the mainstream union leaders engaged in extra-institutional activism, which subsequently helped to secure certain policy gains which were not possible via institutionalized channels. In short, there is a dialectic between the institutionalized and the extra-institutional tendencies in Taiwan's labor movement.

Taiwan's case indicates that there is an essential tension between the social movement aspect (the extra-institutional) and the unionism aspect (the institutional). Although the term social movement unionism has inspired labor activists on a global scale, it remains a difficult challenge to actually combine these two tendencies in practice.

The Emergence of the Independent Labor Movement (1984-1989)

Taiwan's labor movement was cast in the crucible of democratic transition. The year 1984 was significant for labor politics in two aspects. First, the Kuomintang (KMT) government decided to improve the legal framework of labor protection because of the strong US criticism of Taiwan's trade surplus. It was thought that raising labor costs would make Taiwan's labor-intensive exports less competitive (Cheng 1985). The legislation of working hours, overtime and retirement payment, represented a considerable gain for Taiwan's working class, even though it was not a result of its own effort. To appease business, the government decided not to enforce the requirement of the Labor Standards Law, so few workers actually enjoyed the benefits. Nevertheless, the gap between the legal promise and the actual condition fuelled the initial round of labor protests after the lifting of martial law in 1987.

Secondly, in the same year, the first postwar labor movement organization, the Taiwan Labor Legal Support Association (TLLSA), was founded. In a similar fashion to the Polish Workers' Defense Committee, the intellectual-led TLLSA was part of the opposition movement, and many of its participants later became prominent politicians in the Democratic Progressive Party (DPP), which was formed in 1986. As the title indicated, the TLLSA activists originally aimed at providing free legal counsel for workers; however, the abrupt explosion of labor protests pushed the TLLSA toward a more proactive role.

The spring of 1988 saw the first lunar New Year after the lifting of martial law, and a spontaneous wave of strikes and work stoppages emerged as many workers clamored for a higher annual bonus. Thereafter workers began to demand the entitlements that the Labor Standards Law had guaranteed, thus initiating the “independent labor movement” wave (*chihchu kongyüing*). The emphasis on being “independent” was to indicate that this nascent labor activism possessed autonomy from the KMT’s sponsored labor unions. Hence the independent labor movement did not embrace political neutrality; in fact an anti-KMT mentality prevailed among leading activists (Ho 2014a, pp. 151-156).

In addition to monetary demands, workers also attempted to organize their own labor unions or wrest the control of the existing unions.¹ Again, this represented another discrepancy between the law and the reality. During the authoritarian era, forming a labor union was declared a workers’ right, but the government was able to stifle all the bottom-up efforts so that most existing labor unions were directed by the KMT party-state and consequently less responsive to the rank-and-file members.

The advent of an independent labor movement represented an unexpected challenge to the KMT government, which had become used to docile labor in the past decades of rapid economic growth. Moreover, the temporal coincidence of labor insurgency with political liberalization meant that this nascent social force became easily “politicized”. Less than one year after the DPP was formed, the Workers’ Party was established in 1987 and then followed by the Labor Party in 1988. Although the latter two parties continued their campaigns until the mid-1990s, the chronic difficulties in winning electoral seats prevented them from contesting the DPP’s hegemony both in the democratic movement and labor movement, at least before 2000 when the DPP became the ruling party.

Labor’s protest represented one stream in Taiwan’s nascent civil society, whose vitality could also be found in many contemporary social movements. However, since the earliest stage of labor protests was concentrated on the workplace level, the labor movement appeared insular when compared to other civil-society sectors – a trend that was reinforced by the geographical decentralization of labor protests (Liu 2011, pp. 25-26). With the exception of

¹ Prior to the revision of the Labor Union Law in 2010, the government recognized only two types of union. Workers in a workplace exceeding 30 employees were allowed to organize “industrial unions” (*chiangyeh konghui*). Workers in smaller workplaces or those self-employed could organize an “occupational union” (*chiyeh konghui*). Since only a few occupational unions sustained activism, I shall limit my survey to industrial unions.

intellectual-led TLLSA and Labor Party, and perhaps a few militant unionists, most independent labor unions were seldom involved in non-labor issues. More often, they received help from other movements rather than the other way around.

In hindsight, the first stage of Taiwan's labor movement could be summarized by the term "struggle according to the law" (*shunfa kangcheng*). The goals might sound modest, but in reality workers had to adopt extra-institutional methods to secure their legally promised rights.

Repression and the Tactical Shift (1989-1992)

The initial response from the KMT was tolerant, as the government hastily set up a ministry-level Council of Labor Affairs (CLA) in 1987 to process the growing labor discontent. However, as business became vocally critical and threatened to put new investment projects on the shelf, the KMT government took a decidedly repressive turn. In May 1989, a strike at Far Eastern Chemical Fiber was crushed as the government deployed anti-riot policemen to intimidate workers and their movement allies (Chao 1996). The defeat not only wiped out one of the most militant labor unions, but also marked the first time that the government prosecuted labor activists, with ten persons later found guilty.

During the premier tenure of Hau Pei-tsun (May 1990-January 1993), curbing the "excessive" labor movement had been a declared official goal. Hau vowed to restore "the lost public authority" with his "public safety cabinet" (*chihan neiko*) and called social movement activists "bullies". In 1991, one labor leader was sentenced to a year and ten months in prison – clearly a disproportionate punishment to demoralize dissident workers. Making use of the repressive atmosphere, business owners fired union leaders en masse. In January 1990, Tatung Company dismissed the union president and at the same time sent a demolition crew to destroy the union offices, claiming that the space would be used for other purposes. Many labor unions were literally destroyed. It was estimated that more than 200 union leaders were dismissed and more than 20 activists were prosecuted from 1989 to 1993 (Chiu 2010, p. 105).

The joint crackdown from officials and capitalists bequeathed an everlasting legacy on the subsequent labor movement. Many militant labor unions, especially in the private sector, which had just obtained their independence a few years ago, were battered into submission and never

regained their vitality. Strikes, as the signature gesture of defiant workers in the late 1980s, virtually disappeared as a method of contention for better working conditions.² In the following years, strikes not only became much rarer, but when it did occur it was more likely as a defensive measure of the last resort.

Finally, the government sought to undermine the legal basis for the post-1987 labor movement by revising labor laws. As Taiwan's workers took action to claim their legal protection, the officials argued that the existing regulations were too "pro-labor" so as to "incite labor activism". In 1990, the government proposed to restrict the legal procedure and scope of strike as well as to make union membership "voluntary". Two years later, another revision of the Labor Standards Law was raised in which overtime, retirement benefit, and working hours were changed in favor of business (Shieh 1997, p. 281).

Facing these regressive attempts to lower labor protection, Taiwan's labor activists scrambled to shift the focus from firm-level struggles to legislative battle, thus turning to what was called the "struggle to revise the law" (*shofa kangcheng*). As early as 1990, labor movement organizations coalesced to promote their own legal revisions. With the emergence of policy issues, the labor movement increasingly relied on parliamentary lobbying, further moving away from the extra-institutional tactics.

Taking the Institutional Route (1993-1999)

The DPP secured more than one-third of the seats in the 1992 Legislative Yuan election and roughly the same share in the 1993 elections for county and city executives, thus consolidating its position in Taiwan's political landscape. The growth of the opposition party helped to enhance the political influence of Taiwan's labor movement and further encouraged it to adopt the institutional route.

In 1993, the first fully elected Legislative Yuan came into being. Seeing that it was highly unlikely to be able to revise labor laws downward, the KMT government withdrew the drafts. In the subsequent years, the Legislative

² In the parlance of Taiwan's labor movement, "strike" (*pakong*) covered a variety of contentious behaviors. Strictly speaking, it should refer to workers' non-provision of labor service in their negotiation with management. But many times Taiwanese activists also use "strike" on occasions when laid-off workers occupied the factory compound to demand their severance and retirement payment.

Yuan became an important battleground for the following policy issues:

The National Health Insurance Premium Ratio

In 1994, as the KMT government sought to prepare a new system of national health insurance, the ratio of premiums paid by employers and employees also went through an adjustment. Previously employers had to pay 80% while the employees paid 20%; the newly proposed ratio was 60% and 40%. During the legislative review of the National Health Insurance Bill, labor movement organizations succeeded in preventing the unfavorable change. The finalized version was 70%/20%/10%, with the additional 10% to be shouldered by the government.

The Extension of the Labor Standards Law

Since its enactment in 1984, the Labor Standards Law only covered blue-collar workers, while the promise to extend coverage to the service sector had long been overdue. The National Federation of Bank Employees Unions spearheaded a campaign for its broader application. In 1996, the KMT failed to redeem its pledge to revise the Labor Standards Law, and bank workers' protests led to the resignation of the CLA chairperson. In the end, a compromise between government and labor was reached. Business was given the right to calculate working hours with more flexibility so that their labor expense could be lowered, while more than two million white-collar workers were newly included under the protection of the Labor Standards Law in 1996-1998.

Privatization and Industrial Democracy

The neo-liberal prescription to reform state-owned enterprises (SOEs) by privatization had become the KMT's policy in the late 1980s, and its implementation had radicalized the SOE labor unions into more militancy to protect their rights. In 1995-1996, the privatization of the Telecommunication Bureau (later Chunghwa Telecom Company) was a heatedly debated issue in the Legislative Yuan. Although the Chunghwa union failed to prevent the KMT's decision, it secured the parliamentary endorsement of "industrial democracy", in which one-fifth of seats on an SOE's board of directors should be reserved for employees. In 2000, this requirement was written into law, thus opening the era of "labor directors" (*laokong tungshih*) in Taiwan's SOEs

(defined as more than 50% of governmental ownership).

Gender Equality

Legislating equal pay for both genders and non-discrimination was being chiefly promoted by feminist movement organizations, rather than the male-dominated labor movement. As early as 1989, a draft of the Gender Equality in Employment Act was sponsored by lawmakers of both parties. The CLA came up with an official version in 1994, which aroused business' resistance against the "overprotection of women". The KMT government then took a step back by pulling it out of the legislative agenda despite protests from the labor movement. The law was finally passed in 2002, then under the auspices of the DPP government.

Reforming Labor Union Law

Taiwan's legal framework for labor unions originated in 1929; at that time the KMT were struggling to contest the communist leadership in China's nascent labor movement. The restriction of "industrial labor union" to workplace level, the prohibition of parallel or multiple unions, and other constraints turned out to be a useful device to keep labor unions under the party-state control. However, as labor unions gained their independence, these restraints became antiquated. Under the pressure of the labor movement, the CLA officials drafted several revisions in response. The KMT government, however, did not support these liberal reforms and labor was not powerful enough to initiate change by itself. The DPP government attempted to promote labor union law reform, but the opposition-controlled legislature was not supportive. Consequently the proposed change was finally adopted in 2010, as the KMT made its comeback to power.

To promote progressive legal change, Taiwan's labor movement had to rely on the DPP's politicians, who however did not consistently adopt a pro-labor stance. The above description indicates labor's political strength in parliamentary lobbying was highly constrained. Workers fought hard to prevent unfavorable change (such as the national health insurance premium ratio), or had to concede in a quid-pro-quo matter for the desired results (as in the case of the extension of labor standards coverage and industrial democracy), and it was impossible for them to bring about legal revisions on their own (gender equality and labor union law, for example).

If legislative battles represented the first institutional tactic of Taiwan's labor movement in the 1990s, the second one was the movement to organize an alternative labor federation. Again this tactic was contingent upon the support from sympathetic DPP politicians.

Under the martial-law regime, the KMT practiced a state-corporatist framework to keep labor unions subservient. All labor unions, industrial or occupational, had to join the city-level or county-level federations, which in turn made up the Chinese Federation of Labor (CFL), the only national federation recognized by the government. Once labor unions became independent, their leaders chafed under the CFL's monopolistic privilege. Independent labor unions had to pay their membership dues, only to find the CFL and its local federations unresponsive to their demands. Moreover, the CFL's representational structure rule favored conservative occupational unions, whose rapid growth was encouraged by the KMT government in order to contain the more militant industrial unions.

In the early 1990s, union leaders found a legal loophole. While all labor unions were required to join the local federations, the law left unspecified whether industrial labor unions could form its own local federations without the participation of occupational unions. Thus a secessionist wave began among Taiwan's independent labor unions. Theoretically as long as they could secure the consent of one-third of the industrial unions within an administrative unit, the local governments had to recognize them as a local federation which came with some official subsidies and the right to participate in policy decisions. In practice, since the CFL was traditionally patronized by the KMT, the alternative federation movement found it difficult to win the endorsement from the KMT local executives.

In 1994, the Taipei County Federation of Industrial Unions won the certification from local government. The success was replicated in Tainan County, Kaohsiung County, Ilan County, Taipei City, Kaohsiung City, Hsinchu County, Miaoli County and Taichung City. Before the regime change in 2000, nine local federations had come into being. It was noteworthy that seven cases were won under the DPP local executives. The only two exceptions were Miaoli County, then governed by a non-partisan magistrate, and Kaohsiung City, where the dense concentration of labor unions in heavy industry made it impossible for the KMT incumbent to ignore their demands.

Taiwan's alternative labor federation movement began as a local initiative, a fact that invites the comparison to other Asian countries since the regional levels used to be an important arena for Korean and Japanese labor

unions. In South Korea, after the 1987 upsurge of labor protests, labor unions set up 11 regional councils to coordinate worker activism beyond the firm level (Koo 2001, pp. 176-177). As early as the 1950s, the leftwing General Council of Trade Unions of Japan's (*Sohyo*) regional labor councils were involved in the unionizing drive to boost labor's organizational basis (Price 1997, p. 149). As a comparison, Taiwan's local federations of industrial unions appeared less involved in organizing and coalition-building with other social movement sectors. There are two reasons to explain the less proactive role of Taiwan's counterparts. First, their existence depended upon the recognition of local governments, which also provided subsidy or offices;³ hence their militancy was constrained to a certain degree. Secondly, at least before 2000, organizing and movement-related activities were mainly carried out by labor NGOs, such as the TLF, which also helped to coordinated activities among labor unions.

From the very beginning, the KMT government has opposed the alternative federation movement. The CLA had issued several interpretations that denied the legality of local federations outside the CFL framework.⁴ Since recognizing a local federation fell into the jurisdiction of county and city governments, friendly DPP politicians were critical leverage to overcome the KMT's opposition. It needs to be emphasized that the DPP's support for the alternative federation movement did not necessarily stem from its commitment to the labor cause. Since the CFL and its local federations functioned as the KMT's machines to mobilize labor votes, backing its rivals was politically rewarding.

In 1998 these new local federations coalesced into a campaign to legalize the Taiwan Confederation of Trade Unions (TCTU) as their national federation.⁵ Before being voted out of office in 2000, the KMT tried hard to protect the CFL's privilege; the TCTU was later recognized after the DPP came into power.

Whether it was from national legislature or local government, Lee (2011, p. 146) correctly observed that Taiwan's labor movement's alliance with the

³ For a glance on the local government's facilitation as of the mid-1990s, see *Laotungche* [Laborers], 95(April 1998), pp. 6-8.

⁴ *Laotungche*, 83(July 1996), pp. 10-11.

⁵ To be sure, TCTU's English name does not really reflect its original emphasis on industrial unionism. A more literal translation would be "National Confederation of Industrial Unions". The current title was adopted as an imitation, or a salutation, to the Korean KCTU (established in 1995) since the militancy among Korean workers was often viewed as a model among Taiwan's labor activists.

DPP “chose an efficient method to compensate for their organizational weakness” and was able to secure “access to institutional politics through their partisan friends”.⁶

Institutionalizing via Tripartism (2000 - Now)

The year 2000 witnessed the first democratic power transfer and the end of the KMT's 55 years of rule. The unprecedented political change also had a direct impact upon Taiwan's labor movement. Previously, movement organizations staffed by intellectuals, such as the Taiwan Labor Front (TLF), the successor to Taiwan Labor Legal Support Association, led the labor movement by training union leaders and providing policy suggestions. Now, with the TCTU's legalization, union leaders began to assume a more prominent role. As a national federation, the TCTU possessed a membership, resources, legitimacy and official channels that were denied to movement organizations. A union leader claimed that the TCTU signified labor unions' “independence” from movement organizations (Chang 2011, p. 46). Therefore the TCTU represented the institutional tactic after 2000.

Taiwan's labor policy decision had been tripartite in design. The CLA, the top labor administration unit, was collegial in structure with representatives from government, business and labor. And so were a plethora of CLA's affiliated commissions on minimum wages, labor insurance, labor pension, labor standards, industrial disputes, and so on. The TCTU's legal status meant that its representatives were entitled to take part in these tripartite decision-making channels. In these meetings, it was often the case the TCTU played the most aggressive role in pressuring the officials. As one of the CLA staff observed, many national federations including the CFL simply did not have suggestions on policy, while the heated debates between the CLA chairperson and TCTU delegates were frequent occurrences.⁷

The CLA and its commissions were mostly concerned with routine

⁶ The comparative study by Lee (2011) was a laudable attempt to solve the puzzle of divergent labor politics in South Korea and Taiwan. While I fully agreed with her identification of Taiwanese labor's “political route” as a salient feature, her claim that “ethnic injustice” helped to cement the alliance of labor and DPP was less satisfactory. First, DPP's support for labor was conditional, limited and oftentimes contentious within the labor movement activists. Secondly, labor activists' anti-KMT mentality (and hence more accommodating attitude toward DDP) did not come from “ethnic injustice” alone, but also from their experience of KMT's party-state domination within the factory.

⁷ Interview with Lin Thung-hong, TCTU's communication director (2000-2004) on January 31, 2004 and Chang Feng-i, CLA staff (2007-2008) on December 17, 2013.

administration. For decision-making on major economic programs, the DPP government also opened another channel for organized labor. Previously the KMT invited “businesspersons, officials and scholars” (*ch’an kuan hsüeh*) to deliberate on policy issues. In the National Economic Development Advisory Conference in 2001 and the National Sustainable Economic Growth Conference in 2006, the TCTU played a critical role in placing labor’s demands on the official agenda. On both occasions, the TCTU’s participation was quite substantial from the very beginning. During the conferences, the TCTU representatives worked closely with outside protestors to exert pressure on conservative business and bureaucrats.

Did tripartism enhance labor’s political influence? To a certain extent, the answer is a qualified affirmative. By being able to participate in the earlier stage of policy formulation, labor could directly negotiate with bureaucrats. It represented progress from the parliamentary lobbying of the 1990s when labor was involved only after the draft was under legislative review. The passage of the Protection for Workers Incurring Occupational Accidents Act (2001), the Gender Equality in Employment Act (2002), the Employment Insurance Law (2002), the Protective Act for Mass Redundancy of Employees (2003), and the Labor Pension Act (2004) as well as the revision of the Act for Settlement of Labor-Management Disputes (2009) and the Labor Union Law (2010) were characterized by intensive participation of the TCTU, although the finalized versions often fell short of the labor’s expectations.

However, tripartism also constrained labor. There were always some give and take in negotiating with officials and business. For example, during the 2001 Economic Development Advisory Conference, in order to secure the issues of occupational accident protection and laid-off workers’ rights on the common agenda, the TCTU delegates consented to two minor concessions to business. First, it was agreed that the formula for calculation of foreign workers’ wages would be modified. Second, labor market measures for flexibility, such as legalizing night shifts for female workers and calculating working hours with different methods, were also accepted. Even within the TCTU there was criticism of the compromises on foreign workers and female workers.⁸

There was an inherent limit on the degree of labor’s policy participation. Most of the tripartite mechanisms dealt with the narrowly defined “labor” issues; nevertheless, when it came to major policy changes that had a far-reaching bearing upon Taiwan’s working class, such as the DPP government’s

⁸ *Chuanchantsung konghsün* [The TCTU Newsletter], 2 (November 2001), p. 13.

neo-liberal turn in privatizing SOEs, deregulating financial industry and lowering business tax and inheritance tax, there was simply no institutional design to accommodate labor, and neither was the TCTU strong enough to challenge the already-made decision. In a sense, tripartism entrapped Taiwan's labor movement in the arena of technically defined "labor policy", thus depriving it of a potentially larger role in determining the nation's political economy.

Even in the restricted area of labor policy, the conclusions reached by the tripartite bodies were tentative and sometimes not binding for the officials. A TCTU veteran reported the frustrating experience of struggling to prevent the business proposal to do away with minimum wage regulation from being accepted in the 2001 and 2006 national conferences, only to find similar suggestions raised by pro-business officials in other policy-making bodies.⁹

Finally, even though the TCTU was the only national federation that claimed its lineage to the independent labor movement in the late 1980s, it still had to compete with other federations for the seats in the CLA's commissions. Technically the TCTU was only one of the ten national federations that the government recognized so the CLA had a wide-range of discretion in nominating the labor representatives.¹⁰ CLA officials could always refuse to grant seats to the TCTU under the pretext of "balance". Although the TCTU president has been on the board of the CLA (the so-called "major committee") since 2000, the CLA declined to stipulate automatic nomination into its constitutional rule – obviously an attempt to use the appointment power to lure the TCTU into more cooperative behavior. Consequently, when the KMT came back to power in 2008, the TCTU's involvement was considerably narrowed, as the pro-KMT CFL and other national federations were more likely to be favored. Starting in 2012, the CLA did not invite the TCTU president to take part in its "major committee."¹¹ More evidence of the TCTU's insecure partner status was its absence from the national meeting on major economic policies once the KMT returned to power. At the National Industry Development Conference held in 2011, no labor representatives, either from the TCTU or the CFL,

⁹ Interview with Pai Cheng-hsien, TCTU director (2000-2003), December 17, 2013.

¹⁰ Immediately after the TCTU was recognized in 2000, there was a mass exodus in the CFL as many union leaders wanted to obtain the national status. Outside the TCTU and CFL, the other eight national federations were largely the result of recombinations of CFL membership unions with extensive overlapping. It seemed many of them were not properly functioning. A google search on November 26, 2013 shows that only TCTU and CFL maintain periodically updated official websites.

¹¹ Interview with Huang Chi-ling, TCTU vice-general secretary, November 28, 2013.

were invited. As expected, business delegates took the opportunity to raise demands for more flexibility in labor laws.¹²

To sum up, tripartite decision-making since 2000 provided a quasi-“insider status” for the TCTU. Formally speaking, the design seemed to incorporate organized labor into a policy partner with an equal footing vis-à-vis business, which represented the zenith of the institutional tactic that became the mainstream choice of Taiwan’s labor movement since the early 1990s. Nevertheless, formal right to participate did not easily translate into substantial power. The TCTU could only obtain limited and partial gains for labor, and remained essentially powerless to prevent the DPP and KMT’s pro-business turn.

The Institutional Tactic and Its Discontent

As said above, Taiwan’s labor movement made a tactical choice in the critical period of 1989-1992. Since then the institutional tactic of lobbying and negotiation has been the mainstream choice. Although the institutional tactic was in the beginning premised upon the political support of DPP politicians, the TCTU’s legalization had made tripartism more or less a permanent feature of labor policy decision-making. Granted that the conservative KMT’s return to power after 2008 meant a less friendly environment for the TCTU, but it was no longer possible to restore the repressive status quo ante when independent labor unions were completely excluded.

Nevertheless, in the more than two decades of the institutional course, there have been criticisms of this tactical choice and even the TCTU leadership was fully aware of the limited progress they have achieved. One of the consequences of the institutional tactic was the changed relationship between labor movement organizations and labor unions. Prior to the institutional turn, TLLSA/TLF intellectuals were like mentors to dissent workers because of their legal knowledge; with the success of alternative federation movements first locally and then nationally, labor union leaders not only became more self-reliant, but also possessed more political legitimacy and resources. In a sense there was a concomitant transition from an NGO-led labor movement to a union-led one. In Taiwan’s context, labor movement organizations, such as TLF, the Labor Human Rights Association (established in 1988) and the Workers’ Legislative Action Committee

¹² *Laotungche*, 173 (October 1996), p. 4.

(established in 1992), were essentially advocacy groups that were motivated by shared ideals rather than bounded by constituencies. Labor unions, on the other hand, were membership-based and their leadership was directly responsible for the rank-and-file interests. One of the consequences of weakened linkage to NGO intellectuals was that union leaders became more isolated from broader civil-society organizations.

The TLLSA, the pioneer labor movement organization founded in 1984, began as a wing of Taiwan's democratic movement at the time when an opposition party was outlawed by the martial-law regime. Quite similar to the Polish Workers Defense Committee, it was led by pro-labor intellectuals and its initial task was limited to free legal counsel (Ost 1990, p. 70). Thus, when the DPP was established in 1986, some intellectuals opted to walk out of the TLLSA both for personal and ideological reasons. In 1992, the TLLSA was reorganized into the TLF, which continued to maintain the pro-DPP identity in contradiction to other labor NGOs. Throughout the 1990s, there was intense rivalry among different NGOs over the allegiance of labor unions as well as policy proposals. Chuang's (2013, p. 48-56) ethnographic account described the lively scene of TLF activists at this period. However, with the TCTU's legalization, labor NGOs' leading role was overshadowed by union leaders.

In the late-1980s, the nascent labor movement has attracted many ex-student movement activists; however, an established national federation such as TCTU hardly inspired idealistic participation. As is being pointed out in the literature, coalition-building was an integral feature of social movement unionism globally (Frege, Heery and Turner 2004). Since obtaining the official recognition in 2000, it was rare for TCTU leaders to step out of their jurisdiction, partly an inevitable consequence of its intense schedule in policy-making channels. The declining willingness to engage non-labor issues on the part of Taiwan's union leaders nevertheless represented significant erosion in their social movement identity.

Moreover, the ascendancy of union leaders over movement activists necessarily brought about a more inward-looking labor movement that paid more attention to the unionized workers at the expense of nonunionized ones. This bias was exacerbated when union membership was declining or concentrated among particular sectors of workers.

As seen in Table 1, Taiwan's labor organizational strength peaked in the early 1990s; afterwards a secular decline both in number of unions and individual members set in. Although the end of the martial-law regime in 1987 provided a more favorable environment for union organizing, the

TABLE 1
TAIWAN'S INDUSTRIAL LABOR UNIONS (1987-2011)

	Industrial Unions	Individual Members	Union Density (%)
1987	1,160	703,526	n/a
1990	1,354	699,372	31.3
1993	1,271	651,086	28.5
1996	1,190	587,559	23.6
1999	1,175	613,963	22.5
2002	1,112	562,234	20.3
2005	1,034	619,067	19.7
2007	982	573,161	17.4
2011	889	529,685	7

SOURCE.—CLA's labor statistics, <http://statdb.cla.gov.tw/statis/jspProxy.aspx?sys=210&kind=21&type=1&funid=q050112&rdm=BIlkKpi9>, (accessed November 24, 2013). Author's arrangement.

NOTE.—Beginning in 2011, a new category “enterprise unions” (*ch'i'ieh konghui*) became the legal term for “industrial unions”, while the latter was redefined as the combination of workers in the same industry, regardless of whether they were employed in the same company or not. After the legal change, there was substantial overlapping between these two categories of unions in official statistics. For the sake of brevity and clarity, I use the former classification system in this paper and choose 2011 as the terminus in above presentation.

political stimulus proved brief and vulnerable to the subsequent economic restructuring. Rising labor costs resulted in the relocation of manufacturing facilities to Southeast Asia and China. In the early 1990s, Taiwan had entered the post-industrial age, since the tertiary sector's share in terms of GDP and employment surpassed that of the secondary sector (Lin 2009, p. 113). While the traditional union strongholds in heavy industries and transportation continued to shrink, unionizing the growing sectors such as service and high-tech industries remained a challenging task; and this double squeeze brought about the absolute and relative decline of union members. Even the political success of the federation movement both locally and nationally was unable to stem the chronic hemorrhage. With the union density rate sunk to 7% in 2011, it was not entirely unfair to say that union membership had become an exclusive privilege of the better-off working class in Taiwan. The organizational weakness could be seen in the underdeveloped nature of collective bargaining on the company level. As of 2011, there were only 98 collective agreements nation-wide,¹³ which meant Taiwan's labor unions were

¹³ CLA's labor statistics, <http://goo.gl/99XMzG> (accessed March 4, 2014).

becoming not only fewer, but also more ineffective at championing members' rights.

Furthermore, the TCTU struggled to maintain the allegiance of the dwindling industrial union workers. In the founding year of 2000, the TCTU claimed to possess 280,000 individual members,¹⁴ but the number was reduced to 220,000 at the end of 2013.¹⁵ There were two reasons for the shrinking organizational basis. First, as in the case of US unionism (Zeitlin and Stepan-Norris 1992, pp. 257-259), the insurgent origins of the TCTU made it particularly prone to factionalism. Out of clashes over partisan identity or even relatively minor personal issues, many constituent labor unions had opted to exit. Secondly, as will be more fully analyzed in the next section, dissatisfaction over the institutional tactic led to a secessionist movement in 2007. The TCTU's organizational vulnerability also came from its over-reliance on SOE unions. As discussed above, the 1989-1992 repression had decimated militant labor unions in the private sector. Even during its preparatory stage, many private union leaders harbored fear that the more resourceful SOE unions might have dominated the TCTU (Chang 2011, p. 41). The worry turned out to be true. In 2000-2013, all of its five presidents hailed from SOEs. The bias was so obvious that the TCTU was sometimes ridiculed as a privileged club of SOE or ex-SOE unions. A TCTU officer acknowledged the lack of mutual understanding between public and private workers since the latter were more often involved with industrial disputes, which seemed an alien experience to public sector workers who enjoyed enviable job security.¹⁶

With the consolidation of institutional tactics in the role of the TCTU, Taiwan's labor movement was proceeding on increasingly narrow foundations. True, many policy gains obtained by the TCTU were to be applied across-the-board to all working-class members; neither did the TCTU shirk from showing solidarity with labor and other protests occasionally. Yet, it was still difficult to avoid the stereotypical impression that the TCTU prioritized the rights of SOE workers over more disadvantaged ones. My calculation of the TCTU's protest activities from May 2000 to May 2013, ranging from routine press conferences to large-scale demonstrations, lends creditability to this suspicion. Among the 209 sponsored or cosponsored events, 71 were exclusively related to SOE or ex-SOE workers,

¹⁴ *Chuanchantsung konghsün*, 1 (January 2001), p. 3.

¹⁵ Interview with Huang Chi-ling.

¹⁶ *Chuanchantsung konghsün*, 34 (March 2010), p. 24.

with anti-privatization struggle taking up the lion's share.¹⁷

Moreover there was persistent criticism that the TCTU's preference for "negotiation and lobbying over confrontation" constituted a corrupt deviation from the moral mission of Taiwan's independent labor movement since the late 1980s (Chen 2006). The crisis in organization as well as in legitimacy led to the recurrent comeback of the extra-institutional tactic.

The Return of the Extra-Institutional Tactic

The institutional tactic was premised upon the labor unions as its organizational basis, and hence it was inevitable that non-union workers' discontent was expressed in nonconventional avenues. Even before the TCTU's legalization, laid-off workers had been engaged in a series of disruptive protests to publicize their plight. Prior to the labor pension reform in 2004, a Taiwanese citizen had to work continuously for a single employer for 25 years in order to be eligible for the retirement benefit. Such stringent requirements practically deprived many workers livelihood support simply because many employers chose to dismiss senior workers rather than paying the retirement fee. The plant closure wave in the 1990s due to massive capital flight worsened this problem into an acute crisis as the number of workers without retirement benefit suddenly surged. In addition, in the attempt to relocate capital to the overseas production site, many employers often shut down the factories unannounced so that workers literally woke up to find themselves dismissed with their severance pay, retirement benefit, or several months of wage in arrears. These workers tended to be concentrated in labor-intensive industries, such as textiles and garments, which were not unionized before the sudden dismissal.

In order to collect their legal share, these laid-off workers had to use highly disruptive tactics. For example, they often forcefully occupied the abandoned factories to resist transfer of land ownership, machinery and products since these might be their former employers' only tangible assets that could be seized to compensate their losses. In one case, workers used Molotov cocktails to ward off a land transaction. Moreover, not knowing the whereabouts of their former employers, these workers could not confront them in person but had to escalate their challenge to public order to pressure

¹⁷ The information on TCTU activities is based on its website, <http://goo.gl/R57d7C> (accessed December 12, 2013).

officials into action. In 1996-1998, laid-off workers dramatized their plight by interrupting railroad, highway, airport and bus transportation networks. Tseng Mao-hsin, the leader of these explosive protests, went to prison in 2000 and was then pardoned by President Chen Shui-bian three months later (Ho 2008). In hindsight, these daring acts of resistance helped to institutionalize employment insurance, protective measures against massive layoffs and a new labor pension system.

Foreign workers, first legalized in 1989, constituted another a group of marginalized workers. As of 2013, there were nearly 490,000 foreign workers currently employed in Taiwan, just a bit less than the native workers who were in industrial labor unions. Theoretically, foreign workers could join an existing labor union, or even become an initiator of a new union following the 2010 revision of labor union law; however, their disadvantaged situation, not to say discrimination on the part of native workers and their union leaders, made it nearly impossible to use labor unions as a vehicle to protect their interests.

Because of their particular status, activism that championed foreign workers' rights oftentimes proceeded either in a "surrogate movement" led by native activists or direct action by foreign workers themselves. In 1999 the Taiwan International Workers Association (TIWA) was organized by veteran labor activists. TIWA had played an instrumental role in enhancing the public awareness of the existence of quasi-slavery in contemporary Taiwan, and more recently it has spearheaded the campaign to legislate household service work (Ku 2009). In August 2005 more than 100 Thai construction workers of a Kaohsiung metro project erupted into a 17-hour riot in defiance against security guards and policemen. That incident revealed the extent of the little known inhumane treatment as well as the involvement of some DPP high-ranking officials.

Part-time jobs were often taken by students, housewives, and the unemployed, for whom unionization was practically out of question. Their hourly rate was often based on the official minimum wage, which, however, was frozen at 15,840 NTD (or 528 USD) per month, or 65 NTD (2.2 USD) per hour from 1997 and 2007. How could the 10-year stagnation of minimum wage be explained when commodity prices especially housing costs were soaring? Moreover, the recent economic restructuring gave rise to the growth of "irregular workers", who were more likely to receive the minimum wage. As of 2010, the official statistics revealed that part-time workers, temporary workers and dispatch workers constituted 8.8 % of the nation's workforce (Hsiao 2013, p. 378). A TCTU unionist argued that the

proliferation of low-wage work was not an acute issue in the early 2000s so that raising the minimum wage had not been its primary concern. Nevertheless, this defense was not entirely convincing. A more probable reason was that minimum wage workers (part-timers and foreign workers) were rarely TCTU constituencies so their troubles were less taken care of.

In 2005, a group of student activists established a Youth Labor 95 Union to demand the rise of hourly wage to 95 NTD (302 USD). Although its English title might sound like a conventional labor union, these activists did not attempt to organize part-timers. Instead, they used a variety of highly dramatized protests to raise public awareness of low-wage workers' hardships. To avoid the backlash from small-and-medium employers, they deliberately targeted big companies. For example, a protest at a MacDonald's restaurant highlighted the fact that an hour's work could not get you a Big Mac hamburger (Chen 2007, pp. 166-167). In response, the CLA announced the rise of minimum wage in 2007 to 17,280 NTD (576 USD) per month, or 95 NTD per hour, a hefty 9.1% growth. The then CLA chairperson personally acknowledged that the raise was made possible by Youth Labor 95 Union's innovative activism.¹⁸

Activism by laid-off workers, foreign workers and part-timers did not proceed on the conventional track of unionism. Both TIWA and Youth Labor 95 are issue advocacy groups that employ the social-movement strategy instead of organizing and servicing a particular category of workers. In some ways, the return of the extra-institutional tactic paralleled the recent development in the US labor movement in which new activism avoided the conventional union certification campaign altogether (Fantasia and Voss 2004, pp. 128-129; Milkman and Wong 2001, pp. 102-103).

More recently, especially after the labor union law reform in 2010, there have been new attempts to organize those workers who were previously deprived of union right (such as schoolteachers) or who faced persistent difficulties to organize on a workplace basis. National unions for social workers,¹⁹ childcare workers,²⁰ nurses,²¹ and high-tech workers²² have been formed. Nevertheless, their membership remained undeveloped and they were rarely in a position to conduct collective bargaining with the employers.

¹⁸ *Chuanchantsung konghsün*, 27 (January 2008), p. 15.

¹⁹ *Laotungche*, 147 (June 2008), p. 46.

²⁰ *Laotungche*, 154 (January 2010), pp. 50-54.

²¹ *Laotungche*, 165 (May 2012), pp. 8-11.

²² *Chuanchantsung konghsün*, 48 (November 2013), pp. 6-15.

Hence they resembled social movement organizations for specific professionals, rather than bona-fide labor unions. It came as no surprise that these workers' issues remained peripheral to the TCTU leadership. Here, Taiwan was similar to the cases of Japan and South Korea, where social movement activism "developed 'at the margin' of the labor movement" (Suzuki 2012, pp. 20, 26).

Was labor union's insider status necessarily incompatible with social movement tactics? Was an established national federation inevitably tied to the interest of existing members so that it could not afford to spend resources on actions based on broader solidarity? Granted that institutional and extra-institutional tactics were competing, if not contradictory, and the emergence of the latter amounted to explicit criticism of the formers' failures, however past experience demonstrated that it was still possible to have mutually productive cooperation. In the early 2000s, the confrontational defiance of laid-off workers persuaded the TCTU leadership to prioritize the issues of massive dismissals. As said above, legislation of employment insurance (2002) and protective measures for mass redundancy reduction (2003) were the achievements in the TCTU's initial years. In 2001, the TCTU and its affiliated unions also devoted considerable resources to support Tseng Mao-hsin's electoral campaign for legislator.²³ Concerning the minimum wage, the success in 2007 galvanized the TCTU into aggressive bargaining with the government. Since 2008, the TCTU has mobilized its constituencies for the annual negotiation. As said above, the decimation of Taiwan's labor unions hindered the development of collective bargaining on the company level. Hence the TCU's more proactive participation in the annual struggle for a higher minimum wage since 2008 represented the only equivalent for a national-level collective bargaining.

However, there was persistent criticism that the TCTU remained too moderate. Within the TCTU, the debate over the tactical choice was often mixed with factional rivalry, partisan identity, and sometimes simply personal enmity. In 2007, there emerged a walk-out wave as dissident member unions withdrew from the TCTU and formed the Solidarity (*t'uanchieh konglien*). The Solidarity was composed of local federations of Taipei City, Hsinchu County, Tainan County, and Kaohsiung County, which were originally founding members of TCTU, as well as the Taoyuan County Federation of Industrial Unions, which was formed in 2005 but decided not to join the TCTU. Since most private sector unions were concentrated in the

²³ *Chuanchantsung konghsin*, 2 (January 2011), pp. 1-9.

TCTU's local branches, their departure represented no less than a split between private and SOE unions, as the latter further consolidated their leadership in the TCTU even though it brought about irremediable damage to its claim to represent all of Taiwan's industrial workers.

The Solidarity began as a secessionist movement that criticized the TCTU's dependency on the policy channels granted by the DPP government. To maintain its social movement characteristics, Solidarity activists decided not to institutionalize its governing structure and hence there were no permanent secretariat officers or leadership. Neither did the Solidarity attempt to obtain official recognition as a national federation in order not to repeat the TCTU's fate.²⁴ In 2008 and 2009, the Solidarity focused on the legislation of old-age benefits of labor insurance, which the TCTU was not particularly concerned with initially. In the end, the Solidarity's aggressive campaign brought about a more favorable revision for the workers covered by labor insurance.²⁵ There were issues in which the Solidarity and the TCTU shared basically the same outlook; however, they differed in the methods. For example, to protest the official versions of the labor union law revision, the TCTU tried to negotiate with CLF officials, but in December 2009, Solidarity launched an unruly protest at the KMT party headquarters, in which animal feces were thrown and five participants were arrested (Chang 2011, p. 121).

More recently, the movement of laid-off workers made a comeback. Starting in 2012, Solidarity activists had led them in a series of disruptive protests, such as train-stopping, egg-throwing, and shoe attacks against high-ranking politicians. In November 2013, two Solidarity activists were sent to prison.²⁶ The return of these disorderly repertoires of contention was reminiscent of the late-1990s. Yet there existed a crucial difference. As student movements have made a comeback after the KMT came to power in 2008 (Ho 2014b), a significant contingent of the student protestors have joined the Solidarity-led protests. It remained to be seen whether the infusion of new generation of activists might help to revitalize Taiwan's labor movement, as happened in the US (Ganz et al. 2004; Isaac and Christiansen

²⁴ Interview with Chu Chuan-ping, Chunghwa Telecom Workers' Union President, January 6, 2014.

²⁵ Interview with Tu Kung-yü, Taoyuan County Federation of Industrial Unions Secretary (2005-2010), December 6, 2013. To be sure, this campaign was without dispute within Taiwan's labor movement. The TLF activists were reserved about the aggressive raise in the old-age benefit of labor insurance because it would have squeezed the viability of another social insurance, the national pension. See *Laotungche*, 149 (June 2008), pp. 3-4.

²⁶ *Laotungche*, 174 (December 2013), pp. 48-49.

2002]; Voss and Sherman 2000).

Finally, let's take a look at the post-schism TCTU. The rise of Solidarity might represent a competing model to the TCTU's institutional course, but over the years it seems to stimulate a similar response from the latter. With the comeback of KMT conservatives in 2008, the TCTU found it increasingly difficult to exert political influence within officially granted channels, which encouraged it to take more assertive action. During the DPP incumbency, the TCTU only mobilized two May Day demonstrations (2001 and 2005). Once Ma Ying-jeou became President, the TCTU revived this annual protest from 2009. With the exception of 2012, the TCTU's May Day protest's participants ranged from 6,000 to 250,000. Moreover, despite the fundamental difference concerning the strategy of labor movement, the TCTU and Solidarity had cosponsored 16 protest events from April 2009 to May 2013²⁷ – more evidence of their convergence.

Conclusion

Reflecting the practical debate over strategy among social movement activists, scholars have been concerned with the question of strategic choice from very early on. Researchers following the resource mobilization theory usually favored those well-organized and resource-rich movements as they stood a better chance of winning. Gamson (1975, pp. 38-54), for instance, argued for what he called the “strategy of small-thinking” because a smaller ambition made it easier to be realized. On the other hand, there were scholars who challenged this pragmatism. Piven and Cloward (1977), for example, insisted that mass defiance created through disruptive protests by the grassroots was often the only way to force ruling elites to make concessions.

Similarly the trajectory of Taiwan's labor movement was propelled by two contending forces over the past three decades. Pragmatic lobbying and negotiation became a tactical option for labor activists because democratization had brought about a functioning national legislature more or less responsive to public opinion, an opposition party whose climb to national power needed social movement allies, and finally the tripartite decision-making structure which allowed labor's demands to be heard. All these institutional

²⁷ Information about the TCTU's activities come from its website <http://goo.gl/V39Pi0> (accessed December 12, 2013), while the data on Solidarity is provided by Chunghwa Telecom Workers' Union.

opportunities would not have been possible without the lifting of martial law in 1987 or the regime change in 2000. In this sense, Taiwan's working class was also the beneficiary of the democratization they had contributed so much to. Yet, even for the staunch supporters of institutional tactics, it was nearly impossible to be self-congratulatory since labor's policy gains were often below expectations. Moreover, as the labor movement became more accustomed to the institutionalized role, many workers were left out. The angry protests by laid-off workers, foreign workers and part-timers buzzed like a gadfly at the mainstream labor leaders who seemed to be settled in the role of a junior partner to a democratic regime.

Taiwan's experience shows that the social movement aspect and the unionism aspect struggled to cohabit under the common roof of the labor movement. These two wings were alternately conflicting and cooperating, which reflected ideological and organizational differences among Taiwan's working class. While this article is mainly devoted to analyzing past developments, it remains to be seen whether the dialectic between the institutional and the extra-institutional can revitalize Taiwan's labor movement in the years to come.

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MING-SHO HO is professor of Department of Sociology, National Taiwan University. He studies social movements, labor and the environmental issues. He recently published *Working Class Formation in Taiwan* (2014, Palgrave Macmillan). Address: No.1, Sec. 4, Roosevelt Road, Da-an District, Taipei City 10617, Taiwan. [E-mail: mingshoho@gmail.com]

