

## **Campaigning for Global Corporative Compliance with Core Labor Rights – The Case of Industrial Conflict at Toyota’s Philippine Company**

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Peter Wad, Charles T. Tackney

Copenhagen Business School (both authors)  
Dept. of Intercultural Communication and Management,  
Porcelaenshaven 18A,  
DK-2000 Frederiksberg,  
Denmark  
Email: [pw.ikl@cbs.dk](mailto:pw.ikl@cbs.dk), Tel.: +45-3815-3327.  
Email: [ct.ikl@cbs.dk](mailto:ct.ikl@cbs.dk), Tel.: +45-3815-3188.

## ABSTRACT

In 2001, Toyota Motor Philippines Corporation (TMPC) dismissed 227 and suspended 64 union officers and members of the Toyota Motor Philippine Corporation Workers Association (TMPWCA) due to actions they had taken to pressure TMPC to initiate collective bargaining with their trade union. Although the Philippine Supreme Court and the ILO, in 2003, demanded that TMPC reinstate the dismissed workers, recognize the union and start collective bargaining, no remediation by Toyota took place. Despite ongoing local, national and international campaigns, including support from the International Metalworkers Federation (IMF), Toyota has resisted all pressure. Instead, Toyota succeeded in nursing along the establishment of an alternative union in the company and concluded a collective agreement with this union. TMPCWA has now filed a law suit to the Court of Appeal against the TMPC, the TMPCLO and the authorities, and again asked the court to reconsider its first verdict that went against the independent union.

This analysis explores how and why the independent trade union, TMPCWA, failed to gain management recognition to organize and collectively bargain at the TMPC in the Philippines. The insights from this study are contributions that intend to rectify the bias in management and industrial relations literature that inclines toward prerogatives of multinational corporations, international production systems and global value chains - while downgrading the issue of labor agency (Risgaard & Hammer 2008). Toyota has been extensively studied, most recently for its Asian operations (Chang 2006), but systematic explanatory and theoretical analysis are missing. Hence, we focus on theoretical analysis of the industrial conflict while using secondary, pro-union, data to describe the phenomenon and its particular campaigns.

The integrated perspectives of Union Strategic Corporate Analysis (USCA) and the Comparative Employment Ecology Models (CEEM) of the modern enterprise compose our analytical framework (Juravich, T. 2007, Tackney, 2000, 2001, 2002). The former emphasizes an industrial conflict's relationship to the growth strategy and profit centers of a corporation - together with the structure and agents of decision making and key relationships based on its global value chain and societal stakeholders. The CEEM framework was initially derived from industrial relations study of Japan's 'lifetime employment system'. Framework parameters include employment security, labor unions, and the degree of employee participation permitted (if any). These models account for the legal extent and constraint of managerial prerogative, job security, and the degree of information, power, and resource transparency of any enterprise - offering, in consequence, clear and clearly comparative benchmarks for industrial democracy. They facilitate study of internal firm function no less than external firm behavior, strategic choice, and actual performance domestically, in other national markets, or the international business environment.

The pro-TMPWCA campaign effort is compared to another international campaign that took place between 2001 and 2005 against the labor rights atrocity of a giant Danish global corporation, APM-Maersk, at its majority-owned company, Euromedical Industries in Malaysia. This campaign, in contrast, generated a positive outcome, whereby the new owner complied with the award of the Supreme Court of Malaysia and concluded a collective agreement with the trade union.

In sum, neither in Japan nor in Denmark did the trade unions pressure the TNCs to comply with the core labor standard of union organizing and collective bargaining. In Malaysia the industrial union undertook a semi-comprehensive campaign and prevailed due to its own persistence and support from a national and international labor NGO and the legality of its case sustained by the judiciary system of Malaysia. In the Philippines the independent enterprise union failed to achieve its objectives despite it conducted a comprehensive campaign that received support by a Supreme Court verdict, local and international NGO campaigns, the ILO and the IMFmetal. Thus, the collusion between the Philippine government and the TMC has succeeded so far. However, we report a Malaysian industrial dispute that took 30 years for organized labor's success, while the Philippine dispute is only leaving its first decade!

## INTRODUCTION

In 2001, Toyota Motor Philippines Corporation (TMPC) dismissed 227 and suspended 64 union officers and members of the independent Toyota Motor Philippines Corporation Workers Association (TMPCWA) due to actions they had taken to pressure TMPC to initiate collective bargaining after the enterprise union had been declared the sole bargaining agent of the workers (Amante 2007, 55). Although the Supreme Court of the Philippines in 2003 demanded that TMPC should recognize the union and start collective bargaining, no remediation by TMPC or its mother company, Toyota Motor Corporation (TMC), took place. Despite ongoing local, national and international campaigns, including support from the International Metalworkers Federation (IMFmetal) and the International Labor Organization (ILO), Toyota withstood the pressure.

Instead, Toyota succeeded establishing an alternative union: the Toyota Motor Philippines Corporation Labor Organization (TMPCLO). After gaining approval from the Department of Labor and Employment (DOLE) for a new union certification election (CE) at which TMPCLO was certified as the victor and sole bargaining agent for the TMPC rank-and-file, the company finally signed an agreement with this union.

The TMPCWA then filed a new lawsuit against the TMPCLO, TMPC and DOLE protesting this election and certification to the Philippine Court of Appeal. The Court rejected the appeal. The TMPCWA, following due legal process, appealed to the same Court for reconsideration. If the reconsideration appeal is rejected, the last legal recourse is an appeal to the Philippine Supreme Court. Meanwhile, a military unit was dispatched to the industrial area of TMPC and an assassination of the TMPCWA President, Ed Cubelo, seemed to be planned but failed. On the same day that the TMPC celebrated its 20<sup>th</sup> anniversary of operations: August 22, 2008 (Protest Toyota Campaign Newsletter 11, February 26, 2009).

Through this paper, the authors intend to explain how and why the independent trade union, TMPCWA, failed to gain management recognition to organize and collectively bargain at the TMPC in the Philippines, and whether future options are available to compel the TMPC and TMC to comply with international labor standards. Our study is offered to rectify an acknowledged bias in the management and industrial relations literature – a bias toward prerogatives of multinational corporations, international production systems and global value chains, against the role and importance of labor agency (Riisgaard & Hammer 2008).

The Toyota case of industrial disputes has been extensively studied, most recently for its Asian operations (Chang 2006, Fumio 2006, Haruhi 2006, Amante 2007), but systemic explanatory and strategic analysis are missing. We intend to focus on a theoretical analysis and consideration of the implications of such industrial conflict. The study relies on secondary data to describe the particular campaigns (e.g. the Asian TNC Monitoring Network, the Protest Toyota Campaign based in Japan and the IMF-supported “Reinstate Them Now!” campaign).

Our analytical approach is an integrated framework combining Union Strategic Corporate Analysis (USCA; Juravich, T. 2007) and Comparative Employment Ecology Models (CEEM; Tackney, 2000, 2001, 2002), both of which derive from recent work in the field of industrial relations. We wish to clearly acknowledge an empirical evidence bias in favor of democratically organized and independent labor; a key research item is a publication by Tono Haruhi (2006), who is affiliated to the Yokohama Action Research Center in Japan and Secretariat member of the Support Groups of TMPCWA (Protest Toyota Campaign) (Chang 2006, 344; Protest Toyota Campaign Newsletter op.cit).

The robustness of the integrated analytical framework will be tested by comparing the TMPCWA campaign effort with another international labor campaign that took place during the same period: 2001 and 2005. This campaign was aimed at remediating labor rights atrocities that were ultimately the responsibility of the giant Danish global corporation, APM-Maersk. The events took place under the aegis of its majority owned company: Euromedical Industries (Malaysia). This campaign, in contrast, generated a positive outcome for the industrial union, the National Union of Employees in Companies Manufacturing Rubber Products (NUECMRP), when the new owner, Unomedical, with headquarters also in Denmark, complied with the pro-union award of the Supreme Court of Malaysia and concluded a collective agreement with the union in 2005. While finally successful, this struggle for union recognition and collective bargaining started in 1975, under a different foreign employer, and lasted for 30 years

(Wad 2007). Thus, this paper is strictly focused on two campaigns for union recognition and collective bargaining rights by two foreign controlled workplaces in Asian nations. Space does not permit analysis of related industrial disputes or cases of unfair dismissal or lost compensation.

We begin with the theoretical perspective that grounds our integrated analytical framework. Section 3 reviews and compares the industrial disputes between TMPC and TMPCWA and between Maersk Medical's Malaysian subsidiary, Euromedical, and NUECMRP in Malaysia. Section 4 discusses some union strategic and theoretical implications of the study.

## **THEORETICAL PERSPECTIVE AND ANALYTICAL MODEL**

### **Union Strategic Corporate Analysis (USCA)**

Union Strategic Corporate Analysis (USCA) is a relatively new approach to understanding multinational, transnational or global corporations (henceforth TNCs) and strategizing trade union activities in relation to these corporations (Juravich & Bronfenbrenner 1999, 2003; Bronfenbrenner 2007). The strategic-analytical framework is based on an historical analysis of company structures and successful union strategies in the USA (Juravich 2007, see Appendix 2 table 7-8). Juravich argued that the emergence of global corporations in the 1990s from the earlier 1960s mature national corporation forms necessitated a change of union strategy from pattern bargaining to *comprehensive campaigns* – that is, if labor unions are to have any hope of winning industrial disputes. The comprehensive campaign is based on an understanding of the global corporation that seeks to identify decision making processes (stakeholders), the broader system of business relationships (global value chains) and the value generation businesses (profit centers) and business strategies (growth plan) of the target firm, compared to an earlier, and more simple, corporate understanding. This approach focused more narrowly on the CEO and management, on the one hand, and, on the other, the primary operations of the company.

*Comprehensive campaigns* selectively pressure these key stakeholders, the specified business relationships, and the business units instead of launching factory oriented picketing, blockades, boycotts, and work-to-rule struggles. Hence, the USCA is an attempted move beyond the loose brainstorming devices of network-oriented power analysis (Juravich 2007, 25). Curiously, however, the trade union itself and the trade union movement seems to remain external to the USCA strategy-creation model - except for linkages to the workforce of the “target employer and the inclusion of union and coalition building when it comes to union strategizing of the campaign” (Juravich 2007, 36-37, Figure 4-5). Too, other salient actors within the industrial relations system do not appear sufficiently deployed; this seems essential to adequately assess the power relationships between the focal employer and the union. That is, the relative capacities and strengths of the union are not compared to the potential weaknesses and vulnerabilities of the employer.

Certainly, the USCA model offers a systematic and expedient advance to union campaigning. However, the authors feel that serious, potentially effective variance is overlooked, both within the U.S. comprehensive campaign strategy and internationally, where considerable variation in labor union geography obtains due to history, politics, and the specific achievements of organized labor in other national and industrial sector settings. Thus, for example, the European Union stands in stark contrast as an industrial relations system structure the USCA organizing strategy simply does not comprehend. As we will see, the Japanese industrial relations system offers yet another very different aspect within the global geographical horizon of organized labor: the Philippine system standing closer to that of the United States. In this paper we will only refer to key features of these different models, and suffice it to mention the Malaysian industrial relation system is quite similar to the Philippine IR model. In contrast, the Danish industrial relations system is unique, as it is based on collective bargaining agreements between employers associations and employees' unions with high union and employer participation densities along with extensive collective bargaining coverage.

### **Situating the USCA in an appropriate theoretical context**

The USCA can be interpreted as a union-oriented (reverse) translation of the strategic-choice theory on human resource management (Boxall & Prucell 2003) and industrial relations (Kochan, Katz & McKersie 1986). It adds an actor dimension to known systems theory, a la Dunlop's famous work on industrial relations systems (Dunlop 1958, 1993). As such, USCA distances itself from both the systems theory of

industrial relations as well as Marxist theory, this last indicated by how the USCA approach downplays the determinative factors of political-economic power structures.

In a review of theoretical perspectives to industrial relations, Müller-Jentsch (2004) outlined four approaches in addition to the two economic perspectives of rational choice and transaction costs: systems theory, Marxist theory, institutional theory, and action theory. Müller-Jentsch (2004) suggested an extended actor-centered institutional approach. This would integrate historical and institutional path dependence while acknowledging that actions and learning processes influence existing patterns and shape new options. In sum, this approach allows for both enabling and constraining steps by industrial relations actors that pursue their interests. The upshot is a more comprehensive explanatory framework for the emergence, functioning, and transformation of industrial relations systems under pressures from internationalization and globalization.

Taking a more international comparative political economy perspective on employment relations theory, Martin and Bamber (2004) also reviewed systems theory, strategic choice theory and Marxist political economy theory. They aimed for an integrated political economy approach due to the relevance of all three perspectives. They noted that systems theory advocates the institutional setup for employment relations. Strategic choice theory adds the importance of employers' decisions and interventions. Marxist theory emphasizes the basic undercurrent of power structures and conflicts. Nevertheless, their integrative focus is taken to be the power analysis of companies and how these organizations are embedded in the wider society and global political-economic system.

These two approaches and insights offer useful grounds for a broader theoretical platform on behalf of Union Strategic Corporate Analysis. This platform would emphasize the institutional-strategic and political economic-strategic perspectives; yet, none of these approaches includes the union as the focal strategic agency in framework. True, the USCA outlines a corporate-strategic perspective on union campaigning. It does not articulate the role of union agency as part of a larger union or labor movement.

Applying a theoretically extended USC analysis to the understanding of the emergence, evolution and step-wise industrial struggles surrounding the TMPC-TMPCWA case in the Philippines seems useful to enable further learning and strategizing from the point of view of the union. However, targeting the Philippine industrial relations system and specifying a particular course of action and events requires, as the extended theoretical perspectives suggest, an integration of more specific 'study models' from an industrial relations perspective.

The legalisms inherent in the Philippine industrial relations system – the factual presence of the thousands of unions found there – suggest more attention be given to the employment ecology of the Philippine enterprise. Labor law and administration also greatly influence the Malaysian IR system (Jomo & Todd 1994). Todd, Landsbury & Davis (2004) talk about a 'high control' approach of government and employers in Malaysia. While labor law and judicial case decisions matter greatly in Japan (Tackney, 1995, Kettler, D., and Tackney, C.T., 1997), the IR system of Denmark is primarily based on collective bargaining agreements between the organizations of employers and employees which have then been institutionalized and legalized, if approved by the parties involved (Due, 1994).

### **The Comparative Employment Ecology perspective**

In light of the above, we introduce the employment ecology of the post-World War II Japanese enterprise. This is what informed Toyota's postwar success. The nation's employment ecology of the modern enterprise offers an explanatory and comparatively useful model of legally constrained managerial prerogative, combined with crystallized customs from case law decisions, which compelled and compels a degree of employment security that finds few parallels elsewhere in developed nations – and this for both regular and temporary employees of the Japanese firm (Tackney 1995, 2000, 2001, 2002, 2008).<sup>1</sup>

Widely studied as a unique 'lifetime employment system', this enterprise employment ecology is grounded in U.S. style labor legislation that has been interpreted by Japan's courts in terms largely, and boldly, adapted from continental European jurisprudence: just cause for dismissal restrictions and potentially unlimited degrees of employee participation in managerial prerogative through establishment of German-style works councils that are localized in and defined through enterprise-specific collective bargaining outcomes. In Japanese, these are commonly known as 'management councils' (経営協議

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<sup>1</sup> See Tackney, August 2009 (forthcoming) for graphics of each national model.

会, keikeikyogikai). Another feature of the Japanese employment ecology is inclusion of first level managerial staff in the firm's enterprise union. Japan's enterprise unions are not company unions per se (Benson 1996), they are instead linked in complex affiliations by locale, region, industry, and peak organizational. Among other affiliations, the Toyota union is a member of the IMF-Japan Council.

The Japanese employment ecology is very different from that of the U.S., and yet again from the German; it owes its origins to both legal traditions. Each nation's enterprise-based employment ecology can be compared on certain evident parameters: unionization rights and limits, dismissal restrictions, and the precise nature and limits (if any) of employee participation in managerial prerogative.

In sum, the Japanese IR system is composed of two pillars. First we have the collective bargaining agreement (CBA) system of enterprise unions and employers undertaking collective bargaining at the enterprise or corporate level with limited regulation by state agencies. Second, there is the labor-management council (LMC) system of employers and elected employee representatives, where all issues can be discussed and negotiated. Top management retains responsibility for enactment of decision outcomes. Due to the collective bargaining-specific nature of the management councils, there is considerable variance concerning the extent to which worker representatives influence or impact specific management decisions. As we will see, thorough and correct insight into Japan's development of employee participation is essential for an appropriate assessment of employee participation diffusion, its absence, or its tactical mis-representation by management in Asia and elsewhere (Markey, 2006).

The enterprise employment ecology found in the Philippines recognizes the right of workers to organize in unions, to organize workplaces, and engage in collective bargaining with employers. Specific enterprise-level unionizing, recognition, and collective bargaining are regulated by labor law. It also distinguishes between regular and non-regular employees, which is similar to Japan's employment distinctions (Sale, 2006). Regular employees are not to be removed from their job without a valid reason. The burden of proof for establishing validity resides with the employer. Valid business-related reasons for contract termination include redundancy due to deployment of 'labor-saving' devices.

Employee participation in, or participatory constraint of, managerial prerogative is less clearly established in the Philippines. In this respect, the nation's industrial relations system appears to parallel the U.S. model. In fact, despite constitutional recognition of collective bargaining rights on the part of Philippine citizens, employer resistance to organizing efforts is well-documented and reported by international monitoring agencies (Philippines, 2008). In addition, the Philippine trade union structure is extremely fragmented. There are many competing or confrontational unions affiliated into more or less loose networks or union federations and confederations (Kuruville, S., and Erickson, C.L., 2002, 199, Table 5).

### **The Japanese Employment Ecology Model Compared to the Philippine, Danish, and Malaysian Models**

A few comparative comments may now be useful. First, the German enterprise employment ecology strictly limits the upward potential of employee participation by carefully defined legislation. In contrast, the Japan case, by basing participation issues and outcomes within negotiable collective bargaining agreements, shares no similar theoretical restriction on the potential for employee participation in the life of the enterprise. There are documented cases in which employee participation in a Japanese firm through the labor union and management council has resulted in the wholesale replacement of enterprise executives, including the firm's CEO (Tackney, 2006).

Second, various claims about the utility of works councils have been made, and there is a considerable literature on the subject (Rogers, J., and Streeck, W., 1995; Gollan, P. J., Markey, R., Chouraqui, A., Hodgkinson, Ann and Veersma, 2001). However, there appears to be a persistent oversight regarding fine-grained distinctions in their national basis for legitimacy and, in consequence, their potential openness to employee participation in managerial prerogative (Nam, 2003). It was the prompt and widespread post-World War II development of Japanese management councils, coupled with just cause dismissal restrictions that essentially compelled Japanese management to carefully hire workers for long-term employment spells. And, owing to this, management circulated staff to ensure generalized skilling of the long-term regular employees of the workforce (Tackney, 2005).

Thirdly, the Toyota Production System (TPS) is founded on a harmonious collaboration between employer, employees and enterprise union - where the union will be subordinate to the premises of

company growth, productivity improvements and long-term profitability (Fumio 2006, Haruhi 2006). While this tight collaboration has been achieved over time in Japan, and particularly at TMC, the same enabling IR conditions simply do not prevail abroad – not, for example, in the Philippines. Even Japan manifests variance - an alternative trade union, the All Toyota Labor union, emerged in TMC in 2006. It is relatively small and weak in contrast to the TMC union, which completely dominates the working rules TMC in Japan (Fumio 2006). Nevertheless, a successful transfer of the TPS to foreign locations relies on an adaptive appropriation, or implementation, of the salient features of Toyota human resource management to a national, and local, circumstance. Industrial relations strategy is therefore a critical part of the planning in TMC internationalization.

### **The Comprehensive Analytical Approach**

The key factors of the USCA perspective are the focal company's position as profit and/or growth center, its place in the overall, decision-making structure of the corporation, and key (value chain) relationships within the larger corporation and society. This paves the way for the formulation and execution of a comprehensive strategy of labor campaigning. Basically, the USCA assumes that a company ('target employer') can be stratified into three layers of analysis: Command and control; operational aspects; the outside stakeholders. There are 24 components of analysis where the 'target employer' unit (focal company/organization) is embedded in wider relationships of governance, production and regulation (Juravich 2007, 27). As we have sought to explain, the USCA neglects an analysis of the capacity of the focal union and its potential allies and network: the union as part of a wider industrial relations system.

The enterprise employment ecology perspective is a systematic and functionalistic focus on the emergence, viability and decline of companies in market and society (the ecology of enterprises). It emphasizes implications of law and practice relative to the normative system of CBA and the normative system of LMC. In this sense it lacks a strategic orientation and a broader institutional conceptualization. The global IR perspective highlights and adds the IR structures, institutions and actions from the micro-level of the dispute to the sector, macro, international and global corporate levels of industrial relations – even embracing the potential role of non-governmental organizations, which would not nominally be parties to the IR system. Finally, by describing and emphasizing the 'agency' role of unions - the characteristics of the labor campaigns within their wider context - we believe there is now a comprehensive theoretical framework available for analyzing the process and outcomes of labor actions, permitting reflection upon their relevance, appropriateness and relative power vis-à-vis the employer, corporation and business environment: both national and international.

### **COMPARING TMPC-TMPCWA AND MM-NUECMRP DISPUTES**

The respective contemporary history of the two industrial conflicts in the Philippines and Malaysia is well documented (Haruhi 2007, Amente 2007, Wad 2007). Here, we only summarize and compare important characteristics.

First, the TMC includes the Philippine company in its growth strategy for Southeast Asia although it does not take it to be a core growth center like the one in Thailand, nor a profit center in the near term. This is because, among other reasons, it is neither fully or majority owned by TMC; it holds 34% of the stock. Yet, TMC had also established a 95 percent owned parts supplier, Toyota Autoparts Philippines Inc. in 1990 and this company seemed to expand and prosper in the 2000s.

Overall, TMPC was probably not more important to TMC than Euromedical was to APM-Maersk: Although APM-Maersk held 75% of the stock, Euromedical was part of the loss-making division of manufacturing companies in the APM-Maersk Group and to be divested in time. Thus, initially, TMPC did not appear to be either more or less important for TMC when compared to the initial circumstances of Euromedical relative to APM-Maersk. However, the APM-Maersk Group also controlled a retail corporation, Danish Supermarket, which was a cash cow and vulnerable to consumer campaign. When the Swedish based private equity company, Nordic Capital, acquired Maersk Medical and its subsidiary, Euromedical, the Malaysian subsidiary became an element in the strategically important medical equipment division of this industrial-financial group. Euromedical could then be seen as a potential liability, given industrial strife, to Unomedical and its owner, Nordic Capital.

Second, although TMPC was a joint venture and only an associated company of TMC, TMC was in complete management control. TMC forged strong links to Philippine businessmen with political

connections. Similarly, despite the fact that Euromedical was a subsidiary of Maersk Medical, a division of the AMP-Maersk Group, APM-Maersk Corporation was a strict hierarchy under the ultimate owner, Maersk McKinley Moeller. In both cases, the corporate headquarters could have intervened to quickly resolve each dispute: simply by recognizing the legitimate union. However, both disputes saw their respective firms adopting an official principle of industrial dispute resolution that held it was important to “solve a problem in a local company in the locality” (Haruhi 2006, 267).

This ‘principle’ belies the fact that both headquarters could have decisively acted in a manner appropriate to generally accepted norms of international and global corporate social responsibility. Instead, each international firm opted to deliberately outmaneuver local unionization efforts, thus functionally denying local rights to organize and commence collective bargaining with local management.

In consequence, the TMPCWA campaign correctly targeted Toyota Motor Corporation in Japan. They enlisted the aid of a Japanese labor NGO and directly approached a Japanese trade union, one that TMPCWA had joined as a member. Despite these efforts, TMC did not give in. In time, Toyota management ultimately agreed to meet with TMPCWA representatives, but this happened at a time when the alternative union, TMPALO, was already well on track to seize the initiative through a new certification election. A similar development occurred with APM-Maersk – it, too, was targeted by the Euromedical workers and their industrial union with the help of Danish trade unions and a labor NGO. The management of Maersk Medical referred the case to local negotiations and sought resolution through the Court of Appeals in the civil court system. Notably, in both cases, approaching the top decision makers in good faith was not a successful path for either union or their NGO allies in either industrial dispute.

Third, the TMPC is a core party to a regional industry in which the Philippine government plays a major role in the development of automobile, auto components, parts manufacturing and exports (Ofreneo 2008). The government has no national automobile project, such as the Malaysian government pursued since the mid-1980s. The Arroyo government has been more lenient to international business sector issues since it took power in January 2001. Moreover, the Japanese automobile companies in the Philippines have clearly acted in a collective manner. They have pressured the government to prevent independent unionization of their companies through its labor agencies (DOLE). In contrast, the Malaysian government gave low priority to the foreign-owned medical equipment industry, and these companies (or their employers) did not take collective steps to influence Malaysian government policy. However, in the IR battle with the union, the Euromedical management did file a civil suit against the Ministry of Human Resources for mishandling the union certification procedures. This resulted in the firm taking an opposition position in respect to the federal Malaysian political level, while they kept good relations with the local (state) political level through their local minority shareholder, which is a ‘state’ investment development fund. When the final Supreme Court award went against the foreign company, the Court followed the nation’s labor legislation. This decision was not obstructed by high-leveraged political interests or actions.

Fourth, the Toyota case analysis contrasts with the Malaysian industrial dispute involving the Danish APM-Maersk firm on another related matter. Both disputes were brought to the attention of their respective OECD National Contact Point (NCP) in Japan and Denmark. The TMPC-TMPCWA case went to the OECD-NCP in 2003. It was recognized in 2004, but nothing came of the submission. When the Malaysian case was submitted to the Danish NCP by the Danish NGO supporting the Malaysian workers and the union, this turned out to be the very first case to be handled by this new institution. The matter was taken very seriously by all parties, with the Danish corporation agreeing to follow the rulings of the Malaysian court. Unomedical, the new owner of Euromedical by 2003, agreed to comply with the verdict of the Federal Court in 2004 - but only did so after pressure from the Ministry of Human Resources, the Malaysian union and the Danish labor-NGO.

Fifth, the ILO was activated in regard to the Philippines dispute by the TMPCWA in 2003. It gave its full support to the independent union and recommended that the Philippine government implement the 2003 Supreme Court decision (this acknowledged the TMPCWA as proper union and sole bargaining agent). The ILO was not involved in the Euromedical case, although Malaysia has ratified ILO Convention 98 on the right to organize and collectively bargain. In Malaysia, the ILO has, historically, been unable to successfully pressure the Malaysian government to permit national level unionization of the electronics industry – and this is due to fierce resistance from U.S. TNCs. The Malaysian government



has not adopted ILO Convention 87 on the right to form trade unions, but it has permitted the formation of enterprise-based unions, not a national industrial union of electronics workers..

Sixth, labor union and the domestic coalition building activities turned out differently in the two industrial disputes. The TMPCWA was constituted in 1998 as an independent enterprise union not only in relation to the management of TMPC but also in relation to trade unions in the Philippines and their multiple federations, confederations and social movements. In 2001, it obtained assistance from a Christian labor network. This network later enabled the union to access Japanese alternative unions and this triggered the formation of the supportive labor NGO. The union was also in contact with IMFmetal. However, IMFmetal only became involved in 2003 when the ILO had received the case and had decided in favor of the TMPCWA. Faced with mounting problems, the TMPCWA gave up its independence and affiliated with the left-wing Kilusang Mayo Uno (the KMU, or May First Movement). Thus, it also opposed the auto union alliance of enterprise unions present among the Japanese assemblers, the Automotive Industry Workers Alliance (AIWA), and its metal workers federation, the Philippine Metalworkers Alliance (PMA). Its rival enterprise union, TMPCLO, is member of the AIWA as is the Toyota Motor Philippines Corporation Supervisor Union (TMPCSU). Hence, TMPCWA was unable to mobilize most of the automobile unions and thereby unable to increase union pressure on an industry level. In fact, this does not differ much from the Malaysian case. The industrial union in charge of Euromedical, the NUCEMRP, experienced financial troubles and severed its links to the national labor centre, the Malaysian Trade Union Congress (MTUC). Moreover, the industrial union leadership shifted between rival factions of the Malaysian union movement, indirectly delegating active support of the Euromedical workers to the staff of the union, and external support from a Malaysian labor NGO, Labour Resource Centre (LRC), and a Danish labor NGO, a local chapter of the International Forum of the Labor Movement (AIF).

Seventh, and last, the international union coalition building converged paradoxically - and in a negative way. The Toyota Trade Union (TTU) took the same stance as the TMC that the Philippine industrial dispute should be solved in the Philippines. The TTU did visit the TMPC but met only with the TMPC management and the TMPCLO, not with the independent TMPCWA. In short, the Toyota Trade Union sided with Toyota management. The metal workers unions in Japan, organized in the IMF-Japan Council, did mediate communication between TMPCWA and the TMC headquarters, but they did no more. Only some of the alternative unions in Japan, trying to organize along sector lines, actively supported the TMPCWA. These unions are, however, very weak and could not effect a positive outcome. In contrast, those Danish unions having agreements with Maersk Medical and APM-Maersk are relatively strong. They are well organized both at the 'trade' level, e.g. the Female Workers Union of Denmark (KAD), now merged into United Federation of Danish Workers (3F), and at the industry level with several male workers unions. Despite this, they were rather satisfied with their agreement relationship with the APM-Maersk Group and would not take an active part in the conflict in Malaysia. It was, then, the labor union-oriented NGO, AIF, that became the driver of the international campaign in favor of the Euromedical workers. Ironically, after the campaign succeeded the national labor centre, the Danish Confederation of Trade Unions, LO, closed down the union NGO due to financial problems and a decision it had taken to upgrade international solidarity work.

In sum, the Philippine TMPCWA conducted a fairly comprehensive international campaign. However, in the Philippines it failed to target the potential growth and profit centers of the TMC owned auto component and parts supplier: TAP. The case demonstrated that the international and northern trade unions and NGOs that got involved in the dispute were unable to pressure TMC directly or indirectly through efforts that could have successfully mobilized political consumer groups with the goal to tarnish the Toyota brand worldwide through linkage to its anti-union policies or absence of proactive, socially responsive engagement. The Danish Euromedical campaign was less comprehensive cross-border and bilateral in praxis. It was driven by the union activists of Euromedical and the Danish labor NGO in on-and-off collaboration with the Malaysian industrial union and a Malaysian labor NGO. While it targeted the TNC headquarters, it did not identify a profit center, such as a retail supermarket group that could have effectively hurt APM-Maersk financially. The Danish campaign was also unable to mobilize the Malaysian trade unions as well as the much stronger Danish trade unions in the manufacturing sector for concerted collective bargaining and action. A key innovative step was bringing the Danish corporation to task at the OECD-NCP venue; this initiative proved decisive when taken in junction with the outcome of

the legal case in the Malaysian industrial and civil judiciary system. The Japanese OECD-NCP, similarly activated by the TMPCWA and the Japanese NGO, has yet to show any positive outcomes.

## **CONCLUSIONS AND IMPLICATIONS**

The comparative analysis of the Philippine and Malaysian industrial disputes between local unions and TNCs demonstrates that contextualized union strategic corporate analysis is in dire straits if union campaigns over recognition and collective bargaining are ever going to succeed. The failure of the Philippine independent enterprise union, TMPCWA, despite domestic legal successes, testifies to the superior power of explicit or implicit political-economic collusion between Philippine elites against organized labor and the extant, domestic legal system. In the end, the legal system was overrun by the power of TMC in Japan and its local joint venture company which was well connected in the automobile industry and higher up politically.

Paradoxically, the same had been the case in Malaysia to some degree. The foreign owner at the peak of the Malaysian conflict, Danish APM-Maersk, stood in a TNC position within Denmark much like TMC in Japan. And even the Danish unions did not want to put at risk their well-functioning Danish agreements. However, the industrial union stubbornly persisted in working for union recognition and collective bargaining under different foreign corporations. And in contrast, the political-economic elites in Malaysia were split, and the law prevailed through the court system in the end.

Remarkably, in the Euromedical case in Malaysia the predominantly female workers, in their union, along with their supporters, took 30 years to decisively win their recognition and collective bargaining rights. In the Philippine male-dominated TMPC the industrial dispute is “only” 11 years old, dating from the constitution of TMPCWA in 1998 and 17 years dating from the first attempt to unionise the company in 1992.

The impact of the disputes on the two TNCs should be mentioned. Danish APM-Maersk adopted the UN Global Compact in 2006 and is now trying to implement the ILO core labor standards. This includes China, where two subsidiaries have yet to comply with CSR guidelines. Japanese TMC has not adopted the UNGC guidelines, nor has it been able to fully install the Toyota Production System (TPS) in the Philippine joint venture, although it has now generated one of the precondition of TPS, a compliant union.

In a union strategic perspective the comparison of the two transnational industrial conflicts with different outcomes indicates that worker collectives and independent, democratic unions can prevail if they ally with local, national and international labor organizations and labor-oriented NGOs and at the same time explore and exploit all available legal and normative institutions related to the right of collective bargaining and agreement. In the end the global brand of the TNC may be the most vulnerable part of global corporations, and trade unions and worker collectives need the support of NGOs and the attention of the media and the customers in order leverage this powerful mechanism. Strong trade unions in the homeland of TNCs are no guarantee that these organizations mobilize directly against their employers and put at risk their collective agreements for the sake of workers in developing countries.

From a theoretical perspective this study shows that corporations are embedded in political-economic systems where legislation and the judiciary subsystem play a significant role in labor disputes. Solutions appear to depend upon complex local and societal power relationships.

That said, industrial relations will not be improved from the point of view of workers and trade unions if the transnational character of IR structures and processes are not acknowledged at the micro, mezzo and macro levels. TNCs clearly possess powers capable of neutralizing union mobilization efforts – and even in instances of international union campaigns that involve strongly unionized workplaces and industries, such as Denmark and Japan. Our attempted integration of a political-economic-legal perspective with the union strategic corporate campaign perspective holds promise for an improved theoretical explanation and analysis.<sup>2</sup> This, in turn, should facilitate better strategy and more successful implementation of cross-border union led campaigns.

In sum, the future lies in advanced integration of labor unions within a global industrial relations system. This internationalization requires a greater depth of understanding of corporate strategic analysis, union capabilities and an enlarged appreciation for the role of labor-oriented NGOs.

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<sup>2</sup> See Appendix 1 for this comprehensive and comparative analytical tool.

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Appendix 1: Integrated political-economic-legal Perspective in a Union Strategic Corporate Campaign Analysis

		<b>TMPC-TMPWCA, The Philippines</b>	<b>Euromedical-NUECMRP, Malaysia</b>
<b>Dispute details</b>		Union organizing & collective bargaining	Union organizing & collective bargaining
<b>USCA</b>	<i>Profit center</i>	No. On the contrary, probably a loss center until recent years. But integrated part of TMC Asian growth strategy	No. Probably a loss center most of the time. Corporate cash cows were oil & gas and retail supermarket.
	<i>Growth plan</i>	Part of the TMC growth plan of ASEAN.	No, non-core business and divested to private equity company at 2003.
	<i>Decision makers</i>	As a joint venture TMC Japan only has 34% but is allied with local capital. Philippine GO wants a viable automotive industry and support Japanese TNCs, no national auto policy.	Company is JV with local state agency, but Maersk Medical controlled 75% capital 1998-2002, and the ultimately owner and chairman of board, APM-Maersk, decides. Since 2003 Swedish based private equity company in control, but HQs still in Denmark.
	<i>Key relationships</i>	TAP, 95% owned by TMC, is a profitable auto component supplier & exporter.	Local state agency, but sleeping partner. Malaysian central government and APM-Maersk are partners in harbor management.
<b>IR enterprise ecology</b>	<i>IR law-CBA</i>	CBA subordinated IR law and state agencies. Supervisors excluded from same union as workers by law.	CBA subordinated IR law and state agencies. Supervisors excluded from same union as workers by law.
	<i>IR law - LMC</i>	LMC not legally advocated, but possible on parties discretion.	LMC not legally advocated, but supported by ICA of 1975.
	<i>CBA-LMC</i>	No links	No links
<b>Global IR Organizations and normative institutions</b>	<i>IR at subsidiary/joint venture micro, mezzo macro levels</i>	Single independent enterprise union but later allied with the First May Movement. Labor class membership base of union. Alternative union with support of management approved by labor administration, and supported by alliance of unions in Japanese automakers in the Philippines.	Industrial union, but leadership split internally and defaulted membership dues to peak labor organization, MTUC. Labor class membership base of union. Alternative union with support of management disapproved by the authorities.
	<i>IR at HQ micro, mezzo &amp; macro levels</i>	TMC union. IMF-JC. Medium-high union density and CBA. Collaborative IR at micro, mezzo and macro level.	Unskilled workers unions (KAD & SID) merged to 3F. Skilled employees' Danish Metalworkers Federation part of industry level CBA. High union density and CBA. Collaborative/confrontational IR at micro, mezzo and macro level.
	<i>IR at global corporate IR</i>	No International Framework Agreement (IFA) & no membership of UN Global Compact by TNC	No International Framework Agreement (IFA) & no UN Global Compact of TNC.
	<i>IR at global national IR</i>	ITUC. Global Union Federations (GUFs) e.g. IMFmetal. OECD National Contact Point (NCP) Japan	ITUC. GUFs e.g. IIF. OECD NCP Denmark.
	<i>IR-NGO/NGO</i>	Local NGOs. HQ home country NGOs	Local NGOs. HQ home country NGOs.
<b>Campaign</b>	<i>Campaign subsidiary level</i>	Run by involved union, mobilizing affiliated movement	Local NGO (LRC) active, focal union legally and normative active.
	<i>Campaign HQs level</i>	Run by Japanese alternative union and NGO. Passive unions. OECD NPC activated without effect.	Local union-supported NGO lead organization. Passive unions. OECD NCP activated for the first time and legitimized by parties involved.
	<i>Campaign global level</i>	ILO and IMFmetal activated & supportive of TMPCWA.	LO and IIF not activated.
	<i>Type of campaign</i>	Comprehensive campaign	Semi-comprehensive campaign
<b>Outcome</b>		Failure: TMPWCA not recognized by TMPC and not party of CBA by 2009. Instead, TMPC has recognized alternate union, TMPCLO, and approved CBA with TMPCLO.	Success: NUECMRP recognized by company and party of CBA from end of 2006.