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National and international labour relations in oil and gas Trans National Corporations in Kazakhstan

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ABSTRACT

The paper examines labour relations in Kazakhstan's oil and gas TNCs, contributing to recent debates on the Global Union Federations' (GUFs) and national unions' roles in building a global system of industrial relations. These debates suggest a need for GUFs to involve national unions in organisation within and dialogue with TNCs but the GUF judged them insufficiently capable of this and they therefore had only limited involvement in GUF-led activities. Analysts arguing that a 'global system of industrial relations' is emerging must take account of such issues deriving from trade unionism's global heterogeneity.

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1. Introduction

This article examines labour relations in Central Asia's oil and gas TNCs, contributing to recent debates on the Global Union Federations' and national unions' roles in building an 'emerging global industrial relations framework' (Papadakis, Casale, & Tsotroudi, 2008) or 'global system of industrial relations' (Fairbrother and Hammer, 2005). These tend to use 'conventional' unions from the European, American and Japanese traditions as their default model of trade unionism.

Otherwise excellent research on Central Asian politics and society almost completely ignores labour and employment issues (Collins, 2006). Very little research has been published on labour in these countries (for a marginal exception, see Borisov & Clarke, 2011). However their extractive industries play a major role in supplying oil, gas and minerals to industry internationally and are therefore key to capitalism's operation. They are also significant to the Global Union Federation the International Federation of Chemical, Energy, Mine and General Workers' Unions: ICEM, now part of Industriall. The ICEM, along with other GUFs, has focused for many years on establishing bargaining relationships with Trans-National Corporations (TNCs) globally we contribute to debates about how GUFs and national unions seek to advance workers' interests in TNCs from this standpoint. ICEM/Industriall, in common with other Global Union Federations, focuses its strategy on TNCs (Platzer & Müller, 2009).

The article is structured as follows. We begin by outlining the regional context. Next, we introduce the globalisation debate among industrial relations scholars, developing our research question and explaining our method. Next, we examine the Central Asian unions and their relations with the GUFs, with special reference to Kazakhstan. We then discuss the 2011 revolt in the oil and gas industry and the unions' role in it. We conclude by revisiting our research question and crystallising our contribution to the debate on the role of GUFs and national unions in relation to TNCs.

2. Regional context

The Central Asian states of Kazakhstan, the Kyrgyz Republic, Tajikistan, Turkmenistan, and Uzbekistan are key locations for extractive TNCs. From the early 1990s almost every large oil and gas company moved into the region. The overall stock of foreign direct investment (FDI) in Central Asia increased from USD 1.435 million in 1992 to USD 119.279 million in 2011. Most of this went to Kazakhstan (78.49% in 2011) (UNCTAD, 2012). Kazakhstan's principal exports are oil and natural gas, long responsible for almost half of the country's foreign earnings (Kaser & Mehrotra, 1992; Rittmann, 2012).

The Kazakh trade unions are defined by the society they belong to. The Central Asian states' industries were ruled in Soviet times by a relatively devolved form of hierarchy; interpersonal and patrimonial relations persisted after their relatively late secession from the USSR (Cooley, 2005). Kazakhstan's President Nazarbaev follows a policy similar to that of other elites on the 'transitional

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periphery' by emphasising continuity with the Soviet past, a policy that has extended to trade unions.

A common feature of Central Asian polities has been 'the establishment of super-presidential political systems under autocratic rulers' (Pomfret, 2012:400). Government structures in the region have been dominated since independence by representatives of the Soviet elite (Sievers, 2013; Gleason, 2003; Murphy, 2006; Lane, 1996; Lasch & Dana, 2011). In the Kazakh case, traditional patrimonial relations also provided both social foundations and a means of legitimisation for the new regime. Currently, as Minbaeva, Hutchings, and Thompson (2007) illustrate, Kazakhstan (like the region's other countries) exhibits a culture where the family unit and local origins are crucial. Clientelism, associated with clan politics, deepened in the 1990s (Schatz, 2004). The political elites maintain strong economic and social connections to powerful local clans and oligarchic groupings. Clans have played a central role in post-independence Central Asia, and it has been argued by Collins (2006) that they are also responsible for the region's failure to maintain the public goods provided by the Soviet regime while advancing their private interests. Clans are informal, vertical, kinship-based, informal organisations. They provided a means of reconstituting political and social relations during and beyond the fall of Communism in ways that became increasingly inimical to the interests of labour. They are significant in the increasingly strong industrial lobbies calling for labour market de-regulation supported by business elites in Kazakhstan and Kyrgyzstan but also have links into the trade unions.

Labour law is embedded in this wider system of social relations; the weakness of impersonal rules in employment relations is evident. Özkan suggests that faced by problems, instead of going to the courts Uzbek business people 'would seek the help and advice of their influential and powerful relatives and friends' (Özkan, 2010:83). According to Transparency International's Annual Corruption Report (2012), Central Asian countries continue to occupy low positions in the control of corruption, rule of law and judicial independence indices. Moreover, unions' legal rights steadily diminished during 'transition'. In Kazakhstan, a 2000 revision of the Labour Code shifted employment relations to an essentially individual basis by making only individual contracts mandatory; collective agreements at all levels were from this point voluntary. Unions retained the right to prevent the termination of an individual's contract revoked (ICTUR, 2005). Parliament is at the time of writing considering further restrictions both on civil liberties in general, such as the right of assembly, marches and freedom of expression; simultaneously, the new trade union law prohibits such activities as enterprise unions or the basic level of union organisation by organisations without nation-wide status (Buketov, 2014). In short, enterprise unions (which may potentially lead industrial action) are subordinated to national organisations (which are more subject to political influence). Thus, labour law has been continuously weakened although unions continue to resist these changes (Buketov, 2014).

Employees themselves are not in a position to assert their rights. Good employment opportunities are few and far between, the 'informal economy' is the normal locus for populations' battle for survival, employment laws are rarely enforced and work with TNCs is widely seen as a privilege (Muratbekova-Touron, 2002). Exceptionally hierarchical and authoritarian management styles are generally unchallenged (Muratbekova-Touron, 2002). In larger companies, decision-making is concentrated among major shareholders and other stakeholders' interests are largely ignored (Minbaeva et al., 2007). In short, employees have very little power. For those physically capable of the work, exit to foreign countries, notably to Russian construction sites, represent relatively attractive options despite the racial discrimination they are likely to experience (Zayonchkovskaya, 2009).

In the oil and gas industries, labour confronts sophisticated internationally-coordinated employers in which local states have major interests. Local political elites were highly reluctant to let foreign companies acquire too much control over local natural resources and promoted ethnic nationalism and associated 'resource nationalism' (Bingol, 2004:44; see also Murphy, 2006 for a more detailed analysis of the Kazakhstani elite). On the other hand, they required foreign companies' technical expertise if resources were to be fully exploited. They therefore pushed foreign companies to establish joint ventures with state-controlled or quasi-privatised companies, conglomerates and holding companies. Governments are represented in these ventures by state-owned companies or government holdings. In Kazakhstan, many foreign investment projects in extractive industries are conducted through joint ventures with state-owned agencies (KMG Exploration and Productions; KazMunaiTengiz, KazTransGaz, and Kaz-TransOil), arms of the state-owned natural gas and oil company KMG. IJVs are often favoured by developing countries, but Kazakh policy is more stringent than in China, where although the government does not permit wholly-owned foreign company subsidiaries and IJVs are often used, alternative arrangements are more common. The Kazakh state scrutinises applications for TNC investment closely and is interventionist in its approach (Moldasheva, 2001). On occasion, national elite interests may occasionally coincide with those of unions in which case government may act in their defence, thereby strengthening the latter's emphasis on political action. Yet these IJVs have had long lives, and as our evidence below indicates, the effect is to provide access to local expertise in handling labour relations, thereby strengthening company positions.

In summary, the social, political and legal pressures on Kazakh trade unions have increased since independence, while they face powerful TNCs. These two factors have increased their interest in the international level of trade unionism.

2.1. The debate on GUFs, national unions and relations with TNCs

It was argued almost a decade ago that the GUFs were central actors in the construction of a global system of industrial relations (Fairbrother and Hammer, 2005). From this perspective, the Global Unions were key to influencing TNCs' activities in worker-friendly directions, notably through formal agreements with them. Other researchers have increasingly located this form of regulation in the wider context of other 'private' initiatives; those by campaigning NGOs and employer-led 'CSR' bodies on the one hand, 'public' regulation by international organisations such as the International Labour Organisation (ILO) and national governments on the other. This school tends to assign the GUFs only a minor role (Kolben, 2007). These various forms of regulation may operate in complementary and positive ways or, as other researchers have noted, condition a wide range of different outcomes, not all of them positive for workers (Locke, Rissing, & Pal, 2013). We mentioned deteriorating labour law application in Kazakhstan. If the GUFs and national trade unions play only marginal roles, labour regulation is likely to be extremely weak since it will reflect low levels of regulation in both spheres, necessarily creating few complementarities between them. In our case, the Kazakh unions are aware of this and wish for international intervention to support their weak position.

It has been suggested that Global Union Federations may exert influence on TNCs in various ways. There has been growing interest in the conclusion by GUFs of agreements with TNCs variously described as International (or alternatively, Global) Framework Agreements. These are essentially repetitions of certain core ILO standards, notably those in favour of freedom of association and collective bargaining together with undertakings that companies

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