INTERNATIONAL TRANSPORTWORKERS FEDERATION

Trade union responses to railway restructuring and privatisation

An assistive tool in the hands of the ITF Railway workers Unions in their strategic planning

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SECTION 1

Introduction

Major changes have happened and are still happening in railways all over the world. These changes take the shape of restructuring where former railway company structures are being split up and organised in different ways, but it also happens in form of changing ownership from public to private, a worldwide large scale privatisation. Most of the changes have been initiated by governments and in many cases supported by international monetary institutions.

Railway unions have been facing these changes with variable success. Most unions have put up a fight against privatisation. Fighting government decisions is however, a very challenging task and requires political support from the general public far outside the trade union ranks.

Many unions have managed to go through these changes and are still holding a strong position in defending the railway systems and the rights of the railway workers and maintaining a high union density. Some unions have not been so successful, with declining membership and lost political influence as a result.

The railways of the world are in general developing and expanding, both when it comes to urban rail systems, high speed passenger transport and heavy freight operations. This is mainly due to the fact that railways are the most effective mode of land transport when it comes to moving large quantities of people and freight in an environment friendly way.

The railway workers' unions have to stand up and be in the forefront of this development. Promoting the railway as a core transport system for the future, organising the railway workers and fighting to protect and improve the working condition.

At the steering committee meeting of the ITF railway section September 2017 in London, it was decided to set up a working group on privatisation with participation of union representatives from different parts of the world.

The working group has decided to develop this document called:
"Trade union responses to railway restructuring and privatisation"

The document reflects the knowledge and experiences of these unions, fighting through many years of restructuring and privatisation.

The purpose has been defined as:
To be an assistive tool in the hands of the ITF Railway Workers Unions in their strategic planning:

- To deal with restructuring and privatisation
- Proposing principles for a trade union alternative for the railways
- Protecting the working people's rights
- Building union capacity

The ITF affiliates are active in most countries of the world, representing a variety of political systems, different stages of railway development and different conditions for the unions to work under.

The experiences shared in this document and the general advice given must always be adapted to the national context. It is of course the sole responsibility for the national unions to develop their strategies and tactics. The ITF will provide all possible support for unions wanting to discuss experiences, develop strategy and in need for solidarity!

Øystein Aslaksen

Chairman of the ITF railway section

The document is not meant to be a comprehensive study. Many contributions are accompanied with links for those who want to learn more. The secretariat will also on request give access to the ITF railway section database on railway issues.

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SECTION 2

Executive summary

The political trend in most countries is restructuring and partial- or full privatisation of the railway systems

Major changes have happened and are still happening on the railways all over the world. These changes take the shape of restructuring where former railway company structures are being split up and organised in different ways, but it also happens in form of changing ownership from public to private and a worldwide large scale privatisation. Most of the changes have been initiated by governments and in many cases supported by international monetary institutions.

The railways of the world are in very different stages of restructuring. In some countries railways are still publicly owned and operated; in other countries the railways are fully privatised. In some countries railways are still vertically integrated between infrastructure and operation; in other countries the railway systems are highly fragmented with a variety of operators and subcontractors in most segments.

A large variety of organisational models exists, emerging from different historical and economic backgrounds. So called Private Public Partnership is one form, outsourcing of certain functions to the private sector another. The general trend now is widespread internationalisation and privatisation. There is already a large international market for multinational companies operating on public service contracts, especially for urban transport services. Freight companies are becoming more and more international with operations across national borders. The supply and manufacturing industry is in general privatised and highly international.

Why is restructuring and privatisation happening now?

The capitalist markets are flowing over with financial assets. There is significant competition for investments in the real economy. The public sector simply represents the greatest potential for market expansion. It is thus the abundance of financial capital, hunting for profitable investments, which is the most important driving force behind the increased pressure for privatisation of public infrastructure and public services. Even though the actors themselves use completely different arguments. It is also important to recognise that privatisation of public services is often promoted by international monetary institutions like the World Bank.

Arguments for privatisation are many and fanciful. The large debt of many traditional railway companies is used to explain that state owned companies are badly run. The reality in most countries is that the state has underinvested for many years making the systems obsolete and thus impossible for the companies to run with a surplus to finance the need for investments. In many countries the need for public service contracts are neglected, forcing companies to accumulate enormous debts to invest and run the services.

The consequences of the privatisation policy for society is negative

Privatisation means that private capital moves in to make profit. There is no proof whatsoever that privatisation in itself can improve the railway services. In many countries privatisation has led to a decrease in railway services and the shutdown of whole networks or lines, services not deemed to be able to run by profit.

In the European Union countries, the market share of rail freight has not improved since privatisation. There is nothing indicating that privatisation itself leads to increase in passenger numbers. For the passengers privatisation in general leads to less flexibility and higher ticket prices. Privatisation requires a huge bureaucracy for awarding contracts, setting up regulations and coordinating the activities of numerous operators and subcontractors within the railway systems. When the private rail operator goes bankrupt the state has to take over responsibilities.

For the railway workers privatisation means pressure on wages, working time regulations, training standards, pension systems and other social benefits. Many functions are outsourced and workers are forced into part time work or zero hours contracts.

Railway unions have been facing these changes with variable success. Most unions have put up a fight against privatisation. Fighting government decisions is however, a very challenging task and requires political support from the general public far outside the trade union ranks.

Technological change

Technological change is nothing new to railway workers. Transition from steam to electric/diesel is one example, establishment of centralised control centres and the development of electronic ticket and validating systems are others. Most of the technological change require expensive hard ware investments and are not due to happen very suddenly.

What is new, however, is the emerge of real time platform based information systems. There is no doubt that this leads to a higher demand for “on time” labour, increasing part time work and leading to work intensification.

Railway safety

There is no doubt that privatisation constitutes a challenge for railway safety. A high safety level costs money and constant investments. This is also of course the case for the state owned companies, without the proper investment level, safety will decrease.

The railway workers and their unions are crucial to maintain the high safety level of the railways. This requires a fair safety culture with openness on safety deficits, the trade unions playing an active part in improving the safety systems, fair risk assessments before changes are being implanted and a policy of learning from accident and incidents in contrary to punish the individual.

What kind of railway systems do we want?

Given the nature of railways as an important part of a country’s infrastructure and a natural monopoly, it should be publicly owned and operated.

The purpose should be to provide society with a high quality public passenger service at affordable prices and provide fast and efficient freight transport for industry and commerce. The purpose should not be to generate profit for private investors.

Railways should be publicly accountable. This means that the railways should answer to the demand of service from its users and be responsible to them and at the same time respecting the role of the trade unions. The public authorities should be responsible for giving general directions and providing enough funds for both investments in infrastructure and operations. At the same time, the railway companies must be free from detailed political interference and be able to develop the services in a professional and efficient way.

The authorities must provide a legal and economic framework for the railways that put them on equal footing with other modes of transport, especially taking into account the impact of transport on the environment.

The railways must be long term fully financed, both for infrastructure investments and operations. There must be long term contracts between governments and companies providing public services that cannot cover their own costs for operations and reinvestments. The contracts must fully cover the real expenses of the companies and not encourage for accumulation of debts. The company budgets must be protected from government interference.

Challenges for the unions, fighting privatisation and organising in restructured companies

Many unions have managed to go through these changes and are still holding a strong position in defending the railway systems. As well as the rights of the railway workers and maintaining a high union density. Some unions have not been so successful, with declining membership and lost political influence as a result.

The railways of the world are in general developing and expanding, both when it comes to urban rail systems, high speed passenger transport and heavy freight operations. This is mainly due to the fact that railways are the most effective mode of land transport when it comes to moving large quantities of people and freight in an environment friendly way.

The railway workers' unions have to stand up and be in the forefront of this development. Promoting the railway as a core transport system for the future, organising the railway workers and fighting to protect and improve the working condition.

While the first step for railway unions faced with privatisation or restructuring may be action to stop these developments, it is important for unions to acknowledge and develop strategies to organise workers affected by restructuring, if the campaign to stop privatisation is not successful.

Organising in restructured and privatised railways must become a key target for railway unions in order to build union power to implement strategic campaigns to influence future industry changes with the necessary industrial and political muscle. If strategies are not established to meet these new challenges, the industry and unions will be further fragmented.

Organising challenges and strategies

Union organising campaigns are fundamental for trade unions in order to develop collective bargaining strategies, create solidarity among workers and win new rights at work, however, restructuring means workers often lose the protection of unions.

Organising in restructured and privatised railways presents specific challenges for traditional railway workers' unions. A basic issue can be the political balance between fighting privatisation and organising in the private sector. When a private company wins a contract, it can often be at the expense of the traditional state-owned company. The workers of the private companies will then often be seen as enemies of the unionised workers in the traditional companies. Workers in private companies will often see the traditional railway workers' unions as company unions, protecting the specific interests of the company, and not as their union.

The (re-)classification of a worker once they are outsourced (for example they are no longer considered a 'railway worker') will impact on a railway union's ability to organise and can also cause conflict between unions regarding union coverage or demarcation. The fact that much outsourced work is located away from the centre of transport activity and in turn the centre of industrial power provides additional organising and representation challenges for unions. There are different challenges relating to workers hired through temporary employment agencies as their employment status is less clear. There may also be conflict or tension between precarious and regular workers in the same workplace as permanent workers feel insecure from the constant threat to their job security.

Worker identity plays a critical role in organising so workers understand their integral role in the sector, but also identify with the union rather than the company. In an industry where companies may come and go, the union should be the one constant where the loyalty is!

SECTION 3

Why restructuring/privatisation happens

Societies and the world of work develop and change continuously. There are many reasons for this. Most important are economic developments, technological and organisational innovations, changes in power relations and power structures in society. These are mutually influencing each other, and the trade union movement must meet the different changes in different ways. Some changes are to the benefit of workers and society at large. Others are detrimental to workers' interests. Many changes can go either way, dependent on the balance of power at the workplaces and in society. If the trade union and labour movements are strong and influential, they can benefit from certain organisational and technological changes, while if they are week, the employers will benefit the most. Thus, what kind of restructuring and social changes that will take place, and their effects on workers, are first and foremost a question of social and industrial power.

This is, in other words, an interest-based struggle. Both ownership and government policies are therefore decisive. There are, for example, enormous differences between both the aims and the functioning of private, commercial companies versus publicly owned and operated entities. While the main aim of a joint stock company is to maximise the return on investments, the main aim of a public service is to meet certain needs of the population. If public services are opened up to market competition, the logic of commercial companies can lead to cuts and rationalisations which undermine the quality of the services in question. And if natural monopolies like railways, electricity and water are sold or handed over to private companies, there are strong incentives to reduce investments and to increase user fees and ticket prices in order to boost the surpluses.

Those were exactly some of the most important reasons why public services were developed within the public sector when they really started to grow during the last century – particularly after World War II. This development reflects also a situation in which the trade union and labour movements in many parts of the world were at the height of their power and influence, when the balance of power of specific historical reasons was quite favourable to workers. The existence of another economic system in Eastern Europe, the defeat of fascism in World War II, the enormous growth of trade unions, and their ability as well as willingness to use their industrial power, constituted the most important basis for this shift in the balance of power.

What happened during this period was that a great part of the economy was taken out of the market and made subject to democratic control in a rapidly growing public sector. Markets were regulated, wealth was redistributed, trade union and workers' rights were strengthened, public infrastructure and public services expanded enormously. This became the era of Keynesianism and of social democracy – particularly in most of the highly industrialised countries, but with important effects also in other parts of the world.

This changed dramatically when capitalism again went into a crisis in the 1970s. The crisis expressed itself through overcapacity in many industries, growing unemployment, reduced wage share, increased inequality and reduced investments in fixed capital. Inflation and stagnation (*stagflation*) took place at the same time. This was a deep systemic crisis of the capitalist economy, and it is still going on. Neither Keynesian stimulus policy nor traditional social democratic government regulations seemed to work the intended way any longer. Capitalist forces' response to this crisis was to go on the offensive to regain profitability. Neo-liberalism became their political-ideological tool in this struggle. The class compromises, which capitalist forces of tactical reasons had entered into some decades earlier, in order to dampen the radicalism and reduce the power of the trade union and labour movement, began to unravel. Capitalist interests started to attack collective agreements, trade union and labour laws, which they earlier had accepted as part of the class compromise.

The redistribution of wealth from labour to capital, from public to private and from the poor to the rich were the important results of these struggles, policies and new class relations. This redistribution reduced people's purchasing power, and thus the ability to consume all the goods and services that were produced. The resulting overcapacity in many industries led to an abundance of financial capital in search of profitable investments elsewhere. This represented a new phase in capitalism, characterised by globalisation (i.e. capital's strategy for the deregulation and restructuring of capitalism at the international level), deregulation of financial and other markets, and the so-called financialisation of capitalism. It has had huge effects on particularly the following four areas:

- Enormous speculation on the financial markets.
- The emergence of a number of asset bubbles.
- Increased production of weapons (wars – or military Keynesianism, as some calls it).
- Increased pressure to privatise public services as a new area for profitable investments.

Capitalism without growth, is capitalism in crisis, and in the current situation, the public sector simply represents the greatest potential for market expansion. It is thus the abundance of financial capital, hunting for profitable investments, which is the most important driving force behind the increased pressure for privatisation of public infrastructure and public services, even though the actors themselves use completely different arguments. Public services, which originally was developed in order to meet people's needs in a society, is thus turned into profit-seeking entities, with many negative effects on the quality of and often also the access to the services. That privatisation of public services also often leads to the fragmentation and weakening of trade unions, as well as undermining of wages and working conditions, are extra bonuses seen from a neo-liberal point of view. Tax reductions and cuts in public budgets are additional instruments used to push for further privatisations.

In this process, we have also seen the state being restructured to serve the crisis-ridden capitalist economy. This has led to a situation in which governments increasingly have turned to neo-liberal policies, in accordance with the requirements of strong capitalist interests – regardless of which political parties are in government (including social democratic parties). Politicians across the board have thus abolished capital control and pursued deregulation, privatisation and private sector-inspired New Public Management-oriented restructuring of the public sector. Of course, this does not make the struggle against privatisation any easier. Quite the opposite, it rather makes it clear that the fight against privatisation, for re-nationalisation, will not be sufficient. To safeguard the interests of workers, of users of public services and of local communities, we will also have to fight for a restructuring and democratisation of our public services and of the state apparatus itself.

To be successful in this struggle, we have to analyse the situation and what has brought the trade union movement into its current very defensive position. Large parts of the trade union and labour movement were taken by surprise by the capitalist crisis and the neo-liberal offensive as from the 1970s. We have to admit that there is a deep political-ideological crisis on the left. Thus, many have believed that capitalism was tamed through market interventions, stimulus policies and regulations. They no longer see that the capitalists' involvement in the class compromise was a tactical step to win time and to dampen the radicalism of the trade union movement. They saw it rather as a higher level of reason, in which "the capitalists had realised that cooperation is better than conflict". The roots of this misconception of the near history are easy to understand. Today, however, after decades of neo-liberal attacks on trade unions, the welfare state and our public services, time has come to reassess the situation, to put away the illusions and fight back. We have to confront the neo-liberal offensive and mobilise for alternative policies in the direction of more and deeper democratic control of the economy.

In this regard, to fight privatisation is extremely important, both to limit the power and influence of private capital in society, and to secure that public services are kept under democratic control. We therefore say no to privatisation in all its forms, be it sale of whole systems, out-sourcing, competitive tendering, concessioning, franchising or so-called public-private partnership. But we also say no to neo-liberal restructuring within the public sector, through market-simulation or the import of other private sector elements. Public services and the public sector should rather be further democratised, not corporatised. Privatised services should be re-nationalised and re-municipalised.

Since the driving forces behind the privatisation of our public services are integrated parts of contemporary capitalism, a struggle against privatisation requires the building of broad alliances and the massive mobilisation of social forces. The alliance between workers in the public and the private sector is key. That includes also the workers in privatised entities. The fight against privatisation is not a struggle against those who work in the private sector. It is a struggle for a better way of organising our societies, a better way of meeting the needs of ordinary people. Workers are not responsible for the way neo-liberal governments and commercial interests organise our societies and services, and it is extremely important for the struggle that we are able to develop unity between workers in the public and the private parts of the actual services. Class solidarity is a pillar in our struggle, so alliances must be built with all groups of workers, also in private industries and services, which have never been in the public sector – as well as with users of public services, with local communities and with other social movements and interest-based organisations. International solidarity in this struggle is also decisive, both to avoid downward competition across borders, and to strengthen workers' interests in general through political, moral and material support to those who take the fight, including secondary action where necessary.

We are in a situation, which is critical for the trade union movement. Our adversaries are on the offensive, and without massive mobilisation of counter-forces, we are at risk of being defeated. Our is the responsibility to confine the power of private economic interests in society. Thus, we have to shift the balance of power in society in favour of workers. The fight against privatisation is an important strategic part of that struggle.

SECTION 4

The impact of technological development

The railway systems in most countries were established more than a hundred years ago, when competition from other land based modes of transport was almost non-existent. They were often designed by engineers from different advanced railway countries which exported their technology and then, developed systems with national based manufacturers for rolling stock, track and signalling systems.

The railway industry as a whole was in many countries seen as the backbone of the land based infrastructure. Connecting rural and urban areas, inland and coast becoming important for industrial development and a large employer providing stable workplaces. Railways were also in the forefront of technological innovations, especially in the form of improved steam and mechanical/electromechanical technology.

With the widespread introduction of the private car and also the development of the airline industry, the railway gradually lost its importance as the primary land based transportation system, especially on the passenger side.

Many services were running with a deficit and were subsidised with government funding or were closed down. Investment was reduced, for both infrastructure and rolling stock.

Existing systems were lagging behind compared to rubber wheel based transport in cost and efficiency. The development in technology still happened though, the introduction of diesel and electrical locomotives replacing steam is a typical example.

For the trade unions this normally meant quite large reductions in the workforce, which the unions had to manage.

During the 60s and 70s more new technology was introduced to save costs and improve the efficiency of the railways. One example is Centralised Traffic Control systems (CTC), where control centres were established and the signalling systems were remotely controlled. Another example is automated level crossings. This meant substantial reductions in the workforce for staff with safety tasks at the stations and along the track.

With the introduction of computer technology and the use of internet from the 1990s and onwards we have seen another level of automation and introduction of new systems. Examples are automated selling and validating ticket systems resulting in large sales staff and onboard staff reduction. Also automated track inspection systems replacing former manual control and computer diagnostic systems for maintenance of rolling stock reducing the need for periodic maintenance intervals leading to less need for staff.

Another trend that has had a significant impact on the workforce is the standardisation of both rolling stock and other railway hardware. Big multinational companies like Bombardier, Siemens, Alstom, Hitachi, General Motors, General Electric, Daewoo and Hyundai are producing railway equipment that is exported worldwide. Big Chinese companies are standing in line to enter the international market, and many have already done so. In many cases this equipment was formerly manufactured by subsidiaries of the national railway company. The reason for this change is that the development of new technology requires top expertise, significant resources and large-scale production. These companies often also have in their contracts operation and maintenance of the delivered subsystems. Meaning that this work, originally carried out by the national railway company, is now contracted out.

Important is of course also the hunt for profit itself; free trade agreements make it in many cases impossible for the railway companies to place direct orders to nationally owned companies, even to their own subsidiaries

There is no reason to believe that the changes in the railway sector will stop. The present worldwide trend is an expansion of railways due to both efficiency reasons (road congestion) but also for environmental causes. This leads us to believe that the focus on cost savings will be even stronger. Privatisation, with its emphasis on profits, adds to this.

On the technical side, the introduction of the European Rail Traffic Management System (ERTMS) http://www.ertms.net/?page_id=57 or similar systems are the next step. This fully computerised system communicates between the control centre and the train computers by modern telecommunication technology. No external signalling systems are required and the block sections can be adapted to fit the individual train based on speed and braking parameters. In countries with high speed lines this system is already introduced. The problems seem to be high implementation costs, that the technology is already outdated upon introduction and the issue of standardisation between all the various software and sensor providers.

Driverless trains require in general 3 basic technical systems closely linked together and interacting:

- Technical control of the locomotive (power, braking systems)
- Transmission from the signalling systems giving clearance for entering block sections
- Transmission from track side detectors warning about irregularities that can have impact on the train, like cars on level crossings

In addition, there will be a practical requirement for access to the train for external assistance in the case of technical breakdown or accidents.

These requirements altogether mean that driverless trains usually are introduced in closed railway systems like metros but can also be introduced for newly constructed high speed lines with an easily controlled environment.

The Rio Tinto mining company in Australia has introduced driverless freight trains from the mines to the port. These trains currently (2018) run automatically about half of the time, with supervising drivers on board, and the company expects them to become fully automated later this year. This is a case of retrofitting an old system to driverless operation. The level of safety around these kinds of operations is often determined by what kind of sensor systems for detection that is introduced. Operating in rural areas with stable natural conditions requires a less sophisticated sensor system than operating in highly populated areas or in a country with unstable natural conditions.

COMMUNICATION BASED TRAIN CONTROL (CBTC) – SEMI-AUTOMATIC AND DRIVERLESS SYSTEMS IN ARGENTINA

Traditional control systems detect the presence of a train on discrete sections of track (called railway blocks or track circuits). Each block is protected by signals that prevent trains from entering "occupied" blocks. Since every block is a fixed section of track once construction of the infrastructure is complete, these systems are known as fixed block systems.

CBTC (Communication-Based Train Control) is a signalling system based on communications. The system detects and follows the exact position of trains on the line (it knows where each train starts and ends). Using the specifications and speed of the rolling stock, it calculates the braking distance, which varies according to the train's cargo and speed.

Trains use Wi-Fi to communicate their position, speed and braking distance to the central point. The system uses this information and WIFI communications to authorise changes of track and routes and stopping points for each train. This allows two trains to approach each other safely until they are about 30 metres apart.

CBTC systems normally use Automatic Train Protection (ATP), in which the system continuously communicates the maximum authorised speed to each train at each point on the track. Train drivers have the option to accelerate to the relevant maximum speed. If the maximum is reached, the system will issue warnings and cause the train to brake automatically.

As the system is based on authorisation to move as far as a stopping point, side signals are not necessary.

This system may also use semi-automatic driving (GOA2) with a driver or it may be completely automatic (GOA4), without a driver.

Line H on the Buenos Aires underground system uses a GOA2 CBTC/ATP system, which is managed by a driver, whose job is to start the train manually in semi-automatic driving mode, but may also drive manually with ATP protection at any point on the journey.

Semi-automatic driving involves starting the train manually. The train then makes safety checks (doors are closed, etc.) before accelerating automatically to maximum speed according to pre-established acceleration patterns between stations, brake at the precise pre-established stopping point on the next platform, open the doors, wait the programmed time, close the doors, check the safety systems and wait for the driver to start the train manually to repeat the cycle.

Unions should also be aware that advanced computer technology can make operational planning more flexible and efficient. This can lead to a demand for a more flexible workforce, being defined by the exact need at any time for the company. Part time work and zero hour contracts could be a result. In any case this kind of technology is bound to mean intensification of work. Other technologies that intensify labour include those that allow increased surveillance of workers through GPS data for example, or the use of biometric indicators or programmes that can determine response times for particular tasks. Many of these can be brought in by the introduction of mobile phones or tablets for workers.

Technological change means that the skills required by the workers for doing their job, is changing. Many companies seem to use technological change as an excuse to reduce training levels for cost saving purposes, but what is needed is not less skills, but different types of skills. In general, the demand for a well-educated and trained workforce in society is increasing. There is no reason why this should be different in the railway sector.

Other changes are introduced under the excuse of technological development. This is mainly when it comes to replacing workers with machines in service relations with passengers. Examples are passenger trains running without onboard staff and automated help points at stations instead of station staff. It is a fact that technical systems cannot replace humans in important relations especially when the unexpected is happening, passengers should be supported by staff being present. These kinds of changes are only for cost saving reasons at the expense of the passengers. Building alliances with passengers to resist this kind of automation is crucial in to preserve security and safety.

In many countries the national railways consist of parts in very different stages of development. The reason is often that the modernisation requires huge investments; new solutions are introduced gradually and over a certain time period. This gives the unions opportunities to negotiate interim arrangements to reduce the impact of the workforce.

Job losses because of the introduction of new technology always remains a concern or in a labour surplus country like India; although it has been argued that new technology/ automation would only displace tasks, not jobs but the time lag between job destruction and job creation by new technology is totally ambiguous and uncertain. For a country like India, where precarious nature of job is gradually increasing, it is become important that union should know as how the new technology will affect the employment of workers. A white paper on technology must be demanded from the Government/authority.

Recommendations:

- Unions should demand a broad analysis from the competent authority on the job losses as a result of new technology and measures to be taken.
- Unions must have experts that can foresee the technological changes that are upcoming and tell the consequences
- Unions should have in their Collective Bargaining Agreements (CBAs) clauses involving the unions at an early stage in the company discussions about introducing new technology
- Unions should negotiate agreements with the company about how technological and structural changes are introduced
- Unions should negotiate procedures for accessing, using and the duration of storage of data recording individual performance
- Unions should negotiate solutions on the use of subcontractors
- Unions should be aware of, and negotiate restrictions on precarious work
- Unions should be aware of, and negotiate limitations and/or compensations for labour intensification
- Training programs and skills requirements should be a part of the CBA
- Unions should resist structural changes reducing the service and security level for passengers and build broad alliances with different passengers’ groups, especially the disabled people’s organisations in this fight.

Not all of this is initiated by technological change only, but would happen anyway. General cost savings is a big part of it, but often the excuse is technological development.

Technological change as a mean of union busting

We won't need train and bus drivers': Transport Minister's prediction

By Matt O'Sullivan: Transport Reporter for The Sydney Morning Herald.

NSW Transport Minister Andrew Constance says he sees a day in the future when the private sector will deliver public transport services instead of government.

Speaking about technological change to a business gathering, Mr Constance said the impact of automation on transport in the coming years would be huge and called on people to "embrace disruption".

"As a Liberal minister I'm not going to have to deal with the rail union anymore because we're going to have driverless trains here," he told the Committee for Economic Development of Australia function.

"And guess what, that starts in 2019. And guess what, the union and Labor Party are opposed to metro because there are no more train drivers; no more union members."

Mr Constance, who has been pushing strongly for the use of technology in transport, is overseeing the construction of a $20 billion-plus metro line along which single-deck driverless trains will run every four minutes from Sydney's north-west, under Sydney Harbour to the CBD, and onto Bankstown in the west.
"I have a very clear view ... that, into the future, government will no longer be providing services when it comes to transport – there's no need," he said. "We know that the private sector can deliver transport very effectively."

He is also embroiled in an industrial battle with the Rail, Tram and Bus Union after he pushed ahead with plans to privatise scores of bus routes in Sydney's inner west.
Bus region six – covering suburbs from Kensington in the south-east to Strathfield and Olympic Park in the west – is one of four in NSW that has been run for years by the government-owned State Transit Authority, and whose drivers are heavily unionised.

Mr Constance said automation would require governments to put more effort into understanding the implications for workforces.

"Sydney is about to get its first driverless train within the next two months – that's going to affect the rail workers. The bus workforce is going to change dramatically in the next 15 years as we see fully automated buses on our roads," he said.

"We have to plan for the disruption in terms of the workforce. Whilst for some disruption is a challenge, we all need to embrace it."

The member for Bega in southern NSW said bus and train drivers would not be needed "into the future but we are going to need software developers and obviously people who know the ins and outs of the back end of delivering many of these systems".

This month the government began a two-year trial of autonomous vehicles, which involves operating a driverless shuttle bus at Olympic Park.
Sydney commuters will also get the chance to book shuttle buses from or near their homes to a local transport hub within the next few months as part of a trial of on-demand public transport.

Pricing for a standard trip will range from $2.60 to $5.60, and customers will be able to book online, by phone or via an app on their smart device.

Mr Constance said the on-demand shuttles were designed to complement existing bus services and he expected people to use them "given the experience we have seen in ride-sharing" such as Uber.

But the Rail, Tram and Bus Union described the trial as "pie in the sky" and said similar schemes in the US and Sweden had failed because of "dead running" where buses ran empty from one job to another. The secretary of the union's bus division, Chris Preston, said Mr Constance could improve Sydney's bus services by cancelling his plans to privatise them because they had "no public support and will result in higher fares, fewer stops and closed routes".

SECTION 5

Different forms of restructuring/privatisation

General overview

All industries are going through restructuring processes and also changes of ownership. Some of the changes are necessary to develop the transport system to meet new demands. This can, as examples, be setting up new business units to serve special segments of the market or the establishment of joint ventures for cooperation with other companies running domestic or international services. Other changes are due to technological development, as explained in section 3. Such changes are in many cases supported by the unions. Other changes are made to benefit private investors, as explained in section 2. Such changes are usually not supported by the unions, considering the railway systems as essential to the infrastructure of a country, servicing the society as a whole.

A recent development (20-30 years) is the establishment of multinational companies. These companies are operating within both the passenger and the freight sectors. Most of them are actually subsidiaries of national state owned companies. In the passenger sector these companies usually participate in competitive tendering processes in other countries. Examples are Keolis, subsidiary of SNCF the French state owned company or MTR owned by the Chinese state. On the freight side the state owned Deutsche Bahn as an example, runs international freight services through its daughter company DB Cargo having subsidiaries in many European countries and also running intermodal services from China to the UK. Dealing with these companies requires special attention from the unions and international and regional cooperation is of outmost importance. More on this in Section 9, Preparing the unions for restructuring/privatisation

Changes in structure do not necessarily mean changes in ownership but changes in ownership certainly require changes in structure. Changes in structure can often be done by company decisions, while changes in ownership between public and private ownership always require government decisions.

From the start, most railway companies were in private hands. They were in general profitable companies attracting private investors. At the same time, they were often fragmented systems. In most countries this changed over time. In some countries railways were nationalised because they were seen as a strategic part of the infrastructure of the country with a need for strong integration to fulfil their tasks. In other countries competition with road lead to that railway was not profitable any longer and in need for government funding, especially on investments, and they were nationalised.

In the USA the freight railways have mostly been running at a profit and have always been in private hands. Although the government interfered and took over the management of railways between 1917 and 1920. Passenger services in the US, having lost market shares to private car and airlines were running at a loss, and were nationalised in the 1970´s with the establishment of Amtrak.

Constant under investments over time in both infrastructure and rolling stock, has led to that the railway systems have been more and more vulnerable to competition from especially the road side. They have lost market shares, been running with a deficit and subsequently accumulated huge debts with interests that have broken the economic back of many companies. This in itself is used as an excuse for privatisation, supposedly proving the inefficiency of the state sector.

The IMF, World Bank and other monetary institutions also in many cases hold privatisation as a condition to grant loans for railway development, especially in developing countries.

In general, the history of railways in the capitalist world is, as with other important parts of the infrastructure "Privatising profit, socialising loss".

A wide variety of organisational models exists, emerging from different historical and economical background. The trend now is widespread internationalisation and privatisation. This section contains description of some trends and some case studies written by union representatives. Section 6 will describe some cases of recent railway re-nationalisation.

Outsourcing and precarious workers: The Indian Railway

Many railways in the world are either privatised or re-nationalised, but Indian Railways is still a public funded transport organisation; although the inclination to privatise the Indian Railway is quite clear in policies of the last few decades. Although Indian Railway has been facing the onslaught of privatisation since the late 1980s but the changing external environment since the economic reforms in 1991 expedite the process of privatisation and restructuring. First it came in the form of systemic and deliberate cut in the railway budget/finance from government and secondly, downsizing of workers. It is an important development, as we have learnt from the international experience that financial starvation and downsizing of workers is precursor to privatisation and restructuring. As the Government failure to provide adequate resource has been passed off as failure of railway workmen. And it is argued that this failure can only be corrected through privatisation or involving private players in Railway activities. Government of India at different stages constituted a committee, as Prakash Tondon committee submitted its report in the year 1994; Rakesh Mohan in the year 2001 and recently Bibek Debroy in the year 2015. Every committee primarily suggested to restructure and privatise the Indian railway.

In the early 1990s, the Government of India embarked on its efforts to privatise the Indian Railways. The post- 1990s initiatives took effect in piece-meal fashion, privatisation was smuggled in, and in effect, the grounds and precedence for a more concerted effort was established over the years. In the post 90s various undertaking, organisation and special purpose vehicle emerged. Despite Government enthusiasm, private players did not show sufficient and sustained interest in all the operations, manufacture and other activities; they could now, after this restructuring started entering through this organisations and special purpose vehicle.

Privatisation is entering into the Indian Railways mainly through Public private partnership (PPP) and Outsourcing of jobs- 1. **PPP in Indian railways**- The areas identified for PPP include redevelopment of stations, setting up of Rolling Stock manufacturing factories, connectivity to ports, mines and industry clusters, operation of container trains, private freight terminals, wagon investment schemes and operation of automobile freights trains. Moving in this direction; the last mile connectivity projects to the ports through private participation was undertaken. *(PPP in Indian Railway is also discussed in different section)*

Outsourcing:

Indian Railways, till 1990s carried out all the activities itself through its zonal railways, production units and workshops but after liberalisation of the Indian economy, Indian Railway gradually transferring more and more activities for the private sector. Indian Railways being a large technological system consist of many activities. Some are considered as core and some as non-core activities; for examples Indian Railway have identified many activities as its non-core activities. This distinction has proved to be very detrimental to railway workers. Many of the activities are perennial in nature. As for examples, in the Indian Railway workshops, the parts which were previously being manufactured in house are now being outsourced. For example, seats/cushions of the trains were previously made in house at various zonal railway workshop. There was a carpentry shop, foundry shop both ferrous & non-ferrous including steel casings and a smithy shop but now these are procured from outside. Today, outsourcing has become a tool to privatise the railway. Employers' motivation to outsource also lies in the fact that it drastically cuts labour costs as the outsourcing is not only about outsourcing of job/work but also an outsourcing of employers' legal duty to provide fair wage, social security, health benefit and decent working condition. Outsourcing impact the effectiveness of existing worker representation structures and collective bargaining institutions and hence the ability of workers to exert control over their working conditions. It may directly impact working conditions and job quality by affecting the way labour processes are organized. Outsourcing increases precariousness in the employment especially for low skilled workers

Outsourcing has also created a set of workers; according to one rough estimate there are 6 to 7 lakh (0.6 to 0.7 million) outsourced workers, that are working in precarious working condition in Indian Railway: -

Precarious working condition of outsourced workers

Wages & Working hour: Precarious workers (outsourced workers) are paid less than workers on permanent contracts/regular workforce. An outsourced worker typically does exactly the same job as his or her workmates but with much lower remuneration and no access to benefits. Because of the lack of job security, competition against other agency workers for posts and threat of redundancy, precarious workers also work longer, odd working hours in order to secure a decent income. As for examples, outsourced workers are doing the same work as permanent workers but being paid a pittance of Rs. 6000 (US$ 92) to Rs. 9000 (US$ 138) per month; and in some cases they are not even paid the national minimum wage.

Vulnerable unskilled workers: There is a serious impact on health on the outsourced workers as they are not properly trained to do the job. As for example, Indian railways gangmen's (who take care of track maintenance) job has been outsourced. The outsourced/privately employed gangmen are not given proper training to do the job as a result of that railway as well as workers' safety always remain in danger. In case of any accidents, contractor deny workers the compensation. Also, every contractor starts blaming each other for the accidents; so there is problem of plenty in case of outsourcing.

Leave/holidays: The outsourced workers are denied legally prescribed leave/holidays. Workers are driven by the pressure of holding down a job and accepting poor conditions in order to survive. The lack of sick pay and access to health services or any other social security exacerbates this problem and exposes precarious workers to the risk of long term unemployment should they fall ill or met with an accident. The lack of holiday pay, weekly rest, and the long working hours required to earn a living mean pushes workers into a great deal of stress and exhaustion. Such inhuman working condition is not only detrimental to workers itself but it would also impact the railway safety.

Social Security: The wages and working conditions of precarious workers are of such poor quality that simply being in work is no guarantee of stability or improved living standards. Workers living standards even become worse, when they are denied any form of social security. In India workers are given social security through Provident fund and Employees State Insurance. But in the case of outsourced/contract workers this rights are simply denied, even in some cases the workers contribution (social security is contributory in nature where workers and employee contribute their share in the fund) is deducted from workers' wages but employee do not contribute their share and workers in most cases are not aware of this.

Unionisation and Collective bargaining: What is worst amongst all is the denial of union activity among these workers. Whenever there is some initiative from the workers they are thrown out of the job. Workers who are in constant fear of losing the job tend to opt out of unionising themselves. Outsourcing not only pushes workers in a precarious working condition but it even prevent workers to fight back through collective bargaining. Outsourcing in the railway is pushing workers into a precarious working condition by simply denying their rights at work place and thus creating a condition where not only workers but also railway safety is in danger.

All Indian Railwaymen's Federation (AIRF) strategy:
Following the sustained pressure from the AIRF that Railway ministry was force to dump the recommendation of committees (Rakesh Mohan, Prakash Tondon & Bibek Debroy Committees), formed to privatise the Indian Railway. AIRF always believe that privatisation of public sector undertaking not only has detrimental effect on workers but also adversely affect the economy as a whole as India has already seen the adverse effect of privatisation in other sector (for ex. Telecommunication). AIRF believes that educating its rank and file is important, and therefore, we always educate our rank and file against these evil design to privatise the Railways so that AIRF always remain prepared to meet the greater challenge.

AIRF, also continuously agitating and putting pressure on ministry that it should immediately take measures to fill up all vacant posts. There are nearly 2.50 lakh (0,25 million) vacant posts in the railways. Instead of outsourcing, which is posing risk to commuters, the railways should recruit permanent staff at the earliest. However, if outsourced workers employed in Indian Railway; Indian Railway should ensure that they are properly trained and also their rights should be protected. It is only on AIRF's intervention that a clause is added in the contract document that workers' rights provided in Indian labour laws should be protected; though it won't help much as contractor/middlemen has found other way to exploit outsourced workers. Contract workers right can only be protected by unionising them.

AIRF and many of its affiliates have amended their constitutions to allow all contract labour directly or indirectly connected with railway work to join the union as a separate branch whereas some of these have registered their unions separately. The unions have organised specific action for women contract workers to fight for their rights and participate in the unions, and have encouraged young workers to take part.

Recommendations

- Unions should demand that perennial nature of job should not be outsourced.
- Unions should in their CBAs have clauses that protect the rights of outsourced workers.
- Unions should demand that outsourced workers should be given proper training before they are engaged in railway operation or maintenance of services.
- Unions should unionise precarious workers by enrolling them in union or forming separate unions.

Privatisation of the public owned German railway system “Deutsche Bundesbahn” into “Deutsche Bahn AG”

After re-unification in 1989, Germany had two state owned railway companies, the railway system of the eastern part of Germany called Deutsche Reichsbahn (DR) and the railway system of West Germany called Deutsche Bundesbahn (DB), both were highly indebted. Article 26 of the Unification Treaty (Einigungsvertrag) stipulated the DR to be merged with DB at the earliest opportunity. Administratively, on 1 June 1992 the DB and DR formed a joint board of directors which governed both entities. However, the merger was delayed over the structure of merged railway due to concerns by German politicians on the ever-increasing annual operating deficits incurred by the DB and DR. After several years of delays, the German ministry of Transport proposed a comprehensive reform of the German railway system (Bahnreform) which was approved by the Bundestag in 1993 and went into effect on 1 January 1994. At the heart of the reform package was a) the merger of the DB and the DR and b) the change of the form of the enterprise into a stock corporation with the Federal Republic of Germany being its single shareholder.

Merger of GdE and GdED in 1990

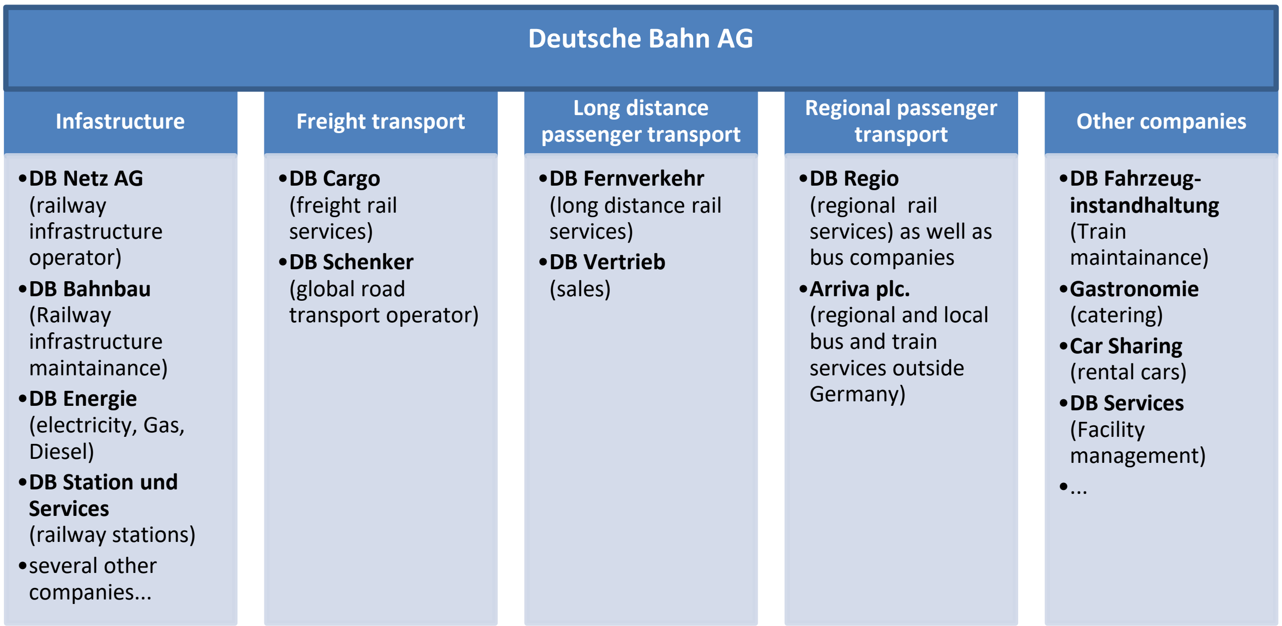
On both sides of the wall, there was not only a state owned railway company but also railway workers’ unions, *Gewerkschaft der Eisenbahner Deutschlands* (GdED, FRG) and *IG Transport und Nachrichtenwesen* (IG TuN, GDR). In February 1990, IG TuN held a congress where the delegates decided to set up the railway workers’ union *Gewerkschaft der Eisenbahner* (GdE). During its next ordinary congress held in October of the same year, GdE voted in favour of dissolving GdE while GdED at the very same time voted in favour of accepting all GdE members as members of GdED.

GdED and the Bahnreform 1993

Within the union, there was a huge debate on how to position itself regarding the so called Bahnreform (railway reform). While some were of the opinion that the union should be against the reform, others were in favour. Nobody had a doubt that both railway companies were in existential crisis. Definitively, it would have been the easiest to say “No” to the reform. But in the end, those voices prevailed that claimed that with a fundamental “No” the union would lose any chance of influencing and shaping the reform process. The union therefore decided to go the harder way, the way with chances of success. The union accepted that fundamental changes were unstoppable, but fought that these changes would be as easy as possible on the railway workers. Core issues for the union were that all working conditions, payment standards and social standards could be protected and that there would not be any compulsory redundancies. Furthermore, it was of outmost importance for the union that the privatised railway system would stay in public ownership and maintained as an integrated company with infrastructure and rail services. After all this was achieved that included the negotiation of several CBA’s, the creation of a completely new payment system and working conditions specific for the railway sector, GdED gave the green light to the Bahnreform. In December 1993, German Bundestag voted in favour of changing the German constitution as well as 130 ordinary laws.

State of play

As already mentioned, Deutsche Bahn AG is a public owned company. It has many subsidies within and without Germany. This is an overview of the company. Not all subsidiaries are named.



Situation of competition:

Rail freight transport:

In Germany, the rail freight sector is fully liberalised. More than 100 railway operators are running freight rail services within and though Germany. In 2017, the railways in Germany transported almost 556 million tonnes of goods by rail. After an initial recovery in the aftermath of the crisis year 2009, rail freight transport has suffered losses since 2013.[1]

Regarding modal split in 2016, rail freight transport counts for 17.6 %, while at the same time 71.5% of goods have been transported by road[2]. This relationship changes over the years only to little extent. One of the biggest reasons for this lies in the transport policy in Germany, which favours road over rail (for example the internalisation of external costs applicable in rail but not on road; very low road toll while infrastructure charges on rail are higher as European law demands; extending the allowance for super lorries).

The German Railway Workers' Union EVG (predecessor organisations were GdED and TRANSNET) has members within DB Cargo and in the other rail freight companies, too. Therefore, EVG is focussing its political work towards the creation of a level playing field, last year with success in two areas: In 2017, German ministry of transport decided to cut the infrastructure charges for rail freight transport substantially and laid the grounds for 740m long freight trains, two main demands of EVG in the ambit of rail freight.

Inter modal competition in rail freight transport is widely accepted among transport scientists and stakeholders in Germany and at short- and mid-term perspective there would not be any realistic option to re-establish an intra-modal "monopoly" for DB Cargo. However, EVG sees at least three issues in terms of intra-modal competition which should be dealt with in order to avoid that rail freight transport further deteriorates: Relevant safety problems have occurred. It seems that several train operating companies do not respect the regulations concerning driving times and compulsory rest periods. Technical devices to control driving times and rest periods do not suffice and the legislation about respective examinations by safety authorities is inappropriate. Further safety

[1] https://www.vdv.de/statistik-gueterverkehr.aspx
[2] https://www.allianz-pro-schiene.de/themen/gueterverkehr/daten-fakten/

problems are due to the number of interfaces between railway undertakings, especially when temporary employment agencies are involved as well as reduced duration and quality of training for train drivers and other staff who are entrusted with duties that are relevant for safety issues.

Single wagon load transport has come under pressure. Many freight yards have been closed during the last 25 years and very few branch lines are still operated by freight trains.

DB Cargo has been suffering for years from a very defensive strategy of its management. While the Federal Transport Ministry forecasted significant increases in rail freight transport, the DB Cargo management was intending to reduce its business. EVG uses its power, including its mandates in the advisory boards of DB Cargo and DB AG, to change the company's policy.

Long distance passenger transport

In terms of the legal situation the long distance passenger transport sector is also fully liberalised. Due to high financial risk (high invest in rolling stock and no subsidies), and an existing network of long distance rail services of relatively high quality which are operated by Deutsche Bahn, the market share of competitors is lower than one percent (in terms of passenger km).

Since the 1990s Deutsche Bahn has been more and more concentrating on high speed operations and trains that connect conurbations. With the decline of the Interregio and Intercity networks many towns and smaller cities lost their long-distance trains. Although some of these trains were replaced by regional trains (financed by the regions), the advantages of direct connections between smaller cities in different parts of the country have been lost.

This backward strategy of Deutsche Bahn did not lead to a healthy financial situation of the long distance passenger business. Therefore, and as a response to the new competing long distance bus services, in 2015 DB AG announced a new forward strategy. It includes a substantial expansion of the IC and ICE network until 2030. Almost every city of more than 100,000 inhabitants shall be connected every one or two hours based on regular timetables. EVG welcomed the new strategy although highlighting that there is no guarantee at all that Deutsche Bahn will realise it if the management changes its mind.

Meanwhile it has become a part of the government's programme for 2018-2021 to start the process to establish a long distance network with a nation-wide regular timetable ("Deutschland-Takt") which implies both an agreement with Deutsche Bahn on scope and quality of operations and the adaption of the infrastructure investment strategy.

Competing railway companies, neoliberal politicians and economists are trying to launch discussions whether future long distance services should be contracted by competitive tendering within the framework of the "Deutschland-Takt" project. On its 2017 congress, EVG clearly voted against such ideas. The organisation does not see any advantages neither for passengers nor for railway employees nor public finance in such a tendering system on national level. In contrast, there are good arguments why Deutsche Bahn's role as system leader should be strengthened, operating all intercity, most interregional services, including international connections.

In 2012, long distance bus transport was liberalised and has achieved a market share of 4.7 % (pass. km; 2016). To a relevant extent passengers were attracted from both long distance and regional rail transport. 2017 was the first year after liberalisation to see a decline of passengers in long distance bus transport (- 0.8 %). About 80 % of long distance bus services are now organised and marketed by Flixbus, a company which has recently overtaken a few long distance passenger trains from other private companies and is about to expand its bus and maybe also the train network internationally. There is a certain danger that this expansion strategy may lead to further disruptions of train services and ticket distribution systems.

Regional passenger transport:
The local and regional passenger transport is liberalised. The market shares of "private operators" is also continuously increasing. Several European rail operators are running services in Germany.

- DB Regio AG (Deutsche Bahn AG), public owned by the German State
- Transdev, owned by the French public investor financial institution (Caisse de depot)
- Keolis, subsidiary of the French state owned rail operator SNCF
- Abellio, subsidiary of the Dutch state owned rail operator NS
- Netinera, subsidiary of the Italian state owned rail operator Trenitalia
- National Express, British stock corporation
- Go ahead, British stock corporation
- Several small companies private, and regional public owned

22 years ago, in January 1996, the Regionalisation Act came into force. Since then, the German *Bundesländer* have been responsible for regional rail transport (SPNV). They (or associations of communes) award these services in competitive tendering procedures.

The regionalisation brought a paradigmatic change. The German Federal Railways (West Germany) had been closing branch lines systematically since the 1950s. The regions had a much more positive view of regional passenger services than the Federal Railways. Although closures still occurred after the 1993/94 reform (mainly in East Germany), services were generally improved and several lines have been re-opened. The regions had the financial power (based on the Regionalisation Act), the legal power (access to the railway infrastructure), the political responsibility and the expertise for new ideas and new projects.

The instrument of direct awarding was crucial for the success of regionalisation during the first years. Unfortunately, German jurisdiction has been prohibiting direct awarding in most cases since 2011. Although competitive tendering is said to bring more efficiency and reduced costs, it's almost exclusive application has made awarding more complicated, especially when it comes to implementing innovations, and brought the working conditions in the sector under further pressure. Recently there have been some cases where maintenance of rolling stock or ticket distribution were tendered separately. This practice may lead to further disruption and dis-integrity of the railway system.

The Regionalisation Act and the implementation of tendering procedures were a political decision. Therefore, EVG sees the federal legislator in the duty to protect the interests of employees in the competition.

Like in rail freight, EVG has members within DB Regio AG and in most of the other RUs which are active in regional rail transport. Since competition is a reality in regional transport in Germany due to political and court decisions, EVG focusses its work on good wages and working conditions, and for a mandatory transfer of staff in the case of change of operators.

The regionalisation of the regional passenger transport is often referred to as a success story. That's what it is, if you look at the pure numbers of passengers that increased. But this success was bought by the fact that the competition took place for a long time on the backs of the employees. EVG's answer to this: fighting for an industry wide collective agreement and a change of the procurement law.

Here, substantial progress has been made, lately with successful lobbying federal politicians for a change of the act against Restraints on Competition. The 27 public authorities who are in charge of the tendering procedures within the German Länder shall demand of all RU who participate in the tendering procedure that they take over the personnel of the old operator if they win the tendering procedure.

However, the public authorities are allowed to make exceptions to this rule when they think (and have good arguments from their point of view) that their actual tendering project would be an exceptional one. Here, EVG wants this legal gap to be closed. Furthermore, EVG's fight continues because the aforementioned law does not apply to bus services, where changes of operators are also a reality – and taking place even more often than in the railway sector.

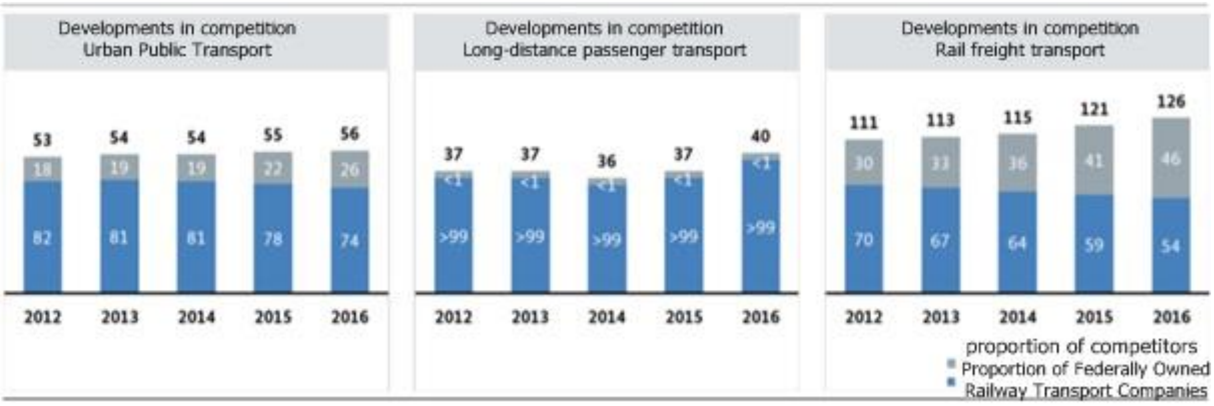


Fig. 13: Developments in competition according to type of transport service (2012-2016; in billion passenger kilometre / ton kilometre and percentage)

Trade union conclusions

The German railway reform was a compromise between different concepts and approaches and had both positive and negative effects.

(1) It was positive and absolutely necessary that the debts of Deutsche Bundesbahn (former West German railway) and Deutsche Reichsbahn (former East German railway) were taken over by the federal government.

(2) It was also positive that the political responsibility for regional passenger transport was clarified and given to the regions, combined with the financial and legal power for the regions. The crucial point was politicisation – not de-politicisation of decision making in transport policy!

(3) It was negative that the government almost entirely withdrew from political responsibility for rail freight transport. Political decisions on the inter-modal playing field have usually not been in favour of rail transport and often contradictory – if not to say erratic.

(4) Although DB AG is still 100 % owned by the German government, has continuously a market share of almost 100 % in long distance passenger transport and although the constitution clearly says that the federal government is responsible for scope and quality of services in this segment, the government has been denying any political responsibility for this field since 1994. EVG demands clear political decisions in favour of a good quality intercity and interregional rail transport including appropriate strategies for infrastructure investment. DB AG should improve and expand their services and remain *the* operator in this market segment. The government should provide for favourable conditions (e. g. reduced track access fees, changes in tax policy, etc.) and thus enable to operate the long distance network basically without subsidies. Such a regime may include

agreements with federal or regional entities in order to provide reliable perspectives for their decisions.

(5) It was a general deficiency of the railway reform that the protection of future working conditions was not envisaged. Status and achievements of former West German railway staff (including civil servants) remained to some extent. But in all rail transport segments, intra-modal competition led to reduced payment, depreciation of qualification and struggles about working time. The scope of job training was usually reduced compared to the situation before 1995, implying that many members of staff do not have sufficient general knowledge about the railway system. This leads to reduced reliability of operations, reduced attractiveness of jobs and may cause further problems (including safety issues) in the short to mid-term future. Recruiting staff has become a major problem for railway undertakings.

EVG has been organising employees in all railway companies – not only with Deutsche Bahn – and has in recent years been achieving improvements for the working conditions in all rail transport segments.

Although the German rail system is already largely liberalised and large parts of the rail freight transport and the public passenger transport are operated by private companies, political pressure remains for further liberalisation and privatisation of parts of DB AG. EVG does not share the view that the railway system would need further liberalisation or privatisation in order to “fully accomplish” the railway reform. The main problem of the railway system is not a lack of competition but a lack of cooperation. EVG thinks that the German government as well as the EU should re-orientate their transport policy, and firstly strengthen the position of the railways by shifting infrastructure investments from road to rail and by creating a playing field which is in favour of rail. Secondly, intra-modal cooperation should be favoured instead of further segmentation.

The Struggle and Lessons of the Breakup and Privatisation of the Japanese National Railways as Seen from Trade Unions

Introduction

The Japanese National Railways (JNR) was privatised and split into companies limited, including the seven companies that operate the railway business, in April 1987. In the process of the breakup and privatisation, trade unions were forced into a bitter struggle and a need for resolve in the aggressive privatisation that was pushed ahead at a rapid pace. Today, though more than 30 years have passed since privatisation, a great many issues still remain unresolved. By sharing with you our experience in Japan, we will be delighted if our comrades in other countries who are struggling for railway workers’ interests and the best methods for the operation of public transport will use this account as a reference for formulating their policies

The Struggle Against the Breakup and Privatisation of JNR

The Government’s Objective

Financial Collapse

The government’s primary objective in the decision to break up and privatise JNR was JNR’s financial collapse. JNR fell into the red in 1964. However, even after that JNR proceeded with capital investment such as the construction of new Shinkansen bullet train lines, and the augmentation of infrastructure of JNR lines. Along with the delay in making responses to motorisation, and while falling further into the red, the deficit accumulated. Disposal of the debt was postponed to a future time. As a result, the deficit was swollen by interest on the accumulated debt, which snowballed. The total debt finally exceeded 20 trillion yen, around half the annual government's finances.

Destruction of the entire JNR labour movement

The JNR labour movement was the core of Japan's left-wing camp. Due to the immense debt that was built up by the lack of policy on the part of the government, repeated rationalisation was pushed forward and a militant struggle was taken up against the JNR authorities who forced great burdens on the workers.

The government broke up and privatised JNR simultaneously, having the objective of destroying the entire JNR labour movement at the same time.

The drive toward the breakup and privatisation of JNR

From 1982 onward, with the Japanese government having in mind the objective mentioned above, the JNR authorities moved forward with the drive toward privatisation at a rapid pace. Of the large number of trade unions that existed inside JNR at the time, many fought under the policy of "opposition to privatisation."

The government therefore carried out a campaign of total mobilisation of the mass media. Public opinion was led to believe that the cause of the deficit was that JNR workers did not work seriously. Because of this all-out attack using political power and popular opinion, the trade unions were forced into a corner, and as popular opinion was managed to the extent that 80-90% of the Japanese people were eventually in favour of privatisation, the move toward privatisation became inevitable.

Trade Union strategies and tactics

At this point, the trade unions' judgements split into two. On the one hand, in the situation where privatisation had become unavoidable, public opinion, the general situation and the capabilities of the trade unions were analysed. Instead of opposing the breakup and privatisation, concrete arguments were put forward by the trade unions to "thoroughly protect Japan's railway line network, including local lines running in the red and resuscitate the railway". Also to "protect the employment of union members and their families.

Following that, discussions with union members and negotiations with the authorities were held repeatedly. At the same time, policy proposals for rejuvenation of the railways were put forward by the trade unions, and a campaign was carried out to change public opinion that regarded the workstyle of trade union members as "not working seriously" by, for example, correcting what needed to be corrected, positively accepting temporary assignments to private companies, and moving toward the realisation of the trade unions' proposals.

Furthermore, regarding the policy toward redundant workers, including those who would have to be moved over a wide area from the regions where work was reduced due to privatisation to the large metropolises, the trade union side held discussions with the union members on how employment could be created for the redundant workers in order to protect jobs and livelihoods. Based on these discussions, some union members decided that they would take on the burden of these policies and measures while bearing the pain associated with, for example, the dramatic change in the daily life environment in the cities, while other union members decided to remain in their local areas due to various circumstances and continue the struggle as members of the trade union. Many workers who had sympathy with this policy gathered together, brought public opinion over to their side, and protected the organisation that became the base for the workers' employment and their struggle.

On the other hand, there were trade unions that maintained the policy of resolutely opposing privatisation even at the point where privatisation became unavoidable. In the situation at the time that I have described above, since the trade unions which cried out only "resolute opposition to privatisation" had no concrete proposals, a large number of union members who began to feel anxious dropped out of their unions. Furthermore, in November 1986, when the JNR breakup and privatisation became certain and its implementation was only six months away, these unions attempted to switch their policy to one of effectively accepting the JNR privatisation. This however, ended in failure, leading to a situation where a split was caused in the organisation at the final stage. In this state of affairs, as the breakup and privatisation of JNR approached, many union members who had toed the line on the policy to oppose the breakup and privatisation were finally discharged and the organisation was weakened.

The situation 30 years after the breakup and privatisation of JNR

Situation of the trade unions after privatisation

In the process of this struggle, many of the large number of trade unions that existed in JNR gathered together at the time of the breakup and privatisation of JNR to form a new trade union that became the largest railway trade union in Japan. However, right from the beginning there was aggression aimed at the destruction of the trade union and in 1991, the fourth year after privatisation this very large union split into two which is where the situation stands today. Since that time, the government, police and companies have acted as one in blatant interference with trade union activities.

According to the Ministry of Health, labour and Welfare there are 3 main union groups after privatisation of JNR. The union groups and number of the members are the following.

- Japan Railway Trade Unions Confederation (JRTU) 81900
- Japan Confederation of Railway Workers' Unions (JRU)72700
- National Railway Workers' Union (NRU)10100

There are also some small unions.

The situation in the privatised companies

There are 10 companies which divided after privatisation of JNR, mainly split by geography:

- Hokkaido Railway
- East Japan Railway
- Central Japan Railway
- West Japan Railway
- Shikoku Railway
- Kyusyu Railway

These companies are also in charge of their own infrastructure (vertically integrated)

- Japan Freight Railway

- Railway Technical Research Institute
- Railway Information Systems

- SoftBank Group Corp. (Telecommunication)

Thirty years after privatisation, grave problems have arisen in each of the companies. In November 2016, Hokkaido Railway Company which had succeeded to the lines in the northern part of Japan, announced that it was experiencing difficulties in maintaining services on 1,237km of its lines, around half its operating lines. Other companies are also beginning to close down or reduce services on local lines. Moreover, in each of the companies there has been an escalation of the business attitude of prioritising profits at the expense of safety. Serious accidents have been occurring frequently up to the present day including the occurrence of an accident in which 107 people died in 2005.

The strategies and tactics of the trade unions

The government originally calculated that three out of the seven companies that took over the railway business would run loss-making operations after the privatisation of JNR. At the time these three companies were set up, the government established a foundation for the companies to cover their operating deficits from the returns created by the foundation. These returns, however, have fallen below what was expected when it was established and this has led to the current business management crisis experienced by JR Hokkaido.

The government promised to keep the service network of the railway line in Japan when JNR privatized. JR Soren demand to increase the fund to be able to cover the loss by returns from the foundation. Also JR Soren demand maintenance of the service network. JR Soren is creating solidarity with the people in the communities along the lines to be realized these our demand."Whether publicly owned or private, the business management attitude that prioritises profits at the expense of safety is escalating. JR Soren has not only condemned this business management attitude from the side of the trade unions, it has also developed countermeasures based on the views of the workers at the workplaces and has prioritised developing capabilities to implement and put these into practice.

Conclusion

It is necessary to protect the organisation of trade unions that struggle and to develop strategies and tactics that provide an outlook for development

Regarding the battle waged by the trade unions against the breakup and privatisation of JNR, in many cases those that struggled to oppose the move right through to the end were highly evaluated. Today however, 30 years since privatisation, the trade unions that upheld such a policy no longer have the momentum they once had.

We at JR Soren, while facing aggression from the side of big capital, have stressed that trade union policy should be determined by analysing the situation with a cool head. In the background to aggression, including privatisation, there is always a conspiracy to create splits among the workers and to destroy the organisation. While responding concretely to aggression against trade unions, we must not forget the viewpoint of how to strengthen the union members who will take on the burden of the struggle in the future.

In the midst of the struggle, it is necessary to analyse the situation and the power relations between ‘us and them’ and ensure that the leadership make judgments that keep the future of the organisation in view. It is best if victory can be achieved in the issues involved in the struggle. However, looking at the history of the labour movement, there are only a few cases where victory has been attained. At times like these, the trade union leadership must discern the situation and the capabilities of their organisation with a cool head. Not rush towards defeat, and not retreat, but devise a concrete policy that will clarify an outlook for the future struggle. Despite defeat being unavoidable, rushing forward blindly shouting “resolute opposition,” while appearing at first to be correct, will in the end turn the union members adrift in the streets and lead to the extinction of the organisation. This is not the trade union policy that takes responsibility for the future of the union members and the labour movement.

Public opinion had a great effect on the outcome of the struggle opposing the privatisation of JNR

In the struggle in Japan, the government and the mass media pooled all their power into creating the public opinion that JNR workers did not work seriously. This is a crucial point on which we should reflect in our inability to prevent the privatisation of JNR.

Railway operation costs a certain amount of money and purely private management is difficult unless a certain level of demand can be anticipated

As already mentioned at the time of the breakup and privatisation of JNR, it had already been foreseen that companies operating railways in sparsely-population regions would face deficits. Further, the three companies operating in densely-populated areas were operating in the black at the time they were established, but a movement to withdraw from local lines is now beginning.

A certain cost is entailed by railways to operate services safely. In capitalist society, companies will choose to withdraw unless profits can be generated. Thus, unless a certain level of demand can be anticipated, it is difficult to continue to operate railways without public subsidies, or perhaps public management. Purely private railway management is only possible in cases of areas, for example, that are densely populated, where there is a demand for freight, and where it is possible to generate profits from businesses other than the railway.

Whether privately or publicly managed, the management side will move aggressively against trade unions and prioritise profits at the expense of safety. It is imperative to raise the quality of trade unions to resist these trends.

Regardless of the success or failure of the battle to oppose privatisation, inasmuch as one objective is to destroy trade unions that engage in struggle, trade unions will always be exposed to aggression. Further, whether privately or publicly managed, for as long as we have capitalist society, the attitude of the management will lean toward the prioritisation of profits at the expense of safety.

For this precise reason, if constant efforts to raise the quality of trade unions are neglected, the organisation will become weak and corrupted, and will become open to interference and attacks from state power. The result of this will be the loss of the lives of workers and users in the form of accidents.

To prevent this from happening, it is necessary for trade union leaders to gain insights into the essence of attacks and constantly cultivate their qualities as leaders, putting these into practice to enable them to organise workers for the struggle. Maintenance and development of the organisation are impossible without the strengthening of union members and the trade union organisation through a steeling of the quality of the leaders.

Finally

I have written here about the breakup and privatisation of the Japanese National Railways. As I have stated above, even now 30 years after the breakup and privatisation of JNR, a great number of issues remain unresolved especially regarding the operation of local lines. Moreover, full privatisation has not been achieved since the shares of the companies that are in deficit are still held by the government today.

Furthermore, Japan has now become a society with a declining population. With depopulation advancing rapidly in the regions, how the advantages of railways can be put to use in transporting people and distributing goods, and how the railway line network can be maintained will be long-term issues in Japan over the coming 30 years.

Finally, in the process of the breakup and privatisation of JNR that I have described above, I have not had the space to write about the great number of workers who have engaged in bitter struggle and have lost their lives. We express this by saying that we have “fought with blood, sweat and tears.” I sincerely hope that these lessons and issues, which are built upon the endeavours of Japan’s railway workers who forfeited their lives, will be used to the fullest extent by struggling railway and transportation workers all over the world.

UK example Franchising: Intercity East Coast Privatisation and Nationalisation

The UK railway system was broken up and privatised following an act of parliament in 1993. The chosen method was to sell off the track and infrastructure and its operation to a private company “Railtrack” which was listed on the UK stock exchange. However, it was subsequently taken into administration and put back into public control in 2002 following a series of tragic crashes which exposed its shoddy maintenance and management regimes.

The passenger operations were dealt with slightly differently and these were divided into around 30 regional operations as franchises which were then competitively tendered out. The Government specifies the minimum levels of service and various operators bid to take on the work with the tender invariably going to the company that bid lowest or had the greater return to the UK treasury.

The franchise holders rarely bring meaningful investment as that is underwritten or provided directly by the UK government.

The franchises are operated by multi-national transport operators like National Express, First Group or Stagecoach or they are under the control of state owned European national rail companies. Such as DB (Arriva), SNCF (Keolis, Go-Ahead), Nederlandse Spoorwegen (Abellio) and Trenitalia (C2C). In many cases they are the monopoly service provider within the regional franchise; the only competition coming at the bidding stage.

InterCity East Coast is a railway franchise for passenger trains on the East Coast Main Line in the United Kingdom from London King's Cross to Hull, Leeds, Bradford, Harrogate, Newcastle, Edinburgh, Glasgow, Inverness and Aberdeen. It was formed during the privatisation of British Rail and transferred to the private sector in April 1996.

The first company to take on the franchise was Sea Containers Ltd, trading under the name GNER. The initial franchise was for seven years, however in January 2002, the Strategic Rail Authority scrapped the refranchising process and awarded a two-year extension to Sea Containers until April 2005.

In March 2005, a new franchise was awarded to GNER for seven years, with a three-year extension based on targets being met, starting on 1 May 2005. GNER committed to pay a £1.3 billion premium to the Department for Transport over ten years. By comparison, in the last years of its previous franchise, GNER had paid £22 million. GNER’s bid was a third higher than its rival bidders.

At the time, GNER's Chief Executive explained that*, "The surprise is that we are so far ahead of everyone else. But all we are doing is projecting forward the revenue growth we have had for the last nine years. If you raise quality, you get people coming from the air and the car back to the train."*
Mr Garnett said GNER had £500m revenues a year. His bid calculations were based on annual revenue growth of 7.8pc, against 8.2pc for each of the past two years.

Responding to suggestions that GNER, could have bid less and still won, Mr Garnett said: *"That's a Phd in hindsight. I would rather overbid and win than underbid and lose."* However, GNER was unable to make the contracted payments and in December 2006 the government announced it was stripping the franchise from Sea Containers and would put it up for re-tender, with GNER running the franchise on fixed fee management contract in the interim.

Bob Mackenzie, Chief Executive Officer of Sea Containers said GNER was close to breaching the terms of the deal and had no choice but to relinquish the franchise. *"GNER has a new management team in place which is now delivering revenue growth in line with the original bid…While we are not in breach of the current franchise agreement, GNER will not be able to meet the significant increase in franchise premium obligations due from May 2007. We would have preferred a renegotiation of the current contract, but that was not available. The management agreement is therefore a sensible solution for all parties."* The bid required revenue growth of 10% over 2006. It achieved 3%.

In February 2007, the Department for Transport announced Arriva, FirstGroup, National Express and Virgin Rail Group had been shortlisted to lodge bids for the franchise and in August, National Express were announced as the winners. They took the service on 9 December 2007. The company agreed to pay the government £1.4bn to run the East Coast main line. Echoing what had happened at GNER, many rail analysts said it had paid too much for the franchise.

By 2009, Nation Express East Coast (NXEC) was struggling due to lower than expected revenue growth. Instead of projected increases in revenue from the franchise, in the first half of 2009 NXEC ticket sales income decreased by 1%. In April 2009 National Express confirmed that it was pursuing talks with the government over possible financial assistance with the franchise, either through a reduction in the premium due, or other assistance. Part of its attempt to renegotiate involved offering to buy out its contract for over £100 million. However, Lord Adonis Transport Secretary, rejected this fearing other companies would try to renegotiate themselves out of future contractual payments to the government. The terms of its franchise mean National Express would not lose more than £72m if it walked away. The government said it would take over the franchise when this missed payment occurred.

In July 2009 it was announced that National Express planned to default on the franchise, having failed to renegotiate the contractual terms of operation with National Express stating that it would not provide any further financial support necessary to ensure NXEC remained solvent. This meant NXEC would run out of cash by the end of 2009. As a result, the Department for Transport announced it would establish a publicly owned company to take over the franchise.

National Express East Coast continued to operate the franchise until 23:59 on 13 November 2009, when the Department for Transport took over through Directly Operated Railway which traded as East Coast. The intention was that operations would return to a private franchisee by December 2013. In March 2013, the Secretary of State for Transport announced that this would be put back to February 2015.

DOR ran the operator extremely successfully. East Coast paid a record £235m back to the government in its final full year as a state-owned company, a 12% increase on the previous year. This meant the franchise returned more than £1bn to the public purse over five years. This lead to calls for it to remain in public hands.

In January 2014, FirstGroup, Keolis/Eurostar and Stagecoach/Virgin were announced as the shortlisted bidders for the new franchise. In November 2014, the franchise was awarded to Stagecoach/Virgin, who traded as Virgin Trains East Coast. It commenced operating the franchise on 1 March 2015. In November 2017, Transport Secretary Chris Grayling announced the early termination of the East Coast franchise in 2020, three years ahead of schedule, following losses on the route by the operator. Virgin Trains East Coast could therefore avoid paying more than £2 billion in franchise premiums to the government. Expected growth in passenger numbers has not materialised. Stagecoach has admitted it overpaid for the franchise.

From the point of view of the UK trade unions the farce that has been the East Coast franchise is an example that exposes the franchises system. The private companies know they can break the contracts or even walk away from unfavourable arrangements and renegotiate them as the UK government is unwilling to act against them as it is ideologically bound to having private companies operate the UK railways.

The system does not provide greater accountability, lower fares or new innovations – if anything it reduces accountability as companies suffer little or no sanction for renegotiating their undeliverable bids. Fares have increased and passenger satisfaction has decreased. The only new innovations are methods to extract money from the system for the owning company, investments in new rolling stock and the like coming direct from Government coffers.

The railway policy of the European Union

The European Union is a de-facto political and economic confederation of currently 28 member states[3] with the European Commission proposing European legislation and monitoring the implementation, the directly elected European Parliament and the Council of Ministers (member states) as the two chamber legislators and a European Court of Justice (ECJ) that is interpreting European legislation and whose judgements are binding for the member states[4]. The competences and activities of the EU are based on the TFEU Treaty. Since its founding in 1957 the European Union (former name European Economic Community) has full competence in transport policy. The European legislation is compulsory for all member states.

This explains why the European Union railway policy is the main reference for how the railway sector is organised in Europe and the conditions how the railway sector is operating. In the last 15 – 20 years the European Union adopted a huge set of railway legislation and secondary legislatives acts that totally changed the railway sector in Europe. In 1990, when this process started in all European countries railways were the state owned railway company. Today that situation has totally changed

Objective of EU railway policy:

- To create a single European railway market without technical and administrative borders (interoperability) for the current 28 Member States plus Norway (and in a different form also Switzerland);

[3] UK decided to leave the European Union in 2019 (Brexit)
[4] E.g. the ECJ currently ruled on 20 December 2017 that Uber is a transport service company and not just an internet platform (Case C-434/15).

- Liberalisation of rail freight and passenger transport; introducing competition with the ideological argument to raise efficiency, reduce costs and better serve the customers;
- Railway safety: replace 28 national safety cultures with one single EU safety culture by replacing a rule based safety culture with a risk assessment culture

The historical background

The founding treaty of the European Economic Community (former name of the EU) in 1957 had as objective to create a single European transport market for all transport modes. In the early 80ies the European Parliament filed a lawsuit against the EU Member States at the European Court of Justice (ECJ) for "failure to act" because such a common transport market did not exist. The ECJ judgement from 22 May 1985 confirmed the European Parliament's complaint and asked the Member States to act. This was the starting point for a European transport liberalisation program that affected all transport modes. The basis of this program were the European Commission's Transport White Papers (1992, 2001, 2011), the 10 years' work programs of the Commission. The most resistant sectors to this liberalisation policy were the rail sector and the sea ports sector. However, with a policy of "salami tactics", the step by step approach the Commission succeeded as well in the railway sector although not fully.

EU railway liberalisation in steps

- 1993 international groups and combined transport
- 2003 international freight transport on Trans-European Transport Networks
- 2006 all international freight transport
- 2007 all national freight transport and cabotage
- 2010 international passenger transport
- 2019 commercial domestic rail passenger transport

These liberalisation steps are based on open access **« on the track »** competition.

For rail public passenger transport, the EU followed a **"competition for the track"** approach. The objective of the European Commission was and is to make tendering of all public passenger transport services (rail, light rail, bus, metro, tram) compulsory in all EU Member States (the PSO Regulation 1370/2007 will be described in an extra chapter).

The first rail liberalisation legislation was adopted in 1990 (Directive 440/1990) with market opening just for international rail groups (e.g. Thalys) and combined rail-road transport. The European Commission proposed already with this legislation full liberalisation of all rail segments but failed due to the combined resistance of the trade unions, the state owned rail companies and the EU Council (the member states). The European Commission made a second attempt in 1995 with the proposal of a single amendment to the Directive 440/1990, again by proposing market opening for all rail transport segments. Again it failed and the Commission had to withdraw the proposal due to the strong resistance of the same actors.

However, by 1993 UK, 1988/1994 Sweden and 1993 Germany had already started with liberalisation/privatisation, market opening and restructuring of their national rail companies on their own initiative at national level without obligation by European legislation. This was the start of weakening the resistance against rail liberalisation at European level. We should keep in mind that in 1995 the European Union had 15 member states.

The second failure forced the European Commission to adopt a different approach, the so-called "salami tactic" approach. It published in 1996 a White Paper on the Revitalisation of the European Railways, a rail policy work program and announced a step by step market opening. In 1997 the European Parliament endorsed this approach and requested a social impact assessment after each step and before launching legislation for the next step. By the way: such a social impact assessment never happened and also the European Parliament did not insist after elections and the continuous growing of the right wing parties in the European Parliament.

On the basis of this White Paper on the Revitalisation of the European Railways and the European Parliament's endorsement resolution, the European Commission proposed successively four railway packages:

1st package proposed 1999, adopted 2001, implemented in national law 2003
2nd package proposed 2001, adopted 2004, implemented in national law 2006
3rd package proposed 2005, adopted 2007, implemented in national law 2009

- 2012 adoption of the Recast of the 1st Package to be implemented 2014

4th package proposed 2013, adopted 2016, to be implemented in national law end 2018

The content of the railway packages

All packages included a set of several legal texts (for example 6 different directives and regulations within the 4th package) with a political pillar (market opening) and a technical pillar. After four packages the European legal framework for the rail sector is almost completed but the implementation and in particular the technical and operational interoperability will take decades to be realised.

We can identify three different sets of legal rules:

1. Rules necessary to ensure market opening and facilitate the access of public and private railway companies to the European railway market
    - access rights to European railway network, the national infrastructure
    - access rights to maintenance workshops, electricity/fuel supply, railway stations, shunting yard, training centres, etc.
    - EU license for railway undertakings
    - EU rules for the safety certificate for railway undertakings also when operating on different national infrastructures
    - EU rules for the allocation of infrastructure capacity
    - EU rules for the charging of the use of rail infrastructure
    - Creation of rail regulators in each Member State that have the function to ensure market access and competition.

2. Rules directly influencing the structure of the traditional railway companies
    - EU rules on the independency of the management
    - EU rules on the separation of accounts and balances between infrastructure management and operations, passenger and freight operations etc. and rules on the transparency of financial flows in an integrated rail company
    - EU rules on a debt relief for incumbent companies and restricted rules on state aid for indebted companies
    - In integrated companies: transfer of so called "essential functions" to an independent body (allocation of infrastructure capacity; charging of infrastructure use)

Several countries resisted the pressure and kept their vertically integrated railway companies like Austria, Germany, Poland or Italy. Other countries are re-integrating former separated companies like in France or Spain, where the process is currently perused.

It was also a success of the trade union resistance that European law still allows vertically integrated rail companies in Europe. However, according to EU legislation several conditions have to be respected to keep vertically integrated rail companies (Directive (EU) 2016/2370):

In a competitive rail system with many operators operating on the same infrastructure the impartiality of the infrastructure manager has to be assured through:

- independence of the infrastructure manager from the other entities of the integrated company in decision making with respect to the essential functions (path allocation, charging of infrastructure use)
- independence of the infrastructure manager in decision making with respect to traffic management and maintenance planning

This shall ensure that competitors of the integrated rail undertaking have a discriminatory free access to the essential services.

The impartiality conditions are further specified. A possible conflict of interest of decision making persons in sensitive areas of the infrastructure manager activities have to be excluded regarding:

- membership in the management boards and supervisory bodies of the infrastructure manager within the integrated company
- the mobility of the persons with access to sensitive data within the integrated company

IT systems in an integrated rail company have to designed in such a way that access to data of competitors is possible only for authorised persons of the infrastructure manager and no transfer of sensitive data is possible to other entities of the integrated company.

Furthermore, there are rules on financial transparency:

Separation of accounts and balances of infrastructure management and railway operations;

no cross-subsidising within an integrated company that might finance commercial services with public money (for PSO compensation) or with infrastructure charges obtained from competitors.

Integration of infrastructure management and operations
Saving vertically integrated railway undertakings

The European Commission (EC), supported by liberal Member States, liberal parties in the European Parliament and the private railway operators developed an aggressive policy to finish with integrated railway companies and to impose separation of infrastructure management and operations.

In the 1990's and early 2000's the EC put pressure on the Central and Eastern European countries who wanted to join the European Union to restructure their rail companies and separate infrastructure management and operations. Many countries did so although European legislation did not require this.

The Commission filed a law suit against Germany at the European Court of Justice and lost the case. It also failed in the legislative approach to impose complete separation on the rail sector due to strong ETF and union actions in Strasbourg, Luxembourg and Brussels at the European Parliament and the Council of Transport Ministers meetings.

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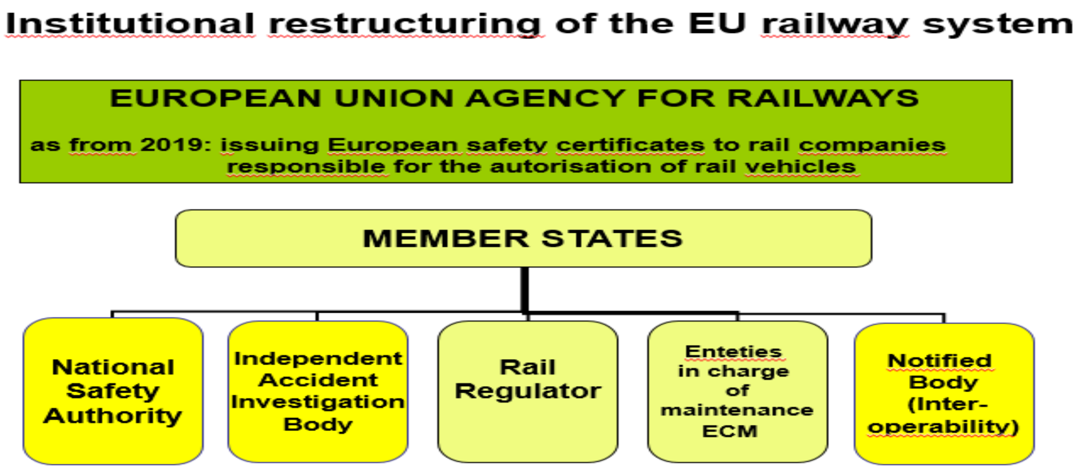
- membership of the management boards and supervisory bodies of the infrastructure manager within the integrated company, and
- the mobility of the persons with access to sensitive data within the integrated company

IT systems in an integrated rail company have to be designed in such a way that access to data about competitors is possible only for authorized persons from the infrastructure manager and so that no transfer of sensitive data is possible to other entities of the integrated company.

Furthermore, there are rules on financial transparency, requiring:

- Separation of accounts and balances of the infrastructure management and railway operations;
- no cross-subsidising within an integrated company that might finance commercial services with public money (for PSO compensation) or with infrastructure charges obtained from competitors.



And social legislation

Part of the four railway packages was a directive on rail passenger rights and a directive on a European license and certification of locomotive drivers.

At European level the ETF is engaged in a social dialogue with the CER (European Community of Railway Companies and Infrastructure Managers) and the EIM (Independent Infrastructure Managers) as European employers' associations and the ETF as European trade union organisation. CER and ETF decided early in this rail liberalisation process that rules are necessary to avoid a race to the bottom.

They negotiated in 2003 and signed in 2004 two agreements, one on working conditions of mobile railway workers who work across borders (Directive 2005/47/EC) and one on a European locomotive drivers' license. Both agreements became European law (Directive 2007/59/EC).

Union strategies

The ETF always took a position against liberalisation of the railways but supported (or accepted) an approach towards higher interoperability of the railway system in Europe. The anti-liberalisation and thus anti-privatisation approach was successful when the rail sector was still a homogeneous sector of state owned railway companies across Europe during the 90ies. With the 'salami tactic' approach of the European Commission and the fact that some member states privatised their rail sector on their own behest the anti-privatisation front was weakened. The EU was enlarged three times during this process: 2004 by 10 new member states, 2007 by two new MS and 2013 by one new MS all from Central and Eastern Europe. All of them were put under pressure by the Commission within their accession negotiations to restructure their rail system and prepare for competition. The World Bank also played a role in a number of countries imposing restructuring for World Bank support. Those member states did not reject the Commission proposals once becoming members and part of the legislators. And the EP fully followed the neo-liberal mainstream policy believing that competition would improve the rail sector.
With a strong union position against liberalisation we managed to slow down the process but we were not able to totally stop it.

With the progressing packages we adapted our strategy and concentrated on some relevant topics:

- Keeping integrated rail companies;
- No mandatory tendering of rail pubic services - keeping the option of direct award and insisting on the freedom of choice at the political level and competent authorities lead on how to organise their public services.

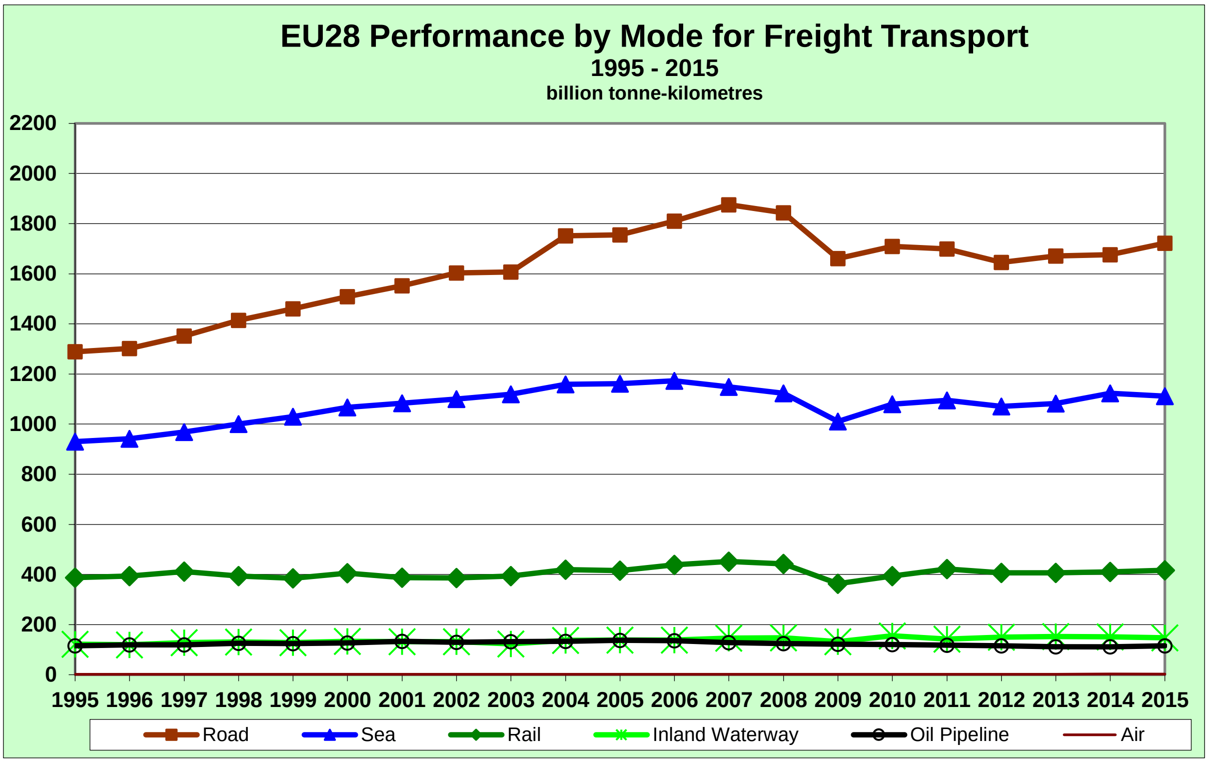
- Protection of staff in the case of competitive tendering of public rail services and the transfer of staff in the case of change of operator.
- Getting involved in the process of technical and operational harmonisation and ensuring consideration of health and safety at work in both technical legislation as well as in safety legislation. ETF is member of the Management Board of the European Railway Agency.

Present situation and conclusions

The railway sector in the European Union today is very diversified. In most of the countries the incumbent rail operator was split up and infrastructure management and operations separated. However, important rail countries like Germany, Italy, Austria or Poland kept integrated companies and France and Spain are examples of re-integration.
In many countries the state owned cargo companies were privatised including Hungary, Belgium, Denmark and the Netherlands etc. In a number of cases however, they were bought by the incumbent companies of another country.

A relevant number of incumbent rail companies followed a diversification strategy and bought cargo, logistics, road transport, bus or public transport companies and became multi-nation railway companies such as SNCF France, Deutsche Bahn, ÖBB Austria, the Polish PKP or FS Italia. They are in their home country the state owned company but they are also private companies in other countries. However, with the exemption of SNCF in France, SNCB in Belgium or CFL in Luxembourg almost all incumbent companies have a private law status by now, although 100% state owned.

Most significant is probably the development in the rail freight sector: The number of private rail operators is steadily increasing, often small companies operating complete trains. The market share of private rail freight operators increased from an EU average 15 % in 2006 to about 30% in 2014. However, the ratio between in inland transport (rail, road transport, inland waterways) remained the same when comparing 1999 with 2014. The objective of the liberalisation policy to improve the ratio to the advantage of rail freight transport totally failed and competition is taking place inside the sector without having a positive impact on more freight transport on rail.



https://ec.europa.eu/transport/facts-fundings/statistics/pocketbook-2017_en

In most of the countries the incumbent rail operator remains the main passenger operator and there are not many examples of open access competition in international rail passenger transport, nor commercial domestic passenger transport. In 2017 two examples existed in Austria with Westbahn AG and in Italy with NTF, now Italo. In Germany several companies failed to establish as commercial long distance rail passenger operators. A current new attempt involves with FLIXTRAIN, a subsidiary of long distance commercial bus service "platform" FLIXBUS. In common they are cherry picking, offering services on the most profitable lines and thus undermining the capacity of the incumbent company to offer other and also non-profitable services to citizens that do not live in the big cities or large conurbations.

More relevant is the public passenger transport. Few countries introduced competitive tendering of rail public passenger transport but the interest of operators to participate is significant. In the UK the rail market was privatised with a big bang and the incumbent company British Rail no longer exists. In the Netherlands, Sweden and Germany for example rail public passenger transport is gradually tendered. In Germany after about 10 years private operators have about 30% of the market share and the incumbent Deutsche Bahn 70%. It is estimated that the publicly owned rail operator Deutsche Bahn will lose up to 50% of its market share by 2025. However, most of the companies that participate in competitive tendering of rail services are subsidiaries of state owned rail operators from another country. The players in the rail public passenger market are Netinera (Italian railways FS), Abellio (Dutch railways NS); Keolis (French railways SNCF), Arriva (Deutsche Bahn) or Transdev (French partly state owned company). Private companies are National Express (UK) or stage Coach (UK), which are just starting entering the non-UK market across Europe.

There is no proof that the competition and privatisation policy of the European Commission, supported by neo-liberal governments is delivering the promised revitalisation of the railways in Europe, more freight on rail or better services for the passengers. There is a severe ideological fight going on. During the campaign against the 4th Railway Package, for example, the British trade unions published a small booklet "The 4 myths of UK rail privatisation" with scientifically supported facts and figures. In reaction, a member of the Cabinet of the neo-liberal EU Transport Commissioner Kallas sent a letter to all Transport Committee Members of the European Parliament with the title "NON-PAPER - DEBUNKING MYTHS ABOUT THE UK RAILWAY LIBERALISATION". This shows the weakness and nervousness of the liberalisation and privatisation supporters.

The most successful railways in Europe are in Switzerland and Austria where they are integrated, state owned rail companies without competition in (public) passenger transport. What is needed is investment in modern rail infrastructure and rolling stock, in public services and the internalisation of all external costs for all transport modes. The reality of liberalisation and privatisation is a race to the bottom of working conditions for railway workers without better services and quality for the customers.

" As explained throughout this report, there is a certain degree of uncertainty in the assessment of impacts of some options, as evidence is fairly recent (competition in the market in open access services) and sometimes ambiguous (evidence is provided only by specific stakeholders).

In this context, the choice to move forward with the aforementioned combination remains a political choice"

(EU-commission, summary of impact assessments, 4th railway package)

The conditions for the organisation of public passenger transport in the European Union are governed by the so-called PSO Regulation[5] (PSO = public service obligations). The Regulation covers both, rail public passenger transport and urban public transport (by bus, tram, metro, trolley-bus and even ferries).

This regulation requires that every public transport service in the 28 EU Members States that either receive financial compensation for delivering the public service and / or an exclusive right for offering the service on a certain line or in a certain area needs to have a public service contract issued by a local or regional competent authority. The PSO Regulation defines issuing procedures, minimum contract content, maximum contract duration, conditions for financial compensation and a social clause. There is a transition period until 2019 by when all public transport services have to be covered by a public service contract. However, even before the end of this transitional period the European Commission decided to revise the PSO Regulation specifically for rail public passenger transport.

For the competent authorities there are two ways to issue such a public service contract to rail operators:

- either by competitive tendering of the service (a line, a bundle of lines or an area network: competition “for the track”);
- or by direct award of a public service contract to a rail operator.

The competitive tendering procedure is the organised way to privatise public transport services in Europe. It is called “regulated competition” in contrast to unregulated competition as it exists for example in the United Kingdom outside of London for most of the country’s bus services.

On the other hand, the direct award procedure excludes competition and allows the competent authorities to organise public transport services with the state owned rail company or the municipally owned public transport operator. The new conditions for a direct award in the rail sector are very strict and require a high political will and the commitment of the competent authorities to avoid competition and privatisation in rail public transport.

With the revised PSO Regulation competitive tendering of rail public services will be the rule and direct award an exemption.

[5] REGULATION 1370/2007 on public passenger transport services by rail and by road from 23 October 2007; modified by REGULATION (EU) 2016/2338 amending Regulation No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail from 14 December 2016

CONDITIONS FOR DIRECT AWARD OF RAIL PUBLIC PASSENGER TRANSPORT SERVICES according to EU legislation

Until 24 December 2023 **competent authorities** have the freedom of choice to award a public service contract for rail services directly in line with Article 5(6) of the old Regulation 1370/2007. There are no specific performance conditions but the contract can last maximum 10 years (… this all provided that national legislation does not say something different in the UK or in Germany). For rail services it is relevant to know who is the competent authority. It can be a national authority according to Article 2.b PSO Regulation. In countries that decided to regionalise their rail public transport services the competent authority is often a region. However, this only applies to directly awarded contracts issued between 3 December 2019 and 24 December 2023.

- **Last possible contract expiry date: 2033**

Contracts that have been awarded directly in line with Article 5(6) between 24/12/2017 and 2/12/2019 remain valid until their expiry date, maximum 10 years.

- **Last possible contract expiry date: 2029**

After 24 December 2023 a different regime for directly awarding rail public services apply. According to the European Commission from December 2023 latest, competitive tendering is the rule and direct award the exemption**.**

The relevant Article 5, paragraph 4 a) says: "Unless prohibited by national law, the competent authority may decide to award public service contracts for public passenger transport services by rail directly:

(a) where it considers that the direct award is justified by the relevant structural and geographical characteristics of the market and network concerned, in particular its size, demand characteristics, network complexity, technical and geographical isolation or the services covered by the contract, and

(b) where such a contract would result in an improvement in quality of services or cost-efficiency, or both, compared to the previously awarded public service contract…."

Small countries are qualified per se for this direct award possibility
"Member States for which on 24 December 2017 the maximum **annual market volume is less than 23 million train-km** and which have only one competent authority at national level and one public service contract covering the entire network shall be deemed to fulfil the condition set out in point (a). The United Kingdom may decide to apply this subparagraph to Northern Ireland."

The competent authority that decides for a direct award under this regime have to specify measurable, transparent and verifiable performance requirements within the contract:

- punctuality of services,
- frequency of train operations,
- quality of rolling stock and
- transport capacity for passengers.

The contract shall include specific **performance indicators** enabling the competent authority to carry out periodic assessments. The contract shall also include **effective and deterrent measures** to be imposed in case the railway undertaking fails to meet the performance requirements.

The competent authority shall **periodically assess** whether the railway undertaking has achieved its targets for meeting the performance requirements as set in the contract and shall make its findings public. Such periodic assessments shall take place **at least every 5 years.** The competent authority shall take appropriate and timely measures, including the imposition of effective and deterrent contractual **penalties** if the required improvements in quality of services or cost-efficiency, or both, are not achieved. The competent authority **may at any time wholly or partially suspend or terminate the contract** awarded under this provision if the operator fails to meet the performance requirements.

Furthermore, Member States shall take the necessary measures to ensure that decisions (…) may be reviewed effectively and rapidly, at the request **of any person having or having had an interest in obtaining a particular contract**… Such measures shall include the possibility to request an assessment of the substantiated decision taken by the competent authority **by an independent body designated by the Member State concerned**. The outcome of such assessment shall be made publicly available in accordance with national law.

- **The obstacles for a direct award of rail public service contracts are very high as from 25 December 2023. There are many unspecified conditions that can be challenged. Applying this option to avoid competition in rail public passenger transport requires a strong political determination by the relevant competent authority.**

Further possibilities for a direct award:

- **Small contracts** (Article 5.4): A direct award is allowed when the average annual value of rail passenger services is less than 7.5 billion Euro or the annual provisions is less than 500.000 km rail passenger services.
- Direct award as **emergency measure** (Article 5.5): in the event of a possible or immediate risk of disruption to services. In this case the directly awarded contract can be for a maximum duration of 2 years.
- **In-house award** to an own operator (Article 5.2): this can be done only by local or regional authorities that are “owner” of the operator and only for transport needs of an urban conurbation and/or rural area.
- **Regional low traffic networks** (Article 5.4.b): a direct award is possible when there is only one operator and this operator is also managing the infrastructure of the small network, which both have to be different from the main infrastructure network and the incumbent operator.
- **In exceptional circumstances** (Article 5.3.a): for a limited period of time but only for contracts that have been tendered previously. Those exceptional circumstances have to be published and the European Commission informed.

As always, this is European law that has to be respected by all EU member states. It does not prevent individual countries from following a stricter competition and privatisation approach of their own. This happened in the UK with the destruction of British Rail and the big bang privatisation of all rail services, cutting the network to franchises that are tendered. It happened with a different approach in Germany where national politicians decided that all rail public passenger transport had to be tendered, but gradually. All NEW contracts have to be tendered with the result that within a 10 year period about 30% of the rail public transport is now delivered by other companies than Deutsche

Bahn and thus privatised and with an estimate that in another 5-10 years this share of privatised services will raise to 50%.

Historical background

In the context of an EU policy to liberalise all transport services in Europe the European Commission started 1995 to work on a draft legislation on the introduction of competition in public passenger transport. The first draft law was presented to the European Parliament and the Council of Transport Ministers early 2000. The first draft suggested compulsory competitive tendering for all public passenger transport, rail and urban public transport in the entire European Union (and the EEA countries like Norway).

This draft was strongly rejected by the ETF and its affiliated unions but also by the railway companies, the cities, the municipally owned public transport operators or social NGOs defending public services. They got the majority of the European Parliament at their side. The huge resistance forced the Commission to withdraw the text and to propose a fully changed version that included the option of "direct award of a public transport service contract to the own operator", a victory for the ETF and its members. Additionally, the ETF and its members pushed through an article in the Regulation that authorises competent authorities to impose social standards and criteria on operators bidding in a competitive tender procedure and to impose a transfer of staff in the case of change of operator.

The PSO-Regulation was adopted in 2007, came into force in 2009 and includes a transition period of 10 years until 2019 until when all public transport services have to be covered by a public service contract.

However, the Regulation from 2007 included different 'direct award' provisions for the urban public transport (UPT) sector and for the rail sector. While the conditions for direct award in UPT are well defined, following criteria of a European Court of Justice Judgement (Altmark-Trans), there were no specific criteria for rail public passenger transport. The European Commission could not accept such a situation and tried again to impose its position by launching a modification of the PSO-Regulation in 2013 and proposing competitive tendering of all rail public passenger transport. Again the trade unions had to fight and defend direct award of rail public services. The fight was partially successful and the modified PSO regulation adopted in December 2016 includes a direct award option for rail public services but the conditions are much stricter than for UPT direct awards (see box) so that there is a great danger that the authorities will not risk legal proceedings and go for competitive tendering.

However, we obtained with our fight that authorities, which do not want to privatise their rail public transport can do so until 24 December 2023 by using the transition period and issuing a directly awarded public service contract to their national railway operator with a contract duration of max 10 years that can theoretically run until 2032. And geographically smaller countries with a small network of less than 23 million passenger km per year can directly award a contract without restrictive conditions.

The ETF strategy

There were three momentums for the ETF strategy:
1. Political campaigning and influencing the content of the 1st PSO regulation
2. Training and capacity building for unions to best use the achievements at national and local level
3. Political campaigning and follow up within the modification of the PSO Regulation: direct attack against rail public services

1. Political campaigning and influencing the content of the 1st PSO regulation

At the beginning of the process the ETF had to decide on the strategy against the Commission's plans to fully liberalise public transport services in Europe: campaigning for rejection of the PSO Regulation or influencing the content of the legislation. A conference of all ETF rail and urban public transport unions in 1999 decided to go for influencing the legal text. There was no consensus for a rejection approach and so two main demands were formulated:

- Freedom of choice of competent regional and local authorities to decide how they want to organise their public transport: direct award to own operators or competitive tendering;
- Social protection of staff in the case an authority decides in favour of competitive tendering.

With this focus on two main demands the ETF at European level and affiliated unions at national level could build alliances with publicly owned companies, cities and regions that wanted to protect their own public transport operators, social NGOs but also more conservative forces in the European Parliament who supported the idea of “freedom of choice”. It was helpful that the rapporteur of the European Parliament came for the United Left political group (GUE).

After 7 years of political campaigning in Brussels, Strasbourg and in the EU member states with European demonstrations and national actions the ETF and its affiliates considered the outcome a victory: the option of direct award and thus safeguarding publicly owned public transport was in the text as well as a “social clause”. The explanatory recital in the PSO regulation even justifies the social provision as necessary to prevent social dumping. It was for the first time that the ETF obtained in a European law referencing social dumping’.

2. Training and capacity building for unions to best use the achievements at national and local level
The shady side of the achievement included a transfer of the struggle from the European to the national and local level.

We managed to ensure that European law did not impose competition and privatisation of public transport services. However, the critical decisions are taken locally and also at national level neo-liberal forces continue to pursue a privatisation ideology. Each national or local election can change the political colour of the government and put privatisation on the agenda again. We could observe the competition and privatisation supporters even misinformed about the content of the PSO Regulation and continue to say that until 2019 all public transport must be tendered.

The ETF therefore decided that informing the national and local unions about the real content of the PSO regulation and their possibilities to fight privatisation or fight for social standards and criteria in the tendering processes was crucial.

We published a trade union guide on the PSO regulation available in English, French, German, Hungarian and Romanian (http://www.etf-europe.org/PSO-guide-upt.cfm);

We organised information seminars in Central and Eastern European countries involving as many unions from the sub-region as possible;

We published a PSO training tutorial as a tool for the ETF affiliates to train their shop stewards and local works council members available in English and 10 Eastern European languages (http://www.etf-europe.org/pso-tutorial.cfm).

3. Political campaigning and follow up within the modification of the PSO Regulation: direct attack against rail public services
The political campaigning had to restart in early 2013 with the intention of the European Commission to attack the rail public transport and abolish the possibility of the direct award of rail public service contracts.

We strongly criticised the Commission to come up with a modification of law that was still in transition period and without having any information and evaluation of the impact of that law so far.

Our message was to maintain the direct award for rail public services and to make social protection and transfer of staff in the event of change of operator compulsory.

We succeeded with both demands in the European Parliament in 1st reading. A joint opinion of the ETF and the CER, the European railway employers' organisation demanding jointly for a compulsory protection of staff helped (http://www.etf-europe.org/etf-3845.cfm), but the Council of Ministers rejected a compulsory protection of staff in the event of competitive tendering. The compromise text of EP and Council removed a compulsory protection and so the ETF affiliates decided to campaign for rejection of the entire PSO Regulation modification with demonstrations in Brussels and Strasbourg. We almost succeeded, falling only a few votes short, in the European Parliament. We kept the optional version of the social clause but we obtained a clear statement from the European Parliament that the member states can adopt at national level law that provides compulsory and better protection to staff exposed to competitive tendering. Again, an opportunity for trade unions to engage with and challenge employers at national level.

Present situation and conclusions

In most of the EU member states rail public passenger transport is not privatised and is still provided by the state owned rail operator although the number of countries that start with competitive tendering of regional rail services is growing. France is one of the latest examples where the political decision to tender rail public services in some regions as from 2019 has been taken and the trade unions are still fighting against this decision. The purpose of the new PSO Regulation that will come into force in 2019 is to facilitate private companies to participate in competitive tendering e.g. by providing rolling stock and the impact remains to be seen.

Also the urban public transport is to a large extent still organised by municipally owned public transport operators, in particular in the capital cities and big cities, although privatisation and competitive tendering mainly of bus services is wider spread than in the rail sector.

In the European social dialogue for the rail sector[6] and in the European social dialogue for urban public transport[7] the ETF carried out studies together with the employers organisations CER and UITP on the situation of rail and urban public transport in Europe, the laws and collective bargaining agreements existing to protect public transport workers in the different countries and the impact of the PSO Regulation. The studies are available at the ETF website (link in the foot notes) and give a lot of background information and interesting country reports.

Neo-liberal mainstream thinking and austerity policies put a lot of pressure on the public transport sector. So far the resistance in Europe is still high and the public sector still plays an important role in providing public transport services. The lack of financing and the threat of privatisation via competitive tendering puts pressure on employment and working conditions of workers also in the publicly owned companies: Either the companies reduce costs and increase productivity or they will be privatised.

The development of the EU legal framework and the developments at national level show that resistance is possible but it is a constant struggle. In Europe the trade union resistance managed several times in a political and legislative process to reject proposals from the European Commission to liberalise/privatise the rail passenger services immediately and without exemptions in all 28 Member States. However, the ideological pressure and apparently business interests are so strong

[6] "Social Aspects and the Protection of Staff in Case of Change of Railway Operator: The Current Situation" , available in English, French and German http://www.etf-europe.org/etf-3845.cfm

[7] "Social Conditions in Urban Public Transport Companies in Europe » available in English, French and German, country reports English only, summary also in Spanish, Italian, Polish and other languages http://www.etf-europe.org/etf-4008.cfm

that by now (as from 2019) competition has become the rule and only with strong political will the blurred exemptions for direct award can be used in some countries. In the coming years competitive tendering and thus privatisation will be introduced in more and more countries and experiences in other liberalised public service sectors such as telecommunication or electricity show that a concentration process with a few big multinational players at the end will be the likely scenario. In railways the big players at least in Europe are likely to be state owned companies. As a counter balance we managed to introduce provisions in that piece of legislation that can help trade unions at national and local level to obtain better social protection for their members. But the trade unions have to be permanently alert and informed and ready to struggle again.

Restructuring of the railways in Russia and CIS countries

CIS countries - the Commonwealth of Independent States, a loose confederation of 9 member states and 2 associate members that are located in Eurasia (primarily in Central to North Asia), formed during the dissolution of the Soviet Union, and which were all former Soviet Republics. Member states: Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Uzbekistan.

Associated states: Turkmenistan, Ukraine

Former member state: Georgia - withdrew as the result of Russo-Georgian war in 2008.

The ideological basis for railway restructuring schemes in many countries of the region was the EU Directive 91/440 of 1991, which provided for the complete economic independence of the railway; separation of infrastructure from operational activities; elimination of cross-financing and free access to the railway infrastructure.

The degree of restructuring railway systems in the countries remains different and it is in different stages of development. In Azerbaijan, Armenia, Georgia, Turkmenistan and Uzbekistan, the blueprints for comprehensive reform of rail transport are largely absent and they are not being developed. Belarus, Moldova, Kyrgyzstan and Tajikistan have adopted or are developing programme documents but there are no current plans to implement them. Programme documents have been adopted in Kazakhstan, Russia, Ukraine, Latvia, Lithuania and Estonia and a reform process is underway there.

The main directions of reforms include: separation of the state regulation and economic activity functions; withdrawal of non-core activities; segregation of railway infrastructure; improving the management system and increasing transparency; elimination of cross-subsidisation; improving the tariff system, as well as expanding the opportunities for attracting investment for the development of the industry.

Railways of Belarus, Kyrgyzstan, Moldova, Tajikistan and Turkmenistan remain state-owned enterprises, the railways of Azerbaijan, Armenia, Georgia, Kazakhstan, Latvia, Lithuania, Russia, Uzbekistan, Ukraine and Estonia operate In the form of joint-stock companies.

Coordination of transit transport in the region is carried out by the Council for Rail Transport, which was established in 1992 by a decision of the heads of the CIS states.

The railway systems acquire a holding structure; 100% of the shares of railway companies are owned by states, but blocks of shares of subsidiaries are sold. Almost 12 thousand private operators have been created in CIS, which own almost 90% of freight wagon fleet. This part of the transport system in many cases remains practically union-free, with the exception of the shipping companies - the daughters or affiliates of the parent companies. The trade unions of Georgia, Kazakhstan, Russia and Estonia are unionising such companies. In Russia and Ukraine, the use of outsourcing and non-traditional forms of employment in works related to transport and safety is limited on the proposal of railway unions.

Private passenger carriers appeared on the market; however, their share in the total volume of passenger transportation is still insignificant. The activities of passenger railway companies are carried out in conditions of a high level of competition from civil aviation and coach transport.

Within 25 years, the number of railway staff decreased by 37%: in Estonia from 8 thousand to 1500, in Kazakhstan - from 286 thousand to 115 thousand members. So called parallel trade unions exist in Georgia, Russia, Ukraine, Kyrgyzstan, Estonia and Lithuania. There are different reasons why parallel unions appeared: political and ideological (Russia, Ukraine, Lithuania), support of parallel unions by administration (Kyrgyzstan), outside influence (Georgia) and all this against the backdrop of weak local unions.

When speaking about joint-stock railway companies, only in Russia, Uzbekistan and Ukraine has the bulk of the social infrastructure been retained, while in others, despite the opposition of trade unions, it was transferred to municipal authorities or sold as non-core assets. Historically railway transport has been formed as an industrial system, including social sphere to support the transportation process. The primary reason was that railways covered new territories and quite often far away from cities, distances were vast, difficult weather conditions and 24-hour work schedules. For these reasons railway transport had hostels and residential facilities, education facilities for children of workers, cultural and sport facilities especially in such regions as Siberia and Far East of Russia, also in some regions in Kazakhstan and Central Asia.

Unfavourable conditions were relieved by the creation of medical, rehabilitation and health facilities including clinics, hospitals, flats, hostels, sanatoriums, children's camps, kindergartens, schools and boarding schools, vocational schools, universities.

Since June 2008 the railways in Armenia has been transferred to the management of the subsidiary structure of JSC Russian Railways - the South Caucasus Railway (SCR) under the concession agreement.

Over the years of reforms, vertically integrated structures on a branch level have been created and are functioning in JSC Russian Railways by types of activity: 42 large branches, 123 subsidiaries and affiliates. By 2012 the entire fleet of freight wagons on the network became privatised. The development of the market led to a significant renewal of the fleet of freight wagons through private investments and the improvement of the quality of the services of operators due to competition. A profound reform of the passenger system was carried out. Long distance passenger transportation is performed by JSC "Federal Passenger Company". By branch (functions): Central directorate of infrastructure, Central directorate of traffic management (26 suburban passenger companies), Central directorate of tracks reparation, directorate of locomotives and reparation of rolling stock etc. There are 26 suburban passenger companies with 50/50 participation of regions.

ROSPROFZHEL (Trade Union of Railwaymen and Transport Construction Workers of Russia) continues to struggle with the liberal line of further restructuring of the Russian Railways, against the liberalisation of the traction market on the infrastructure of public railways, against outsourcing and the sale of a stake in the Russian Railways. ROSPROFZHEL managed to create local trade union organisations in all newly created subsidiaries, it concludes collective agreements there, what allows maintaining good social benefits and guarantees for employees. The most important tasks of the union are the preservation of the railway network as a state structure, a significant improvement in working and living conditions of workers, and the preservation of jobs in the face of the automation and digitalisation of railways.

Restructuring of the Kazakhstan railway (KTZh) has led to the creation of vertically integrated companies by various activities, and repair companies are open to private shareholders. The ownership of JSC KTZh covers the entire production infrastructure, dispatching management, management of the operational system, etc. The company's shares are transferred to the management of the state holding Samruk-Kazyna, which exercises supervisory functions over activities, influences the formation of its budget, personnel and social policy of the company. The plan has been announced to sell 10% minus 1 share of KTZ JSC as part of the implementation of the state program "People's IPO” according to which any citizen can buy shares.

The trade union of Ukraine actively participated in the preparation of corporatisation, which was completed on 1 December 2015, by the creation of the Public Joint Stock Company "Ukrainian Railways". The union lobbied the decision to provide the infrastructure of PJSC "UZ" under the contract of use, union achieved the introduction of sectoral health care in the charter capital of PJSC, excluding the possibility of mass reductions of workers and continuity of the Branch Agreement and collective agreements.

Estonia went the furthest on the way towards reforming the railways. The railway became JSC in 1997, in 2001, by the government's decision 66% of the shares of the Estonian Railways (Eesti Raudtee JSC) were sold to the Anglo-American company Baltic Rail Services (BRS). In five years the BRS has reduced the number of employees in the company by 40%. In early 2007, the Republic of Estonia repurchased shares and the official reason for its re-nationalisation were inflated tariffs for the transportation of goods and lobbying for the interests of American manufacturers of railway equipment that was not adapted to work in the EU and CIS countries.

In 2012 in Estonia a complete separation of transportation and infrastructure was carried out, the management of the holding was liquidated. In Lithuania with the active participation of the trade union such transformations are postponed for 5 years, but they were actively launched in 2016 after the last parliamentary elections.

At present, the CIS political and business circles and the trade unions are discussing the feasibility of separating the railway infrastructure from transportation activities. The findings of an international study carried out by the Community of European Railways and Infrastructure Companies (CER) in 2013 are indicative. First, the analysis showed that there are no signs of improving the efficiency of railway operations during the transition to a fully liberalised system. Secondly, competition has no direct impact on improving the efficiency of railways and should not be a self-goal of reforms.

Vertical separation increases the costs on railways with high traffic intensity and the prevalence of freight traffic over passenger traffic, which is typical in majority of CIS countries. The most effective is considered the vertical integration, which includes infrastructure, traction and logistics. This route was followed in Kazakhstan, where a single national multimodal transport and logistics operator was established on the basis of Kazakhstan Temir Zholy, which included rail, sea, air and trucking, port, airport infrastructure, a network of warehouses and terminals.

The positive results of the reforms include the introduction of new equipment, modern information technologies, innovative locomotives, freight and passenger wagons, high-speed trains (Kazakhstan, Russia, Uzbekistan), construction of new railway sections (Kazakhstan, Russia, Uzbekistan), introduction of containers (the growth of container flow through Kazakhstan grew more than 40 times), the development of international and regional transport corridors which became a natural process of evolutional development.

At the same time, work basically remains difficult. The nature of work on the tracks, locomotive crews, guides, ticket cashiers, power engineers, signalmen has changed little in the process of reforms. Railway unions in the ex-USSR made a significant contribution to the adjustment of reform programmes, categorically oppose approaches to reform based on ideological thinking that private is better.

The most important component of union activity can be seen in the conclusion of sectoral agreements and collective agreements. New collective agreements and agreements, despite the post-crisis phenomena, were signed by the trade unions on good terms. In Kazakhstan, Kyrgyzstan, Lithuania and Moldova their guarantees extend only to members of trade unions.

Trade unions of Russia and Kazakhstan have significantly changed their structure, reducing the number of legal entities in the union, created centralised book-keeping. Reformation of the transport system has led to the unification of transport trade unions in Belarus and Kazakhstan into merged organisations.

Privatisation of railway transport in Russia, negative consequences for workers and trade union position

At present 100% of the shares of Russian Railways and a number of large daughter and dependent companies (JSC FPC – Federal Passenger Company) are owned by the state. In 2014 a decision was made to sell a part of the shares of JSC Russian Railways (up to 25%), but the deadline was postponed. In the draft target model of the railway transportation market until 2025 proposed by the Government of the Russian Federation, liberalisation of locomotive traction and free access to transportation of private locomotives is envisaged.

Privatisation of individual structures and activities on Russian railways is currently carried out by selling shares of daughter and dependent companies. The forecasted plan of selling shares of such companies for 2018 in the range of 25% to 100% has been adopted. As a rule, these companies are not directly related to the main activity (transportation) – they are dealing with production of crushed stone, reinforced concrete and wooden sleepers, repair of wagons and track maintenance equipment etc.

The trade union ROSPROFZHEL at all levels (the Government, the State Duma) insists on keeping the shares of the parent company in the state ownership to guarantee social and occupational stability within the railways. The experience of privatisation of subsidiaries proved the negative consequences of privatisation - sharp reduction in staff, reduction in the level of social guarantees for workers and massive violations of labour legislation.

The trade union through its own monitoring observes the negative consequences for the personnel not only from direct privatisation but also from outsourcing a part of the services to companies with private capital. Motor transportation services, repair of locomotives, maintenance of computing and copying equipment, etc. have been outsourced. The consequences are the same as from privatisation - first of all people suffer and quality of services is low. The union does its utmost to preserve the existing structure.

Today the main task of the trade union dealing with privatisation of railway structures and the transfer of services for outsourcing is to prove that it is cheaper and safer to do these works in the existing system. But if the decision is unavoidable, trade unions must be retained in private and outsourced companies, a collective agreement must be concluded at the level of guarantees of the parent company, union members should be protected from administrative arbitrariness and violations of labour legislation.

Railway privatisation in CIS and union responses

In the post-Soviet region, the predominant form of privatisation is the corporatisation of state railways, except for Estonia, where 66% of the shares of the railways belonged to the USA company RDS within 2001-2006. Also privatisation by selling stakes in subsidiaries and individual enterprises as mainly in Kazakhstan and Russia.

Trade unions analysis does not show particularly positive changes due to corporatisation and privatisation in terms of improving technology, updating rolling stock and infrastructure, and servicing customers and passengers. To large extent these processes depend on the national economic situation and not on the form of ownership of railways.

The development of railways depends little on structural management models, and more on political decisions to strengthen the position of railways on the transport market. As a result of the analysis of the experience with reforms in different countries, it can be concluded that admission of new participants to the market and decrease in the share of regulation does not mean an increase in efficiency.

In general, trade unions manage to maintain a high percentage of union membership: 92-98% in the CIS countries, 55-83% in the Baltic states, to conclude collective agreements in all parent companies and their daughter and dependent companies.

Corporatisation and privatisation led to a number of negative consequences:

- privatisation is often dictated by political rather than economic considerations (for example, in Estonia where the winner of the tender the USA company RDS, performed an investment annex to the contract of privatisation by borrowed funds, pledging the Estonian railway to the bank);
- there was a significant decrease in the number of personnel and consequently in trade unions (in Estonia, the number of employees was reduced by 40% two years after privatisation), labour intensification is increasing;
- the social stratification has sharply increased, the difference in the remuneration of employees and top management has reached 100 or more times;
- industry social infrastructure is reduced or eliminated;
- the social policy is changing, there is a rejection of a number of traditional benefits and guarantees, in particular, preferential travel by rail;
- the structure is changing and the collective-contractual process is difficult to manage, the problem of harmonising social guarantees in holdings arises;
- use of outsourcing is expanding;

- reforms in a number of countries is accompanied by a frequent change of management and the removal of railway professionals from the management of railways; destroying the existing traditions of interaction with the trade union;
- in privatised and outsourcing companies' employers often prevent the creation of trade unions and conclusion of collective agreements, they reduce the level of social guarantees for workers, more often there are massive violations of labour legislation;

Trade unions will continue to struggle with the privatisation of railways, especially its infrastructure and with outsourcing. Unions will seek to develop forms and institutions of social dialogue, initiate the creation of associations of employers in railways. They will change the wages negotiation strategy seeking to raise it to a level higher than inflation.

Unions will try to achieve the possibility of using a part of the funds from the initial sale of shares of individual enterprises for social development, for investing sectoral social programmes - pension, insurance, mortgage, youth. Unions will conduct organisational work to strengthen trade unions, the creation of trade union organisations in private and outsourced companies, and the conclusion of collective bargaining agreements in them on terms as close as possible to the parent companies.

SECTION 6

The concept of "Public-Private Partnership" (PPP)

General overview

Public-Private Partnership was launched as a way of introducing cooperation between the private and the public sector in order to develop and operate different types of public services. This so-called cooperation has to be understood in the context of the neo-liberal offensive that swept across the world as from around 1980. It has taken many different forms and has been given many different designs, so it has to be dealt with differently in each situation. During the last decade, we have seen a dramatic increase in the amount of money invested in PPPs in the developing world. Between 2004 and 2012 investments through PPPs increased six folds: from US$25 billion to US$164 billion.

Public-Private Partnership projects have operated under different names and abbreviations. PPP is the usual abbreviation in English (and will be used here), but P3 is also used – particularly in Canada. When it was invented, in the UK during Margaret Thatcher's neo-liberal regime, it was under the name of Private Finance Initiative (PFI). This was a much better name when it comes to expressing what it really is about, not least because the model was initiated as well as developed by private finance interests.

A typical PPP is established through a contract between the government and a private company. The contract gives the private company the right to finance, build and operate some elements of a public service. Then the private company is paid over a number of years, either through charges by users or by payments from the public authority, or a combination of both. The contract periods are long, often 25-30 years, and experiences have proved that they more often than not represent an extremely attractive business opportunity.

The stated reasons for using PPPs are manifold, and here are the most usual arguments:

- They bring in extra money from the private sector.
- They transfer risk from the public to the private sector.
- The private sector is more efficient than the public sector.
- PPP projects are delivered more quickly and on time.
- PPPs are useful for buildings and infrastructure – hospitals, schools, roads, rail, water, electricity, defence and government offices.

These statements, however, are ideological propaganda more than science- or experienced-based knowledge, and they very much reflect the fact that they are being part of the neoliberal offensive that we have experienced over the last decades. The huge number of scandals and negative experiences of PPPs are not at all taken notice of – quite the opposite. In the trade union movement and among those who have been exposed to PPPs, it has therefore increasingly not been seen as a "partnership" between the public and the private, but just another form of privatisation – and rightly so. Here are some of problems associated with PPPs, which give another picture than the rosy one referred to above:

- Whether a public project is publicly financed or a PPP project, it will ultimately be paid for out of tax revenues. Further, PPPs are more expensive than public financing, particularly due to higher interest rates, higher transaction costs and a lack of competition. The European Investment Bank concluded that road construction in Europe had been 24% more expensive where PPPs have been used, than with ordinary public financing.
- The transfer of risk to the private actors is extremely difficult to achieve in the real world, since the public sector will have to foot the bill in the end anyway, when

problems arise. Bankruptcy of the private company is one well known way to transfer risk back to the public sector.
- Changes in the contract often happen, and lead to increased costs – and renegotiation of contracts happen with about 55 percent of PPP projects, according to the International Monetary Fund (IMF). Thus, the risk stays with the public sector.
- When it comes to the stated higher efficiency of the private sector, even the World Bank has concluded that "most international studies show that there is no statistically significant difference in efficiency between public and private sector service providers".
- The government's political room for manoeuvre becomes more limited, since the PPPs are protected through a legally binding contract. If financial problems make it necessary to cut public spending, these cuts, therefore, will have to be taken in other sectors, regardless of their political priorities.

The alleged benefit of using PPPs is further undermined by the large number of scandals that has haunted such projects – from the London Underground to the University of Quebec, from the Nya Karolinska hospital in Stockholm to a concert hall in Hamburg, from road constructions in Australia to the same in Chile and Colombia, and many more all over the world. Many businesses, however, make enormous profits out of the PPPs. In the UK, Professor Jean Shaoul of Manchester University has found that "for the first 12 PPP hospitals, the dividend paid to private shareholders averaged 58 per cent".

The UK both invented the PPP model and has been leading in using it. However, while the UK mainly has used PPPs for the building of hospitals and schools, in the rest of the world, the model has been used more for water and electricity infrastructure, roads and rail. This is partly related to the fact that PPPs have been strongly promoted by International Financial Institutions (IFIs) like the IMF and the World Bank, which are strongly focused on huge national infrastructure projects. The use of PPPs has often been part of the neoliberal conditionality imposed on developing countries, and others, for giving loans to infrastructure projects. For example, in 2011 two third of the African Development Bank loans for infrastructure supported PPPs – mostly in electricity, roads and rail. During the last decade, we have therefore seen a dramatic increase in the amount of money invested in PPPs in the developing world. Between 2004 and 2012 investments through PPPs increased six folds: from US$25 billion to US$164 billion.

Austerity policies are also extensively being used to promote PPPs and other forms of privatisation. Since austerity policy restricts the level of public debt, governments are being pushed into PPP projects, because borrowing then is considered private, not public. In the European Union, where austerity is being institutionalised through legislation (the Maastricht Treaty and the associated Growth and Stability Pact), PPPs become a way around the limits on government's own borrowing – an accounting trick, so to say. Austerity policies are thus not only being used as a neoliberal tool to cut public budgets, but also to promote privatisation in many forms – including through the use of PPPs.

Since the neoliberal offensive started around 1980, PPPs have been supported by a number of actors. In addition to the IFIs mentioned above, the ideologically driven campaigns have been promoted by governmental bodies, like the G20, the G8, the OECD, the World Economic Forum, etc. The development arms of the EU and its member states, the US and other donor countries have also done their part, as have international consultancy, accountancy and legal firms – particularly strongly driven by McKinsey. These consultancies often sit on all sides of the table when PPPs are being developed and implemented; strongly pursuing their own vested interests. They operate as advisers for businesses as well as for governments. They organise conferences and produce reports, where the conclusions always are the same – that PPPs are economically favourable and sound.

Workers, on the other hand, have experienced a lot of problems related to the PPP model. Here is how David Hall at the PSIRU summarise the effects of PPPs on workers:

- The security of employment is reduced in PPP models compare to the public sector.
- Private contractors have fewer incentives to maintain training.
- Many workers lose their status as public employees – and thus possible loss of public sector pension schemes.
- It becomes more difficult to protect wages and working conditions.
- Union organisation is weakened due to fragmentation.
- There are possible negative effects on other public employees.

These are some of the reasons why PPPs have been met with increased opposition and struggles all over the world. This is probably the reason why there are now signs that international institutions want to avoid using the phrase PPPs, because it has gained as bad a reputation as 'privatisation'. So maybe the neoliberal ideological rhetoric will provide us with some new bottles for the old wine. However, now we have learnt the lesson, even to a degree where the renationalisation of PPPs can reduce costs and increase efficiency.

The alternative to PPP is public financing and public delivery of public services. In this regard, it is also important to fight neo-liberal restructuring of the public sector itself, which is going on in most countries. What is needed is a further democratisation of our public services. Successful re-municipalisation of PPPs has happened in many countries, and we should learn from them. A first demand to any proposal to use PPPs should therefore be to carry out a full and real evaluation and a cost-benefit analysis. If this is not sufficient to stop a PPP project, time has come to consider our political and industrial muscles.

How to compare costs between a PPP and a Government funded and operated project

When there is a proposal for a PPP, the unions should always demand a comparison between the two ways of financing the project. It could be done by a table like this:

	PPP	**Government funded**
Cost of capital		
Construction costs		
Efficiency		
Transaction costs		
Uncertainty		

Useful documents:
David Hall: *Why public-private partnerships don't work. The many advantages of the public alternative*. PSIRU 2015.
(http://www.world-psi.org/sites/default/files/rapport_eng_56pages_a4_lr.pdf)
PSIRU: *11 facts about public-private partnerships (PPPs).* EPSU 2014.
(https://www.epsu.org/sites/default/files/article/files/Factsheets_PPPs_upd_Dec2014_-_EN.pdf)
Toby Sanger & Corina Crawley: *The Problem with Public-Private Partnerships*. CCPA 2009.
(https://www.policyalternatives.ca/publications/monitor/problem-public-private-partnerships)

Public private Partnership and Restructuring in Indian Railways

Private investment in railways is not a new phenomenon. Historically, railways were originally built and operated by private companies in most parts of the world. With time, it became clear that a pure market was not the most beneficial system, and States began to take over their construction and operation. Since the late 90s, governments started increasingly relying on private sector for financing of railway infrastructure or providing various services. Regulatory frameworks were created to guarantee the performance of private sector and protect the interests of users.

The origin of public-private partnership in Indian Railways (IR) lies in public- public (Joint venture with State governments) partnerships, which is still being used in some key areas of rail transport. The first such partnership in IR was the cost sharing with a state government when the Government of Maharashtra partnered IR in the Navi Mumbai Rail Connectivity Project in 1986. The state government wanted to build new suburban railway lines to meet the needs of the developing city, but IR didn't have the funds for the project. Since then there have been a large number of experiments at various levels, ranging from the creation of corporations for peripheral or specific activities, creation of Special Purpose Vehicles (SPVs) for big rail projects, outsourcing, leasing and licensing. These experiments are spread across various organisations of IR.

The creation of various segment specific organisations has resulted in the gradual institutional separation of several business segments. Majority of them are public sector companies incorporated under the Companies Act 1956. The organisations that have emerged after liberalisation are following:

Organisations	**Year**
KRCL (Konkan Railway Corporation Limited)	1990
RCIL (RailTel)	2000
IRCTC (Indian Railway catering and Tourism Corporation Limited)	2001
PRCL (Pipavav railway Corporation Limited)	2001
RVNL (Rail Vikas Nigam Limited)	2003
RLDA (Rail Land development Authority)	2005
DFCCIL (Dedicated Freight Corridor Corporation of India Limited)	2006
MRVC (Mumbai Railway Vikas Corporation Limited)	1999

Until the creation of Container Corporation of India Ltd (CONCOR) in 1988 in pre-liberalisation era, Indian Railways carried out all the activities itself through its zonal railways, production units and workshops. There was hardly any activity that was either outsourced or delegated to a public company. But, after liberalisation of Indian economy, Indian Railways gradually setting aside more and more activities for the private sector.

A Participative Policy for rail connectivity and capacity augmentation was issued in December, 2012 which provides the following five models for Public Private Partnership in building rail connectivity & capacity augmentation[8]:

(i) Non- Government Railway (NGR) model[9]
(ii) Joint Venture (JV) model[10]
(iii) Build Operate and Transfer (BOT) model[11]
(iv) Capacity augmentation with funding provided by customer's model
(v) Capacity augmentation through annuity model.

The areas identified for PPP include redevelopment of stations, setting up of rolling stock manufacturing factories, connectivity to ports, mines and industry clusters, operation of container trains, private freight terminals, wagon investment schemes and operation of automobile freights trains. Moving in this direction; the last mile connectivity projects to the ports through private participation was undertaken. From 2002 to 2014, eight port connectivity projects have been implemented, namely new line to Mundra Port (including doubling), Pipavav-Surendernagar Gauge conversion, Hassan-Mangalaore Gauge conversion, Gandhidham-Palanpur Gauge Conversion, Bharauch-Dahej Gauge conversion project, Venkatachalam-Krishnapatnam new line, new line to Dhamra Port and new line to Tuna Port by involving strategic investors.

The Private sector involvement in Indian Railways can be categorised in following manner:

Activity **Project Level Partnership Framework in PPP Models[12]**

Lease/ Service Agreement	BOT (LPVP)	BOT (SPV)	BOT (Annuity)	BOT (JV)	BOT	BOOT/BOO	Licence
Catering Yatri Niwas Hotels Advertising Rest Rooms Parcel Vans UBLs	Capacity Augmentation-Doubling, Gauge Conversion, Railway Electrification, etc.	Port Links, Suburban Railway, Passenger Terminals	New Railway	Metro Railway, World Class Stations, New Stations	Modernisation of Stations New Passenger Terminal Land Development	Multi Modal Logistics Park ICDs Freight Terminals, Budget Hotels, Food Plaza	Container Operation Passenger (Tourist) Operation, Parcel Operation

Source: A. K. Gupta & S. Roy: Public private partnership in railways: A New approach; IIM Ahmadabad

[9] This model provides for augmenting first and last mile connectivity to ports, cluster of industries, logistic parks and large mines which are handling goods for multiple consignors or consignees. Cost of providing such connectivity will be borne by owner/developer. Indian Railways will pay user fee for usage of such infrastructure equal to 95% of the apportioned revenue.

[10] In this model, bankable new line and gauge conversion projects can be undertaken with identifiable stakeholders i.e. user of lines or utilities such as ports, mines, exporters, plants and state governments. Indian Railway or its Public Sector Unit will hold minimum 26% equity in such joint venture. Indian Railway will pay user charges to the Joint Venture equal to 50% of the apportioned revenue. The normal concession period is 30 years.

[11] Build, Operate and Transfer (BOT) model- Under this model, project will be bid out through competitive bidding to the private concessionaire who will Design, Build, Finance, Construct and Maintain the project. Indian Railways will pay user charges to the concessionaire equal to 50% of the apportioned revenue. The normal concession period will be for 25 years.

[12] BOT (LPVP)- Build operate Transfer (Least Present Value of Payment)
SPV- Special Purpose Vehicle.
JV- Joint Venture
BOOT- Build Own Operate Transfer/ BOO- Build Own Operate

Foreign Direct Investment policy

100% Foreign Direct Investment (FDI) in the railway infrastructure segment has been allowed recently which has opened up opportunities for participation in infrastructure projects such as high-speed railways, railway lines to and from coal mines and ports, projects relating to electrification, high-speed tracks and suburban corridors. 100% FDI under automatic route is permitted for the following:

- Construction, operation and maintenance of suburban corridor projects through PPP.
- High speed train projects.
- Dedicated freight corridors.
- Railway electrification.
- Signalling systems.
- Freight terminals.
- Passenger terminals.
- Infrastructure in industrial parks pertaining to railway line/siding including electrified railways lines and connectivity to main railway line.
- Mass Rapid Transport Systems (MRTS)

Indian Railways has signed several contracts after the opening of Railways for 100% FDI. As for example General Electric, a huge American multinational corporation has been given the contract for setting up a diesel locomotive unit in Marhaura in Bihar. The contract was approved in 2014; as per the contract Indian Railways would buy 1000 diesel locomotives from general Electric over 10 years. This is happening in spite of the fact that Diesel Locomotive Works (DLW) - an IR entity, has been producing diesel locomotives and continuously upgrading them. It has indigenously produced India's first diesel locomotive engine of 5500 HP (Bheem) in 2015 through a joint effort with Research Design and Standard Organisation (RDSO) of the Indian Railways with support from Electro Motive Diesel (EMD) of the USA. Similarly, French firm Alstom has been given the contract for electric locomotive unit in Madhepura, Bihar. The cost of locos from these two unit is estimated to be 2-3 times higher of those being manufactured by Indian manufacturing units.

Investment opportunities

- Components manufacturing
- Infrastructure projects
- High speed train projects
- Railway lines to and from coal mines and ports
- Projects relating to electrification, high-speed tracks and suburban corridors
- Dedicated freight corridors
- The re-development of railway stations
- Power generation and energy-saving projects
- Freight terminals operations
- Setting up of wagon, coaches and locomotive units
- Gauge conversion
- Network expansion

The Bibek Debroy Committee has scaled up the Indian Railways' restructuring and recommended to corporatise the Indian Railways. It has recommended that the Public sector units under the Railway Ministry/ Railway Board like the Konkan Railways, IRCTC (Indian Railway Catering and Tourism Corporation), IRCON (Indian Railway Construction Corporation), CONCOR (Container Corporation of India), RITES (Railway Infrastructure Technical and Economic Services), Mumbai Rail Vikas Corporation, Rail Land Development Authority etc. be made independent to facilitate privatisation. The last budget decided to list the Railway public sector companies like IRCTC, IRFC and IRCON in stock market, CONCOR is already listed to stock market and this is a clear move to completely privatise this sector. In a similar fashion it has recommended to restructure the Railways in India in order to push privatisation more aggressively. It has recommended the following: -

- Access to private operators for loading and unloading of goods on new tracks being built by the Dedicated Freight Corridors Corporation of India Ltd (DFCCIL). It suggests that anyone who runs trains on DFCCIL should pay directly to DFCCIL and not to Indian Railways.
- Separate the Indian Railways Finance Corporation from Indian Railways. It will own all locomotives, coaches and wagons which will be leased out to private firms for running their trains.
- Form an Indian Railway Infrastructure Corporation by separating railway track, stations, electrical installations and signal system from Indian Railways and this will in turn lease path for running trains for those who seek it.
- Form a Railway Manufacturing Company comprising all production units.
- Constitute Indian railway real estate trust to own, develop and lease all railway colonies, unused lands and railways buildings to anybody on demand.
- Close down all loss making lines and services unless the state governments or local bodies take them over or compensate the loss.
- Privatise railway hospitals and schools.

PPP and restructuring will and is transforming the Indian Railways that will have a detrimental effect on workers. A sustained and strategic fight is needed by the Unions to safeguard the interest of workers.

Bad experiences with PPP

In India, 65 PPP projects with investments worth over Rs 77,000 crore have been terminated. "Poor preparations, flawed risk-sharing, inappropriate business models and fiscal uncertainties to vested interests leading to development of skewed qualification criteria are certain key reasons for failure of PPP projects in India," the study according to findings of a joint study by Assocham and SREI said without naming any project.

PPP in Indian Metro rail was tried out in Mumbai, Hyderabad, and the Airport line of Delhi, but the experience has not been good. In Mumbai Metro Line 1, Reliance Infrastructure took almost seven years to complete 11 km of the relatively easier elevated line and they now claim to be losing Rs 50 lakh per day in revenue everyday despite the very high fares they are charging. In Chennai, the state and central governments invested all the money with borrowing from Japan. The construction of Airport Express Metro in Delhi would have incurred 20 per cent less expenditure had Delhi Metro built it entirely. The Delhi Airport Metro Express was shut down for 6 months when its operator Reliance Infrastructure pointed out cracks that had developed on its metro pillar structures. Reliance Infrastructure, which was the only private player to come forward, invested in the rolling stock, electrification, and signalling. Finally, Reliance withdrew from it due to heavy losses. Later Sreedharan, the Metro Man questioned the feasibility of PPP projects.

The Comptroller and Auditor General of India (CAG) found inconsistencies in the execution of eight public private partnership (PPP) projects undertaken by the railways, ranging from loopholes in the contractual agreements, irregularities in estimating the rate of return and traffic numbers and a weak monitoring mechanism.

Public Private Partnership (PPP) model was attempted in Mumbai, Hyderabad and the Airport line in Delhi. All these have proved to be failures. In the Delhi Metro's Airport line, Reliance invested in rolling stock, electrification and signalling and started operating the line. When it found that it was incurring losses, Reliance abandoned it. Delhi Metro Rail Corporation (DMRC) had to take it over and operate it.

In Mumbai, Reliance Infrastructure took almost 7 years to complete the 11 km of elevated part of Mumbai Metro Line 1. It is charging very high fares but still claims that it is losing around Rs 50 lakh every day.

In the case of Hyderabad, 300 acres of land was offered to L&T for property development as a 'sweetener'. It is now more than seven years since the project started, and just few days back its started operation. But L&T, started claiming compensation from the government for its revenue loss, much before Hyderabad Metro started operation.

In Indian Railway has been adopting very non-transparent method in PPP. The Comptroller and Auditor General of India (CAG) found inconsistencies in the execution of public private partnership (PPP) projects undertaken by the railways, ranging from loopholes in the contractual agreements, irregularities in estimating the rate of return and traffic numbers and a weak monitoring mechanism. Grant of concession period to concessionaires was arbitrary ranging from 12 years to 32 years. In a report on PPP, the CAG criticised the railways for not formulating any model concession agreement for PPP projects. IR needs to streamline the project approval process, formation of SPV and signing of requisite agreements in a time bound manner to avoid delay in completion of projects.

Proposed and ongoing PPPs in Indian railways

Indian Railway aims to boost passenger amenities by involving Public Private Partnership (PPP) investments in provision of foot-over bridges, escalators and lifts at all major stations. Last-mile connectivity to boost business activity in and around ports and mines has been proposed through the formation of special purpose vehicle (SPV) companies under the PPP model.

The sector has taken up port connectivity on priority, through the PPP mode of funding in tandem with the Sagar Mala Project of Port Development. Railways will facilitate connectivity to new and upcoming ports through private participation. So far, in principle, approval has been granted for building rail connectivity to the ports of Jaigarh, Dighi, Rewas, Hazira, Tuna, Dholera, Astranga, Chara and Nargol under the Participative Model Policy of the Indian Railways, amounting to USD 615.38 Million. To strengthen rail connectivity with various ports, Indian Railways has floated SPVs under the PPP model.

- Pipavav Rail Corporation Ltd.
- Bharuch-Dahej Railway Company Ltd.
- Kutch Railway Company Ltd.
- Hassan-Mangalore Rail Development Company, Obullavaripalle-Krishnapatnam Railway Company Ltd.

- Anugul-Sukinda Railway Company Ltd.

Three rail connectivity projects are being implemented through the **joint venture route** namely:

- Gevra Road-Pendra Road new line
- Raigarh-Bhupdeopur new line and
- Jaigarh Port connectivity projects

JVs

Independent organisation under ministry of railways such as CONCOR has no shortage of funds for building infrastructure but it has also adopted the policy of PPP. CONCOR went for joint venture Container Freight Stations (CFSs) in its own Inland Container Depots (ICDs) with the private partner holding 51%, and its own share of equity at 49%. Its biggest PPP venture is for a container terminal at Jawaharlal Nehru Port Trust (JNPT). It partnered (with 26% equity in the JV) with a private shipping company Maersk to get a 30-year licence for the Rs 10 billion terminal, which has already been commissioned[13]. CONCOR has also taken a 15% equity partnership in Vallarpadam Container Transhipment Terminal in Kerala, promoted by Dubai Ports World, which is the biggest such terminal in Asia. Another independent organisation like IRCTC established packaged water brand ‘Rail Neer’ through PPP model with state of the art plants at Nangloi in Delhi and Danapur in Bihar. The plants are owned by IRCTC with investments of Rs 40 million per plant. They are being operated and maintained by O&M contractor, Ion Exchange Ltd.

Mass rapid transit systems

During the period of 2012-17, Mass Rapid Transit Systems (MRTS) projects are being planned in Ahmedabad, Bengaluru, Hyderabad, Chandigarh, Chennai, Delhi, Jaipur, Kochi, Kolkata, Mumbai, Patna, Pune, Lucknow and Surat through the PPP model.

Tourist circuits trains

Specially packaged trains for several tourist circuits have been proposed and private participation will be encouraged.

Railway stations on PPP

Indian Railways has announced plans to set up 400 model stations across the country under the public private partnership (PPP) mode. A joint venture company will be set up between the Central and State Governments for implementation of the project. 17 state governments have already agreed to float the company. The model stations will be set up on fifty-fifty cost sharing basis. Already tenders have been called for redevelopment of 23 major stations including New Delhi, Mumbai, Howrah, Chennai, Bengaluru, Secunderabad, Vijayawada, Calicut etc. Habibganj stations in Bhopal has become the first station in the country to be handed over to the Bansals for development under the PPP model.

Challenges and the way ahead

Indian Railway has been systematically privatised, as we have discussed. The process of privatisation was slow before the liberalisation but it got momentum after the liberalisation process was initiated. In the process, government after government, think-tank after think-tank, and news report after news report, have suggested that the Indian Railways is a sick sector and it requires reform. The Indian Railways came to be censured for its 'failings'- it is now counted as an inefficient public sector, a bulbous organisation in need of the surgeon's knife. In the light of this view or perception,

[13] A. K. Gupta & S. Roy: Public private partnership in railways: A New approach; IIM Ahmadabad

successive governments at different stages constituted expert committees; a Prakash Tandon Committee submitted its report in the year 1994; Rakesh Mohan Committee in the year 2001 and recently Bibek Debroy Committee in the year 2015. Every committee primarily suggested to restructure and privatise the Indian Railways. Ironically, nowhere is there an acknowledgement that crucial transport infrastructure such as the Railways require very large investment and also a country's railway system has social duty to perform rather than only work as a profit making organisation.

Privatisation as a stated goal may be only a few decades old, but the neglect of railways dates further back in time. As we have seen, that Budgetary support to Indian Railways has been continuously coming down; at the same time systemic downsizing of workers has taken place. There was a time when railways were hailed for being one of the largest provider of employment in India's organised or formal economy but the same is now projected as the biggest problem of Indian Railways.

AIRF as a voice of railway workers has always opposed any move to privatise the Indian Railways. On the sustained pressure from the AIRF the Railways ministry had called a joint conference at Baroda's Railway Staff College to discuss the recommendations of Rakesh Mohan Committee. AIRF was successful to push the ministry to dump the committee's recommendations. AIRF has always believed that privatisation of public sector undertakings like the Railways not only has detrimental effect on workers but also adversely affects the economy as a whole. Two important examples of privatisation- of the air transporter Air India, and of the telecommunication sector- ought to serve as cases in point. Not only did privatisation destroy these public sector undertakings, it also ended up costing the exchequer more. With each round of bail-out, concession, and loan waivers, the Government has spent much more to sustain private enterprisers than it would have were it to only make genuine effort to keep the sectors running as efficient public undertakings.

AIRF has always educated its rank and file against the evil designs to privatise the Railways and remains prepared to meet the greater challenges. AIRF, has been continuously agitating and putting pressure on ministry that it should immediately take measures to fill up all vacant posts. There are nearly 250,000 vacant posts in the railways. Instead of outsourcing, which is posing risk to the system and commuters, the railways should recruit permanent staff at the earliest. However, if outsourced workers are employed in Indian Railways, their rights should be protected and they should be trained. It is only on AIRF intervention that a clause was added in the contract documents that workers’ rights should be protected; though in reality this did not help much as contractors/middlemen found other ways to exploit outsourced workers. Contract workers right can only be protected by unionising them.

Safe rail operation has always been a serious concern for AIRF, and all its affiliates have considered this of paramount importance. AIRF and its affiliated unions, through trade union education of the rank and file have always emphasised the importance of safety. But the biggest worry for railway safety is the gradual decline of budgetary support. AIRF has always demanded to increase the budgetary support especially for railway safety as it is a mandatory requirement for the upkeep and safe running of trains in a system which is so huge in size. Recently, Government of India has introduced the 'Rashtriya Rail Sanraksha Kosh', i.e. railway safety fund. The dedicated rail safety fund will be utilised for track improvement, bridge rehabilitation work, rolling stock replacement, human resource development, improved inspection system and safety work at level- crossings and other safety related works. In the last budget Government of India allocated a non- lapsable fund of Rs. 1,10,237 crore for five years, for railway safety.

AIRF and its affiliates have amended their constitutions to allow all contract labour directly or indirectly connected with railway work to join the union as a separate branch. The unions have organised specific action for women and young contract workers to fight for their rights and participate in union activities.

Privatisation and restructuring of railways remain a big challenge for AIRF and it will fight and agitate to save the railways.

SECTION 7

Experiences with re-nationalisation

Privatisation and renationalisation in New Zealand

FLAWED PHILOSOPHY

Privatisation of New Zealand government-owned businesses and enterprises was preceded by a bevy of slick slogans to prepare the country's citizens. Ideas like 'Nanny State', 'Getting Government out of people's lives' and, most insidious, that Government had no place to be running these businesses. The messages were so effective that protest was almost stymied and certainly failed to gain momentum. The counter questions and criticisms had little opportunity to be aired over the beguiling messages which so seduced public opinion. How could you argue with a message which saved so much Government (and public) money, promised (wildly exaggerated) efficiencies, promoted private ownership and heralded a grand new age - and in particular, with rail.

To many back then, and possibly to more now, public ownership was key. Yes, rail might not have been the most efficiently run organisation in the country and certainly it needed support from the public purse. However, it was a crucial public service providing vital transport links and catering for a large workforce, yet no one appeared to put that case effectively.

As with so many ex government-owned businesses, citizens have come realise that the profits gleaned from these privatised businesses, and their costs (and even losses) come from the pockets of the very citizens who once owned them. Prices increase, the workforces diminishes and the public pays - either for the services or via handouts from government. It's a moot point whether the country is better off under this regime. If current levels of unemployment, antisocial behaviour and their consequences are taken into account is the public purse better off or not? Has this philosophy made the few wealthier and widened the gap between rich and poor? Is our society better for it?

OVERVIEW

In 1880 New Zealand Railways (NZR) operated on more than 1,900 kilometres of track, and carried almost 3 million passengers and 830,000 tonnes of freight a year - often called the 'golden age' for NZ rail.

By 1953 the network reached its peak at 5,689 kilometres. Currently it operates on around 4,100 kms of track nationwide. In 1936 a system of transport licensing had been introduced to protect rail from competition, initially limiting loads to no more than 30 miles (50 kms) but this gradually increased, reaching 150 kms in 1977.

Reorganisation of rail and deregulation of the transport system in 1982 removed those protections for rail and its market share of freight dropped significantly.

The process of deregulation, commercialisation and privatisation saw a reduction in the number of employees, from 21,000 in 1982 to around 3,500 with KiwiRail in 2017.

During the 1990s, Tranz Rail expanded into new markets, including the movement of bulk milk to dairy processing plants and establishment of New Zealand's first inland port south of Auckland. The new port, a joint development with the Port of Tauranga, is connected by train with Tauranga and created a significant new line of containerised freight business.

In 2003, Toll Holdings Limited, an Australian-based transportation and logistics operator, acquired approximately 85 percent of the shares in Tranz Rail. As a result of Toll's offer for shares in Tranz Rail becoming unconditional, an agreement between Toll and the Crown was triggered, a key feature of which was the buy-back of track and associated infrastructure by the Crown.

PRIVATISATION

On the KiwiRail website under the heading ‘history of rail’ is published an article describing the controversial events surrounding the sale of New Zealand rail in 1993 to a business consortium led by an American railway company and a local firm of investment advisers: Wisconsin Central Transportation (Chicago) with Berkshire Partners and New Zealand investment advisers Fay Richwhite & Company. Together they bought the rail and ferry business for $328.2 million.

They renamed it Tranz Rail Ltd and listed it on the New Zealand share-market as well as the NASDAQ in the United States.

Unlike the United States and during the first century of railways in Britain, railways in New Zealand had mostly been owned and operated by the Government. Twenty years after the 1993 sale, the private sector experiment continues to divide opinion and generate strong emotions.

Its strongest critics accused the private-sector owners of running the railway into the ground and walking away with the profits.

The 1993 Railways sale was a political reaction to mounting debt in the years following the deregulation of land transport. Trucking companies that had previously been unable to operate over long distances, could, from the mid-1980s, compete with rail on equal terms.

Their share of the freight market grew steadily. Trucks had carried around 50 percent of land transport freight in 1972 but by 1993, this had risen to 81 percent.

By 2004 the NZRail teetered on the brink of receivership.

The then-National-led Government wrote down the value of KiwiRail's land and network assets from $13.4 billion to $6.7b and converted $322.5m of debt to equity in a major restructuring of the state-owned rail company.

It was then bought by Australian logistics company, Toll Holdings who, in turn, found running a commercial railway in New Zealand a challenging proposition.

In 2004 the then Labour-led Government bought back the rail infrastructure for $1 which was later revalued to be worth $7 billion.

Later still the National-led government’s Finance Minister Bill English restructured their balance sheet as "another step towards putting the company on a more commercial footing” - something the National party was strongly wedded to.

The number of trucks on New Zealand roads has grown annually in number and size and though they pay road user charges they share those costs with all other road users - who are also growing in number. Additionally, Government can deem some roads worthier of attention and contribute towards their costs. Rail lines have only one customer, KiwiRail, who must pay all the rail user charges to maintain the track. Government may also contribute to their maintenance - but usually as a bail-out and with loans. Many argue that this is unfair. The playing field is biased towards roads and road freight gets a better deal than rail.

COMMERCIAL BASIS

And so it continued with the words ‘commercial basis’ dogging the nation’s rail company - a factor it has had to deal with for much of its existence. Unlike road transportation, rail companies in New Zealand have been and are expected to maintain its rail stock and staff as well as the tracks they run on. Compared to an ever burgeoning road transportation where the roads (or tracks) are maintained from road user charges and the public purse, the competition is heavily weighted against rail.

For a period, New Zealand governments experimented with private ownership first selling to some investors with no real interest or knowledge of rail who saw it as a cash cow for their private wealth. Over a period of years stock was sold, staffing reduced, lines closed and infrastructure left to wilt while it changed hands to a bevy of private owners, none of which left the company better than they found it.

In 2004 it was bought back by the government and has since struggled to overcome the vandalism wrought upon it by privatisation.

CONCLUSION

There are few more controversial events in the history of railways in this country than the 1993 sale of New Zealand Rail Ltd. Twenty years after the 1993 sale, the private sector experiment continues to divide opinion and generate strong emotions. Its strongest critics accuse the private-sector owners with running the railway into the ground and walking away with the profits. What is clear is that two different, but very aggressive, commercial operators have tried to make money out of New Zealand rail freight and concluded it was not possible.

It is a widely held view that as unemployment mounted in the late 1970s and early 1980s, the Government regarded the railways as a useful means of employment for jobless citizens. This laudable idea backfired when the cost of the scheme was attributed to the railway company rather than viewing it as a social cost on government. Staff numbers of around 21,000 in the early 1980s dropped to less than 5,000 by the time the business was sold. Railways was one of a number of unpopular asset sales proposed in response to difficult financial times. For many, unhappy with the outcome of the sale, the role of Fay Richwhite in switching from adviser to buyer, has become a popular target. The Government had imposed constraints in the form of retaining rail land in Crown ownership as well as assurances from the consortium about a public share offering and the retention of passenger networks.

Despite growing debt levels, the company's share price continued to rise, reaching $9.00 by 1997. A preferential share ownership scheme was proposed to staff which was condemned by Unions which advised members not to buy them. Sadly, many did to their detriment in later years. Two parts of the business to suffer were the Auckland and Wellington suburban passenger networks. The Labour Government, elected in 1999, stepped in and bought back the Auckland network and then Wellington Railway Station. Tranz Rail's financial problems were now creating visible shortfalls in the capital asset replacement programme leading to pressure from major users and other stakeholders on the Government to intervene.

As capital spend diminished in the company so rose the death and injury rates within the industry.

In 1999 the rail union successfully lobbied the Labour Government to convene a ministerial inquiry into the health and safety of Tranz Rail workers. The inquiry travelled the country and heard from the families and workmates of those killed or injured at work for Tranz Rail.

It was a harrowing time for all concerned.

The report was released in 2000 and highlighted a number of problems in the regulation of Tranz Rail's safety and health. These included the application of a different standard of safety and health to Tranz Rail from that which applied to most other businesses. It was found that, in effect, the law provided for rail operators to establish a safety system based on 'reasonable cost'. Most other employers are covered by a requirement to take 'all practicable steps' to ensure safety in the workplace.

The report also noted that the Tranz Rail safety system documentation included between 1,000 and 2,000 documents and about 100,000 drawings and is 'unmanageable relative to the aim of securing a safe system'. Workplaces, it said, need to develop a culture of safety based on mutual respect, trust and understanding.

Efforts have been made towards this end and were documented in the report. The report found that it is clear that the law needs to be changed to simplify the message about safety.

The Minister Margaret Wilson stated that she had “already announced a review of safety and health legislation. This report will now become a part of that review and legislation will be introduced as soon as possible. I have not set a specific timetable for the review because I believe we need time to get it right.”

She observed:” No one with the responsibility for safety can have been unmoved by the sad stories of the families of those Tranz Rail employees who died, and the evidence given by the employees who were injured. I believe that no one with a responsibility in this area – and I include myself – can have heard those accounts without becoming more aware of the great responsibility we have to promote safer workplaces. Their courage and determination will lead to a safer railway industry and improvements in safety and health for all New Zealanders. I have had initial discussions with Tranz Rail and the Rail and Maritime Transport Union about the report. With the Minister of Transport, I will now consider the government's formal response to the matters raised in the report.”

As Tranz Rail’s share price sank to a new low of 30 cents, the Government made an offer to buy into the company and take back control of the network infrastructure.

While negotiations were in progress, Toll Holdings made a $1.10 a share bid for the company and the shareholders opted for the Australian company. The Government and Toll then negotiated the sale of the infrastructure to the Crown for $1 and a National Rail Access Agreement giving the company long term exclusive access to the network.

For its part, the Government agreed to contribute $200 million towards infrastructure upgrades. Toll pledged $100 million in rolling stock investment and agreed to pay the full capital and operating costs associated with using the network. In September 2004, ownership and management of the network and its assets was vested in the existing Railway Corporation, which adopted the trading name ONTRACK.

The Government chose the purchase option and after protracted negotiations with Toll, bought the business in 2008 for $665 million.

Almost full circle, and with little to boast about, the government but owns rail. Its diminished state and poor upkeep over the interim meant significant subsidy from the public purse but it would appear that the New Zealand public is prepared to subsidise rail freight if that is necessary to keep it operating - especially if it means roads less congested by trucks.

The railways remain an integrated part of the transport network and is still the best means of moving particular goods and people.

UK – From British Rail to Railtrack to Network rail

Under the Conservative government’s privatisation of the railway, Railtrack took control of the railway infrastructure on 1st April 1994 and was floated on the Stock Exchange in May 1996.

Railtrack faced significant criticism over its performance in improving the railway infrastructure and its safety record, with many feeling it was able to abuse its monopoly position. One of the fundamental flaws of rail infrastructure privatisation was that it is a loss-making concern which requires huge amounts of subsidy just to maintain the network, let alone improve it. Because it is a natural monopoly, it also could exploit this position. In its final year, Virgin Rail estimated that Railtrack was costing three times as much to refurbish a mile of track (£15m as opposed to £5m) than it had under British Rail.

Despite numerous problems the collapse of Railtrack was actually triggered by the Hatfield rail crash on 17 October 2000. The crash killed four people and injured over 70. The primary cause of the accident was determined to be the left-hand rail fracturing as the train passed over it. The incident exposed the major stewardship shortcomings of Railtrack.

The investigation into the incident revealed that cracks in the rail had first been spotted nearly two years previously and that a series of mistakes by Railtrack and its contractor, Balfour Beatty, resulted in such a lengthy delay to repairing the cracks that the rail finally broke a couple of weeks before its replacement was scheduled. Later, in 2005, both Network Rail and the contractor Balfour Beatty were found guilty of breaching health and safety laws.

Privatisation meant that Railtrack had lost a huge amount of engineering expertise and fearing more incidents like Hatfield may take place, the company began wholesale rail replacement across the network, rather than targeting where it was needed. It also imposed hundreds of speed restrictions across the country which meant huge delays and cancellations. This stunted passenger growth and in turn, it also meant Railtrack were paying millions in compensation to TOCs. Consequently, in 2000/01 the company was £534 million in debt.

Projects continued to go hugely over budget. Much of this was, due to the way it had been privatised, Railtrack had no in-house engineering. It also didn’t it undertake any of its own research and development. In fact, the modernisation of the West Coast Mainline was supposed to cost £2.4 billion. By the time Railtrack went into administration costs had soared to about £8 billion.

Railtrack had debts of £3.3 billion when it sought a £4 billion bailout from the government. This bailout was sought despite Railtrack paying a dividend of £137 million to shareholders in May 2001. Railtrack was put into administration on 7 October 2001. The railway administration order was discharged on 2 October 2002 and the next day Network Rail purchased Railtrack.

Network Rail was set up as an arms-length not-for-dividend company. This gave the government a measure of control of the company but meant the company’s debt did not appear on the government’s books. Although it was officially a private sector organisation, the fact that its debts were underwritten by the government, and it is partially funded by the government, had led to it being described as being "nationalisation in all but name"

However, the company relied on raising debt to operate. As a private company, the cost of this was far more expensive than it would be under genuine public ownership. In December 2013 it was announced that Network Rail was to be classified as a "government body". This resulted in the company's debt of £34 billion being added to the national debt.

From a trade union perspective this is a clear example of the profit motive undermining safety to the extent that lives were lost directly as a result.

It also shows that the world of work was fundamentally changed by this profit motive, jobs became insecure and outsourced. We saw examples of criminal behaviour with competency certificates being traded and sold in pubs with no checks by Railtrack on the training or ability of the agency staff it was using.

The short termism also saw the decline in specialist training and extensive experience in specific areas of rail engineering, both mechanical and civil, were lost and not replaced leading to increased costs and decreased efficiency.

Privatisation in this case came at heavy cost, both in lives and financial.

The Argentinian Rail Network:
From private ownership to a national railway through franchising to Renationalisation

The Argentine rail network was built with foreign capital and its principal objective was to connect areas for raw materials production with the main ports.

Construction of railway lines with different gauges occurred for various reasons, including geographical features, economic interests, international integration and defence. That is why three principal gauges are to be found within the national rail network: broad, standard and metric. The contribution of Argentine industry to the construction of the early lines was largely limited to the provision of aggregate and sleepers.

By 1943-44 the total length of the rail network under national jurisdiction amounted to some 41,627 kilometres and the workforce employed amounted to some 200,000 people, of whom about 20,000 belonged to management, 45,000 to tracks, construction and telegraph, 60,000 to traffic and movement, and 75,000 to traction and workshops. There were more than 70,000 indirect employees, who built and assembled locomotives and carriages and manufactured rails, bogies, wheels, axles and horseshoes, etc.
In 1949, President General Juan D. Peron nationalised railways for the first time after negotiations with the United Kingdom.

In 1989 the national government decided to launch a "mass" privatisation process. Among other public corporations (telecoms, gas, electricity, drinking water etc.) this extended to the national rail corporation, Ferrocarriles Argentinos. Thus, Law 23.696, better known as that year’s State Reform Law Decree 666 defines the rail franchising system.

The model for franchising the entire Argentine rail system out to the private sector was defined and structured around a strategic decision that proved crucial as regards the impact of its overall viability: franchising would not cover the entire system in a single invitation to tender for the 35,000-km. operational rail network. Instead, it would be franchised out in sections, both for political reasons (it would be more acceptable to hand the system over to various operators than to just one) and economic reasons (the financial resources required by operators taking on just a part of the system would be significantly lower, thereby increasing the number of business groups that might potentially be interested).

The process for the franchising out of the rail system to the private sector began with the goods lines for which six subsystems were identified to be franchised out for 30 years via international public tendering employing the concept of a comprehensive franchise. This meant that the franchisee had to take responsibility for all rail activities: marketing, operations, maintenance and the upgrading of rolling stock and infrastructure.

The franchises awarded were as follows:

- Nuevo Central Argentino S.A. (4,752 km), América Latina Logística Central S.A. (previously known as Buenos Aires al Pacífico S.A) (5,254 km), Ferrosur Roca S.A. (3,377 km), Ferroexpreso Pampeano S.A. (5,094 km), América Latina Logística Mesopotámica S.A. previously known as

Ferrocarril Mesopotámico S.A) (2,704 km), Belgrano Cargas S.A. (7,347 km),

- Once the franchising process was complete in 1995, the freight network franchised out encompassed a little over 28,000 km, with a total workforce (across all franchisees) of about 6,000 employees, while in the metropolitan sector the network totalled some 800 km and the workforce around 10,000 employees.

In contrast to the franchises for the metropolitan area, franchising contracts for freight rail services did not provide for subsidies of any kind from the national state, except for the franchisee Belgrano Cargas S.A. whose contract established a national state subsidy of US$250,000,000 for its first five years, which had to be dedicated to the implementation of an investment programme set up previously. The national state has not provided this subsidy.

The tendering process for goods lines was already underway when, in March 1991, the national government decided to separate passenger rail services for the Metropolitan Region of Buenos Aires from the rest of the Argentine rail system. Thus, in order to break up Ferrocarriles Argentinos, the company Ferrocarriles Metropolitanos Sociedad Anónima (FE.ME.SA.) was created with the sole aim of providing passenger services for that region. Soon after, the government took an even more audacious decision: to franchise them out to the private sector through an international tendering process.

In contrast to the potential for freight operations to be self-sufficient, from when the tendering process for suburban passenger services was first designed there was an awareness that even with major improvements in operational efficiency and increases in the number of passengers carried, financial profitability would be insufficient to allow the income generated from passenger transport to cover the operating costs of the system (including significant deferred maintenance) and the investment expenditure required.

The decision was then taken to launch an international invitation to tender for a subsidised suburban passenger rail system, namely one admitting that, if the operators could not cover their costs with the income generated by operating the lines, the state would accept the responsibility for covering the difference in question, through the payment of the subsidies required.

The decision of the national government to call on the private sector to operate the rail system of the Buenos Aires Metropolitan Region was intended to reclaim and give a hierarchical structure to its role within the region's public transport system, to improve its efficiency and quality of service, and to significantly reduce its funding needs.

In order to invite tenders, 7 Services Groups were delineated, to be tendered for individually. To a large extent, they followed the "line-based" management traditionally used in the region. Under this arrangement, the Buenos Aires underground network was added to the 3-Línea Urquiza Services Group, due to its technical compatibility and physical connection to the Urquiza line.

- The state retains ownership of the rolling stock, infrastructure and fixed installations generally, which were transferred to the operator, who took charge of all rail activities from marketing and ticket sales through to all property maintenance.

As a result of the tendering process, three bidding consortia were provisionally awarded the 7 Services Groups. Two consortia obtained 3 lines apiece and one consortium obtained a single line. After a bit of toing and froing and changes in the consortia that were initially successful, 6 companies became franchisees of the 7 Services Groups.

During the franchising process for freight services the Argentine government offered the tendering companies the option to run long-distance passenger services, but they did not take up the offer. The only service that was included separately in a tendering process was the Altamirano - Mar del Plata service, which was finally awarded directly to Buenos Aires Provincial Council together with other passenger services operating in that province.

In 2007, in the context of the concessionaires' maintenance failures, the government accepted it was its duty to guarantee the continued provision of the public passenger railway transport service and that this duty could not be delegated. It authorised the transport ministry to create an Operations Management Unit to take over, on an emergency basis, the railway service allocated to the groups whose contracts were rescinded.

In this context, the concept of the horizontal separation of the rail service was introduced, differentiating between the management of rail infrastructure and the operation of passenger and goods transport services.

The government created two state-owned companies:

Administración de Infraestructuras Ferroviarias Sociedad del Estado ["Public Rail Infrastructure Administration Company"], responsible for the administration of rail infrastructure already in existence or to be built in future, its maintenance and the management of train circulation control systems; and

Operadora Ferroviaria Sociedad del Estado ["Public Rail Operations Company"], responsible for the provision of both freight and passenger rail transport services, of every kind assigned to them, including the maintenance of rolling stock.

Decree No. 752/08 approved the articles of association of ADIF S.E. and SOE S.A. Article 4 of Annex I specified that the object of the "Public Rail Infrastructure Administration Company" (ADIF S.E.) is the administration rail infrastructure already in existence or to be built in future, its maintenance and the management of control systems for train circulation over rail infrastructure, whether it took direct charge of such work or delegated it to third parties or partnerships with third parties, together with the productive use of property owned by the Argentine state that formed part of the rail infrastructure whose management was entrusted or transferred, as well as operations associated with, connected to or subsidiary to this object, within the scope laid down in Law 26.352 and its regulatory standards.

Meanwhile, Article 4 of Annex II of the said Decree stated that the object of the "Public Rail Operations Company" was the provision of both freight and passenger rail transport services, of every kind assigned to them, including the maintenance of rolling stock, to which end it can take any action deemed necessary or appropriate to ensure the best possible performance of its duties, performing such administrative acts or making such disposals as required in order to achieve this, including through holdings in Argentine or foreign companies, subject to the provisions in the legislation applicable and within the scope laid down in Law 26.352 and its regulatory standards.

So starting in 2007, the state once again began to administer the companies, withdrawing the concessions from those companies unable to deliver, and it did so through the operation of the major companies in the sector, creating State Operational Management Units.

At the time of the tragic accident at Once Station, which resulted in 57 fatalities, the government again intervened and renationalised urban passenger services under the supervision of the Sociedad de Operaciones Ferroviarias del Estado, with the exception of the company Metrovias y Ferrovias.

The same thing took place in the case of the freight rail lines, where inefficiency and a lack of maintenance resulted in the withdrawal of concessions to the Brazilian-owned private companies ALL Mesopotamico and ALL San Martin. There are now only three private freight companies: Ferrosur, FEPSA and NCA.

Trade Union development and strategies used during the process

When our union realised that the bill submitted to the national congress would privatise all state-owned companies, including Ferrocarriles Argentinos, we first informed ourselves about the situation, then convened meetings at all workplaces and called a national strike that went on for 45 days. The strike was not successful at all because, during the strike, the government offered a kind of voluntary retirement package (which turned out not to be what it seemed) and got rid of most of the workers for derisory levels of redundancy pay. It worked with the future concessionaires for the freight and urban passenger railway network on a recruitment process, deciding who would be allowed to stay and who should be dismissed. The workers tried to make sure they kept a job with one or other of the companies and did not listen to the union, which was trying at least to discuss framework and collective agreements with the private companies. After signing contracts, which, for example, involved nine-hour working days in the freight sector, the companies in fact paid workers for double-shifts as long as sixteen hours per day, while other workers remained unemployed. In the course of time (approximately two years), the workers began to return to the union because the conditions we were negotiating were not so bad, compared with what the companies were expecting their workers to do. The union began to regain its strength and soon began to win ground.

In our opinion, when there is a [neo]liberal offensive against the workers we should do our utmost to seek agreement before taking drastic measures. We may have to put up with conditions that are not so good at first, but the main thing is to hang on to as many jobs as possible. And TRADE UNION UNITY is always essential.

SECTION 8

Railway safety

In 2012 the ITF railway workers section conducted a survey based on a questionnaire to all railway affiliates about railway safety. From the results of this survey, discussions at the ITF railway section conference in Toronto in November 2012, and the decision of the section steering committee meeting held in Brussels in July 2013, the section adopted a Railway Safety Statement. This statement has later been developed and amended, latest by the steering committee of the section in September 2017. The complete statement is attached as **Annex 1**.

Railways are one of the safest modes of transport but if not managed properly there is also a huge potential for damage. For railway workers' unions safety has always played a big role in union policies. This is not only about keeping the railways as a safe workplace for our members and other workers employed close to the railway industry, but also about safety for passengers and the public in general.

The development and acceptance of railways in society is dependent upon this high safety level.

Accidents have historically happened in all kind of railway systems, from fully state owned and governed, to private companies. One kind of ownership or company structure is no guarantee for a high safety level. The safety level rests upon the following parameters:

- Investments in infrastructure and rolling stock

Safety technology has basically two functions, to establish barriers against human errors and to improve operational efficiency. These two issues are often also closely interconnected. It is for instance impossible for an operator in a train control centre to monitor complex operations in a safe way without safety technology to assist. The same applies to locomotive drivers passing hundreds of trackside signals a day. Without the support of Automatic Train Protection systems accidents are bound to happen sooner or later. Operations on lines with high train density and high speed are not possible without these kinds of systems, but technological or other barriers against human error should be established all areas where safety critical tasks are carried out.

- Maintenance of infrastructure and rolling stock

This is really self-evident, lack of proper maintenance has caused many serious accidents, especially when it comes to technical faults causing derailments. If safety systems like signalling are not working properly, secondary procedures will be used, creating safety risks in itself. Other safety systems that are not functioning properly, are just ignored.

- The safety culture of the company

There are lots of theoretical definitions of safety culture, but it can simply be described as how the management runs the company when it comes to safety and the implication this has for the workers. To give some examples:

- Is there a culture for following the safety regulations, or are they just sometimes ignored for economical or practical reasons?
- Is there a culture of trust for learning from safety related mistakes or is there an emphasis on disciplinary actions?
- Is there a will to assign enough resources for proper training?
- Is fatigue taken into account when negotiating working time regulations or designing rosters?

This description of safety culture is the opposite as when management describe the lack of "safety culture" as the wrong behaviour of the railway workers. Safety culture is a clear management responsibility and is about how the organisation functions as a whole. It is less about how individuals acts.

An example of a misused safety system is the proposed introduction of in cab CCTV equipment to record the driver. Whilst it may appear to be a helpful addition to the toolbox in health and safety management, driver's experience of other technologies has shown they tend to be used as part of management's bullying and victimising tactics rather than for running a safer railway.

Rail employers know the problems that should be addressed in the industry to prevent the likelihood of an incident of the line, SPAD, etc. These include a long-hours culture, shift work, poor shift design, the need to hit targets on delivery and not incur penalties etc. but rather than tackle these issues and resolve them they have tried to justify the introduction of a spying gadget under the guise of safety.

This is simply about control and intimidation - "Big Brother is watching you" – not safety.

Apart from the civil liberties issues around making a safety critical person work under scrutiny all day, every day, CCTV can only be used after an event has occurred, so surely preventing hazardous events happening in the first place should be the priority?

- The role of the trade unions

Trade unions have historically always been in the forefront of fighting for railway safety. The reason is simple and clear. It is the workers themselves that from the start will be aware of safety breaches and are able to see what should be done to improve the railway safety. It is the task of the union to protect the health and safety of the workers through a continuous effort to bring the number of incidents down. This is quite often not appreciated by the management. It is seen as unnecessary involvement in management work, especially as the trade union involvement will often reveals incompetence and neglect from the management side.

Companies are dealing with this in different ways. Good managers will welcome the strong involvement from the union side because they know that it will bring the number of incidents down and at the end of the day save costs. Unions should be involved in the safety work of the company at all levels. Both at the top where the decisions on investments are taken, and at the operational level where the day to day operations are happening. This should be formalised as an important part of the Safety Management System.

There is also an important link between the involvement of the union in railway safety matters and the traditional health and safety work. All railway workers know that the physical working environment is crucial to railway safety. This is about issues such as working time regulations, the layout of drivers cabs and control centres, climate control, noise reduction and so on. Or simply about how each individual is able to perform her or his safety tasks.

The role of the trade unions in improving railway safety of course goes further than company level. Major decisions in the investment of safety systems are taken in the parliament or by government bodies. Influencing these decisions is of great importance for the unions, constantly reminding the politicians of the responsibilities and the negative consequences of failing to provide sufficient funds to the railways.

It is quite clear that a high safety level requires resources. When facing privatisation, the concern from trade unions will always be: What is the priority, using enough resources on railway safety or for more money in the pockets of profiteers? This is of course also a concern in publicly owned companies, when governments or municipalities are cutting their grants for saving reasons. Publicly owned companies are, however, more transparent and usually easier to influence than the private ones.

Restructuring in itself is a concern for the unions. Restructuring means that you are splitting up old safety responsibilities, and hopefully establishing new ones. Safety Management Systems can be turned upside down and safety officers are assigned to new jobs. An additional problem occurs when it is decided to outsource safety critical work and make use of subcontractors. Subcontractors in their turn again engage their own subcontractors. To keep control of the railway safety level in such cases can be extremely complicated. A basic demand from unions should be transparent risk assessments of the proposed changes. The company must by such analyses show how the structural changes will not lead to a decline in railway safety, and how this is going to be achieved.

It is strongly recommended that National Railway Safety Authorities are established, regardless of owner and company structures. Monitoring of the operational activities should be done by an independent body separated from the economic interests of the companies.

The same goes for investigation of accidents and serious incidents; the investigating body should not have members from the interested parties, or be mixed with a possible criminal investigation. It is essential that accidents and incidents are investigated for learning purposes uncovering the root causes to avoid similar situations to happen again and in this way improving safety. Investigation reports should be transparent and public.

Recommendations

- Unions must have experts on railway safety, both on human factors and technology and safety management systems.
- Unions should in their CBAs have clauses involving the unions in the operational safety work of the company
- Unions should demand safety risk assessments before structural changes are done
- Unions should agree with the management on the meaning of a just safety culture
- Unions should demand that independent National Safety Authorities and National Investigation Boards are established.
- Safety systems should exist for safety and not be a smokescreen for surveillance and control of staff.

The ONCE tragedy in Argentina - 22 February 2012

The railway accident at Once Station known as the Once Tragedy happened at 8.33am on Wednesday 22 February 2012. Train number 16 operating service 3772 on the Sarmiento line was pulling in to platform 2 at Once station, on its way from Moreno. It braked as it entered the station but stopped braking 40 metres from where it was due to stop, travelling at a speed of 20 km/h, and hit the platform 2 buffers.

The first three carriages were crushed, causing the most serious injuries. The train was carrying more than 1,200 passengers at peak time. Fifty-one people were killed and 702 injured. All the fatalities occurred in the first and second coaches. Three of the dead were children. The 702 injured had injuries of varying seriousness, 200 were taken to 13 hospitals in Buenos Aires city. Three days after the accident, the body of the 51st person to lose their life was found – Lucas Menghini Rey, 20 years old.

Thanks to the efforts of many people, the train driver was rescued and evacuated by ambulance. He had injuries to his legs. Two helicopters and 110 SAME ambulances and ambulances belonging to private companies participated in the rescue operation as well as various teams of fire-fighters and hundreds of federal police officers.

Causes

The inspections conducted by official experts responsible for the investigation concluded that: "The wreckage breaks inspected were in good condition". Before crashing, the train had completed ten journeys without a problem and this was the fifth return trip.
The transport minister said it was not known what happened during the final 40 metres before the train crashed into the platform 2 buffers. The train was travelling at 47 km/h at 1,000 metres from the accident, 26 km/h at the start of the platform and 20km/h at 40 metres from the buffers. These speeds were measured by GPS.

The trial

Union sources said the train that crashed at Once had come out of the workshops on the day before the accident after ten days of maintenance. In 2014, Federal Oral Court 2 detained the guard Patricio Juárez on charges of perjury, alleging that he contradicted himself in his statement to the court about the crash. This was the second time that a guard was taken into custody for perjury during the investigation. The same thing happened to Gerónimo on 17 June. Gerónimo was released the next day because when he made his statement he was reluctant to give details that would explain whether the train had passed through certain stations.

The train driver, Marcos Córdoba, was released after questioning by the judge and after his blood alcohol level was found to be negative. The federal judge, Claudio Bonadio, ordered simultaneous searches in Morón, Castelar and Plaza Miserere to seize documentation, cameras, registers, labour archives and technical data related to the railway and the incident. The judicial system took possession of the black box and the security videos on the train and at the station.

In August 2015, the lawyer in lawsuit number 1 said that "Córdoba is the only person responsible for what happened", claiming that he entered Once station “without braking” and without “deactivating the automatic braking mechanism, the ‘dead man switch’". The driver was charged with the crime specified in article 191 of the Penal Code, which punishes whoever "uses any means to stop or slow the progress of a train or derail it".

After analysing the conclusions of the accident reports, representatives reached the conclusion that the brakes were working normally, contrary to statements by Marcos Córdoba. The legal representatives of the victims called for a 22-year prison sentence for the train driver on the grounds that he was "the only person responsible for what happened" because he did not apply the brakes. At the fourth and final hearing in the case, the expert from the Transport Secretariat, Alejandro Leonetti, said that "the brakes were not applied and the train did not slow down before the impact. There is absolutely no indication that the brake system was used, we didn't find any".

Convictions

On 29 December 2015, in what families of the victims called a historic ruling, Federal Oral Criminal Court N° 2 found 21 of the 28 accused guilty. The longest sentence of nine years imprisonment was given to the former head of the operator, TBA, Sergio Claudio **Cirigliano**, for culpable harm and defrauding the state. For the same crimes, the former transport minister, **Juan Pablo Schiavi**, was given an eight-year prison sentence. His predecessor, **Ricardo Jaime**, was sentenced to six years for being complicit with defrauding the state. The train driver, **Marcos Córdoba** was sentenced to three and a half years in prison. Other former officials and directors of the TBA and the company that paid out the subsidies were given sentences of between three and eight years imprisonment.

- Roque Ángel Cirigliano, head of TBA Rolling Stock: 5 years. Marcos Antonio Córdoba: 3 years and six months and special disqualification for six years. Carlo Michele Ferrari, TBA president: 6 years. Antonio Marcelo Suárez, TBA director: 5 years. Laura Aída Ballesteros, TBA director: 5 years. Guillermo Antonio D'Abenigno, TBA director: 5 years. Jorge Alberto De Los Reyes, TBA vice president: 6 years. Daniel Guido Lodola, manager of the Sarmiento Line: 3 years suspended sentence. Sergio Daniel Tempone, TBA operations manager: 7 years. Pedro Roque Raineri, TBA director: 4 years. Oscar Alberto Gariboglio, vice president of Cometrans: 4 years. José Doce Portas, Cometrans director: 4 years. Carlos Esteban Pont Verges, TBA director: 6 years. Marcelo Alberto Calderón, Cometrans director: 8 years. Jorge Álvarez, TBA director: 8 years. Francisco Adalberto Pafumi, TBA director: 5 years. Víctor Eduardo Astrella, TBA director: 5 years. Alejandro Rubén Lopardo, Cometrans director: 4 years.

In 2018, families of the victims commemorated the eighth anniversary, stating that it was never an accident. They said that what happened at Once station on 22 February 2012 was not responsible for the deaths, but rather the corruption of the system that diverted money allocated for train maintenance into the pockets of officials and business operators. This was proved by the justice system in a historic judgement, but which has yet to be confirmed by the Federal Appeal Court.
All those convicted appealed. As did the public prosecutor and the plaintiffs, who asked for a review of the acquittals and asked that Jaime also be considered as responsible for the disaster.
The investigation stage lasted less than one year and the court hearings, with 134 hearings and more than 200 statements, was only completed before the fourth anniversary of the tragedy,

Federal Oral Criminal Court 2 not only sentenced the accused: it also ordered an investigation into the former federal planning minister, Julio De Vido. The oral ruling delivered by Federal Oral Court 4 began on 27 September 2017.
The case against De Vido for the Once Tragedy was based on the production of statements ordered by the Oral Court, in accordance with a request made by the plaintiffs' lawyer, Leonardo Menghini, at the time when allegations and requests for convictions were made. The charges: fraudulent administration and aggravated culpable harm, liable to a sentence of up to 11 years imprisonment.

Acquitted:

- Mario Francisco Cirigliano: former general manager of Cometrans inside TBA.
- Daniel Fernando Rubio: former TBA director.
- Miguel Werba: former director of Cometrans, the company that controls TBA and of which Cirigliano was president.
- Carlos Alberto Lluch: former TBA manager.
- Pedro Ochoa Romero: former head of the National Transport Regulatory Commission.
- Antonio Eduardo Sícaro: former head of the National Transport Regulatory Commission.
- Luis Alberto Ninoná: ex-head of TBA Rolling stock.

The analysis in the judgment issued by the courts, which was based on the investigation, was that the accident was "the result of an economic policy decision to run down the railways; fraudulent administration; an attempt to destroy the evidence in the court cases that followed regarding illegal acquisition of wealth by officials and handouts to a businessman whose responsibility it was to manage; abandonment of passengers and benefitting business friends". The Appeal Court ratified they were guilty of **culpable harm and defrauding the state**.

The train driver, Marcos Córdoba, was also convicted, but the investigation found the brakes didn't work when he applied them. This unfortunate accident was caused by train failures. It is not clear and it is difficult to understand why the court sent the driver to prison despite the evidence proving he applied the brakes and they didn't work because they were in a poor condition. It was also proved that he began to brake 1,400 metres before the Once station buffers but they did not respond. The train driver should not be blamed for the failures of the train. He risked his own life to try to reduce the impact. This again shows that the most vulnerable people are blamed. So he went to prison for doing his duty and doing everything within his power as the driver of a train that had not been properly maintained. Convicting him was a betrayal of the train driver and all workers who, day in day out, do their job.

Senior officials sentenced to prison

This was the first judgment in the appeal court, which gave prison sentences to former officials of the Kirchner government. It convicted 21 of the 28 accused in what was the biggest railway disaster in the history of Argentina, which left 51 dead (including a pregnant woman) and more than 700 injured. Among other things, the officials were accused of buying “shoddy trains” from Spain and Portugal. “It is a historic judgment that shows this was an avoidable tragedy, it is a turning point in railway policy”.

During an interview in the studios of Crónica TV, former president Cristina Fernández de Kirchner claimed that “the government was not to blame for the Once Tragedy” and pointed the finger at the train driver, Marcos Córdoba who, she said, “was never able to explain why he did not apply the brakes”.

It was caused by many factors, including the actions of government officials and directors of TBA, the concessionaire “neglected to carry out maintenance tasks that they were responsible for carrying out, failing to carry out the relevant maintenance programmes, so that once the condition of the rolling stock had deteriorated, they could ask the government to pay for the repair work out of public funds, with the company doing the repairs.

The judgment also confirmed the convictions of Claudio Cirigliano, one of the owners of the former concessionaire TBA, Marcelo Calderón, Jorge Álvarez, Carlo Michele Ferrari, Jorge Alberto De los Reyes, Carlos Esteban Pont Verges, Víctor Eduardo Astrella, Laura Ballesteros, Guillermo D’Abenigno, Francisco Pafumi, Antonio Suárez, Sergio Tempone, Roque Cirigliano, Pedro Raineri, José Doce Portas, Oscar Gariboglio and Alejandro Lopardo, all directors of TBA.

The union conclusions from the accident

Our conclusions are the same as the court’s. We have consistently noted and denounced the lack of investment in the railways ever since the 1960s. There has been a strategic plan to run down railway services and promote the car industry in our country.
There is no doubt that this process became more acute in the 1990s with the privatisation of the sector, when services were transferred to quasi businessmen who had come out of the automotive transport industry, and who used the railway subsidies to improve and increase their fleet of buses.
Unfortunately, our representatives had to carry out their duties in conditions that were increasingly depressing in all respects, including safety, which is the issue that concerns us here. An aggravating factor was the pressure on workers to avoid sanctions by ignoring standard procedures when doing their jobs.

Our union has done everything it could to highlight and denounce disinvestment, but the result is as outlined above, with corrupt government officials clearly colluding with quasi businessmen. Shortly after the event in question, government officials quickly bought new units from China and showed them off before the elections, forgetting that low speed trains are still in use because basic work on the infrastructure has not been done. For example, some lines had trains that reached 120 km/hour in the 1960s but can only reach 60-70 km/hour today, providing services that cannot compete with other means of transport

In addition to passenger services, there is the freight services, which were handed over (there is quite a big reading list about this) to well-known Argentinean businessmen so that they could have their own line along which to transport their own goods to the ports. On these lines, there was the same lack of investment in those years, leading to a deterioration in services while the car industry was growing exponentially. From transporting 100% of goods for 60 years, the railways now only transport 7% of freight.

The main conclusion is that this unfortunate accident was a perfect demonstration that the government never had a transport policy and the media have been at the service of a corrupt network of politicians and businessmen, to the detriment of service users and workers.

Santiago del Compostela, accident investigation going wrong

In 2013 there was a very serious rail accident close to the city of Santiago del Compostela in Spain. A high speed train derailed and 80 people were killed. The direct cause of the derailment was that the train was over speeding on its way from a high speed line (179 km/h) to the conventional speed line (80km/h). There was no ATP system monitoring this required speed reduction.

After the accident the investigation board went to work. The composition of the investigation board was with representatives from the railway company, the infrastructure manager and a consultant previously giving advice to the railway companies.

No surprise that the investigation concluded that the person to blame was the locomotive driver. No attempt to go to the root cause of the accident. Everything was about having clean hands from the management and consultants' side.

This report was so bad that the European Railway Agency (ERA) reacted in a separate report

http://www.era.europa.eu/Document-Register/Documents/ERA-ADV-2015-6%20Investigation%20report-Santiago%20de%20Compostela%20%28003%29%20%28002%29.pdf

ERA concluded that this investigation report was in breach with every principle of independent accident investigation laid down in the European Union Safety Directive for railways and did not serve any other reason than to blame a single individual.

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L0798

UK Rail Disasters 1999 - 2002

Ladbroke Grove

The Ladbroke Grove rail crash happened on 5th October 1999 on the Great Western Main Line at Ladbroke Grove, just outside Paddington station in London, UK. With 31 people killed and more than

500 injured, this remains one of the worst rail accidents in Britain and the changes made after the incident set the UK on the path for a safer railway overall.

The crash would have been prevented by an operational automatic train protection (ATP) system, wider fitting of which had been rejected on cost grounds, and if action had been taken on signal layout which was known to be an issue as it had been had been passed at danger on eight occasions in the previous six years. It also exposed the significant shortcomings of the revised driver training programme.

This severely damaged public confidence in the management and regulation of safety of Britain's privatised railway system.

There was a government inquiry which led to the creation in 2003 of the Rail Safety and Standards Board (RSSB) and in 2005 of the Rail Accident Investigation Branch (RAIB) in addition to the Railway Inspectorate. Standards-setting, accident investigation and regulation functions were thenceforth clearly separated, on the model of the aviation industry.

In 2004 Thames Trains was fined a record £2 million after admitting violations of health and safety law in connection with the accident. It was also ordered to pay £75,000 in costs.

In 2006 Network Rail (the successor body to Railtrack, formed in the wake of a subsequent train crash at Hatfield) pleaded guilty to charges under the Health and Safety at Work Act 1974 in relation to the accident. It was fined £4 million on 30 March 2007, and was also ordered to pay £225,000 in costs.

Hatfield

The Hatfield rail crash was a railway accident on 17th October 2000, at Hatfield, Hertfordshire, UK. It was caused by a metal fatigue-induced derailment, killing four people and injuring more than 70.

A Great North Eastern Railway (GNER) InterCity 225 train bound for Leeds had left London King's Cross at 12:10, and was travelling along the East Coast Main Line at approximately 115 miles per hour (185 km/h) when it derailed south of Hatfield station at 12:23. The train was being driven by an experienced driver, accompanied by a trainee who was expected to take over at Leeds. The primary cause of the accident was later determined to be the left-hand rail fracturing as the train passed over it.

The train travelled a further 910 m after derailment. The leading locomotive and the first two coaches remained upright and on the rails. All of the following coaches, and the trailing Driving Van Trailer were derailed, and the train set separated into three sections. The restaurant coach, the eighth vehicle in the set, overturned onto its side and struck an overhead line gantry after derailing, resulting in severe damage to the vehicle. The whole incident occurred in 17 seconds.

The accident exposed major stewardship shortcomings of the privatised national railway infrastructure company Railtrack. Reports found there was a lack of communication and some staff were not aware of maintenance procedures. Railtrack subsequently went into administration and was replaced by Network Rail. The aftermath of the accident saw widespread speed limit reductions throughout the rail network and a tightening of health and safety procedures, the repercussions of which were still felt up to 15 years later.

In 2003, five managers and two companies – Network Rail (as successors of Railtrack) and the division of Balfour Beatty that maintained the track – were charged with manslaughter and breach of health and safety law in connection with the accident. The managers, Anthony Walker (Balfour Beatty's rail maintenance director), Nicholas Jeffries (its civil engineer), Railtrack's Alistair Cook and

Sean Fugill (asset managers for the London North-East zone), and track engineer Keith Lee, all denied the charges.

The trial began in 2005 and in July the judge instructed the jury to acquit all defendants on charges of manslaughter. A few days later, Balfour Beatty changed its plea to guilty on the health and safety charges and later Network Rail was found guilty of breaching health and safety law. Network Rail were fined £3.5 million while Balfour Beatty were fined £10 million. All of the manslaughter charges against the executives were dismissed by the judge.

Potters Bar

On 10th May 2002 a West Anglia Great Northern train was bound for King's Lynn in Norfolk. At 12:55, travelling at 97 mph, the four-car Class 365 Electric Multiple Unit (EMU) crossed over a set of points just south of Potters Bar railway station and as the train travelled over the points they moved, causing the rear bogie of the third carriage and the whole of the fourth carriage to derail. This caused the fourth carriage to become detached and cross onto the adjacent line where it flipped into the air. The momentum carried the carriage into the station, where one end of the carriage struck a bridge parapet, sending debris onto the road below. It then mounted the platform and slid along before coming to rest under the platform canopy at 45 degrees. The front three carriages remained on the rails, and came to a stand approximately 400 metres north of the station following an automatic operation of the brakes.

Seven people were killed. Six of the victims were travelling in the train, while a seventh was killed by masonry falling from the bridge.

The Health and Safety Executive (HSE) report released in May 2003 found that the points were poorly maintained and that this was the principal cause of the accident. The bolts that held the stretcher bars that keep the rails apart had come loose or gone missing, resulting in the points moving while the train passed over them. The points had been fully inspected on 1st May 2002, nine days before the crash, by a team working for the private railway maintenance firm Jarvis and there had been a further visual inspection on 9th May the day before the crash, with no problems reported. However, that evening, a WAGN station announcer was travelling on the down fast line and reported a "rough ride" at Potters Bar whilst going over that same place on the track. A Railtrack engineering supervisor was sent to make an inspection, but due to an apparent misunderstanding by signal box staff, he was sent to the wrong line, the up fast line, to check the track and points and did not find the "loose nuts" that subsequently led to the accident.

Initially after the accident, Jarvis claimed that the points' poor condition was due to sabotage of some sort, and that its maintenance was not to blame. No solid evidence of any sabotage has ever come to light, and the HSE report found that other sets of points in the Potters Bar area showed similar, less-serious maintenance deficiencies and the poor state of maintenance "probably arose from a failure to understand fully the design and safety requirements".

In 2010 the Office of Rail Regulation charged Network Rail and Jarvis Rail for breaches of the Health and Safety at Work Act. The case was heard in 2011 however the prosecution against Jarvis was dropped in March as its rail maintenance arm was then in administration but Network Rail was fined £3 million.

The tragedy sparked a debate about whether private maintenance firms were paying too little attention to training and safety. In 2003, Network Rail announced it was taking all track maintenance in-house, ending the use of private contractors except for large-scale renewal or development projects.

On 28th April 2004, Jarvis sent a letter to the victims' families, admitting liability for the accident. The company said that it would formally accept "legally justified claims" after making a financial provision of £3,000,000.

Railway safety – India

In the Indian Railway over 9,00,000 people work on safety-related operations and maintenance. A single flaw in the 66,030km track criss-crossing the country can affect one or more of 10,773 locomotives, 63,046 coaches and 245,000 wagons, jeopardising the 23 million passengers and three million tons of freight that the network carries every day.

There is slow expansion of the Indian rail network across zones, 492 sections on IRs out of a total of 1291 sections (40 percent) are running at 100 percent or above line capacity. Further, 161 out of 247 sections, i.e., 65 percent of the sections are running at 100 percent or above line capacity on High Density Network (HDN) routes. in view of the severe congestion, the punctuality of trains is also getting severely affected. Congestion on the lines leaves little time for maintenance and there are few possibilities for large scale blockades needed for overdue maintenance/renewals, which is hurriedly carried out in the time available. About 5,000 rail fractures are reported annually. Plagued by underinvestment for years, Indian Railway is struggling with over saturated lines and obsolete signalling systems; although nowadays modern signalling system is slowly being installed in phased manner to replace obsolete signalling system all over Indian railways.

Adequate manpower in Safety Category

An inadequate number of workers in safety jobs deeply hamper the safety of Railway; as it overburdened the workers that ultimately leads to human error in railways operation. The shortage of workers severely affects the working condition of employees, as locomotive drivers in Indian Railway are required to work for cumulative 104 hrs. in a fortnight and their running duty at a stretch ordinarily should not exceed 10 hours. They are however required to work beyond stipulated duty hours due to operational exigencies. This is not the case with the drivers only, but others categories of workers are also working for long hours. According to one estimate almost all category of workers are toiling more than 15 hours a day — leaving room for mistakes.

Accidents

- In 2015-16, a majority of train accidents were caused due to derailments (60%), followed by accidents at unmanned level crossings (33%). Indian Railways has adopted a policy to eliminate unmanned level crossing by the year 2020.

In the year 2017 following Train accidents occurred-

- On 21st January, 2017, Jagdalpur- Bhubaneswar- Hirakhand Express derailed near Kuneru, Vizianagaram, 41 people were died and 68 injured.
- On 7th March 2017- a bomb exploded on the Bhopal- Ujjain Passenger train at jabri railway station, injuring 10 people.
- On 30th March 2017, eight coaches of Mahakaushal Express derailed near Uttar Pardesh's Kulpahar, Injuring 52 People.
- On 9th April 2017, Engine of goods train derailed between Madpur and Jakpur in Howrah-Kharagpur section.
- On 15th April 2017- The Meerut- Lucknow Rajya Rani Express derailed 8 coaches near Rampur (Uttar Pardesh); injuring at least 24 people.

- On 19th August 2017- The Puri- Haridwar, Kalinga Express derailed in Khatauli, Uttar Pradesh; 23 people were died and 97 injured.
- On 23 August 2017- Kaifiyat Express derailed between Pata and Achalda Railway Stations. 100 People were injured.
- On 24 November 2017- Vasco Da Gama- Patna Express derailed at Chitrakoot (Uttar Pradesh). 3 People died and 9 injured.
- On 24th November- wagons of the Paradeep- Cuttack goods train derailed between Goraknath- Raghunathpur (Uttar Pardesh). No one was injured.

Railway safety in the privatised New Zealand rail system

On 20 July 1993 the New Zealand Government sold the NZ Railways to a consortium made up of Fay Richwaite (a NZ merchant bank), Wisconsin Central Transportation (a US Rail Company), Berkshire Partners (a US private investment firm) and Alex van Heeren for NZ$328m. NZR had a strong balance sheet at the time as the NZ Government had written off NZ$1.2b of debt and contributed NZ$360m of new equity. The NZ Treasury at the time decided that Fay Richwaite were unfairly advantaged as purchasers because Fay Richwaite was a financial advisor to the recently incorporated NZR but nothing was done to act on this concern.

The sale heralded a frenzy of activity which saw equity replaced with debt on the NZR balance sheet and a sharp decline in maintenance and the pursuit of cheaper alternatives to existing systems. Examples are the replacement of the electric train tablet system with a paper based track warrant using the train radio system with a strategy to de-man intermediate stations, the reduction in shunting gang sizes coupled with the replacement of line of sight hand signals with radio communication between shunters and then the introduction of remote control locomotives.

Another crucial aspect of the sale was that the workplace health and safety Act and how it applied to Railway workers was also changed so that the act which had a threshold of “all practical steps” did not apply to Railway workers, rather a new threshold of “safety at reasonable cost” would apply. The toxic cocktail of a little or no legislative safety protection for railway workers, weak regulatory oversight, staff cuts, work intensification, poor maintenance and the loss of line of sight was formed and so the pathway to increased death and injury was begun.

In 1994 Tranz rail had 3800 employees’. In 1994 – 2 deaths (a train passenger Morgan Jones and a rail linesman Neville Bell), 1995 – 3 deaths (Loco Eng Erick Pickering and shunter Jack Neha), 1996 – 4 deaths (LE Peter Silbury, ShuntersThomas Blair and Ronald Higgison and Sig Maintainer Murray Spence), 1997 – 1 death (Shunter Bernie Drader), 1998 – 1 death (Paul Kyle), 1999 – 1 death (Loco Eng Graham White), 2000 – 3 deaths (Shunters Ambrose Manaia, Neil Faithful and Robert Burt).

This is the year of the Ministerial Inquiry into Health and Safety of Tranz Rail Workers and the law is changed to have the Health and Safety Law apply to Rail Workers, 2001 – nil, 2002 – nil, 2003 – nil (Toll Holdings purchases Tranz Rail and NZ Govt announces bail out of NZ$75.8m and the NZ Govt announces the renationalisation of the track and infrastructure, 2004 – nil, 2005 – nil, 2006 – nil, 2007 – 1 death (Track Worker Sean Smith) and 2008 NZ Govt announces the renationalisation of the Rail Operating Company and creates KiwiRail for NZ$665m and 2009 – KiwiRail purchases the United Group Limited to return the loco and wagon maintenance back in-house.

I became the General Secretary of the Rail and Maritime Transport Union NZ in October 1999 and what should have been a dream come true turned into the darkest hours of my working life as I went from funeral to funeral and family to family. The rapid decline in safety of rail in NZ resulting from privatisation gave me a true appreciation of the wider costs and impact of each death and the miserly support offered by the employer at the time. I emerged from this harrowing experience with a strong resolve to bring this carnage to an end. With my team and the wider membership we mobilised the RMTU and called for Government intervention and we were able to get the newly elected Labour Government to initiate a Ministerial Inquiry. The inquiry was inspiring and empowering in that it gave the Union, its members and families a voice and a chance to be heard. I ask you all to commit yourselves to making workplaces safer. Currently in NZ a worker is twice as likely to die at work than our Australian cousins and six times more likely than those in the UK. For us it is unquestionable that Privatisation of our rail system had a cost and that cost was measured in death and injury of its workers and also the massive financial hole created by the stripping of capital for the business coupled with the deferral of maintenance.

The NZ experiment is a lesson to all that privatisation is not in the best interest of a country nor its people.

Key points when designing a regulatory system for rail – a New Zealand view

The regulator for rail must be strong and independent of the owner and operator, as otherwise there is a constant and unresolvable conflict between safety and the desire for profit. The independent regulator must represent the interests of public safety, and provide a balance between the interests of the worker and the interests of the owner/operator.

In order to achieve independence the regulator must be a creature of statute, which clearly states the purpose, powers and functions of the regulator. The regulator must be required to report to Parliament; be open to scrutiny by Parliament, the Office of the Auditor General, and covered by the Official Information Act, and whistle blower protections.

Funding for the regulator must be independent of the owner/operators business priorities and be set at a level that enables it to retain a detailed and internationally referenced knowledge of the hazards and risks of rail, develop regulations and enforce standards.

The regulator must have access and oversight of all parts of the rail system to enable physical inspection, to obtain data and interview participants. To this end it requires funding for a well-trained net-work of inspectors and supporting staff that have knowledge of rail.

The regulator as an independent body should have a board made up of industry, union representatives and specialists.

The overarching legislation for the regulation of rail should provide for regulations or approved codes of practice to be developed by an independent and well-resourced regulator. Rail regulations should be consistent with other industry standards.

The detail of regulations and approved codes of practice should be developed in consultation with unions, workers and employers within the industry. The priorities for regulations should be set on a tripartite basis. Scrutiny of regulations should be by Parliament through a regulations review committee. Regulations must be published and freely available on Government web sites. Submissions must be publicly called for on proposed regulations.

Guidance documents, which are not regulations or approved codes of practice, will be developed by the regulator in consultation with industry and unions and workers.

The functions of the independent regulator must include:

- Development of educational resources
- Conducting research
- Collecting, analysing and publishing information and data relevant to the hazards and risks in rail; and the prevention of injury and harm (both mental and physical, accident and related to gradual process)
- Having a Licensing system for authorised work
- Prescribing qualifications and experience for authorised work
- Auditing against the standards
- Managing a mandatory incident reporting system in order to
    - To set priorities for standard setting
    - To set priorities for audit
    - To set priorities for investigations
- Monitoring and enforcing standards through a hierarchy of instruments
- Enforcing and prosecuting offences in the criminal jurisdiction
- Imposing fines for infringements
- Inspection
- Ensuring worker representation and union involvement within the rail system
- Convening inquiries into events of significance

SECTION 9

Union campaigns, use of social media

Increasingly, social media has become an important organising tool for unions. The new social media is a very powerful thing. It allows unions to have intimate, personal conversations with hundreds, if not thousands of members, potential members and supporters.

No longer are unions reliant on the old forms of media (newspapers, television, radio), or on face-to-face conversations between organisers and workers. Social media allows for unmediated communication and dialogue across vast distances, and at any time of the day or night. Unions can now campaign globally, raise awareness of issues locally or build support from non-traditional regions or geographic areas.

” Unions can utilise very powerful and flexible social networking tools, but like any organising and campaign tool, they must be used properly.”

Social media tools allow you to have conversations. People who visit websites these days expect to be able to interact with you on that website. The content you put on your union’s website is no longer one way.

Even if you don’t have a website that allows comments, users are still able to have their say, using tools such as Facebook or Twitter. Smart unions will engage with those people both on their chosen platform, as well as on the union’s website.

It is no longer enough to simply use your union’s website to broadcast your message, such as media releases or “messages from the secretary”. Members and non-members should be able to leave comments directly on a page, and expect someone from the union to actually read and reply to the comment. The more personal the interaction the better. The stronger this interaction, the more successful the anti-privatisation or renationalisation campaign is.

Similarly, if you discover a blog, website or twitter that is discussing your union, or an employer where you have coverage, use the opportunity to join in. Leave a comment on the blog. Send an “@ reply” to the tweeter. This is especially important if you encounter criticism of your union online - the new social media rules mean you can interact with your critic directly and others can participate as well. (Of course, make sure any response to criticism is polite.) - It is an urgent necessity for old-fashioned railway unions to keep up with the modern era. These answers are crucial to achieving this and to restore the confidence of the workers. Your members and supporters will start to engage with you and feel a greater level of ownership over your union’s online presence. As you build your relationships with people online, you will find that people will start to promote your cause voluntarily, defend you in online forums, send you information you’d never find out otherwise, and participate in future campaigns.

No one will read or follow a Twitter account with only one or two tweets. Similarly, if your Facebook feed is only taken up with media releases or links to the news section of your union's website, then you aren't really engaging.

Social media is on and active 24 hours a day, seven days a week. Twitter and Facebook operate in real-time. Members, non-members and supporters quickly stop checking a campaign site that hasn't been updated in a week. Being active means responding to comments, tweets and Facebook messages. While most unions may not have the time and resources to have someone full-time on social media, it important that someone checks the union's Twitter and Facebook account regularly. Most social media sites have a bunch of tools to help (for example, Twitter's search function can allow you to see if people are tweeting about your union).

Social media tools can't be used sporadically. If you are only sending out a tweet every month or so, it will get lost in the maelstrom of updates that users experience. The "live" nature of many social media networks means that you need to check your union's accounts daily at least. ITF Inland Transport Facebook page https://www.facebook.com/ITFinlandtransport/ and ITF Railway Updates Page https://www.facebook.com/ITFRailwayUpdates/ are active social media tools you can benefit from. We strongly recommend that you regularly follow the Facebook and Twitter pages of other trade unions operating in the same transport sector. Even if it is not possible to come together physically often; it is also easy to follow the developments that took place in the trade union movement through social media.

Many unions run tight ships when it comes to communications, media engagement or interaction with members. Only media officers speak to the media, only organisers speak to members, only the secretary makes official statements. The rules of social media don't allow for such rigid structures. Members, supporters and non-members want to hear from a range of voices within their union. Organisers could have Twitter and Facebook accounts. In fact, social media should be embraced by everyone in the union, rather than just a one or two people. Openness and interaction are a major part of social media. Embrace it. You will be rewarded for your transparency and openness. Of course, be prepared to make mistakes, and be big enough to admit when you have screwed up, then move on. Have a Social Media Policy, or set of guidelines for union officials. Make sure everyone knows what the policy is.

Social media, email and mobile devices let workers communicate and organise discreetly. By using social media, workers are able to communicate with a large number of their colleagues instantly. Also, workers are able to begin organising on their own. Since many employers successfully characterise labour unions as outsiders, the workers' ability to organise on their own easily can seriously undermine this argument. How unions are using social media against employers in organising, unions can use this tool against governments to succeed in anti-privatisation campaigns. Social media has an important role in sharing the public harm in the privatisations whose effects will take many years.

Using social media makes the whole organising process easier for those involved. Unions can use specific algorithms to target areas that might be particularly susceptible to labour organising. Workers can use these algorithms to identify potential demands. Social media posts, especially those that are victims of privatisation can be a living example for workers who work in workplaces awaiting privatisation. Experienced stories of success and failure always make a difference. Unions can use these algorithms to easily reach target groups in anti-privatisation or re-nationalisation campaigns.

Unions can utilise very powerful and flexible social networking tools, but like any organising and campaign tool, they must be used properly. Tools such as Facebook and Twitter should not be just an afterthought. A union cannot just set up a Twitter account, make one or two “tweets”, and then expect hundreds of its members to start “following”. Like any endeavour, the effective use of social networking requires practice, and trial-and-error. Consumers of social media (union members, potential members and supporters) can interact with corporate and commercial users that have a high standard of professionalism. For example, to criticise technological developments that are beneficial to passengers, while trying to explain the negative consequences of privatisation, will not make much contribution to the struggle.

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SECTION 10

Preparing the unions for restructuring/privatisation

As previously explained, restructuring and privatisation can take many forms, most unions have some experience with this and some have been through big industrial and political fights. Some of the restructuring processes are supported by the unions because they promote the development of the railways in a way that serves the public and shows respect for the workers' rights. Other changes are resisted and some, especially privatisation processes are met with a fierce political fight. It is also important to understand that things are happening incrementally. When governments plan to privatise, the first step is often to split infrastructure from operations. Infrastructure stays in government hands and so do operations – for the time being. But the operation is set up as a Public Limited Company, ready for sale and the infrastructure is ready for competing companies without the allegation of the infrastructure managers favouring the state owned company.

Anyway, what is of prime importance is that the unions do thorough analysis of the proposed structural changes. The consequences of the changes must be clearly understood and the unions must be able to explain them in a simple way to the members, but equally as important, to the wider public. The union's fight depends on the support from the public. There must be no need to be a railway worker to understand what is happening. Things that are obvious to a railway worker often need a wider explanation to others.

Large restructuring plans very often need approval from the parliament or at least from the government. This means that the involvement from the union's side at the preparatory phase is often decisive for the final outcome. To change parliamentary decisions after adoption is extremely difficult and usually it requires a new political majority to reverse.

This paper is not a campaign manual; there are plenty of other sources to study for this**.** It is clear, however, that a fight against privatisation or for re-nationalisation is a very difficult struggle, especially under the present neo-liberal offensive. It cannot be won by the unions themselves, but requires major support from the trade union movement, the wider public and especially the passengers. There are more stories of loss than stories of victory from unions fighting privatisation. This does not mean that the unions have been doing a bad job, but simply that railway privatisation is very high up on the neo-liberal agenda of today. A good example of trade unions influencing policy is the present work program of the British Labour party. It is now Labour Party policy that the railways of the UK should be renationalised.

In the fight against privatisation, the unions must always plan ahead, defend railway workers' rights, even when losing politically. It is also important to recognise when to let go, when to accept a political defeat and when to turn to other battlegrounds. It is important not to demoralise the union members by banging the head into the concrete wall for too long with too big losses.

Young trade unionists are not only the future, they should be the present

Many young workers are in union leadership posts, representing workers, elected and supported by their peers; and their training is endorsed by senior leaders. They are formulating new alternatives and challenging for power at a time when a range of strategies is needed.

Young workers now use new technology to learn and have an especially close relationship with workers. They stand out because of their training and it does not take them so long to become capable of representing and assisting others.

They do not have an easy task and there is a lot of competition; they must face new challenges, such as automation, modernisation and climate change, which will certainly bring a lot of unemployment and they face the major challenge of identifying alternatives to provide what capital will not provide.

Today's young workers will have to be included in decision making. They are no longer the future, they are the present and part of a growing generational change, as they are now numerically the highest percentage of workers in employment. They understand the basic needs of our class, where there is no language barrier, and they express themselves in the same way wherever they are in the world.

The rest of this section is from the "ITF Policy Guidelines on Organising in Restructured and Private Railways", June 2016.

Declining union membership in the railway sector

Whilst many rail unions still enjoy a higher degree of union density in comparison to other industries, over the last few years union membership has experienced a downward trend. Constant restructuring and privatisation of the railway sector has contributed to this decline. Membership in the ITF Railway Workers' Section, for example, has seen a sharp and continuous decline globally, in comparison to other industrial sections in the ITF, having contracted by 374,000 declared members since 1998. Since 2011, declared membership in rail has decreased by 205,700 (-16.3%)
All over the world, labour unions are under pressure due to globalisation. In the railway sector, privatisation policies have introduced the private sector to passenger transport and previously state-run freight operations, and created a shift towards outsourcing of jobs, also in the traditional state-owned railways.

The traditional railways, still largely owned by the state, have in many cases been split up into different companies, partly sold to private investors, functions have been sub-contracted, jobs have been outsourced and agency employees have been introduced. Outsourcing has been an opening for casualisation and agency work to enter into the railways, with a growth in the use of short-term contracts – including 'zero hours contracts'[14] – as well as indirect forms of employment, such as temporary agency labour.

A policy of tendering for public service contracts has led to several private passenger companies entering the railway market. Open access to the tracks has led to the establishment of private freight companies. Many of these new companies often have very little regard for labour law, working conditions and pay.

Restructuring and privatisation have removed workers from the protection of unions, resulting in a fragmented labour market, the loss of hard-won social protections and reduced working conditions. All these developments are impacting directly on union membership in the railway sector and in turn are weakening unions' strength and bargaining power.

ITF policy guidelines on organising in restructured and privatised railways

'Organising strategies for railway workers' is one of the three priorities identified for the ITF Railway Workers' Section. Recognising the significant threat to union membership from changes in the industry, the ITF Railway Workers' Section Steering Committee at its meeting in March 2015 agreed

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[14] Zero hours' contracts - an employment agreement in which a person only works when the employer needs them and so has no regular or guaranteed amount of work or working hours (MacMillan Dictionary)

to develop policy guidelines on organising in restructured and privatised railways. This was endorsed at the Section Conference in December 2016.

This document outlines the key challenges for organising in restructured and private railways, but also considers the union response.

The case for organising in restructured and privatised railways

While the first step for railway unions faced with privatisation or restructuring may be action to stop these developments, it is important for unions to acknowledge and develop strategies to organise workers affected by restructuring, if the campaign to stop privatisation is not successful.

This approach can seem a defensive strategy and one which is at odds with union campaigns against privatisation, but it is an important strategy to consider in order to protect and maintain union density levels in the sector and to ensure that negotiated rights are recognised and implemented.

Moreover, given the ongoing trend for privatisation in the railways, which has led to stagnant employment growth in the public sector and rapid growth in private sector employment, organising in restructured and privatised railways must become a key target for railway unions in order to build union power to implement strategic campaigns to influence future industry changes with the necessary industrial and political muscle. If strategies are not established to meet these new challenges, the industry and unions will be further fragmented.

Despite the huge challenges, a number of ITF unions are already adopting this new approach. For example, in Thailand the railway union is organising workers in the state-owned subsidiary airport rail link in Bangkok. In Latin America, the unions are re-building the railway unions that were left very weak after the consequences of privatisation. ITF railway unions in India are looking to organise workers in the new privately-run metro systems. Unions in Europe have experience of organising railway workers in private companies and protecting members' interests.

Strength, action and the ability to get things done

After liberalisation of the rail freight market in Bulgaria in 2007, FTTUB started an organising campaign in the private rail sector in the first and largest private company. It was hard to find a potential founder or leader for the new union. However, the fact that all the workers in the company were former employees of the public company, with experience of the trade union, made organising a bit easier. FTTUB met the union founders many times to explain step by step how to organise workers and in 2010, the trade union was formed. Unfortunately, soon after that, there was an attempt by the employer to get rid of the trade union by dismissing two of the members. FTTUB investigated the case as it knew that by supporting the members, the trade union would also be saved. FTTUB demanded a meeting with the company CEO, cancellation of the dismissal order and the immediate reinstatement of the workers. Soon after, the workers were reinstated and more workers wanted to join the trade union. Training for the union leaders and activists was organised, and preparations took place for negotiation of the collective bargaining agreement at company level. The first agreement was signed with the company in 2011. Now there is a good social partnership between the union, FTTUB and company management.

(Source: ITF Railway Workers' Section Conference, December 2016)

Organising challenges and strategies

Union organising campaigns are fundamental for trade unions in order to develop collective bargaining strategies, create solidarity among workers and win new rights at work, however, restructuring means workers often lose the protection of unions.

Organising in restructured and privatised railways presents specific challenges for traditional railway workers' unions. A basic issue can be the political balance between fighting privatisation and organising in the private sector. When a private company wins a contract, it can often be at the expense of the traditional state-owned company. The workers of the private companies will then often be seen as enemies of the unionised workers in the traditional companies. Workers in private companies will often see the traditional railway workers' unions as company unions, protecting the specific interests of the company, and not as their unions.

The (re-)classification of a worker once they are outsourced (for example they are no longer considered a 'railway worker') will impact on a railway union's ability to organise and can also cause conflict between unions regarding union coverage or demarcation. The fact that much outsourced work is located away from the centre of transport activity and in turn the centre of industrial power provides additional organising and representation challenges for unions. There are different challenges relating to workers hired through temporary employment agencies as their employment status is less clear. There may also be conflict or tension between precarious and regular workers in the same workplace as permanent workers feel insecure from the constant threat to their job security.

Worker identity plays a critical role in organising so workers understand their integral role in the sector, but also identify with the union rather than the company. In an industry where companies may come and go, the union may be the one constant – as a delegate at the ITF Railway Workers'

Section Conference in 2016 explained: "The company name on the uniform may change, but the union pin does not".

Worker identity is critical

Train drivers' union ASLEF organised a very specific organising drive following the break-up of British Rail in the mid-1990s. As a result of privatisation of the rail network, there was fragmentation with the change from one employer to the existence of 30 employers and therefore different bargaining units. Companies wanted to break-up the existing collective bargaining agreements and negotiate new ones. ASLEF's organising drive helped to keep the union and its members going in the same direction rather than allowing the union to also become fragmented. Through a clear set of objectives and development of a charter for drivers – which outlined demands relating to key issues such as pay, working hours, pension, institutionalised overtime – to assist union negotiators, members could hold employers to account as a collective.

(Source: ITF Railway Workers' Section Conference, December 2016)

To convince existing members that workers in emerging private companies are their fellow workers, and not their enemies, is a basic task. Fighting for equal working conditions in the private and public sector is in fact one of the best protections against restructuring and privatisation. On the other hand, workers in the private companies must be convinced that the union's primary job is not to defend the interests of the state-owned company, but to fight for a railway system that serves society and to protect the interests of all railway workers.

Bringing unprotected workers into existing unions is often the best way to provide workers with protection. But sometimes that is not possible. In some countries, private sector and public sector workers are covered by different legislation which may restrict the ability of unions to organise workers. Legislation which sets high requirements for unions to fulfil in order to gain recognition will also affect union ability to organise. Often conditions in the private sector – such as hire and fire policies, poor employment contracts and exploitative conditions – can also limit traditional organising methods. In comparison to state-owned union-friendly companies, some small private companies may be hostile to unions, therefore a more hostile approach to organising may be required. Unions need to think imaginatively about other ways to organise. In some cases, unions will need to look at the union structures and amend the constitution in order to be able to organise workers. In other cases, union mergers have facilitated the process to 'strengthen' capacity. The following are options for union organising:

- Retain workers as members (and if necessary change the union constitution)
- Assist in encouraging workers to sign up to other existing unions
- Assist in establishing a new union
- Where there is more than one union covering the particular category of workers, assist to establish a forum of those unions

Union action to organise contract workers in India
Due to the economic policies pursued by the government on the advice of the IMF (International Monetary Fund) and World Bank, the number of workers in Indian Railways (IR) has reduced from 1.6 million workers to 1.4 million workers. Outsourcing (of housekeeping, healthcare, managerial roles, ticketing) is one aspect of this restructuring. Separate corporations have been set-up within the IR for those functions that have been outsourced and workers are not permitted to form a union or join an existing union. ITF affiliates AIRF and NFIR have identified a number of strategies to address these developments, including: developing strong, effective and pro-active campaigns against privatisation and restructuring (including opposition from the unions against outsourcing); carrying out trade union education and research; and organising and establishing unions for unorganised railway workers. AIRF and its affiliates have amended their constitutions to allow all contract labour directly or indirectly connected with railway work to join the union as a separate branch. The unions have organised specific action for women contract workers to fight for their rights and participate in the unions, and have encouraged young workers to take part. As a result, specific gains have been made for women railway workers in collective bargaining negotiations.
(*Source: ITF Seminar on Effects of Outsourcing on Women Railway Workers and Organising Strategies, 2010*)

Unions also need to determine their organising priorities as railway companies steadily take advantage of the liberalisation processes and take steps to extend their involvement in the transport chain and become logistics operators. This means following the workers when the railways are privatised and the workforce is splintered, but also when railways are re-nationalised.

Following the "chain"
The Rail & Maritime Transport Union of New Zealand (RMTU) followed the supply-chain after the transport industries were deregulated in New Zealand and recruited new categories of workers. When NZ Rail was to be privatised the union held a strategic workshop to bring key activists together in order to determine what the employers were likely to do. The union then set about negotiating collective agreements with clauses and conditions that would protect members as part of the process. When NZ Rail was privatised, capital was stripped from the business and various business operations were outsourced. Workers were transferred on conditions that were the same or more favourable. For the union, a key factor in its survival was the long-term preparation and strategic decision to follow its members along the supply chain, and to regard itself not as one link in the supply chain but as representative of the whole supply chain, which gave the union power and leverage against the company (and suppliers). As union representing members from shipping to distribution, it was well placed to do so.
(*Source: ITF Railway Workers' Section Steering Committee Meeting, 2012)*

Workers may be willing to join a union but due to intimidation and threats from the employer, who may see the workforce as easily dispensable, many workers will be afraid to join a union. In other cases, a lack of knowledge about the union and benefits of being a member can hamper union organising attempts. A lack of skilled organisers can add to this. Tactics used by ITF unions to implement organising strategies include 'peer' organising. Sometimes, this has to be done covertly due to the hostile environment for workers and union activists.

Organising workers in the airport rail link in Bangkok
The airport rail link in Bangkok – a subsidiary of the state rail company – is a new train line that was established in 2003 with a workforce of 480 workers. For 10 years, it was not organised. Activists knew that if they were found to be organising they would be fired. After three years of underground organising in a very hostile political environment, with support from an ITF-SASK organising project, activists slowly built a union through peer organising. The union is a real success story. It has 330 members, an active committee and recognition from the employer. Negotiations for a first collective bargaining agreement start in 2016. The activists who are all young workers have shown that it is possible to organise in the new Bangkok transport sector, even in a very hostile political environment.
(*Source: ITF Railway Workers' Section Steering Committee Meeting, 2015)*

Organising must address membership levels, but also include activities to foster union activism in order to rebuild power to represent the interests of workers, influence political decision-makers, deal with employers with the leverage that is needed, and ensure union organisation in the workplace is self-sufficient and sustainable. By engaging workers in union campaigns to defend workers' rights and influence developments in the industry, important solidarity bonds will be retained, the trust of existing members will be maintained and workers will be convinced about the importance of membership.

Having just one organising strategy will not necessarily work. Instead a number of different innovative approaches and tactics, as well as new methods need to be considered as part of union organising campaigns. Effective communication with members is important to ensure workers are informed and know what is happening and why.

Freedom of association

In the railway sector, with fundamental restructuring being applied in many countries and consequential changes to the relationships between workers and companies, it is also important that railway workers are fully aware of the action they can take to defend their interests. Many governments are mounting attacks on union rights, employment and working conditions. Today, workers' rights, including the right to strike, are under serious attack globally. Freedom of association is the most basic of trade union rights since without such freedom, workers cannot hope to form effective trade unions and counter the oppressive actions of powerful employers and authoritarian governments. The right to strike constitutes an indispensable element of the concept of freedom of association. Link to ILO conventions

In some cases, however, private companies may have little or no experience of dealing with unions. This can have consequences for union representatives and their ability to undertake union activities. It may also result in dismissals of union activists. Planning therefore needs to be included for this eventuality.

Collective bargaining challenges and strategies

In addition to questions over union representation as a result of restructuring, legislation covering collective bargaining and industrial relations may be different for public and private sector workers. In the short-term, privatisation and restructuring can undermine existing rights as unions are forced to re-negotiate gains already made through collective bargaining as old collective bargaining agreements are broken up and new ones need to be negotiated. In the longer-term, the fact that different sectors of the rail industry may be state-owned and/or privately-owned means that there can be several companies and agencies involved. Fragmentation of the industry introduces multiple franchises. And so unions have to negotiate an increased number of collective bargaining agreements, sometimes with inexperienced negotiators. In some cases, private sector unions function in isolation and so can be weak in terms of negotiating rights for their members.

This fragmentation impacts on the bargaining structures as well as the traditional influence and power that unions have in the workplace. One challenge can be contracting out where contracts may be performed by companies which are unionised but the working conditions are lower than what already exists in the railway sector. It is therefore important for unions to also address collective bargaining when considering their strategies.

One option is bargaining at sectoral level (rather than workplace level) where one agreement covers several bargaining units. This level of bargaining can be more efficient, brings workers together, and increases bargaining leverage. Strong industrial agreements with clauses on workers transferring on the same or more favourable terms, protects conditions and helps to stop the race to the bottom. The negotiation of union recognition agreements with employment agencies who provide employment for multiple work areas in the industry can also ensure union coverage for workers throughout the sector chain.

A fair deal for rail cleaners
As a result of privatisation of the railway industry in the 1990s, cleaning services were contracted out. Railway cleaners endure some of the worst conditions and lowest pay on the national rail network, London Underground and urban rail systems. Railway cleaners are predominantly migrant workers who are in a vulnerable position, which employers use to their advantage. Many are women. In 2000, railway cleaners started to voice their concerns and in 2005, following support from the RMT with basic education for cleaners on their rights, the campaign for a London living wage was launched. The campaign also included demands for decent working conditions and respect. In 2006, the RMT launched its 'Rail Cleaners' Charter'. As part of the union's campaign activities, two sets of strike action were organised. Throughout the campaign, the railway cleaners were supported by other railway worker groups (e.g. drivers, ticketing staff). The number of organised railway cleaners increased two-thirds of the total number of railway cleaners. In July 2010, the London living wage was secured for all cleaners on the London Underground.
(*Source: ITF Seminar on Effects of Outsourcing on Women Railway Workers and Organising Strategies, 2010*)

Dealing with the multinational companies

Multinational companies exist as explained in Section 3, both in the passenger and freight sector. About 90% of them are subsidiaries of incumbent state owned companies. There are usually strong unions organising in the mother companies. Almost all the big railway companies in Europe are running services in other countries, not only in Europe, but also on other continents. In the passenger sector, this is usually a result of competitive tendering processes. In the freight sector it is a bit different, and most widespread in Europe. The freight services are run on a commercial basis without state subsidies. Many of the big European railway companies have set up subsidiaries in other countries like the German DB with DB Cargo, the French SNCF with Captrain and the Italian Trenitalia with TX-Logistics. Many of these services are cross border operations run by staff from other countries with differences in social conditions like wages and working time regulation. The danger of social dumping is obvious, with the companies preferring the staff with the lowest costs.

International trade union cooperation is the answer to the challenges that is emerging from the establishment of these multinational companies. Unions should be members of multinational and regional networks for the relevant multinationals and be ready to give and receive support for organising and industrial actions in other countries. It is also crucial that good relations are established with unions in neighbouring countries, especially to deal with the challenges posed by cross border services. Within ETF (European Transport Workers Federation) this has been formalised by the adoption of "Guidelines for cooperation on cross border traffic between ETF affiliates organising locomotive drivers and/or on-board personnel". These guidelines are attached as Annex 2. ITF and ETF have the information on relevant international and regional networks.

The impact on women railway workers

Whilst there has been progress in some areas, the transport industry continues to sustain a dominant global culture where women are not welcome on an equal footing and there is a real under-representation of women in the transport industry. Gender-based occupational segregation is underpinned by the myth that women and men are better suited to certain jobs. Men dominate the driver positions. Women are concentrated in the majority of the lower paid, precarious jobs such as cleaning and selling tickets. Gender stereotyping, cultural attitudes and lack of opportunities can prevent the employment of women in the transport industry.

Unions must also consider the gender aspects of restructuring. Women and men tend to be affected differently by restructuring. The areas where women are concentrated – roles such as station staff or on-board service staff including cleaning and catering – can often be abolished or outsourced as part of restructuring processes. With continuing privatisation and outsourcing, women continue to disproportionately experience a negative impact on their working conditions and career opportunities. For women, the loss of public sector management can mean the loss of an employer at least nominally committed to equal opportunities. If an employer perceives equality measures in the workplace as an expensive luxury, then issues like separate facilities become vulnerable. Maternity and childcare agreements may suffer. Women workers generally face low wages and long working hours. Training and career opportunities may be downgraded. This counteracts the positive initiatives to increase women's employment in railways.

Restructuring and outsourcing also impact on the participation of women in unions. Trade union action is needed to expose and overcome the systematic obstacles for women's economic justice in the transport industry; connecting with allies fighting for fair transport and women's human rights and ensuring all opportunities to advance this through collective bargaining are pursued. Unions need to be involved in the different restructuring processes to ensure they are carried out properly and fairly, and include women representatives in the negotiating teams.

Following privatisation in Zambia in November 2003, all the women station guards and train escorts were retrenched. According to the Railway Workers' Union of Zambia, the new private security company did not accept that women could do these jobs. The railway nursing service was hived off to a private agency. The nurses were hired in groups of fewer than 25, which is the minimum number for a bargaining unit under Zambian employment law. The nurses lost their bargaining rights and feared for their security of employment and wage levels. Meanwhile, the cleaners were taken over by operators who were notorious for disregarding labour law and paying poor wages. They employed cleaners on a hire-and-fire basis, keeping them under the threat of no job tomorrow.
(*Source: ITF Women's Committee Meeting, 2004)*

International trade union cooperation

Organising in restructured and private railways is vital to protect and maintain union density levels and prepare for further changes in the industry. In these conditions, unions need to share information on their experiences and campaigns, as well as on industry changes, in order to move forward as stronger unions. Solidarity and support between unions will also be important. This should include international solidarity and leverage when organising subsidiaries of multinational companies where there is union representation.

Recommendations

- Unions must have the capacity to analyse and consider how the railway sector is likely to develop in the intermediate term (15-20 years)
- Unions must a clear strategy based on the principle "Fighting for the best, preparing for the worst".
- This strategy must include gaining political campaign skills, especially on building alliances with passengers and the wider public in order to influence politicians.
- There must be a detailed and clear organising strategy in case of privatisation and outsourcing. Union density in the sector should at least stay at the same level as previously.
- Unions in countries where the sector is already split up, privatised and outsourced should initiate organising campaigns to bring union density in the sector to at least 70%.
- The unions must organise themselves as industrial unions, not company unions. They should not be closely attached to any company, but organise all throughout the sector.
- The unions must pay great attention in building relations with unions in their neighbour countries and active participate in the relevant international trade union networks. Active participation and support for the ITF and its regional organisations is crucial.

SECTION 11

ITF principles for a progressive railway policy

Each country has its own history and traditions. The legal frameworks and the political situations are different. Still, in the vast majority of countries the railways are operating within some kind of market economy, meaning that the railways in general will be exposed to ordinary market mechanisms. The railways are operating together with other modes of transport and each mode of transport has its place and purpose within a country's infrastructure.

In general, the advantages of railways compared to other modes of transport are described as environment friendly, effective for long haul or heavy freight transport, high speed long distance passenger services, connecting cities (inter-City), providing commuter transport and providing mobility within urban areas. In developing the unions transport policy; and seeking support from the wider public, the advantages of railways must be clearly highlighted. It is seldom successful in the public debate to focus on railways in general as a good workplace.

Railways are natural monopolies. Infrastructure and operations are closely linked together, investments, maintenance and train control centres clearly defines and limits the options of the train performance. Standardisation is crucial for efficiency. Railway systems are network based, close coordination between the different lines and train operations are essential.

These ideas for headlines for an ITF trade union railway policy must however, always be considered in a national context.

Purpose and governance

Given the nature of railways, as an important part of a country's infrastructure, it should be publicly owned and operated.

The purpose should be to provide society with a high quality public passenger service to affordable prices and provide fast and efficient freight transport for the industry and commerce. The purpose should not be to generate profit for private investors.

Railways should be publicly accountable, public authorities should be responsible for giving general directions and providing enough funds for both investments in infrastructure and operations. At the same time, the railway companies must be free from detailed political interference and be able to develop the services in a professional and efficient way.

The problem with many of the currently liberalised or privatised railways around the world is their fragmentation and lack of any real governance or leadership.

Railways are a long-term vital public service and must be publically accountable. There needs to be a single overarching organisation to provide a "guiding mind" to rail operations and strategic decision making.

There needs to be a two-tier board structure that allows stakeholders (passengers, trade unions, freight users) to have input at a strategic level – a supervisory board.

The board must also be responsible to develop the network as an integrated whole – maintaining standards of safety and service delivery for all users.

The board must also have protection and independence from political “tinkering” and whims of short term governments.

The secret to the success of the railway is a strong, independent strategic leadership of an integrated public service, that listens and acts upon advice from its stake holders.

The authorities must provide a legal and economic framework for the railways that places them on an equal footing with other modes of transport, especially taking into account the impact transport has on the environment.

The railways must have fully long term financed, both for infrastructure investments and operations. There must be long term contracts between governments and companies providing public services that cannot cover their own costs for operations and reinvestments. The contracts must fully cover the real expenses of the companies and not encourage for accumulation of debts. The company budgets must be protected from government interference.

Structure

The company structure should be a vertically integrated structure between infrastructure and operations. Train operations are completely dependent upon the condition of the track. Both maintenance and new construction of tracks must be coordinated closely with the train operations and customer’s needs should define infrastructure investments.

The companies should, where feasible, pay great attention in developing cross border operations. There should be company structures facilitating international cooperation. It is important to expand the international operations, both for passengers and freight.

There should be an independent National Safety Authority and an independent National Investigation Board. As explained in Section 7, Railway safety, this is necessary to monitor the safety performance of the railways and to have an independent evaluation of accidents and incidents for preventative and educational purposes.

Conditions for workers

It is the union’s job to organise the railway workers and negotiate good Collective Bargaining Agreements. But there are some basic principles for decent work that should be followed:

- No outsourcing or subcontracting without the consent of the unions
- No involuntary part time work
- No insecurity of work (precarious employment)

Annex 1

Railway Safety
Statement from the ITF Railway Workers' Section

As amended and adopted at the meeting of the Railway Section steering committee 15th September 2017

Although railways are considered to be one of the safest modes of transport, accidents happen. Given the nature of railways, accidents have a great damage potential deeply effective our members and the general public.

The ITF Railway Workers' section issues the following statement, based on a survey of affiliated unions, discussions at the ITF railway section conference in Toronto in November 2012, and the decision of the section steering committee meeting held in Brussels in July 2013. Railway safety is a complex issue. This statement draws up headlines. The details much be considered in each individual country.

Why safety is important

Railway safety has always been an important priority for the ITF railway section. For years the slogan for the ITF railway section action day has been has been "Safety First". This is about keeping the railways as a safe workplace for our members and other workers employed close to the railway industry, but also about safety for passengers and the public in general. Railway is one of the safest modes of transport, but if not managed properly, there is also a huge potential for damage. The development of railways is dependent on this high safety level.

The role of unions in guaranteeing safety

The railway workers' trade unions are the strongest guarantee for upholding and developing a high level of railway safety. In this work we should seek alliances with other positive forces in civil society, for instance political parties sympathetic to the situation in the railway sector, and passenger organisations.

The trade unions must play an active role in maintaining and improving the operational safety levels. There is no doubt that the legal responsibility for safety is by the railway company, the employer. The unions, however, have the responsibility to strongly represent the interest of their members in this issue.

The collective bargaining agreements (CBAs) must have strong safety related provisions for issues like working time regulations, professional training, working place standards and procedures for active participation in the safety work of the company.

Health and safety issues must be an integrated part of the trade union work as a whole and have a very high attention from the trade union leadership.

The human factor

The workers operating the railway system must be able to do this in a safe way.

The training must be thorough, with enough time to learn both theory and practice. It is especially important to allow newcomers to the industry time to gain a certain level of practical experience before they are given full responsibility for safety related tasks. Workers must be allowed to fully learn and understand new technology. Introduction of new technology in general requires higher and more advanced levels of training. Training and competence should be proved by official certification systems

Social conditions, especially working time legal regulations and Collective Bargaining Agreements are very important standards. For workers to stay vigilant, the length of day and night shifts must be properly regulated, driving time must be limited, and the lengths of breaks and daily rest must be guaranteed. At the same time good regulations are of little value if they are not implemented. Far too often we see employers putting pressure on the workers to work overtime and to bend the regulations when there are train delays. Safety must come before being on time. Safety cannot be compromised even when it comes to prestige high speed trains, any small technical defect or human error can lead to massive casualties.

The working environment, like noise levels, temperature at the work site and ergonomics have heavy impact of the performance of the workers on safety related tasks. New technology should be used to steadily improve these standards.

Aggression against workers from passengers and others is also a big threat to railway safety. Special programs should be set up to deal with this issue.

The right of each individual worker to refuse to carry out dangerous work is enshrined in ILO convention 155 Article 13:

"A worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice".

Sixty countries ratified this convention and this right is implemented in national labour protection laws. This right is fundamental to railway workers. If a situation is considered as potentially dangerous, the work (trains) should be stopped without the workers being disciplined. On the contrary, they should be rewarded. Even if this specific ILO convention is not ratified, it sets an international standard for workers worldwide and should be respected.

The design of the safety systems

As with every profession, even the best-trained railway worker can make mistakes. Technical systems should be designed so that they constitute a barrier to human-error. The principle must be that no single human error is allowed to cause an accident. The higher the traffic density and speed of the train is; the more advanced the technical support systems must be. The 'dead man's handle' onboard the locomotive, stopping the train if the driver becomes incapacitated, is well known. In a modern environment this must be supplemented with automatic train protection systems, including speed control preventing the train from passing warning signals and from dangerous speeding.

It is important to underline that more advanced technical barrier systems does not imply that the training levels can be reduced. On the contrary, in general the training needs to change focus and be improved.

The train networks are growing and becoming more complex, but the ideas of restructuring in many cases mostly imply cost savings introducing single driver operations, stations job cuts and outsourcing certain services to non-professional staff.

Proper maintenance of the infrastructure is equally important to ensure safety but far too often we see staff reductions, lengthening of the intervals between inspections and introduction of automated inspection systems with poorer quality as a substitute to proper inspections carried out by trained employees, -in order to save money. It is important that trade unions put pressure on politicians, decision-makers and budget holders who can grant money for new safety- related investments in the infrastructure.

Special attention must be given to level crossings. A collision between a train and another vehicle, for instance, usually has fatal consequences. All level crossings where there is potential for collisions should be equipped with automatic barriers and other preventive equipment, stopping road vehicles from crossing the track when a train is approaching. At a certain speed level, level crossings should not be allowed.

How railway safety can be maintained and improved

Railway companies should establish safety managements systems describing how the safety work is carried out in a systematic way. Involvement of workers and unions is an important part of a safety management system. Safety management systems should be open and transparent.

Railway safety is about technical equipment and its interaction with human beings. Every change that is done on the technical side or in the organisation of work or companies, should improve safety. This should be proved by risk assessments from case to case in which the unions should be involved. Risk assessments should be transparent and the trade unions should have the right to consult independent experts at the cost of the companies.

An open and transparent system for recording incidents that could lead to potential dangerous situations, must be established. The participation of workers and unions in this is crucial. The system must reward individuals to report situations, even if the individual reporting is involved in the situation. Whistle-blowers exposing problems and expressing safety concerns must not be punished for their actions. Workers are on the ground and they are the first to see problems.

It is important that independent safety authorities are established. They must be independent from infrastructure managers and railway companies and be responsible for approval of the safety management systems of the companies, carry out inspections to monitor that the day to day operations are done in a safe way and have the authority to stop the railway operations in the case of serious safety breaches. There should be established special links from the unions to the safety authorities to express safety concerns. Safety authorities should not be given tasks of pursuing open market conditions. This shifts the focus away from safety. Safety authorities must publish the results of compliance audits.

In some countries, trade unions have taken the initiative to establish safety committees, in many cases jointly with management, at company level to discuss safety matters and in this way try to establish a common understanding with the management on how to deal with safety related issues.

In case of accidents

Every country should have an independent accident investigation body. It is especially important that it is independent from the criminal investigation system. The accident investigation body should also investigate incidents that might lead to serious accidents. The investigation should find the root cause of the accident and go beyond mistakes made by individuals. The important thing is to identify why the accident was allowed to happen and why it was not prevented. This is about establishing a just and fair culture, not a blame culture. The purpose is to avoid future accidents.

The trade unions should be involved in the accident investigation and should have unlimited access to the results and details of the investigation.

The ITF also strongly oppose what can be described as a “my hands are clean” culture. Far too often managements excuse themselves with that everything has been done “according to the book”. But that an accident happens, is in itself a proof that this was not good enough.

Safety vs profits

Neo-liberal policies are a huge hindrance to the development of a sound safety culture. Safety costs money. When the hunt for profit is the main driving force behind the running of a railway company, the workers and the users of the railway face several challenges in keeping safe. Understaffing, widespread use of part-time workers, reduced time for training and increased stress at work are all problems trade unions have to deal with.

The structural changes within the railways are also problematic for railway safety. The splitting up of companies and the widespread use of outsourcing and workforce agencies makes the line of responsibility for safety related matters unclear. Experience and training levels are often low, since many of these companies performing railway services often have their main operations in other sectors. Railway companies operates with own specially designed safety procedures, which can lead to misunderstandings and confusion among workers shifting jobs.

The international trade union cooperation for railway safety must be stronger

International cooperation between the railway workers’ unions is becoming more and more important. The liberalisation and privatisation policies pursued by many governments are general global trends. They learn from each other and import solutions. The trade unions do the same thing, but the cooperation must be even stronger on our side. We have the tools, the national trade unions, the regional cooperation and the railway section of the ITF.

Trade union solidarity for a safe railway system!

Annex 2

ETF RAILWAY SECTION

Guidelines for cooperation on cross border traffic between ETF affiliates organising locomotive drivers and/or on-board personnel (mobile personnel)

Adopted on 15 October 2014

1. **Status of the guidelines**
   The guidelines are binding for all ETF affiliates organising mobile personnel in cross border traffic.

2. **Scope of the guidelines**
   The scope of the guidelines is to:
   - Ensure information, cooperation and solidarity between the unions on matters concerning cross border traffic.
   - Prevent competition between companies were national differences in social conditions plays a significant role (social dumping).
   - Prevent competition between companies were breach of safety procedures is an element
   - Establish practical and effective tools for solidarity between unions from different countries

3. **Procedures for bi-lateral cooperation**

3.1 Establishment of coordination committees
Each national union affiliated to the ETF appoints one or two persons responsible for matters concerning cross border traffic. The persons responsible on both sides of the border form one or two joint committees, which meet minimum one time per year. The committee members decide on how to organise its work. ETF shall be informed on the composition and the meetings of the committee. ETF can be called upon for assistance if the coordination committees have problems with establishing unified positions.

3.2 The tasks of the coordination committee
The coordination committee shall:
- Identify differences in social conditions in the two countries that might lead to social dumping, and propose measures to the national unions to deal with the problem**.** This shall be reported back to the ETF. In matters concerning the national CBAs

or/and requiring national bargaining, the coordination committee has an advisory role and the national unions shall be consulted.
- Exchange immediate information when companies plan to alter or set up new cross border operations.
- See to that the companies follow the accepted standards on social conditions and safety procedures trough inspections and access to rosters, shift plans and log systems showing the actual rest and working time.
- Establish systems for assistance for mobile personnel (see article 6)

4. Social standards when cross border traffic is taking place

4.1 General

The basic principle in cross border traffic is that the national collective bargaining agreements (CBAs) of the country where the work takes places is the minimum standard for all mobile personnel regardless the nationality.
Some standards in the national CBAs can be difficult to apply, like pension schemes, different kind of leaves (maternity, welfare, sick leave), training programs etc. The coordination committee must advise which parts of the CBAs are to be applied and how this is to be done.

4.2 Salaries

Differences in salaries can be a major issue in considering the potential for social dumping. Mobile personnel entering a country where the salaries level is higher shall receive a compensation per hour, day or year that levels out the differences. The amount (or principle) shall be set in the collective agreement or by law/regulation.

4.3 Working time regulations

The agreement between ETF and CER on working time regulations shall be the minimum standard. Better standards can be proposed to the national unions by the coordination committees. The coordination committees shall decide if it is necessary to have a unified practice on the regulations for rests during the shift. As regards locomotive drivers in particular in cross-border freight operations, more than one consecutive rest period away from home can only be used if there is a consensus in the coordination committee.

4.4 Standards of facilities used for overnight stays and breaks

The coordination committees shall define the required minimum standards of facilities used for overnight stays and breaks.

5. 50/50 agreements

When there is a cooperation between companies on both sides of the border on cross border traffic, there shall be established a 50/50 agreement. This means that the working hours performed by the mobile personnel from each nationality in a foreign country shall be on average the same over a certain period of time. Practical considerations must be taken into account.

6. Assistance in case of incidents and accidents

There shall be a system were the individual trade union member regardless employer, have access to assistance in case of incidents and accidents when working in a foreign country. Each mobile staff members shall have a good knowledge of the system and the knowledge on how to require the assistance needed. The details shall be set out by the coordination committee.

7. **Information and coordination in case of industrial actions**
   There shall be early and mutual exchange of information from the unions if industrial action is going to take place. Unions in other countries must see to that the effect of industrial action is not undermined. If sympathy or support actions are required, this shall be discussed in the coordination committee. The coordination committee shall make recommendations in order to make sympathy or support actions as effective as possible.

8. **Solidarity actions, organising**
   The aim is that every company shall have a collective bargaining agreement and that every mobile staff member shall be unionised. The unions shall support each other to make the companies sign CBAs that meets the requirements of these guidelines. If the companies do not sign the required agreements or they do not comply with them, solidarity actions in other countries like blockades and political pressure shall be considered. The unions shall support each other in organising campaigns in order to unionise mobile personnel still not members.

9. **Control and enforcement**
   The coordination committees shall at any time have access to relevant shift plans and rosters from the companies. Logs for working and resting time for on board personnel shall be available for the coordination committee for inspection at any time.
   There shall be individual locomotive driver logs (electronic or manual) showing actual driving and rest time. These shall be available for the coordination committee for inspection at any time.
   If the coordination committee discovers non-compliance with CBAs, national regulations on working conditions or safety regulations, this shall be reported to the unions. The unions shall take appropriate measures.
   These provisions shall be set down in each CBA.