

Navigating the Changing Landscape: Labor Unions in Taiwan amidst Contemporary Challenges

Guan-Chiau CHIOU

- I. Introduction
- II. The current status and evolution of Taiwan's labor market
- III. Evolving dynamics of labor unions in Taiwan: Historical challenges and legal advances
- IV. The wave of union movements and strikes: From challenges to achievements
- V. Conclusion

I. Introduction

In today's changing world, labor unions are like ships guiding members through storms, symbolizing unity and hope. They protect and support their members against challenges, with laws serving as maps and blueprints for their journey. This paper explores how unions navigate these challenges, using legal frameworks to ensure their stability and protect their members' rights.

II. The current status and evolution of Taiwan's labor market

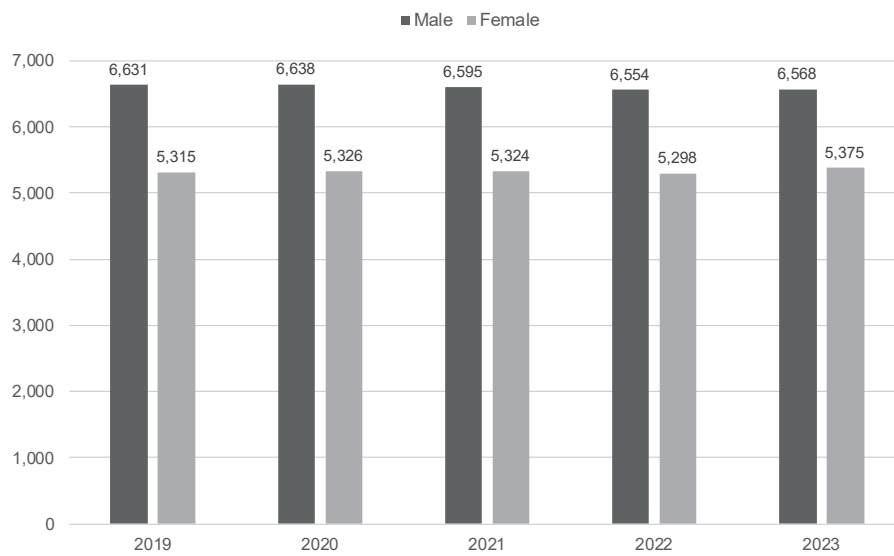
Before World War II, Taiwan's economy was mainly agricultural, with 46% of workers in farming by 1945. In the 1950s, Taiwan shifted towards industrialization and export-oriented industries, moving workers from agriculture to manufacturing. From the 1970s to the 1990s, the focus shifted again to heavy industries and high-tech, such as semiconductors and electronics, attracting talent. Since the 1990s, the service sector, including finance and tourism, has become key, shifting labor demand from manufacturing to services.

Figure 1, based on government statistics, shows a trend towards gender parity in the labor force over the past five years, reflecting efforts to promote workplace equality.

Figure 2 highlights Taiwan's labor force status by age group from 2019 to 2023. While Taiwan became an aged society in 2018 (14.6%) and is on track to become super-aged by 2025 (20%),¹ the figure specifically shows the population by age group between 2019 and 2023. The 2019 Middle-aged and Elderly Employment Promotion Act, effective 2020, allows fixed-term contracts for workers aged 65 and over, influencing an uptick in their employment.

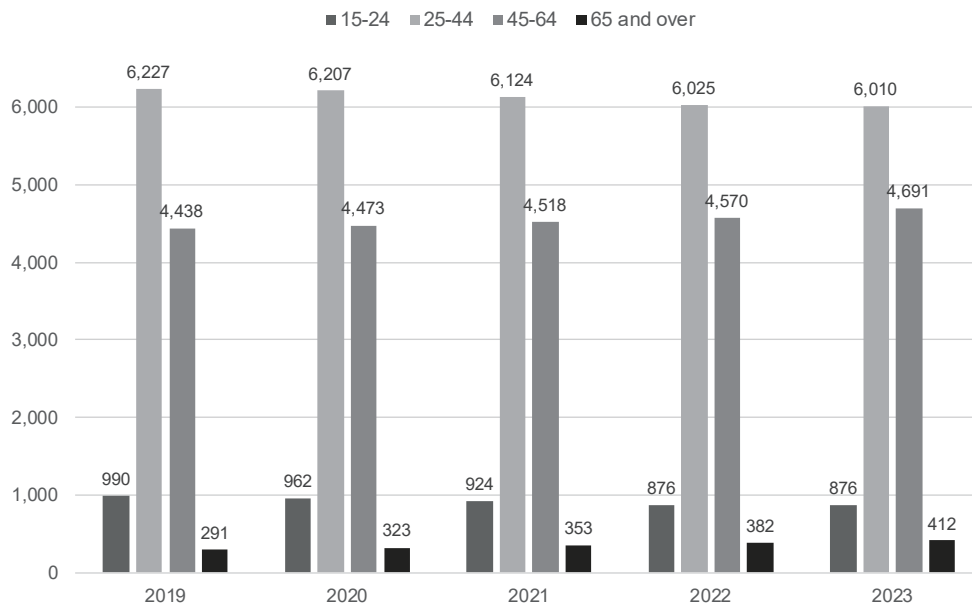
Figure 3 and Table 1 show the employment status across three major sectors in Taiwan's economy: the service sector, which remains the largest, along with the industry and agriculture sectors, both of which are declining. The pandemic and technology changes have greatly impacted the service sector, especially platform delivery, where workers' rights are now a major legal issue.

1. National Development Council. "Population Projections for the Republic of China (Taiwan) 2022–2070: V. Timeline of Aging," https://www.ndc.gov.tw/Content_List.aspx?n=2688C8F5935982DC (last visited July 8, 2024).



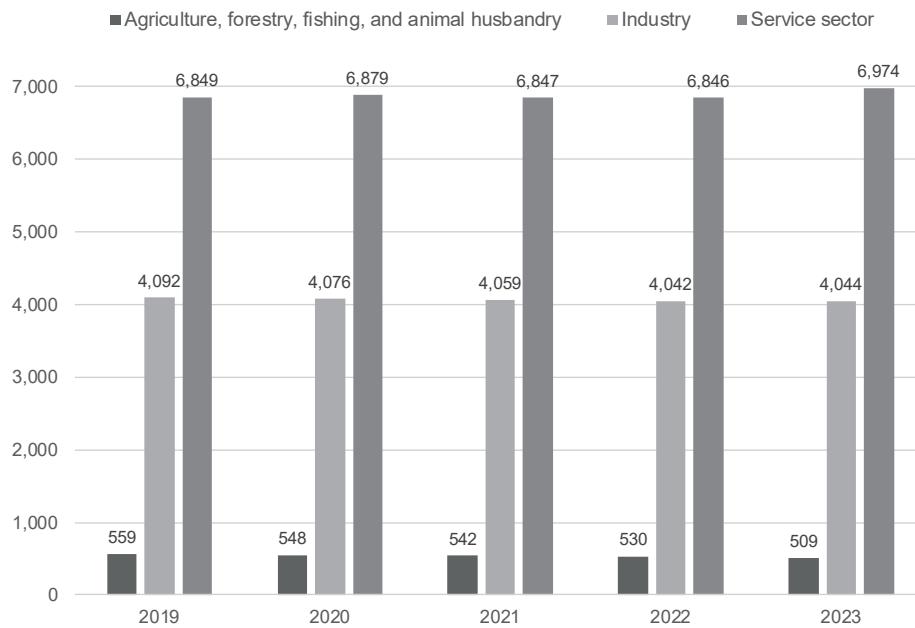
Source: Created by the author based on Directorate-General of Budget, Accounting and Statistics, Executive Yuan "Manpower Survey" (February 2024).

Figure 1. Labor force status by gender in Taiwan, 2019–2023 (unit: 1,000 persons)



Source: Same as Figure 1.

Figure 2. Labor force status by age group in Taiwan, 2019–2023 (unit: 1,000 persons)



Source: Same as Figure 1.

Figure 3. Employment status by industry sector in Taiwan, 2019–2023 (unit: 1,000 persons)

Table 1. Workforce statistics for various delivery platform operators in Taiwan

(Unit: Number of persons)

| Delivery platform operators | January 2023 | December 2022 | December 2021 | March 2021 |
|-----------------------------|--------------|---------------|---------------|------------|
| Uber Eats | 84,968 | 83,281 | 73,136 | 71,171 |
| Foodpanda | 74,356 | 78,149 | 58,094 | 44,804 |
| Lalamove | 19,284 | 18,497 | 11,443 | 23,077 |
| Global Express | 5,380 | 5,420 | 742* | 490 |

Source: Highway Bureau, Ministry of Transportation and Communications (2023).

Note: *The figure is as of November 2021.

The expansion of new forms of work

Recent years have seen a dramatic rise in the gig economy, fueled by technological advancements and shifting labor market demands. Gig work, facilitated by digital platforms, caters to specific, task-oriented jobs such as delivery services, driving, and home cleaning, emphasizing labor market flexibility and the efficient use of time.² Key drivers of this trend include the proliferation of digital technologies, widespread smartphone access, and changing social-economic structures that favor work flexibility and autonomy.

This shift towards gig work presents new challenges for labor protections, notably in terms of unionization and rights for non-traditional workers. Taiwan’s labor market has transitioned from its agricultural roots to a

2. ILO (International Labour Organization). Digital Labour Platform, <https://www.ilo.org/digital-labour-platform> (last visited July 8, 2024).

service-oriented economy powered by technology. This transformation highlights the necessity of thoroughly understanding existing collective labor legislation to determine if it adequately addresses the rapid changes of the era, particularly in relation to the unique needs of gig workers. The emergence of the gig economy underscores the urgency of evaluating our legal frameworks to ensure they remain relevant and effective in protecting the rights of non-traditional workers amidst the digital economy's growth.

III. Evolving dynamics of labor unions in Taiwan: Historical challenges and legal advances

Historically, Taiwan's approach to labor unions was conservative, influenced by the Nationalist Government's defeat in the civil war, a focus on economic development, and a 38-year period of martial law from 1949 to 1987, which limited unions' growth and political activities. The turning point came in 2011, following the enactment of the Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in 2009 and subsequent amendments to key labor laws including the Labor Union Act, the Collective Agreement Act, and the Act for Settlement of Labor-Management Disputes (hereafter referred to as "ASLD"), collectively known as the "Three Labor Laws." These changes sparked a resurgence in the labor movement, leading to a more dynamic union landscape with increased union formation and industrial actions.

1. Organization and formation of unions

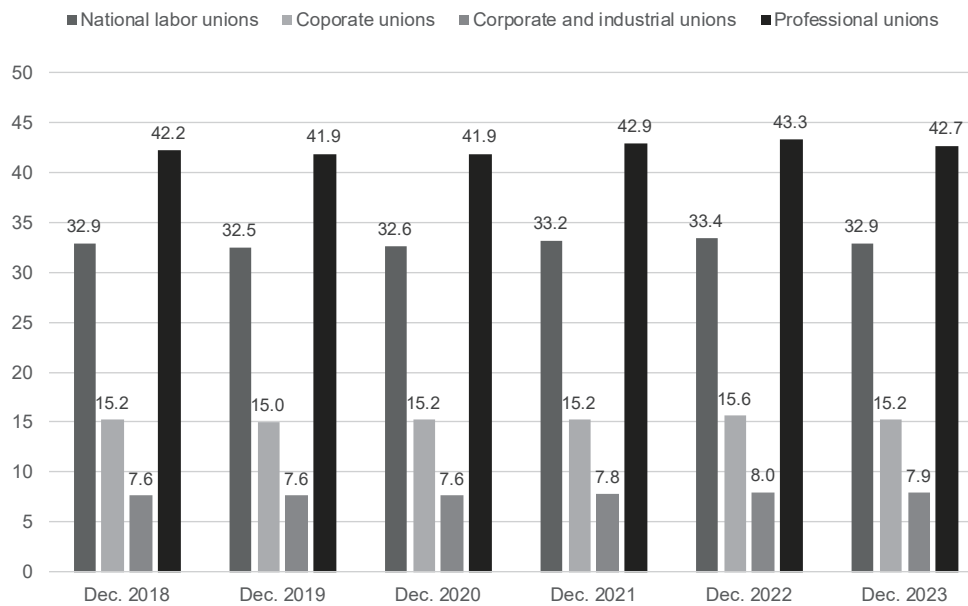
In Taiwan, labor unions are categorized into corporate, industrial, and professional unions as per Paragraph (1) of Article 6 of the Labor Union Act.³ By the end of 2023, Taiwan had 949 corporate unions, 262 industrial unions, and 4,334 professional unions.⁴ Despite the overall union organization rate reaching 32.9%⁵ as indicated in Figure 4, this rate is misleading. Regarding the 42.7% organization rate among professional unions in 2023, in reality, only a few unions are actively engaged in meaningful union movements such as the Taoyuan Union of Pilots or the Taoyuan Flight Attendants Union known for their active and high-profile strikes. In reality, the majority of professional unions focus on providing services such as labor and health insurance assistance, rather than engaging in substantial union activities. When professional unions are excluded, the organization rates for both corporate and industrial unions are notably low, under 10%, with corporate unions at a marginally higher rate of 15.2%. This clarifies that, contrary to the inflated overall rate, the true strength and influence of union activities in Taiwan, especially outside of these notable exceptions, remain limited and fall short of international norms.

3. According to the official English version of the legislation from the National Laws and Regulations Database (maintained by the Ministry of Justice), Paragraph (1) of Article 6 of the Labor Union Act states: *Labor unions can be classified into the following three types; however, teachers can only organize and join the labor unions referred to in Subparagraphs (2) and (3):*
 1. *Corporate union: a labor union organized by employees of the same factory or workplace, of the same business entity, of enterprises with controlling and subordinate relationship between each other in accordance with the Company Act, or of a financial holding company and its subsidiaries in accordance with the Financial Holding Company Act,*
 2. *Industrial union: a labor union organized by workers in the industry, and*
 3. *Professional union: a labor union organized by workers with the same professional skills.*

Although some literature refers to the three types of unions as enterprise union, industrial union, and craft union, this paper adheres to the official translation, thus using the terms corporate union, industrial union, and professional union.

4. Ministry of Labor Statistics. Labor Relations - Trade Unions, <https://statdb.mol.gov.tw/statiscla/webMain.aspx?sys=100&kind=10&type=1&funid=q0501&rdm=egLaqIhx> (last visited July 8, 2024).

5. Ministry of Labor Statistics. Union Organization Rate, <https://statdb.mol.gov.tw/statiscla/webMain.aspx?sy=220&ym=10700&ymt=11200&kind=21&type=1&funid=q05014&cycle=4&outmode=0&compmode=0&outkind=11&rdm=R88024> (last visited July 8, 2024).



Source: Department of Employment Relations, Ministry of Labor (July 2024).

Figure 4. Union organization rate in Taiwan, 2018–2023 (%)

The Labor Union Act mandates that forming a union requires a petition with over 30 worker signatures for registration.⁶ This rule, updated from a permit to a registration system post-1949, may not suit Taiwan's landscape dominated by small and medium-sized enterprises.⁷ Reevaluating this minimum requirement could lead to laws better aligned with today's economic conditions, improving labor rights protections.

(1) Corporate unions

A corporate union refers to a labor union organized by workers within the same factory or workplace, the same business entity, enterprises that have a controlling and subordinate relationship with each other as defined by the Company Act, or a financial holding company and its subsidiaries as defined by the Financial Holding Company Act.

Single union system

In accordance with Paragraph (1) of Article 9 of the Labor Union Act, the number of corporate unions organized under Article 6 shall be limited to one. This provision means that within the same enterprise, all workers can only establish a single corporate union. Although there can be only one union for the same factory, business unit, enterprise with a controlling and subordinate relationship, or within the same financial holding company and its subsidiaries, from the perspective of a larger-scale enterprise, it is still possible for more than one corporate union to coexist within the same company.

6. Paragraph (1) of Article 11: *A labor union shall be organized by the signatures of no less than thirty workers. A preparatory committee shall be set up to openly recruit members, draft union charter, and convene the inaugural general meeting.*

7. Huang Yueh-Chin. 2012. *New Perspectives on Labor Law* (5th Edition). Edited by Huang Ding-You. Taipei: Hanlu Book Publishing Co., Ltd., p. 423.

Mandatory membership provision

Article 7 of the Labor Union Act mandates that “Employees shall join the corporate union organized in accordance with Paragraph (1) (i) of Article 6.” Although a minority view holds that, to uphold and practice the objectives and purposes of the Labor Union Act, which are to promote worker solidarity, elevate the status of workers, and improve their lives, this provision should be interpreted as mandatory.⁸ However, since the Labor Union Act does not prescribe any penalties for violating Article 7, thereby lacking substantive coercive power, and since mandatory membership might contravene the provisions on freedom of association in the two Covenants, it is appropriate to consider that the aforementioned article is not a mandatory provision.⁹ Furthermore, some scholars have pointed out that this provision, requiring workers to mandatorily join a single union, not only deprives them of the opportunity to choose to form or join other union groups but also of the freedom not to join any union at all, thereby stripping workers of their freedom of choice, which also raises concerns regarding its constitutionality.¹⁰

(2) Industrial and professional unions

Industrial unions are organized by workers within a related industry. Professional unions, on the other hand, are organized by workers with related occupational skills. It is stipulated that professional unions should organize within the same special municipality or county (city) as their organizational region. In accordance with Paragraph (3) of Article 6 of the Enforcement Rules of the Labor Union Act, the names of industrial and professional unions should, in principle, clearly indicate the organizational region and type. For example, such as Kaohsiung City Education Industry Union, or Taipei City Internet Platform Delivery Workers Professional Union.

According to statistics, as of the third quarter of 2023, the total number of unions in Taiwan is 5,808, of which 946 are corporate unions, 259 are industrial unions, and 4,328 are professional unions.¹¹ In terms of union numbers, professional unions account for 74.52% of the total number of unions, while corporate unions represent 16.29%. The majority of professional unions in Taiwan are considered to not perform the functions of a union, but rather act as entities commissioned by the government to handle social insurance-related matters (such as labor insurance and national health insurance). Therefore, it is generally believed that corporate unions still dominate in Taiwan, though recently a small number of professional unions have gradually begun to show their strength in collective union actions.

(3) Sources of union expenditures

Union expenditures derive from various sources such as initiation fees, regular membership dues, business profits, consignment revenues, donations, and government subsidies. Paragraph (2) of Article 28 of the Taiwan Labor Union Act mandates that initiation fees cannot be lower than a day’s wage, and regular dues must be at least 0.5% of a member’s monthly wage (amended in 2011). This ensures dues are set to support the union’s autonomy and meet its needs without financial constraints hindering activities.

Despite the lack of penalties for not adhering to Article 28, the emphasis on financial health remains critical for union operations. Adequate finances support member services, legal advocacy, training programs, and negotiation strength. Thus, financial stability is fundamental for maintaining operations, fostering

8. Taiwan Taipei District Court, 107th Year of the Republic, Labor Lawsuit No. 191 Simple Labor Judgment (05/16/2019).

9. Taiwan High Court, 104th Year of the Republic, Labor Lawsuit No. 775 Major Appeal Judgment (08/16/2016).

10. Chen Ching-Hsiou. “Exploration of the Right to Collective Bargaining by Union Groups: Focused on the Constitutional Dispute of the Provision in Paragraph (1) of Article 32 of the Labor Standards Act,” *Rooted Magazine* Vol. 38, No. 4, p. 136, April 2022.

11. Department of Employment Relations, Ministry of Labor, <https://statdb.mol.gov.tw/html/mon/23010.pdf>.

unity, improving representation, and achieving strategic goals. Therefore, a moderate increase in regular membership dues should be considered a reasonable legislative amendment.

2. Regulations on industrial actions

The framework governing the legitimacy of strikes within Taiwan is based on a conceptual approach similar to Japan's, categorizing the criteria for legitimacy into four distinct aspects: the subject initiating the strike, the objectives behind the strike, the procedures followed, and the means employed.

(1) Legitimacy of the subject

Under Paragraph (1) of Article 54 of the ASLD, the exclusive authority to initiate strikes is granted solely to unions, thereby bestowing upon them the sole right to carry out such industrial actions. This regulation is strategically designed to prevent the occurrence of strikes in a disorganized and capricious manner by ensuring the presence of an entity that is both accountable and capable of oversight. Consequently, this framework provides employers with a definitive entity for the negotiation of strike-related issues.¹²

(2) Legitimacy of the purpose

Generally, the premise for a strike is that there must be an existing labor dispute, and the disputed issue must relate to matters of interests, with strikes not permitted over issues already covered by existing collective agreements. Taiwan differentiates labor disputes into rights disputes and interests disputes. According to Paragraph (2) and (3) of Article 5 of the ASLD, rights disputes denote to the disputes over the rights and obligations under the laws, regulations, collective agreements, or labor contracts between employers and workers. Interests disputes denote to the disputes between employers and workers with respect to maintaining or changing the terms and conditions of employment. Rights disputes can, in principle, be resolved through legal or contractual claims and adjudicated by the courts; interests disputes concern the enhancement of labor conditions, achievable only through the collective efforts of workers, and are not subject to court intervention. Consequently, the latter part of Paragraph (1) of Article 53 specifies, "For the rights dispute, a strike is not allowed."

(3) Legitimacy of the procedure

(a) Pre-mediation requirement

According to the first part of Article 53 (1) of the ASLD: "Industrial actions cannot be undertaken unless a mediation of labor-management dispute is not successfully concluded." The rationale behind such a stipulation may stem from the labor administrative authority's belief that utilizing the government's authority and status might more likely facilitate the achievement of a negotiated settlement between labor and management, thereby preventing the occurrence of strikes.

(b) Strike vote

Paragraph (1) of Article 54 of the ASLD stipulates that "A labor union shall not call a strike and set up a picket line unless the strike has been approved by no less than one half of the members in total via direct and secret balloting." It means, a union wishing to declare a strike or establish a picket line must do so with the approval of more than half of its members through a direct and anonymous vote.

(c) Essential service clause

Paragraph (3) of Article 54 of the ASLD specifies that unions in critical services like water, power,

12. Huang Cheng-Guan. "An Exploration of the Legal Requirements for Strikes in Our Country," *The Taiwan Law Review* No. 107, p. 47, April 2004.

hospitals, and financial transaction processing must negotiate an essential service clause before striking, to safeguard public safety and interests. Failing to agree triggers an option for arbitration under Paragraph (2) of Article 25, especially for disputes in these critical industries.

(d) Prohibition of strikes during cooling-off and disaster prevention periods

Article 8 of the ASLD prohibits strikes (and other employer or employee adverse actions) during mediation, arbitration, or unfair labor practice decision processes, aiming to maintain operational continuity and fairness.

(4) Legitimacy of the means

Paragraph (1) of Article 55 of the ASLD mandates that industrial actions must be carried out in good faith and without abusing rights, ensuring they do not compromise safety, health, or public security. This includes the obligation to keep safety and health equipment operational in the workplace. Article 56 further specifies that during industrial actions, both parties involved must ensure the continuous normal functioning of safety and sanitary equipment, reinforcing the principle of rights not being abused.

Table 2. Status of collective agreements of enterprises in Taiwan

(Unit: Number of agreements)

| Items | Corporate unions | Industrial unions | Professional unions | Total |
|-----------------|------------------|-------------------|---------------------|-------|
| 2011 | 54 | 4 | 1 | 59 |
| 2012 | 68 | 5 | 1 | 74 |
| 2013 | 85 | 6 | 1 | 92 |
| 2014 | 97 | 4 | 191 | 292 |
| 2015 | 121 | 343* | 191 | 655 |
| 2016 | 151 | 343 | 195 | 689 |
| 2017 | 156 | 348 | 5 | 509 |
| 2018 | 160 | 354 | 196 | 710 |
| 2019 | 204 | 360 | 195 | 759 |
| 2020 | 222 | 378 | 208 | 808 |
| 2021 | 223 | 382 | 29 | 634 |
| 2022 | 178 | 659 | 35 | 872 |
| 2023 | 182 | 668 | 27 | 877 |
| 2024 Q1 | 180 | 667 | 27 | 874 |
| New Taipei City | 13 | 10 | — | 23 |
| Taipei City | 30 | 3 | 2 | 35 |
| Taoyuan City | 17 | 4 | 2 | 23 |
| Taichung City | 12 | 16 | 1 | 29 |
| Tainan City | 28 | 1 | — | 29 |
| Kaohsiung City | 43 | 629 | 3 | 675 |
| Other cities | 30 | 4 | 19 | 53 |

Source: Department of Employment Relations, Ministry of Labor.

Notes: 1. The data series from the collective agreement only includes the number of establishments that were operational during the specified period.

2. *The industrial union in Kaohsiung City signed an indefinite collective agreement with 339 employers' groups in 2015, which significantly increased the number of collective agreements. In October 2022, the same industrial union signed another 275 collective agreements. However, this data may not indicate a significant growth or status of industrial unions in Taiwan and should be considered an exceptional case.

3. On the signing of collective agreements in Taiwan

Furthermore, as of the first quarter of 2024, according to statistics on the number of currently valid collective agreements in our country, there are 180 collective agreements signed by corporate unions, while professional unions have only signed 27 (Table 2). In terms of the proportion of unions by type, corporate unions have a collective agreement signing rate of approximately 18.9% (180/953), whereas professional unions have a mere 0.6% (27/4,337) rate of signing collective agreements.¹³ This indicates that the majority of professional unions do not truly possess the function of collective bargaining and collective action.

IV. The wave of union movements and strikes: From challenges to achievements

Since the legislative reforms of 2011, Taiwanese workers have become increasingly bold in resorting to strikes as a means to address labor disputes. This shift is evident in a series of notable strikes, including the Hua Jie Laundry Union strike in June 2015 (26 hours), the Nan Shan Life Insurance Union strike in December 2015 (three days), the China Airlines Flight Attendants Union strike in June 2016 (three days), the Homebox Union strike in November 2017 (five days), the Miramar Golf and Country Club Enterprise Union's first strike in January 2018 (12 days), the Hsing-Fu Golf Club Union strike in April 2018 (52 hours), the Fuji Xerox Labor Union strike in October 2018 (11 days), the China Airlines Pilots Union strike in February 2019 (seven days), the EVA Air Flight Attendants Union strike in June 2019 (17 days), and the Miramar Golf and Country Club Enterprise Union's second strike in May 2021 (105 days). These events have gradually convinced employers that unions are serious about striking. Consequently, from last year, even the mere preparation for a strike (completing strike votes and preparing for action) by groups such as the Taiwan Railways Union, Taiwan High Speed Rail Union, or the EVA Air Pilots Union have achieved significant results. The ultimate showdown between labor and management has seemingly shifted from the act of striking itself to the warning of a strike, indicating a new phase in labor relations where the mere threat of a strike can lead to meaningful negotiations and outcomes.

Taking the January 2024 EVA Air Pilots Union's strike as an example, the pilots' union initiated a strike vote in December 2023, with the voting eligibility set for "active members of the EVA Air branch," originally scheduled to close on January 4. However, the Ministry of Labor indicated that all union members should be considered eligible voters. To avoid any post-vote disputes, the pilots' union abruptly announced a change to include all members in the vote, extending the voting period until January 22 before counting the votes. Out of a total of 1,398 members, 910 collected their ballots, with the final count showing 900 in favor of the strike and 10 against. Notably, among the EVA Air staff members, 552 collected their ballots, with 543 votes in favor, translating to a striking approval rate of 98%.

This incident sparked a discussion: Why did the pilots' union set the voting eligibility to "active members of the EVA Air branch?" This approach stemmed from a precedent set by the Taipei District Court (Taipei District Court, 106th Year of the Republic, Labor Lawsuit No. 224 Civil Judgment) in the case of the strike vote by the Taoyuan Flight Attendants Union (against China Airlines), where the court noted, "When a professional union acts as the striking body, a purposive restrictive interpretation should be adopted, meaning that the members eligible to vote should be limited to union members employed by the company involved in the labor dispute. A strike can be declared based on a direct and anonymous vote by such members, with approval from over half of these members, aiming to protect workers' right to unity." In other words, the

13. The total number of unions can be found on the Ministry of Labor's statistics website: <https://statdb.mol.gov.tw/statiscla/webMain.aspx?sys=220&ym=11200&yymt=11303&kind=21&type=1&funid=q050112&cycle=42&outmode=0&compmode=0&outkind=11&fldspc=1,11,13,12,&rdm=R51392> (last visited July 8, 2024).

Taipei District Court held that within professional unions, only those who can genuinely participate in the strike should be eligible to vote.

V. Conclusion

In concluding our journey through this paper, we revisit our foundational belief: no matter how the external environment shifts, if we remain steadfast on this ark, trust in our charted course, and stand united, we will reach our destination. This exploration of Taiwan’s labor market’s current state and union-related laws highlights the critical importance of the solid foundation that collective labor law provides in navigating the seas of change. Like every sailor in a voyage, maintaining unity, effectively recruiting members, and demonstrating the ability to negotiate with employers or even strike when necessary, ensures that any challenge can be overcome.

The transformations of our times should not be a cause for panic. Instead, they should inspire us to resolve issues with steadiness and adapt to changes. The strength shown by professional unions, such as those in Taoyuan City, demonstrates that professional unions can transcend their traditional roles as mere “insurance unions” and wield significant power in protecting their members’ labor rights. Facing the challenges and opportunities brought by globalization and technological advancements, Taiwan’s labor market and union movement are at a pivotal turning point. By embracing digital trends, enhancing organizational efficiency, and forging deep connections with society and the public, unions can carve out new pathways to survival amidst these challenges.

As we look ahead, Taiwan’s unions must not only navigate through the changing landscapes but also become vanguards of change. Through continuous self-renewal and adherence to core principles, unions will transform into arks that not only safeguard members’ rights but also navigate steadily through societal shifts. This ark, laden with hope and dreams, sails towards a future that is more equitable and just.

Guan-Chiau CHIOU, J.S.D.

Assistant Professor, School of Law, Chung
Yuan Christian University.

