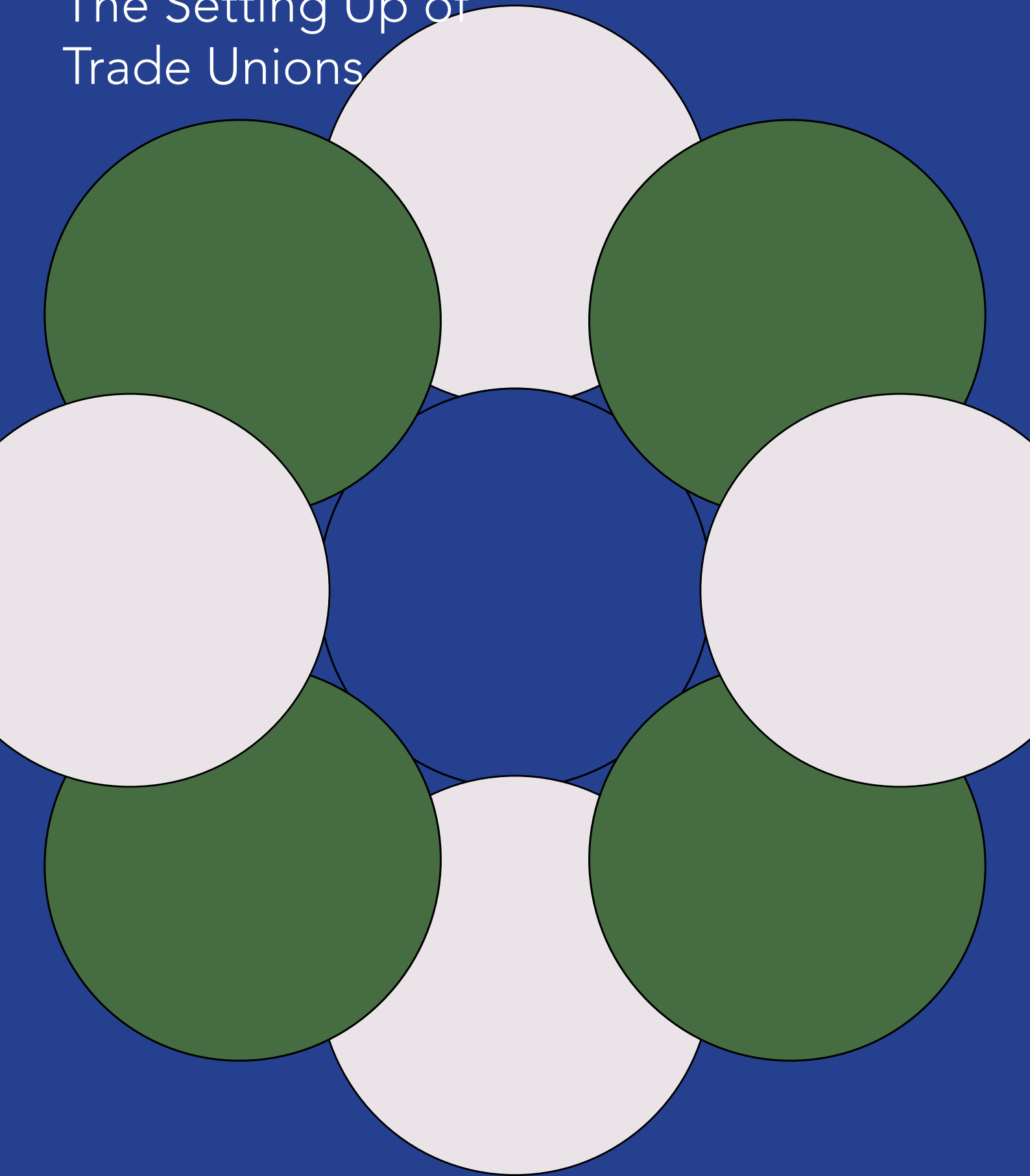


The Times, They Are Evolving

by Chui Chui-chui

The Setting Up of Trade Unions



Hong Kong's theatre arts achieved a milestone in 2020 through the founding of a trade union tasked with serving the entire industry, which currently has over 230 registered members. The anti-extradition bill movement saw a paradigm shift, during which numerous trade unions were set up, posing questions on political and socio-economic rights to the wider society. As soon as it was up and running, the Hong Kong Theatre Arts Practitioners Union (HKTAPU) faced one challenge after another—from matters as “minor” as consultations on labour disputes, to those as formidable as the fast-changing wider creative environment. In the worst of times, one must take sure-footed steps. In the words of the HKTAPU committee: “This is how we move along with the changing times. We do the best we can.”

A Wave of Unions from 2019

As of 5 August 2019, the Hong Kong people had witnessed over two months of civic activism stemming from the amendment of the Fugitive Offenders Ordinance. On that day, a group of arts and cultural practitioners held a big lecture-hall-style gathering in Edinburgh Place in Central with a Letter of No Objection from the authorities, in order to brainstorm the positioning and actionable avenues of their profession. Many theatre arts workers spoke on stage at that time; coincidentally, they all mentioned modes of employment and workers' rights and welfare, planting a seed for the establishment of a union. Libby Cheung, chairperson of the HKTAPU, recalls that she was inspired to further develop the idea of setting up a union after the gathering. Cheung is a backstage worker, while other core members also work in the performing arts. They decided to narrow the union's target members to theatre arts practitioners; and in October of the same year, they submitted an application to the Labour Department's Registry of Trade Unions.

“We thought about starting a union a few years ago, and we heard our predecessors mentioning this as something they would like to do. Indeed, someone had to take the first step,” says Cheung. The first step is always the hardest. It turned out that the constitution

template for general use provided by the Registry was simply unfit for the theatre arts. They liaised tirelessly with the Registry about essentials such as the constitution and membership—the application form went back and forth “about a dozen times”—in hopes that they could establish a highly inclusive membership framework. According to primary statistics from the Registry of Trade Unions, there were over 400 new unions in 2020. Following four months of application processes, the founding of the HKTAPU was gazetted as a Mixed Organisation of Employees and Employers, and it officially joined the union wave. The administration of the union was overseen by its planning committee.

Union membership is defined as people who fulfil the following criteria: the person should ordinarily reside in Hong Kong, be aged 18 or above, and work in the theatre arts with at least one year of work experience in the field and with the approval of the committee. Since its founding, the union has received approximately 1,800 applications for membership, over 1,600 of which have been approved. As there are many approved applicants who have not paid their membership fees, the number of official members is around 230 as of the time of writing. In comparison to unions in related fields, this is an overwhelming response. The union gives us an idea of the nature and diversity of theatre arts, as the applicants work in various areas spanning performance, technical theatre, management, multimedia, arts administration, and arts education. Despite the theatre arts being an essential profession, it took decades for a trade union with the capacity to bring the sector together to be established, which was related to the development of Hong Kong’s theatre and cultural ecology.

From Amateur to Professional— A Slow Start to Recognising Rights and Welfare

For reasons of geopolitics and trade policies, historically trade unions in Hong Kong developed slowly and thus lacked attention from the wider society, even though civic

professional and worker organisations can be traced to the pre-war period and even the early 19th century. In 1948, the British Hong Kong administration attempted to regulate labour organisations and implemented the Trade Unions and Trade Disputes Ordinance, providing legal status to trade unions that registered with the government. In fact, the arts and cultural industry did catch the first wave, having registered unions not long after the new legislation came into effect. The South China Film Industry Workers Union was founded in 1949, reflecting the film industry as a rapidly growing field and a profession with both commercial and cultural influences. On the other hand, the Hong Kong Musicians Union founded in 1948 was one of the first dozens of unions to be registered in Hong Kong. Its active members comprised a group of musicians from the Philippines. To this day, it still serves Filipino musicians mainly, and often organises music events of various scales in public spaces. The history of unions reflects the development of arts and culture, an industry that came about because of commercial support, and a sense of labour rights brought about by employment.

What about the theatre arts? Honing in on drama, in the introduction to *An Oral History of Hong Kong Drama: 1930s–60s*, co-editor Cheung Ping-kuen points out succinctly, “Before the 1970s, acting in stage plays was considered an amateur endeavour. Many skilled theatre artists turned to the film industry.” As well as left- and right-wing politics, the lack of performance spaces was another key factor in the government not creating an environment conducive to the development of theatre arts. This was the case until the Hong Kong City Hall opened in 1962 and marked a new milestone for the theatre industry. This was followed by the establishment of the Hong Kong Academy for Performing Arts in the 1980s and the Hong Kong Arts Development Council (HKADC) in the 1990s; the past five decades have seen the theatre arts sector grow from non-professional to professional. Over the years, many organisations related to the theatre arts profession were founded. These include the Hong Kong Federation of Drama Societies (1984) and the Hong Kong Association of Theatre

Technicians and Scenographers (1989). Yet their missions were to foster exchanges and promotion of those arts, rather than to act as trade unions.

Coming On Board and a Cabinet Contest During the Pandemic Strong Participation in the Inaugural Election

Artistic labour is still labour, and so deserves its rights and for its welfare to be taken care of. The theatre arts has gained wider recognition in the past two decades, yet it has not benefitted from support from the commercial market or the government aimed towards a balanced way forward for the industry. At present, many performing arts groups rely on subsidies from the HKADC whereby they are not permitted to keep any operating profits, and this “shared pot” mechanism makes it difficult for the groups to achieve a healthy and continuous growth. There is also a lack of protection for the rights of practitioners who mostly work on short-term contracts, or take up project-based and freelance work. The year 2020 saw a pandemic spread from mainland China and a large number of infections in Hong Kong. The first round of pandemic measures by the government consisted of a blanket closure of performance venues, placing the theatre arts sector in a wintry chill and exposing its vulnerability. In view of the circumstances, following the registration of the union, the planning committee sought support from industry peers, while it also began preparations for the election of the first committee. The election was to be a significant event for the sector.

The first committee was to be elected in a cabinet system, and the open call in March saw two groups competing: Cabinet 1. “Harvest” against Cabinet 2. indicating there were more than a few people who were interested in trade union matters. With delays due to the pandemic, the election was held in June. The election committee received 1,035 ballots—five of which was nullified—making the voting rate 97 per cent. Cabinet 2., consisting of 13 members,

was elected. The election manifesto of Cabinet 2. includes consolidating the power of the industry, improving fellow practitioners' rights, defending creative freedom, and demands related to the social movement. Rather than thinking the times have chosen us, we should perhaps think of ourselves as rising up to the challenges of the times. The union believes that an organic creative environment and a humanistic society are intrinsically linked to the livelihood of theatre arts practitioners. Chairperson Cheung says, "We have a right to strike if matters affect our equities. Everybody has been hoping for change, and this is for the better of the whole industry." The union is concerned with democratic development in society, as well as improving the employment environment.

The union had to cope with ever-shifting anti-pandemic measures once it came onboard. As the industry faced increasing difficulties, the union had to take on greater responsibilities. During the pandemic, the union has been proactive in making the voices of industry practitioners heard. For instance, they repeatedly call on the government to relax the application requirements for the Anti-epidemic Fund and to improve related arrangements. They also conducted a survey to collect industry practitioners' suggestions for vaccination requirements for performance venues. Apart from these pressing issues, the union believes it is crucial to reform the industry at fundamental levels, with a view to improving industry practices and conventions in the long run. One year into its operation, the union organised five questionnaires on pandemic- and industry development-related matters; presented one talk on insurance; held one general meeting; started a membership privilege scheme with about 250 merchants, and developed a mobile app for better communication. Cheung admits that there are many conventions within the industry which have run counter to a strong sense of labour rights.



The Alliance of Theatre Professionals of Hong Kong, the Hong Kong Association of Theatre Technicians and Scenographers, the Hong Kong Theatre Arts Practitioners Union and the Hong Kong Federation of Drama Societies held a joint press conference during the pandemic — Photo courtesy: Hong Kong Theatre Arts Practitioners Union

“It is common to hear remarks like ‘That is the way it is in this profession,’ or ‘No one would sign a contract. Just take the offer or leave it.’ Many would go as far as not breathing a word of objection, in fear of being singled out, or [in fear of] a revenge mechanism that jeopardises future job opportunities. They dare not voice their concerns,” Cheung says. Once the union was set up, cases arose mainly from individuals seeking help in regard to unpaid wages. Generally speaking, many practitioners have not entered into any contract, and it is difficult to recover their wages through legal means. Many claimants have to go to the Small Claims Tribunal, where they are mostly deterred by the time cost and lack of a strong case, and so they accept unfair outcomes. In the handling of labour disputes, the union is mainly responsible for communication and mediation, depending on whether there is any oral or

documentary contract in place. And if the claimant considers legal actions, the union is able to assist by means of attending meetings with the claimant and providing preliminary legal advice. Yue Fung-kit, another union committee member, says, "During the pandemic, many disputes arose from cancellations of shows, where the practitioners had begun working and then the arts groups made big cuts to the agreed wages. In a contract written in fair terms, there would be a cancellation policy which offers some protection."

In contractual terms the devil is in the details, so better none than crooked? To right wrongs, the union began to compose a series of contract templates that were uploaded to the union's website for practitioners' reference and use. They collected previous contracts and consolidated them for checking and improvement by a team of lawyers. These templates can be modified by users according to their needs. Yue points out that contracts protect both parties: "We have had good responses, not just from employees. In fact, employers also need these templates; some employers have contacted us, saying that the template is useful." Both employers and employees have to start using these practical tools, before new habits can be formed. As Yue observes, "It is not that arts groups [employers] are bent on tormenting employees. They want to pay better wages and get their money's worth of services and products. Now that we know our rights, we have to work together so that both parties are aware of industry practices. With a better system comes a better creative environment."

"There is more to say in matters in solidarity," says Cheung. And to take a step further, the union hopes to communicate with major funding and official bodies as a legally recognised representative of the industry, in a bid to promote the development of theatre arts policy in Hong Kong. For instance, the sector has conveyed its opinion to the HKADC regarding its project grants which include "unfair terms" that favour the council. Committee members consulted lawyers about these contractual terms; they have sought and applied professional

advice in order to improve these terms before submitting their suggestions in the mail to the council. The outcome is yet unknown.

The first step towards self-protection is building a network of unions. Cheung took notes from how theatre arts unions work in other regions; she even met trade union members in the US while working there in order to better learn trade union operation. She says, "After all, the US has a long history of trade unions. As mature institutions, unions there have established a system of professional training qualifications, meaning that only those trained by the union could be admitted, creating a quality assurance; members receive higher wages and have access to dedicated venues, as well as pensions and child education subsidies." In Taiwan, a neighbouring region to Hong Kong, the Cultural Fundamental Act was passed in 2019, which set a systemic benchmark for the development of the cultural sector. With the policy in place, local arts and culture unions are eligible to receive discounts on group insurance, labour rights protection, and an 80 per cent government subsidy on courses offered by vocational centres. Observing the world from the Victoria Harbour, trade unions in Hong Kong have reason to feel envious of the stronger trade union networks abroad.

Marching On Under the National Security Law

Apart from fighting for rights, the theatre arts sector is facing a new creative environment that is an uncharted territory. The first committee began tenure in May 2020, quickly followed by the Hong Kong National Security Law (NSL) coming into effect. Since then, there has been a string of incidents involving the arts and cultural sector being affected by the NSL. The union admits that industry practitioners have felt certain pressures. Yue says that the NSL has prompted discussions as it appears in rather vague terms: "It would ambiguously point out that a certain creative intention of yours is susceptible to violating the NSL, and so it shall not be displayed, or that it carries legal risks. There would be a frame of reference if,

say, the law stipulated that wearing black was illegal. As it is, no one knows where the line is drawn.” Cheung adds, “Of course this is directly connected to our sector. We would lose our livelihood without creative freedom.”

In 2021, the Office for Film, Newspaper and Article Administration failed to issue approval for the short film *Far From Home* in the 15th Fresh Wave International Short Film Festival, and so the festival cancelled its screening; the annual grant for Ying E Chi, an important promoter of local independent cinema, was terminated; M+ of the West Kowloon Cultural District and Tai Kwun were separately accused of showcasing contentious works in their collection or exhibition. The HKADC issued a press release stating that if the grantee “violates the terms and conditions of the agreement in any way, like advocating the independence of Hong Kong and overthrowing the Government, as deemed offending the current Laws of Hong Kong, the HKADC may exercise its rights to postpone, adjust or suspend grant disbursement for the grant year.”¹ Yue says, “Theatre troupes have voiced that they are worried that certain plays cannot be staged, for fear that certain topics, symbolism or objects might be deemed impermissible by the law. Even the funding organisations cannot tell the arts groups what is prohibited.” The union has consulted legal advice, but there are no definite answers as to “what can and cannot be done.” The union members are reluctant to, and feel that they should not, interpret the NSL independently.

In May 2021, the Secretary for Labour and Welfare Law Chi-kwong, said that the authorities may cancel trade unions in contravention of the NSL, and that they have appealed to the Legislative Council to open an officer position funded by the government budget in

¹ Hong Kong Arts Development Council. “Hong Kong Arts Development Council’s response to the media and community concerns about its grant system”, 17 March 2021.
<https://www.hkadc.org.hk/whats-on/press-release/press-statement-on-grant-support-system>

order to carry out related duties. Issuing a response statement as a member of the Unions' Alliance, the HKTAPU called for the Labour Department to "carry out its function and duty to improve Hong Kong's labour rights using the public's money." Yue says, "Members were concerned whether there would be issues arising from us simply promoting the union." Yet the committee is of the opinion that the right to join a trade union is enshrined in the law. On 1 July 2021, committee members set up a street counter in Wan Chai alongside the Public Relations and Communications Professional Union and the White Collar (Administration and Clerical) Connect Union.



Committee members of the Hong Kong Theatre Arts Practitioners Union set up a street counter outside Southorn Playground, Wan Chai — Photo courtesy: Hong Kong Theatre Arts Practitioners Union

“The creative environment has changed, so how should we carry on?” asks Yue. This is an open question, and “carrying on” here means all the possibilities of any action. He points out that being involved in a union means understanding the needs of its members—they need to attract more people to join, and promote exchanges within the union by providing as much assistance as possible. “The founding of a theatre arts trade union is a development that responds to the times, as it is important to bring industry practitioners together.”

Facing numerous challenges, the union still hopes to push for implementing changes in the industry in future. In times like these, change comes too quickly, yet each statement, questionnaire, poll, meeting with officials and employers, and the street counter outside Southorn Playground, manifests the weighty rights and welfare due to everybody, and fuels the advancement and growth of the industry. Tiny steps like these are what drives caring about creative endeavours and the city we find ourselves in. Efforts that seem invisible are not wasted. I would like to close this article with poetry from Bertolt Brecht: “Everything changes. / You can make / A fresh start with your final breath.”

(Translated by Sherlock Lam)

Chui Chui-chui

An independent writer who focuses on topics of culture, history and humanities, and concerns about the accessibility, power dynamics and limitations of language.

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編輯	朱琮愛	Editor	Daisy Chu King-oi
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香港九龍石硤尾白田街30號賽馬會創意藝術中心L3-06C室

L3-06C, Jockey Club Creative Arts Centre, 30 Pak Tin Street, Shek Kip Mei, Kowloon, Hong Kong

電話 Tel (852) 2974 0542

傳真 Fax (852) 2974 0592

網址 Website www.iatc.com.hk

電郵 Email iatc@iatc.com.hk

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