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# Industrial Relations in Britain Under New Labour, 1997–2010: A Post Mortem

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**Abstract:** A revival of trade unions was widely expected when Blair's New Labour government took over from the Conservatives in Britain in 1997. This did not occur and collective bargaining continued to retreat. The article discusses the implications of the changing economic context for the government's legal innovations, notably, statutory trade union recognition and a minimum wage, and describes the consequences for industrial relations. It concludes that New Labour's legacy may lie in its nurturing of the institutions of social partnership and the use of conciliation.

**Keywords:** *ACAS; British industrial relations; collective bargaining; industrial conciliation; labour legislation; Low Pay Commission; New Labour; partnership; trade unions*

## Introduction

When the Labour Party came to power in Britain in 1997 its attitude to organized labour was distinctly ambivalent. It had recently rebranded itself 'New Labour' specifically to distance itself from its historic 'old' Labour Party association with trade unions. The following years in office were to prove a period of industrial peace and, almost until the end, of sustained economic growth. However, when the electorate threw the party out in 2010, its attitude to trade unions was no less ambivalent. Furthermore, those years had seen continued

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decline in both trade union membership and collective bargaining. Why had Labour not used the opportunity to rebuild its relationship with trade unions? How were industrial relations in Britain altered by 13 years of a government in power that was in principle sympathetic to trade unions?

In this post mortem account we start with New Labour's inheritance and then look at the ways in which it sought to promote partnership with trade unions. Unusually rich survey data permit an assessment of some of the consequences. The article finishes with a consideration of New Labour's own legacy.

## The inheritance

The period between the departure of the previous Labour government in 1979 and the return of New Labour in 1997 had been disastrous for organized labour. The proportion of employees in trade union membership tumbled from 56 to 31 percent. Beyond public employment, it had been little short of a rout. In the private sector, the proportion of workplaces (with 25 or more employees) where unions were recognized was halved from 50 to 24 percent. The proportion of employees in the private sector protected by collective agreements collapsed similarly, from around 55 to 25 percent (Achur, 2010). Politically the picture for trade unions was even bleaker. The influence of their leadership upon government policy, hitherto very substantial, collapsed to non-existent.

Those intervening years of Conservative rule, especially the 1980s under Margaret Thatcher, had seen high drama in terms of industrial disputes. There had been prolonged and even violent confrontations, of which the year long coal miners' strike of 1984/5 had been the most bitter. However, by the 1990s the level of conflict had fallen to historically low levels. The number of working days lost through strikes per year, having averaged 930 per thousand union members through the 1970s and 1980s, tumbled to 76 for the 1990s. The comparable figures for numbers of strikes per million union members fell from 175 to 32 (Office for National Statistics, 2010a). It is true that the number of individual grievances registered with employment tribunals doubled over the period, and there is evidence that the intensity of work had been on an increasing trend throughout the 1980s and 1990s (Brown et al., 2009: 184, 206), but high levels of strikes, so much a feature of Britain for the previous 30 years, were a thing of the past.

Part of the reason for these substantial changes in trade union fortunes and behaviour had been legislative intervention by the Conservative governments. British labour law had, for over a century, made a virtue of trying to keep out of relations between employers and trade unions, an approach referred to as 'collective *laissez faire*'. Trade union rights to organize had traditionally been ill-defined, and there had been no more legal right to strike than a statutory protection against being sued for the costs of strikes.

Tentatively at first, but then more methodically, the Thatcher governments of the 1980s tightened things up. So far as union organization was concerned,

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steps were taken to make leaderships more accountable. Direct elections were required, with ballots and external scrutiny. Members were given better access to information about their union. They were given more choice of whether to join a union and, if so, which one. The scope for strike action was curtailed by a range of devices. The grounds for acceptable strike action were narrowed by excluding secondary and overtly political strikes. Strike procedures were constrained by limiting the use of pickets, by banning union disciplinary action in support of strikes and by preventing official union support of illegal strikes. Most important, all strike action had to have the support of union members in a tightly regulated balloting procedure (Dickens and Hall, 2010). The combined effect of all these changes was to increase substantially the cost and complexity both of union organization and of strike action.

Far more important in its impact upon collectivism than these direct legal interventions, however, was increasing product market competition. Some of this, it is true, was the result of less direct government policy. The privatization of much of the public sector during the 1980s and 1990s was particularly important. Many once highly unionized industries – railways, steel, electricity, water, telecommunications, aerospace and so on – saw union membership and the coverage of collective bargaining contract as a result of their privatization (Bach, 2010; Brown et al., 2009: 41–7). But a far more widespread influence was the increase in product market competition arising from more global markets and corporate ownership. Just two indicators give the scale of this. British imports of manufactures, as a percentage of home demand, rose from 25 percent in 1980 to 62 percent in 2005 (Office for National Statistics, 2008). The share of foreign ownership in the London Stock Exchange rose from 4 percent in 1981 to 40 percent in 2006 (Office for National Statistics, 2010b). It has been demonstrated that it was typically those private-sector industries that faced most competition and where profits were worst hit which experienced the biggest retreats in collective bargaining over these years (Brown et al., 2009: 41). Thatcher's legal changes undoubtedly hastened the collapse of collective bargaining in Britain's private sector, but the underlying economic causes would have prevailed eventually, whatever the government in power.

## The pursuit of social partnership

It would be hard to imagine more propitious circumstances than those in which Tony Blair's New Labour government swept to power in May 1997. With a massive parliamentary majority, he had taken over an economy that was settling into what was to become a decade of continuous growth. The trade unions had provided most of the funding for Blair's campaign and many union leaders were vociferous in their demands that Thatcher's anti-union legislation should be repealed. Blair could, had he wanted, repay them by meeting their demands, as Wilson's Labour government had in the 1970s.

He was, however, determined not to do this. The New Labour branding had been specifically aimed at erasing any memories that the party was influenced by trade unions. It was to be (and it remained) 'business-friendly'.

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A woolly notion of ‘Third Way’ politics guided the rhetoric of a proposed ‘industrial relations settlement’ (Undy, 1999). Under this approach, government would stand back and allow the social partners to reach compromise settlements on matters of mutual concern. The term ‘social partners’ was the European Union (EU) term for the national umbrella employer and trade union organizations – in Britain’s case the Confederation of British Industry (CBI) and the Trades Union Congress (TUC). We shall return later to the part played by the EU in New Labour policy.

The social partners were more than willing to take centre stage. The Thatcher years had not been good for either the CBI or the TUC. Earlier, throughout the late 1960s and 1970s, they had experienced intense, and generally unhappy, involvement with both Conservative and Labour governments, struggling with counter-inflationary incomes policies amid unprecedented levels of industrial conflict. This ‘corporatism’, as it was disparagingly called at the time, was perceived by the 1980s’ generation of politicians to have failed. As a result, for almost 20 years, the CBI was marginalized, and the TUC was ignored. But in the 1990s, both tightened up their constitutions and by 1997 had acquired exceptionally able leaders. The then Director General of the CBI, Adair Turner, was later to become a pivotal figure in government policymaking. His negotiator on employment policy issues, John Cridland, continued to cover that role until he himself became Director General in 2010.

The Secretary General of the TUC in 1997 was John Monks, who had played a key part in its reformation while in the wilderness, reviving the phrase ‘the new unionism’ to reflect new realities (TUC, 1997). He later handed over to Brendan Barber, who was of a like mind. Both were well aware that there was no future in the confrontational trade unionism that had overtly characterized the previous 30 years. More to the point, they knew that trade unions were not actually behaving in a confrontational way in workplaces across Britain. Faced with tougher competition, or with the reality or threats of privatization, union activists had come to realize that the way to retain employer recognition was to cooperate in improving competitiveness (Brown et al., 1998). In 1999, the TUC spelled out six underlying principles for effective workplace partnership in an organization. There should be: first, a shared commitment to the business goals of the organization; second, a recognition of differences of interest between the partners; third, recognition that increases in flexibility should not be at the expense of workers’ security; fourth, opportunities should be made for the personal development of workers; fifth, open and well-informed consultation; and, sixth, value added through improved worker motivation (TUC, 1999).

This marked a very public shift of policy by the TUC. It was followed up by the creation of the TUC Partnership Institute to facilitate partnership agreements, and by a government Partnership Fund to support them financially. So radical a change created unavoidable tensions within a trade union movement for which militancy had so long been fundamental to effectiveness. Quite quickly the word ‘partnership’ fell out of usage by union negotiators, except in scornful references in union election campaigns to supposed collaborative behaviour with management. The TUC privatized its Partnership Institute

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in 2004. But although the language of cooperative bargaining changed, the conduct of it did not. Trade unions, especially in the private sector, have increasingly had to work with management in order to retain recognition (Oxenbridge and Brown, 2004). Consultation rather than negotiation has become the dominant feature of that recognition (Brown and Nash, 2008).

## Changing the law

Within days of his election triumph, Blair had mobilized the social partners. There were two main tasks, both seen to be highly risky by the new government. The first was to get agreement between the CBI and TUC on legislative measures that would go at least some way to meet trade union demands to expunge Thatcher's anti-union laws. At risk was the new government's carefully nurtured business-friendly image on the one hand, and the support of the party's union financial backers on the other. The second task was to introduce a statutory National Minimum Wage, an election pledge that had been bounced onto New Labour by its party conference. The party leadership's anxiety that this might jeopardize growth exceeded any ambition to redistribute income.

The negotiations over new trade union legislation were difficult, with the government happy to let the CBI's views have a substantial influence. The outcome, enacted in 1999, brought only a limited reversal of the Thatcher legislation. Some minor restraints on trade union organization were eased. The main innovation in terms of trade union aspirations was the introduction of a statutory recognition procedure. Union recognition would be required of a reluctant employer if the majority of employees were already union members, or where 40 percent of eligible employees voted in favour. But the legal restraints on strikes that had been introduced by the Conservatives were retained – on balloting, picketing, secondary action and so on. The only significant changes made by Blair were that strike ballots were made a little more anonymous, and it was made illegal for employers to discriminate against strikers. The government was determined not to be seen to be 'soft on strikes'; and, strictly in private, many union leaders were perhaps grateful for the procedural order that Thatcher's anti-strike laws had brought to their rank-and-file.

There were to be some other innovations that could help trade unions. Employees facing a serious disciplinary matter at work, whether or not unionized, were now entitled to be accompanied by someone of their choice when brought in front of management. That assured unions a formal role in workplaces where they were still present. A new right was introduced in 2003 whereby workers could have 'learning representatives' to facilitate their broader training and education. That underlined the positive face of trade unionism that the TUC wanted to promote. In 2005, a Union Modernisation Fund was created, providing grants (eventually there were 67, totalling over £7 million) to unions to help them make better use of IT, improve communications, enhance activist training and so on. Both directly and indirectly, this had a widespread influence. By the time the Fund was wrapped up by the new Coalition

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government in 2010 it had brought substantial improvements in the professionalism of most of the larger trade unions (Stuart et al., 2006).

## Social partnership at the national level

However, even trade unions were about using the word ‘partnership’ at the level of the workplace, despite vigorously pursuing cooperative bargaining in practice, things were far more explicit at the national level. In part this was because of EU influence. From the beginning of the European experiment in the 1950s, an active labour-market policy had been seen to be crucial to the nurturing of a free trade area. Unless there was some sort of European community-wide floor to labour standards, the richer member states would be anxious about the flight of investment to members with cheaper labour. Until the 1980s, European legislation tended to be centrally driven. But a series of deadlocks led to a shift from, in the EU jargon, ‘monolithic harmonization’ to ‘dialogue’, with the dialogue involving the social partners of the member states, which for Britain were the CBI and TUC.

Throughout the 1990s and early 2000s, EU social partner agreements set the agenda that member states were expected to implement as appropriate. As a result, the Conservative governments of the 1990s had, with varying levels of bad grace, introduced British legislation on maximum hours of work, part-time work, works councils for multinational companies, rights for workers in companies subject to takeover and rights for workers from other countries. Similarly, and paradoxically with similar reluctance, New Labour was obliged to introduce EU-inspired legislation in the early 2000s on parental leave, on workers who were ‘teleworking’, or who were on fixed-term contracts, and on rights to information and consultation at work (Dickens and Hall, 2010). They failed to deliver British agreement on temporary agency workers’ contracts.

The substantial extension of the EU to Central and Eastern European countries after 2004 largely stopped this European pressure to innovate individual employment rights. The disparity in labour standards between member states had, as a result, increased substantially. To some extent, the European Court of Justice became ascendant, with rulings in the late 2000s that restricted some cases of strike action on the grounds that it inhibited the free movement of labour. But meanwhile, in Britain, the procedural notion that the social partners should be centrally involved in the design of labour-market regulation had taken hold.

In a low-key way, this was evident in the functioning of the semi-independent Advisory, Conciliation and Arbitration Service (which calls itself ‘Acas’). Established back in more tempestuous times in 1976, Acas had survived the years of Conservative government largely because its conciliators were successful in preventing the great majority of disputes over individual rights ever getting into the expensive Employment Tribunal system. Acas’s governing Council has equal membership from trade union and employer backgrounds, with senior TUC and CBI officials always prominent. Having kept a fairly low profile during the Conservative years, it was able to be more assertive about

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collective issues under New Labour (Brown, 2000). Its advisory and training services grew, and became largely self-financing. Its individual conciliation services were also in increasing demand, as the number of individual rights grew, and as the opportunity of pre-empting individual disputes by collective bargaining declined. But so far as collective matters were concerned, declining dispute levels reduced its interventions (there were 670 interventions in collective matters in 2008); with collective conciliation success rates of over 80 per cent, few cases get as far as its final, arbitration, stage.

The great majority of high-profile industrial disputes during the New Labour years were in the public sector. The number of disputes over these years was fairly evenly balanced between public and private sectors, but in terms of working days lost, the public sector dominated. Between 1998 and 2003, public-sector disputes accounted for 72 per cent of all working days lost, rising to 88 per cent between 2004 and 2009 (Office for National Statistics, 2010a). A common theme underlying many of these disputes was the pain of adapting to harsher market conditions. Whether it was the once state-owned airline BA and railway companies, or publicly owned industries being increasingly exposed to economic pressures, such as the Royal Mail, the London Underground, HM Prison Service and the Fire and Rescue Services, the unchallenged independence of Acas conciliation appeared to be greatly valued.

An initially more conspicuous instrument of social partnership was the Low Pay Commission. This was set up by New Labour in 1997 to fulfil its second risky legislative task: introducing a National Minimum Wage (NMW). The risk was that, if misjudged, this could jeopardize growth and provoke massive job losses. The membership of the Commission was similar to the Acas Council, with equal numbers of trade unionists and employers (in this case three of each) and three academics as independent members. Again, senior officers of the CBI and TUC were included as Commissioners and played a leading role. The Commission was generally able to avoid polarization of the social partners. In their attempts to define the basis on which the NMW should be established, and in their investigations of the myriad of diverse circumstances over which it would have to be enforceable, the Commission drew on the ingenuity and expertise of all Commissioners. The Commission consulted (and travelled) very widely, and commissioned extensive independent research. But the task of fixing, and annually updating, the level of the minimum wage did polarize the Commissioners. Managing this required, in effect, a highly structured and well-informed annual negotiation (Brown, 2009). During the years of its operation under Labour, the Commission always reached agreement, sometimes with difficulty, and the government always followed its main recommendations.

The NMW is widely perceived to have been one of the undisputed successes of the whole New Labour programme. Starting cautiously in 1999, not least because of the inadequacy of data on what people actually earned, the Commission went on gradually to raise the NMW relative to average earnings over the period from 2002 to 2006. The later faltering of the economy brought a return to caution. The NMW settled down at a level that directly benefited



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around 7 percent of the workforce, at about 50 percent of median earnings, a level comparable with Belgium, Holland and Australia (Low pay Commission, 2010). So far, no significant job losses have been attributed to the NMW, despite exhaustive research attempting to identify any such consequences. If anything, it has probably tempted more workers into employment and has encouraged employers to manage them better. Crucial to confidence in the NMW has been its zealous enforcement by the chosen enforcement body, HM Revenue and Customs. Perhaps the best sign of its success is that the NMW has become uncontroversial.

## Outcomes

It is futile to speculate on what might have happened in the absence of New Labour, but we do have good measures of what did happen. Trade union membership density continued to decline, slowly but steadily: from 31 percent of all employees in 1997 to 27 percent in 2009 (Achur, 2010). Its decline in the private sector continued: from 20 percent in 1997 to 15 percent in 2009. But membership density also declined in the public sector: from 61 percent to 57 percent. This was despite a government that was broadly sympathetic to, and financially dependent upon, trade unions, and which had passed substantial legislation in 1999 to encourage employers to give them recognition.

If we consider more generally how employees have the means to express themselves to management – what is sometimes called ‘voice’ – and how this has changed, it is the decline of the union channel which is outstanding (Willman et al., 2009). Much the same proportion had some channel (either union or non-union) for voice in 2004 as in 1998 or 1984 – something over 80 percent. But the proportion for which it was a purely non-union channel rose from 41 percent in 1998 to 46 percent in 2004, having been 16 percent in 1984. The proportion with a purely union channel (which had been 24 percent in 1984) fell from 9 percent in 1998 to 5 percent in 2004. Despite the New Labour governments, the expression of worker discontent has been largely individualized.

A similar picture is evident if we look at indicators of collective bargaining. The proportion of employees in workplaces where trade unions were present fell from 49 percent in 1997 to 47 percent in 2009. The proportion whose pay was affected by a collective agreement fell from 36 percent in 1997 to 33 percent in 2009 (Achur, 2010). Taking the private sector by itself, the comparable shift in union presence was from 34 percent in 1997 to 30 percent in 2009; and the shift in being affected by a collective agreement was from 22 percent in 1997 to 18 percent in 2009. Nor can these changes be passed off as the consequences of structural change in the economy, with a movement away from traditionally unionized industries. Multivariate analysis suggests that, at least until 2004, only a small part of the decline in both union recognition and collective bargaining is explicable in terms of structural change (Brown et al., 2009: 30, 53). There has apparently been a fundamental change in behaviour

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with regard to trade unions of either employers or employees, or both. The coming of New Labour failed to reverse or even to halt union decline.

It is not only behaviour towards trade unions that has changed; the behaviour of trade unions has also changed. We have already noted the decline in industrial disputes in the years preceding New Labour. This broadly continued up to 2009. The average annual number of strikes per million trade union members, having fallen to 32 for the 1990s, fell further to 19 for the period 2000 to 2009 (Office for National Statistics, 2010a). If we compare average figures over the two halves of the New Labour years, the number of working days lost almost halved in the private sector, although it showed no clear trend in the public sector. We have also noted the tendency for collective bargaining to become more consultative. There is ample evidence of a decline in the perceived influence of trade unions at workplaces where they are present up to the end of the 1990s. The unions themselves perceived the situation as such: in the 2004 WERS survey, local trade union representatives and their managers were in broad agreement that, over the main issues on which they interacted, their relationship was twice as likely to be characterized by consultation and information exchange as by negotiation (Brown and Nash, 2008: 101).

If we look at the economic outcomes, this picture of declining trade union influence is confirmed by detailed statistical analysis of the WERS survey and Labour Force Survey (Blanchflower and Bryson, 2009). The ‘wage effect’ of trade unions diminished between the 1980s and the 2000s, whether one considers union membership or recognition. But workers did enjoy a significantly larger union-related wage premium in those (relatively rare) small workplaces with fewer than 25 employees that still had a union presence. Turning to employment growth, the significant negative association that unions had in the 1980s had vanished after 1990. Similarly, unions were associated with relatively poorer financial performance of the firms where they had membership in the early 1980s, but this difference disappeared in the 1990s and 2000s. More amorphously, the perception of managers that unions adversely affected the ‘climate’ of employment relations at their workplace also disappeared after the 1980s. The decline of trade unions has thus been associated with a diminution of their apparent impact at the workplace.

## Conclusion

Let us return to the questions with which we started. Why did New Labour not use the opportunity of government to rebuild its relationship with trade unions? How were industrial relations in Britain altered by 13 years with a government in power that was in principle sympathetic to trade unions?

The first question is concerned with politics. The New Labour government saw no advantage in rebuilding that relationship. Trade unions had become unpopular in the 1970s and Thatcher had played upon that unpopularity with devastating effect electorally in the 1980s. The Labour Party had long been heavily dependent on the trade unions financially – 75 percent of its funds came from them in 1985 – and knew that it could not look business-friendly and

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independent unless it broke that link. By 2002, New Labour had found alternative sources of finance and only 30 percent of its funds came from the unions. Ironically, by 2008, after a series of scandals linking the party to the sale of seats in the House of Lords had choked off those alternative sources, dependence on unions was even higher, at 90 percent. A panic over the need for union financial support for the 2005 election prompted an agreement with the major unions (notably not with the TUC) called the Warwick Accord. Under the terms of this agreement, New Labour politicians agreed to a shopping list of union policy demands, of which the most tangible was the Union Modernisation Fund. But this was far from the 'corporatist' collaboration with union leaders so characteristic of the 1960s and 1970s. Neither Blair, nor his successor as Prime Minister, Gordon Brown, were close to trade unions or understood them. Although Ed Miliband won the party leadership in 2010 with union support, there is no reason to suppose him to be in any way different. Whether the discontent that will accompany substantial public-sector job cuts over 2011 and 2012 may provoke a change of attitude in the Labour Party leadership remains to be seen.

The second question is how the period of New Labour government, so much more sympathetic to trade unions than the preceding Conservative governments, altered British industrial relations. Central to answering this is the understanding that the decline of trade unions and collective bargaining owes far more to the intensification of competition in the wider economic environment than to any governmental action. How far, then, did the New Labour government ameliorate the decline? The 1999 legislation was intended to do that, with its provision of a procedure whereby reluctant employers might be forced to grant union recognition. But while there were 184 recognitions granted out of 374 cases in the first seven years of the legislation, they were overwhelmingly by small employers, gained minimal publicity and had little overall impact. Probably more was achieved by routine Acas conciliation of recognition disputes. We should not ignore the symbolic power of the government's signalling that the hostility to trade unions of the Thatcher years was over. But the economic tide was running heavily against it.

What may endure for British industrial relations from the New Labour years is a strengthening of the practices of partnership and of conciliation. At the workplace level, cooperative working will continue, whatever it is called. At the national level, the success of the Low Pay Commission in creating and managing the NMW suggests that the social partners will, in established EU tradition, continue to be centrally involved in the setting of minimum labour standards. Also, as competition becomes ever more global, and collective bargaining ever less adequate, statutory labour standards are likely to be an increasing requirement of a civilized democracy. Similarly, the partnership upon which Acas's independence is based is likely to provide the template for institutions for conflict resolution.

The practice of conciliation is likely to be in increasing demand in a world where the competition for scarce resources will intensify. There is no appetite in British industrial relations to return to the divisive years of the 1970s and

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1980s, even if unions had sufficient mobilizing capacity. But the nature of the problem has also changed. The extraordinary facility of electronic communications to enable the mobilization of mass discontent has coincided with the withering of the collective representative structures that in the past would have helped the resolution of that discontent. Whether in Glasgow or in Guangzhou, the challenge will be to nurture worker representation in order to facilitate conciliation. Here New Labour may have left something that can be built on.

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