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Working Paper 136: Worker Representation through Civil Society Organizations: Evidence from the United Kingdom

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Abstract

There is increasing interest in the role of civil society organizations (CSOs), advocacy, identity and single-issue organizations, in representing the interests of workers. The purpose of this article is to describe the form of representation developed by national-level CSOs in the United Kingdom. To this end, it examines which groups within the working population these organizations seek to represent, the interests upon which they offer representation and the methods they use. Throughout there is a comparison with the form of interest representation offered by UK trade unions. The aim is to identify the specificity of CSOs as institutions of worker representation but also the characteristics they share with trade unionism, the default form.



Worker Representation through Civil Society Organizations: Evidence from the United Kingdom

The decline of trade unions and the rise of new institutions of worker representation, such as statutory works councils, employer-sponsored participation and community campaigns, have stimulated three main debates within Industrial Relations. The first concerns the relationship between union and non-union forms: is it the case that unions can capture or form coalitions with non-union institutions (Hyman 1996; Rose 2000) or will the latter gradually supplant unions, coming to occupy their position within the system of representation (Fiorito 2001; Piore & Safford 2006)? The second deals with the relative performance of union and non-union forms and the degree to which the latter generate equivalent outcomes to unions, reproducing their redistributive effect within the economy and importing a counter-balance to management control within the employment relationship (Bryson 2004; Charlwood & Terry 2007; Freeman 2005). The third concerns the form of interest representation developed by non-union institutions, what might be conceived of as the 'who', 'what' and 'how' of representation (Hyman 1997b). Is it the case that non-union institutions differ systematically in terms of the workers they represent, the issues for which representation is offered and the methods that are used to advance workers' interests?

In this article we contribute to this third debate by examining the form of interest representation developed by civil society organizations in the United Kingdom. By civil society organizations (CSOs) we mean non-union and non-profit seeking organizations that are formally independent of the state and which develop campaigns, services, programmes or other initiatives designed to advance the interests of working people. Generally, organizations of this type are not concerned solely with the workaday selves of the people they represent and are quite diverse in their structure and patterns of activity. Most of those that provide representation to workers, however, fall into one of three overlapping categories: advocacy organizations that provide information, advisory and representation services, identity-based organizations that promote the interests of working women and minorities and issue-based organizations that run campaigns relating to the workplace. In the United Kingdom, an example of the first type is Citizens Advice, a voluntary organization that provides advice on a broad range of issues, including employment, through a network of walk-in centres spread across the country (Abbott 2004). Examples of prominent identity-based organizations that have an employment

role are Stonewall, the main gay rights organization in Britain, Age UK, which campaigns on behalf of older people, and the Fawcett Society, a long-established campaigning organization on women's rights. Many disability organizations also fall into this category. Issue-based organizations include Public Concern at Work, which campaigns on the issue of public interest disclosure, Carers' UK, which promotes family-friendly working practices, and London Citizens, the main organization campaigning for a living wage in Britain (Holgate & Wills 2007).

In examining the form of representation provided by CSOs we have chosen to focus on five aspects of their role. The first is the identity of those within the working population that they aspire to represent. Most representative institutions of workers necessarily select particular constituencies, which may be broadly or narrowly framed. For trade unions, the principles of selection encompass occupation, enterprise, industry, sector and in some countries, religion, ideology, geography and ethnicity (Fiorito 2008). Our first objective is to map the equivalent selection principles that guide worker representation through CSOs. The second aspect relates to the substantive interests of the worker constituents that CSOs choose to represent. Once again, the principle of selection necessarily applies. There is a vast array of potential interests that might become the subject of representation and these can be classified in a variety of ways. One distinction drawn by Hyman (1997a), lies between workers' 'quantitative' interest in improving the material return from the employment relationship and 'qualitative' interests that relate to the experience of work but it is also possible to distinguish between individual and collective interests and workplace interests and those that relate to the wider economy and society. Our second objective is to identify the choices of CSOs within this range of possibilities.

The remaining aspects relate to the 'how' of CSO representation, the methods they use. A central issue in this regard is the manner in which CSOs relate to their worker constituents. Are they 'nonworker organizations' as Freeman (2005) has suggested, acting on behalf of workers but affording them no opportunity to participate in governance or do they involve workers in their own representation, even though they may not be formally democratic? And to what extent do CSOs seek to collectivize and mobilize workers, relying on activism and organization to advance interests in the manner of trade unions? Another issue concerns the relationship of CSOs to employers. The classic

methods of trade unionism are collective bargaining and grievance-handling; that is, negotiating agreements with employers that fix the substance of the employment relationship and create procedures for its governance and representing workers within these procedures. Is it the case that CSOs form analogous relationships, or does representation in their case take place without significant interaction with employers? The final question of method concerns the state and the degree and manner in which CSOs seek to advance worker interests through participation in the political process or via legal action. The 'logic of collective action' for trade unions within liberal democratic societies has drawn them very substantially into the process of political governance (Crouch 1982). Our aim is to establish whether this is equally true for CSOs.

In examining these five aspects of worker representation through CSOs, we want at each stage to draw a comparison with trade union representation in the UK. Of course, the representative strategies of trade unions are both complex and variable, reflecting the different characteristics of union members, different union structures and identities and the strategic choices of their leaders (Fiorito 2008). Nevertheless, it is possible to identify predominant patterns and to use these as a basis for comparison. By making use of the comparative method, we hope to throw CSOs into relief and highlight their distinctive attributes, their morphology as institutions of worker representation.

Research Methods

The research project from which the evidence is derived followed a mixed-method design (Bergman 2008), consisting of three chief components. In the first stage web sources were used to identify the population of civil society organizations (CSO) that were engaged in attempts to advance the interests of working people. This search was restricted to organizations whose sphere of operations encompassed the UK or one of its constituent nations (i.e. England, Scotland, Wales and Northern Ireland). The many small, community organizations, operating at a local scale, were not included in the study, partly for practical reasons and partly in order to focus on leading CSOs that were most likely to play a significant representative role. Also excluded were international organizations that are based in the UK but which are concerned with the interests of workers in the wider global economy. This mapping exercise identified 422 CSOs, defined as non-state and non-business organizations, other than formally certified trade

unions, that were involved in worker representation. The resultant list was then used to compile detailed, standardized profiles of CSOs and their worker representation activity, using web-pages and CSO archives as sources. In total, 357, often extensive profiles, running over several pages were produced.

In the second stage, a postal survey was conducted of the 422 initially identified CSOs. This survey sought additional information on the structure, activities and constituencies of CSOs and their engagement with other employment actors, including state and employers. It included extensive batteries of questions on who CSOs aspire to represent, the specific interests that they seek to advance and the methods they use in interaction with government, employers and their worker constituents. A total of 141 responses to the survey were received, a response rate of 33 per cent.

In the third stage of the research we undertook case studies of CSO activity in an attempt to develop a richer understanding of their worker representation function. This stage was based on face to face and telephone interviews with policy officers in a sample of CSOs, supplemented by the collection of further documentation and the observation at public events involving some of the CSOs. In conducting this stage it was decided to focus on CSOs involved in four main types of activity. These embraced identity-group CSOs that were concerned largely with issues of equality and anti-discrimination, CSOs that represented the interests of carers and were concerned with the integration of work and domestic life, advice and advocacy CSOs that provide a service to the generality of workers, and CSOs that focused on workers occupying 'vulnerable' positions in the labour market, including migrants, homeworkers and the lower paid. A small number of supplementary interviews were also conducted with trade union and employers' representatives. The interview phase of the project involved about 60 interviews that, when possible, were recorded and transcribed and gathered information from a total of 35 CSOs.

In the following presentation of evidence, all three sources of data are used. The questionnaire survey is relied upon to describe the general pattern of CSO involvement in worker representation, supplemented where necessary by data from the web profiles. The interview material, in contrast, is used to probe more deeply and explore particular issues through illustrative examples and, again, is supplemented by the documentary

evidence collected from websites. The mixed method design was intended to provide a basis for generalising about worker representation through CSOs while also yielding the insight required for exploratory research that opened up a relatively new area of inquiry within UK Industrial Relations. The aim was to balance broad coverage with sensitivity to context and particular experiences.

Constituencies

Table 1 shows findings from the survey of the types of worker that CSOs ‘try to support and represent’. It indicates that CSO constituencies vary greatly and also that many seek to represent multiple worker identities. The most frequently reported constituency is ‘working people in general’, a response that can be explained in two ways. First, many advocacy CSOs provide a generally available service and, while unorganized workers and those in peripheral labor market positions may be more likely to use this service (Abbott 1998; Pollert & Charlwood 2009), it is in principle open to all. Second, many policy CSOs seek to intervene across the full range of issues that affect working people. In this they resemble trade union confederations, which speak for a general ‘labor interest’ within the public sphere (Heery 1998). An example of an organization that performs both roles is Citizens Advice, which responds to 400,000 employment inquiries from the general public per year and lobbies actively on employment law and labour market policy.

INSERT TABLE 1 HERE

A second type of constituency is those composed of identity or equity-seeking groups: women, the disabled, ethnic minorities, older workers, workers of faith and belief and lesbian and gay workers. Clearly, the emergence of CSOs as institutions of worker representation reflects the rise of new social movements and a shift in the ‘axes of social mobilization’ from economic identities to identities formed in the wider society (Piore & Safford 2006). In this regard, it seems that CSOs can be sharply differentiated from trade unions, which classically are rooted in occupation, industry, enterprise and class. The distinction is not absolute, however, as the non-work identities that are expressed through CSOs are also expressed through trade unions. One of the most striking changes in UK trade unions, visible also in other countries, is the emergence of gender, ethnicity, disability, age, belief and sexual orientation as union categories; identities that are

recognised in systems of union government and articulated both through collective bargaining and union political action (Cobble 2007; Foley & Baker 2009). The expression of these newly assertive identities has run through trade unions as well as non-union institutions of worker representation.

A third group who are represented by CSOs are carers, those who seek to combine paid work with involvement in childcare, care for those with disabilities and eldercare. CSOs with this constituency include dedicated organizations of carers, such as Carers UK, Working Families, the Daycare Trust and Counsel and Care, but many women's and disability organizations also prioritize the interests of carers and their need for flexible employment. Once again, this is evidence of CSOs defining their constituency in terms of a non-work identity that is nonetheless attached to particular workplace interests. It is also the case that carers' interests have come to be expressed through trade unions (Gregory & Milner 2009). Indeed, this coincidence of CSO-union priorities has provided the basis for joint-working between the two types of representative institution.

A fourth type of constituency consists of workers who are vulnerable and exposed to exploitation whether as a consequence of their status – migrants and asylum seekers – or because of their work situation – homeworkers, domestic workers and those in the informal economy. In the USA, workers of this type have been a major focus of CSO activity, including living wage campaigns and the creation of labor centers for day laborers and others in marginal employment (Fine 2006; Luce 2004). A similar pattern can be seen in the UK and migrant workers in London have become the focus of a living wage campaign, modelled on those in the USA (Holgate & Wills 2007). One reason for CSOs targeting constituents of this type is that typically they are unorganized and fall below the protection of the trade union movement. To be sure, unions in Britain have sought to organize migrant and low-paid workers (Heyes 2009) and lobby government on their behalf, but the primary constituency of unions are core workers in relatively favorable employment (Hyman 1997b). This pattern of representation has presented CSOs with a representative opportunity, to act on behalf of those outside labor's ranks.

The final type of constituency identified in Table 1 is defined by 'workplace identities' grounded in contractual status, industry and occupation. Indeed, a small

proportion of CSOs includes trade unionists amongst those they seek to represent. At first sight this suggests that CSOs are reproducing principles of selection long adhered to by trade unions but this conclusion is probably unwarranted. CSOs seek to represent part-time and temporary workers primarily because these categories are gendered, linked to caring responsibilities and characterized by vulnerability. They may represent workers within the bounds of a particular sector or occupation but usually on the basis of a prior, more significant identity. Thus, Women and Manual Trades is an organization of women construction workers but it emerged from the feminist movement, while the Gay Police Association and the Armed Forces Lesbian and Gay Association are primarily organizations of sexual minorities that happen to work in uniformed public services.

The answer to the question who is it that CSOs represent therefore is that they define their constituencies in three main ways. Many operate with a very broad definition of their constituency as composed of worker-citizens, a conception that is broader than that of many unions but akin to that of central union confederations. The function of CSOs with regard to this broadly-defined constituency is to expand the framework of legal protection and ensure that existing rights are given genuine effect through advice and advocacy. Many CSOs also seek to represent quite narrowly defined constituencies, of two main types. On the one hand, CSOs represent identities formed beyond but relevant to the workplace, while on the other they represent workers in vulnerable positions who lie beyond the bounds of the formal labor movement. Here again the form of interest representation developed by CSOs is distinctive and differs from that offered by unions. This difference is only one of degree however as unions have also embraced identity groups and those in secondary labor market positions (Fitzgerald & Hardy 2010). There is convergence as well as difference across the two types of institution.

Interests

Our second question concerns the substantive interests that become the subject of representation by CSOs. One possibility that has been suggested is that CSOs prioritize 'qualitative' interests, relating to the treatment of workers and their subjective experience of work (Piore & Safford 2006), and that this differentiates CSOs from trade unions. In fact, many CSOs prioritize the material well-being of their constituents, reflecting the

disadvantage and discrimination they often face. In the UK, there are CSOs dedicated to raising low wages (e.g. London Citizens, Scottish Low Pay Unit, Greater Manchester Pay and Employment Rights Service), equal pay remains an abiding concern of women's organizations, and for disability CSOs a key objective is to ensure their constituents secure and retain paid employment. It is certainly the case that CSOs are concerned with how workers are treated – the Andrea Adams Trust is an organization that campaigns specifically on the issue of workplace bullying – but most CSOs do not pursue an overtly 'post-material' agenda.

Another possible choice for CSOs is between the pursuit of individual and collective interests. The main choice of trade unions is to pursue collective interests. Through collective bargaining unions display commitment to the device of the 'common rule', collective agreements that standardize employment conditions for workers across a bargaining unit. CSOs also seek to standardize employment conditions, though typically not through collective bargaining as we will explore below. Nevertheless, many CSOs also prioritize individual interests and in many cases their commitment to diversity leads to calls for the flexibilization of standard employment rules. Trade unions also act in these ways and, once again there is no hard and fast division. But the weight attached to individual and diverse interests amongst CSOs is arguably greater and in these ways their form of interest representation is distinctive.

Many CSOs are servicing organizations catering to the labor market and workplace needs of their individual constituents. This servicing assumes a number of forms. A common form is for CSOs to provide information, advisory and advocacy services to cater to the need of workers for employment protection. More than half of CSOs report that it is important for them to 'produce written information and advice for working people', 40 per cent provide 'advice or counselling to workers about how they might deal with problems', and 14 per cent represent 'working people before courts and tribunals'. Another form is for CSOs to offer services that cater to the development interests of workers. More than a quarter provide training and education to workers, while about a third offer 'opportunities for networking with other workers with the same interests/experiences'. It is relatively common for women's, ethnic minority and lesbian and gay organizations to operate mentoring schemes and help constituents build careers, including advice on setting up a small business or operating as a self-employed

contractor. A third form of servicing is to support workers in finding and maintaining employment; catering to the labour market interests of constituents. Just under a fifth of CSOs help with job placement, a similar percentage help support carers and about a third support workers with disabilities. The latter can include providing therapies that allow people to keep working, providing grants and other material supports and helping ensure that employers make adjustments to the work environment.

The latter is an example of CSOs seeking the adaptation of standard employment arrangements to meet the needs of their constituents. Action of this kind is common and as a group CSOs are major proponents of diversity management. The disability charity, Arthritis Care, for instance, makes the case for flexible employment schedules because many muscular-skeletal conditions fluctuate in intensity. Women's and carers' organizations make an equivalent case for flexible working time policies, while faith and ethnic organizations make the case for flexible leave and uniform policies to accommodate religious observance and cultural differences. To repeat, unions also press for diversity and seek to negotiate 'positive flexibility' (Heery 2006a) but it is the centrality of the diversity agenda to the employment mission of many CSOs that makes it distinctive. Their aim is to make the employment system adapt to the diverse and differentiated interests of the groups they represent.

A final distinction that can be drawn is between those interests that are manifest at the workplace and those which are expressed at higher levels or beyond the employment relationship altogether. For UK trade unions, the workplace is typically the primary locus of representation; unions protect workers and advance their economic interests at the place of work through a decentralized system of representation and bargaining. CSOs are also concerned with workplace interests. They campaign to improve legal protections for people at work, to improve material conditions especially for vulnerable workers, counter discrimination and harassment and seek the flexibilization of employment practice to accommodate diverse needs. Again, however, their form of interest representation is distinctive. Most CSOs have a tenuous foothold at best within the workplace and are not in a position to provide the ongoing representation of workers' interests in the manner of trade unions. Instead, much of their activity is directed beyond the workplace and seeks to advance the labour market interests of constituents. This has already been alluded to. CSOs are major providers of work-related

training and education, often under contract to the state (Davies 2008), and also provide career advice and support and help with finding employment, through job boards, networking and partnerships with employers. In certain respects, they function as labor market intermediaries and in this regard are perhaps closer to the trade unionism of contingent workers than they are to the union mainstream (Heery et al. 2004).

CSOs also represent the non-work interests of their constituents. Only seven per cent of those surveyed reported that their organization was 'focused solely on work and employment issues'. For most CSOs representing the employment interests of constituents sits alongside representation in the fields of welfare, human rights, housing, education, criminal justice or the home. Thus, many disability organizations are just as concerned with the question of the conditionality of welfare benefits as they are with ensuring access to paid work, CSOs of carers are as concerned with the quality of child and eldercare as they are with flexible working, and lesbian and gay organizations give as much priority to discrimination in the provision of goods and services as they do to discrimination at work. As these examples illustrate the function of CSOs is often to connect workplace interests to those that arise in other institutional spheres. They straddle the boundary of the system of industrial relations and in so doing erode its character as a discrete and self-contained institutional sub-system.

Participation

In considering the involvement of workers in the activities of CSOs two questions are paramount. The first concerns democratic governance and the degree to which worker-constituents are also members of the organizations that promote their interests with rights to elect leaders, hold them to account and participate in the formulation of policy. The second concerns participation in the ongoing, operational activities of CSOs and the degree to which they rely upon the activism and collective organization of workers to perform the task of representation. For UK trade unions both forms of participation are strongly evident. While systems of union government vary they are invariably characterized by democratic participation and the constituencies of unions, those they represent, coincide to a very large degree with the dues-paying membership. It is to this membership that leadership of unions is formally accountable. Moreover, UK unions have a long tradition of workplace activism and rely heavily on shop stewards to recruit,

organize and service the membership. The basic unit of union government in most large UK unions is a workplace or enterprise-specific branch (Heery et al 2004).

Formal systems of governance among CSOs are much more variable than those of trade unions and so too are the opportunities they afford for workers to participate. From the survey of CSO websites we calculated that just over half of CSOs are membership organizations. This membership, however, may not coincide with the constituency of CSOs to any great degree. In many cases it includes supporters of the organization and the family members and carers of the young, disabled, or older people the CSOs exists to represent. It is also common for the membership of CSOs to consist solely or in part of other organizations. We estimated that 14 per cent of CSOs were umbrella bodies that brought together other CSOs in a particular campaigning or lobbying organization. Examples include The Age and Employment Network, the Equality and Diversity Forum and the Migrant Rights Network. In a further 12 per cent of CSOs there was a form of corporate membership operating alongside individual membership, in which other CSOs, civic organizations, employers and trade unions could affiliate to and support the organization. Reflecting this mixed pattern of membership, only a minority of CSOs relied upon a democratic system of governance. We estimated that about a quarter were controlled formally by their members, through mechanisms such as the election of leaders or the existence of a sovereign conference or assembly. There are CSOs which closely resemble trade unions in their governance arrangements, in that constituents are members and members govern the organization through a system of representative democracy. An example is the National Pensioners' Convention, the main organization of pensioners in Britain, which has close affiliations to the trade union movement. But in most cases CSOs depart from this pattern and in this regard are described accurately by Freeman (2005) as 'nonworker organizations'.

However, this assessment of CSOs needs qualifying in two ways. First, there was a trend to strengthen the representativeness of CSOs that was especially apparent amongst disability organizations. Among several of the latter there was a desire to shed their earlier status as charitable foundations acting on behalf of disabled people and to become organizations controlled by disabled people themselves, an expression of the disability movement. The Royal National Institute of Blind People (RNIB), for example, one of the oldest and most established of UK disability organizations, recreated itself as a

membership organization in 2002 with a governing Assembly partly elected by its membership and partly drawn from 'stakeholder' organizations. Other disability organizations have a requirement that a majority of trustees must be drawn from their constituency and seek to recruit disabled people to officer posts. Second, even in non-membership CSOs mechanisms often exist to consult constituents and develop policy in line with their needs and preferences. This can be done through market research. Thus, Stonewall has developed its employment programme on the basis of survey research of its own supporter basis and commissioned research into the workplace experiences of the wider gay community. Carers' UK consulted its membership on the government's carers' strategy through a survey, regional seminars and a national summit of 250 delegates. Other CSOs reported using focus groups and standing panels to help develop services and comment on policy proposals. Trade unions have also made extensive use of these forms of consultation in recent years (Heery & Kelly 1994) and the use of market research does not distinguish CSOs. For organizations lacking the membership-based systems of governance characteristic of trade unions, however, its relative importance in guiding policy and practice may be greater.

Table 2 presents data on the involvement of constituents in the ongoing representative work of CSOs. What is immediately apparent is that many CSOs catering to a client group emphasise self-help, the empowerment of individuals to resolve their own problems. This was particularly a feature of disability CSOs. Macmillan Cancer Support, for example, the main organization of cancer sufferers in the UK, conceives of its mission as helping those with cancer manage their condition, including negotiating leave and work arrangements with employers. Non-disability CSOs also articulated this kind of purpose. Citizens Advice, for instance, regards the information and advice it offers as a support for independent action by those using its service (Abbott 2004). Although many CSOs are servicing organizations, therefore, providing a direct service to worker-constituents, this is often conceived of in terms of empowerment, rather than action on behalf of a dependent and passive client group. In this specific sense there is widespread commitment to involving workers in their own representation.

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The table indicates, however, that reliance on volunteer activists is less common and in this regard CSOs differ from trade unions. Only one in ten report that training activists or relying upon them to represent or offer support to their peer group has 'high importance'. Within this minority there is sometimes a very strong commitment to volunteer activism. London Citizens is committed to the principle of citizen activism within local communities and seeks actively to develop community leaders, including those engaged in the living wage and union organizing campaigns (Holgate 2009). This commitment reflects its affiliation to the similarly, activist based Industrial Areas Foundation in the USA (Osterman 2006). Its orientation towards activism, however, is not shared by many other CSOs.

An even more striking difference with trade unions is the almost complete absence of attempts to develop workplace organization with only 3 per cent of CSOs reporting this is a major priority. Where there is an initiative of this kind it tends to take the form of the creation of identity or issue-based networks within organizations, typically with employer approval and support. Stonewall seeks to develop networks of this kind both to provide mutual support and mentoring and to create a representative structure that can enter a dialogue with managers and contribute to the development of gay-friendly employment policy (Colgan et al. 2007). Networks of this type have become an increasingly common feature of employment relations within the UK and other countries (Healy & Oikelome 2007; Scully & Segal 2002) but active attempts to promote their development seem to be confined to only a minority of CSOs.

Rather more common are attempts to develop networks and other forms of organization amongst constituents that are not confined to an employing enterprise. About a fifth of CSOs report that encouraging developments of this kind is of high importance and the same proportion report it is of moderate importance. In some cases CSOs have well-developed local branch structures, made up of supporters, members and constituents. Examples include Amnesty International UK, Arthritis Care, the Fawcett Society, and Carers UK. In others, there is a looser form of organization, a network that may coordinate campaigning activity but which also in many cases offers mentoring and support. As we have already noted, networks of this kind may help with job placement and career development and reflect the orientation of CSOs towards the labour market, rather than workplace interests of their constituents.

Employers

Central to the form of interest representation developed by trade unions is interaction with employers. Unions engage both with associations of employers and the managers of individual enterprises through collective bargaining and are involved extensively in individual representation, protecting the interests of members facing discipline, redundancy, discrimination, harassment and other workplace problems. Two other features of union interaction with employers are also immediately notable. First, the relationship is frequently adversarial, not so much because unions engage in open conflict with employers - strike rates are at an historical low in the United Kingdom (Lyddon 2009) - but because unions typically assume that the interests of workers and employers conflict to a very large degree and scrutinize, challenge and critique employer behaviour as a result. Second, unions are formally independent of employers – unlike the identity and issue-based networks mentioned above. To be sure, many unions receive indirect subsidy from employers through facilities agreements that provide time-off and other supports to lay union representatives (Willman, Morris & Aston 1993) but unions are financially independent, employ their own bureaucracy and allow no role for employers in their systems of governance.

Interaction with employers is not a feature of interest representation for many CSOs. Of those surveyed about 40 per cent reported no direct contact with employers, 45 per cent reported the reverse and the remainder were indefinite. When there is contact it frequently takes the form of employer support for CSOs. This is indicated by Table 3, which shows that about half of CSOs accept donations from employers while about a third operate a membership scheme or sell consultancy services to employers. In some cases CSOs have created separate membership organizations for employers. Age Concern (now Age UK) established the Employers Forum on Age, Carers UK set up Employers for Carers and Stonewall has created a Diversity Champions programme to which more than 550, mainly large UK employers have affiliated. The table indicates that a minority of CSOs decline funding from employers but the emphasis on formal independence, which is such a pronounced feature of trade union-employer relations, is not characteristic of many CSOs.

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The table also indicates why there is less emphasis on independence: the orientation of many CSOs to employers is based on an assumption of common interests. Thus, half report that they advance the 'business case' for the ethical treatment of workers and a slightly smaller percentage report that they work in partnership with employers to influence workforce management. Resort to the 'business case' to justify progressive management was recurrent in both interviews and in CSO documentation. Age Concern promotes its WorkWise programme, a training and job location service for older job seekers, "from an employers' angle...this is something that we feel can help you", Public Concern at Work argues that all parties to the employment relationship, employers, workers and consumers, can benefit if businesses introduce public interest disclosure procedures, and Chwarae Teg, a women's organization operating in Wales, sells its work-life balance initiative to employers on "how it can help them...saving money particularly around recruitment and retention". To help diffuse this message of common interests and recruit employers to their programs many CSOs also seek contact with employers' and management organizations. Macmillan Cancer Support, for instance, has run a joint campaign with the Chartered Institute of Personnel and Development, the organization of HR professionals in the UK, to encourage improvements in the employment retention rates of cancer sufferers.

While this orientation differentiates many CSOs from unions, it is important to qualify this judgement. There has been a pronounced trend amongst UK unions in recent years to conclude formal partnership agreements with employers that seek to develop common interests and encourage integrative bargaining (Bacon & Samuel 2009). The reasons for this development are partly the same as those that encourage CSOs to seek partnerships with employers and accentuate the business case. It reflects the power of employers and the need for other actors to win their support (Kelly 2004) and the role of the UK government in promoting a partnership orientation to industrial relations (McIlroy 2009).

It is also important to note that not all CSOs espouse partnership and that, even if they do, this does not preclude anti-business campaigning. Thus, a quarter of surveyed CSOs reported that they expose employer malpractice and 15 per cent acknowledged

that much of their publicity is critical of employers. Advocacy CSOs, seeking the strengthening of employment law, human rights organizations, CSOs concerned with development and international labor standards and health and safety organizations were particularly likely to adopt this stance. Amongst health and safety organizations, for instance, Families Against Corporate Killers (FACK), the Construction Safety Campaign, the Simon Jones Memorial Campaign and the London and Manchester Hazards Centres campaign vigorously against employer malpractice – FACK’s website refers to “criminal employers”. These are all organizations with strong links to the trade union movement, indeed to the militant wing of the latter, and may be regarded as ‘labor movement’ CSOs. The provenance of many other CSOs is very different, however, and this partly accounts for differences in orientation to employers. Public Concern at Work emanates from the consumer movement, while many disability organizations are long-established charitable foundations. The relations CSOs develop with employers reflect their point of origin and appear often to be path dependent.

Table 3 indicates that a quarter of CSOs have advised constituents to take individual cases against their employers. As we have noted, advice-giving and advocacy are the *raison d’être* of a proportion of CSOs and in handling individual cases their activity corresponds to that of trade unions. However, there is an important difference. Only six per cent of CSOs attach a high degree of importance to representing workers in the internal procedures of employers and 79 per cent report that this activity has no place within their form of representation. As we have also noted above, CSO representation is often displaced beyond the enterprise and this is frequently true of the protective function of CSOs. Many CSOs advise workers about their rights and offer information relating to workplace problems but representation, when it does occur, tends to be at the point when disputes enter the legal system. Partly because of this pattern, many CSOs report that they routinely refer workers with problems to trade unions. Lacking the workplace presence to afford representation within in-house procedures CSOs seek the assistance of an institution that does.

Where CSO relations with employers depart most sharply from those of trade unions is with regard to collective bargaining. CSOs do not strike collective agreements with employers or develop joint regulation. They often seek to shape employer practice but this tends to be through the development of what is known as ‘civil regulation’

(Hutter & O'Mahoney 2004) or 'non-governmental regulation' (O'Rourke 2003). CSOs unilaterally formulate standards or codes of practice for employers that they seek to have adopted through persuasion, advancing the business case, or through an implicit threat that failure to comply will expose employers to the risk of legal action. Trade unions may also act in this way. Unions of freelance workers, for instance, issue draft contracts, codes and fee sheets (Heery et al. 2004) but for the movement as a whole unilateral regulation of the employment relationship is now a marginal activity. For many CSOs it is central and seems to be growing in importance.

The component elements of civil regulation of the employment relationship by CSOs are listed in Table 3. They comprise offering training and advice to employers, issuing standards, reinforcing these standards through surveys and benchmarking and operating an award scheme to recognise good practice. The table also indicates that participation in these systems of voluntary regulation is often initiated by employers. Clearly not all CSOs dealing with employers engage in civil regulation and benchmarking and award schemes are confined to a small minority. Nevertheless, for CSOs that are involved it can be a high priority and become quite elaborate. Stonewall's Diversity Champions program, for instance, is based on a series of employment standards and practices, including workforce monitoring and the development of a lesbian and gay network. These are implemented through ongoing consultancy that involves repeat visits to the employer, monitored through an annual benchmarking survey and supported through an award scheme that is reported in the business and national press. Stonewall has created a specialist department to manage its workplace activities and is distinctive in terms of its level of investment and the scale of its program. Other CSOs though have developed similar initiatives (e.g. Age UK, Andrea Adams Trust, Carers UK, Chwarae Teg, MacMillan Cancer Support, Migrant Workers North West, Public Concern at Work, Royal Society for the Prevention of Accidents) and have often received state funding to diffuse good practice within the business community. The development of unilateral, civil regulation of the employment relationship is one of the most distinctive features of CSO interaction with employers and of their form of interest representation per se.

The State

Despite the tradition of voluntarism in UK industrial relations, the fortunes and behavior of UK trade unions have been marked powerfully by the influence of the state (Howell 2005). The state and the wider political and legal system, moreover, remains a primary terrain upon which unions represent workers' interests. This has been done classically through affiliation to the Labour Party and the creation of designated political funds that are used for electioneering, campaigning and to sponsor Members of Parliament. The relationship between Labour and the unions has often been fraught in recent years but it persists and has continued to perform its traditional function, in which union backing for the Party has yielded favorable collective labour law, most notably the creation of a statutory recognition procedure in 1999 (Ludlum & Taylor 2003). In a reversal of their historic position, UK unions have also used their links with Labour, as well as influence at European level, to press for the strengthening of individual employment law. They are now one of the primary institutions in UK politics lobbying for the statutory regulation of the employment relationship and *inter alia* their influence has helped secure the introduction of minimum wage and working time legislation and new rights for contingent workers and carers (Hamann & Kelly 2003). Much of this influence has been exerted through union membership of tripartite commissions, like the Low Pay Commission, membership of task forces examining particular policy issues, such as flexible working for carers and vulnerable work, and through negotiation with the peak organization of employers brokered by government (McIlroy 2009). There is no fully developed 'social pact' in the UK between unions and the state and union influence remains marginal over much of public policy but under New Labour trade unions reacquired an institutional presence within the policy making arena (Hamann & Kelly 2003). It remains to be seen whether this presence will survive the May 2010 election of a Conservative-Liberal Democrat coalition government.

Involvement in the creation of new legislation has been accompanied by attempts to give effect to new rights at work. Unions play an important role in ensuring laws are translated into policy and practice within employing organizations (Brown et al. 2000) and offer representation to workers seeking to enforce their rights. The latter includes the sponsorship of test cases to clarify and extend the law, which in turn provides leverage to unions in dealing with employers. Collective bargaining in the UK often uses

statute and case law as a reference point, with precedents set at court being diffused across the economy through collective agreements (Heery & Conley 2007). Unions have also been used by the state in recent years to implement aspects of labour market policy. The Labour government established a number of funds upon which unions could draw to promote workplace learning, partnership with employers and their own modernization (McIlroy 2009). It is uncertain if these programmes will survive Labour's fall from office (Williams & Scott 2010) but they represent the recruitment of unions as subaltern partners in the 'decentred' state (Marinetti 2007).

How does this pattern of involvement in political and legal processes compare with that of CSOs? The first thing to note is that the state is a central focus of activity for most CSOs with 80 per cent reporting that influencing government policy is a major priority, a much higher percentage than report attempts to influence employer policy (see Table 4). Unlike many trade unions, however, the majority of CSOs espouse a formal position of political neutrality and are not associated with the Labour Party, reflecting the fact that most have charitable status.

INSERT TABLE 4 HERE

In other respects the activities of CSOs at state level correspond closely to those of trade unions. Like unions they function as pressure groups within a pluralist political system seeking to initiate or deflect changes in employment law and associated public policy, albeit without the union preoccupation with collective law. Indeed, CSOs are often part of the same policy networks as unions, working jointly with them to review and influence government policy. Aspects of this policy-shaping role are revealed in Table 4, which shows that a majority of CSOs respond to government consultation and use research evidence, elected representatives and ongoing contact with ministries as instruments to acquire influence. Moreover, about a third claims to have helped draft employment legislation and nearly two thirds report that they are represented on government bodies. In the manner of unions, CSOs sit on permanent commissions that deal with work and employment issues (e.g. the Equality and Human Rights Commission), participate in inquiries and task groups (e.g. on childcare and maternity and paternity strategy) and are often regarded as trusted and authorised representatives, which in some cases has led to the secondment of their staff to work alongside civil

servants. A majority of CSOs report exposing failings of public policy that affect working people and a substantial minority campaign actively against government, including in some cases resort to direct action. On several occasions, however, CSO interviewees described their role vis-à-vis government as that of a 'critical friend', seeking constructive reform. In the main, organizations of this type are 'insiders' that rely upon expertise, representativeness and legitimacy to exert political influence. In this, their role corresponds closely to that of the TUC under New Labour (McIlroy 2000).

In addition to formulating policy, CSOs are involved in its implementation and here again there are parallels with trade unionism. CSOs play an important part in 'mediating' employment law; that is they seek to ensure that statutory rights are given genuine effect (Dickens 1988). The provision of information and advice to individual workers about their rights is one form of mediation, while representing workers before employment tribunals is another. The latter can include the sponsorship of test cases – just under one third of CSOs report using the law to challenge government policy. Perhaps the most striking recent example has been Age Concern's challenge to mandatory retirement, which was taken to the European Court and has stimulated a review of law in this area. In the UK's now highly juridified labour market, trade unions effectively use legal rights as levers or platforms, seeking to build on statutory entitlements through collective bargaining. CSO mediation of employment law has a similar aspect though in their case law is used as a lever to develop civil regulation. The codes of practice and other advice that many CSOs seek to have adopted by employers often go beyond legal minima but nevertheless rest on the platform of law. Stonewall's Diversity Champions programme, for instance, has successfully diffused across UK business on the back of a European directive and subsequent UK government regulations that outlaw discrimination on the basis of sexual orientation.

Stonewall, Age Concern and other CSOs have on occasion been contracted by the state to help educate both workers and their employers about their rights under newly passed legislation. They have worked as sub-contractors to implement public policy. A small percentage of CSOs have a deliberate policy of declining state funding but many are in receipt of grants from UK government ministries and agencies, national governments in Scotland and Wales and the European Union. Examples include advice and training for small and medium-sized enterprises on diversity management and work-

life balance run by Chwarae Teg and funded by the Welsh Assembly Government, a web-based information and advisory service on employment operated by Arthritis Care and funded by the UK Department for Work and Pensions, and a series of projects aimed at boosting the employability of older job seekers and helping employers develop effective retention strategies developed by Age Concern with European funding under the EQUAL programme. The provision of employment training and job placement services to those seeking work has been an area, in which sub-contracting has been particularly marked and which has led to tension with trade unions over the transfer of work from the public to the voluntary sector (Davies 2008). But, as we have seen, trade unions have also been in receipt of substantial state funds to deliver services in the adjacent field of workplace learning and this is another element of CSO activity that corresponds to the contemporary trade union role. Particularly under the Labour government both institutions were drawn into a 'decentred' form of governance, in which non-state actors assume responsibility for policy making and implementation. The recent change of government may lead to the re-adoption of the policy of 'labour exclusion' practised by the Thatcher administration of the 1980s (Crouch 1986) but the commitment of the new administration to expanding the role of the third sector means that this is unlikely to be the fate of CSOs. Although there has been a pronounced similarity in union and CSO representation of worker interests at the level of the state, there may be divergence in the future.

Conclusion

The purpose of this article has been to sketch the form of representation offered to workers by civil society organizations, a significant 'new actor' in the industrial relations of the United Kingdom and many other countries. It has examined the who, what and how of CSO representation at the same time drawing a comparison with trade unions, traditionally the dominant institution of worker voice. Table 5 summarizes the findings, setting out the morphology of CSO representation and accentuating the contrast with trade unions. Compared with the latter, CSOs define their constituencies in terms of political (citizenship) or social identities and prioritize individual interests and the flexibilization of job rules at the expense of the 'common rule'. They also prioritize labour market interests and link interests within employment to a wider representation agenda that encompasses the domestic sphere, human rights and welfare. Other

distinctive attributes include the emphasis on unilateral civil regulation and partnership working in their relations with employers and the pattern of pressure group activity, with its focus on individual employment law, seen in their relations with the state.

INSERT TABLE 5 HERE

Emphasis on the distinctiveness of CSO representation and its difference to trade unionism has been a recurrent feature of academic discussion (e.g. Piore and Safford 2006). It is often linked with two other substantive claims. The first is that the increasing prominence of non-union representation and its distinctive form arise from deep-seated shifts in the nature of industrial society. Thus, Piore and Safford link the emergence of CSOs as significant actors to the juridification of the employment relationship, which in turn is rooted in the new social movements of gender, race, age and sexuality. The second is that trade unions are less well-suited to this new context and that their primary method of interest representation through collective bargaining will therefore increasingly yield to the methods deployed by CSOs. Identification of a distinctive form of interest representation therefore is connected to an argument about union replacement; CSOs, this argument goes, are the wave of the future while unions are a relic of the past.

One problem with this argument is that, although CSOs are distinctive, their pattern of interest representation shares many characteristics with that provided by unions. In particular, both have been shaped by forces of social change emanating from within the working population and by changes in forms of state intervention emanating from above. With regard to the former it is notable that while the feminization of the workforce and the increasing assertiveness of minority groups have led to the formation of CSOs that engage with work and employment they have also powerfully influenced trade unionism. A concern with diversity, the flexibilization of employment rules and the need to link workplace to non-work interests, which are characteristic of much representation through CSOs are trends just as apparent within trade unions. The juridification of the employment relationship, and the stress on partnership and sub-contracting within decentred forms of governance have also shaped both types of institution. Once the classic repositories of voluntarism, trade unions now work in coalition with CSOs to create individual employment law and both now routinely use the

law to influence the behaviour of employers. Moreover, under the New Labour government of 1997-2010 both CSOs and unions were drawn into a consultative relationship with the state over policy development and were used as hired instruments of policy implementation.

The implication of this shared experience is that trade unions may not yield to alternative and better adapted forms of interest representation. On the contrary, there is perhaps room for both in a multiform system of worker representation, in which trade unions and CSOs perform different but frequently overlapping roles and work together in coalition.

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Table 1 CSO constituencies

Categories of worker CSOs try to support and represent (percentages)

<i>Working people in general</i>	36		
<i>Identity groups</i>		<i>Vulnerable workers</i>	
Disabled workers	31	Migrants & asylum seekers	28
Women workers	28	Workers at risk from abuse exploitation or crime	24
Minority ethnic workers	24	Unemployed or incapacitated workers	22
Older workers	20	Homeworkers	16
Young workers	17	Informal workers	15
LGBT workers	16	Domestic workers	9
Workers of faith/belief	14		
<i>Carers</i>		<i>Workplace identities</i>	
Working carers (of adults)	28	Part-time workers	19
Working parents	25	Temporary workers	17
		Public sector workers	13
		Workers in particular industries	12
		Workers in particular occupations	12
		Trade unionists	9
		Sub-contractors	8

N = 135-138.

Table 2 Participation amongst workers

Participation & engagement	Degree of importance (Percentage of CSOs)			
	<i>High</i>	<i>Moderate</i>	<i>Low</i>	<i>None</i>
Encouraging self-help among the group(s) of workers you represent	27	17	19	37
Training people who are clients or members to work as volunteer activists	10	23	12	55
Encouraging activists amongst your client-base to advise or represent their peers	11	24	17	48
Developing a network or organization of volunteer activists amongst your membership base or client-group	19	19	18	44
Developing organization amongst your membership base or client group <i>within individual employing organizations; e.g. a network of activists in a large firm</i>	3	6	18	73

N=129-130

Table 3 Relations with employers

Statement	Agree	Neither	Disagree
<i>Independence</i>		<i>Percentages</i>	
Employers can affiliate to and support my organization	34	17	49
We sell consultancy services to employers	30	13	57
We actively seek donations and sponsorship from business organizations	49	16	35
We refuse to accept donations from individual employers	11	23	66
<i>Orientation</i>			
It is the policy of my organization to work in partnership with employers and influence the way in which they manage the workforce	43	28	29
My organization has close relations with organizations of employers; e.g. CBI, Business in the Community, Opportunity Now	23	17	61
We argue the 'business case'; that ethical management of people is good for business performance	52	20	29
We expose malpractice by individual employers in our campaigning work	24	18	59
Much of our publicity and/or research material is critical of employers	15	23	63
<i>Representation</i>			
We have initiated or advised people to take employment cases against employers	25	13	62
<i>Regulation</i>			
We offer training and advice to employers or employers' organizations	48	14	38
We have produced standards of good management practice (codes or model procedures) that we would like to see employers adopt in managing their employees	41	17	41
We have an award scheme that recognises good practice by	12	10	78

employers

We provide a benchmarking service to employers, regularly measuring their performance against standards of good practice

10

13

62

Employers contact us seeking advice on how to improve their management of people at work

38

22

39

N=130-140

Table 4 Involvement in political, governmental and legal processes

Statement	Agree	Neither	Disagree
	<i>Percentages</i>		
My organization has little contact with government or government agencies	5	4	91
We have a formal position of political neutrality	63	21	16
Influencing government policy is a major priority for my organization	79	10	11
We undertake or commission research in order to influence public policy	65	12	23
We make use of elected representatives to put forward our views on employment issues	50	23	27
We have a close relationship with civil servants in relevant branches of government	73	11	16
We are represented on government commissions, inquiries or consultative bodies	61	14	25
Responding to government consultation on law and policy is an important task for us	77	10	13
We have helped draft legislation that regulates aspects of work and employment	34	17	49
We act as a contractor for government agencies, providing services or implementing policy for them	38	12	50
We campaign actively against the policies of the UK government	27	38	35
We have a policy of not seeking funding from government or its agencies	10	12	78
We seek to expose failures of public policy that affect working people	58	16	26
We are prepared to use the law (e.g. judicial review) to challenge government policy	29	29	42
We use direct action to challenge government policy where it is harmful to working people	15	18	77
N = 135-7			

Table 5 Interest representation through trade unions and CSOs

	Trade Unions	CSOs
<i>Constituency</i>	Economic identities (class, occupation & industry); focus on core workers	Political (citizenship) and social identities; focus on marginal workers
<i>Interests</i>	Collective interests pursued through common rule; focus on workplace interests	Individual & diverse interests pursued through flexibilization; focus on labour market interests
<i>Relationship to workers</i>	Worker organizations with formal democracy; workplace organization	Non-worker organizations with market research & empowerment; labour market organization
<i>Relationship to employers</i>	Adversarial orientation; collective bargaining	Partnership orientation; civil regulation
<i>Relationship to the state</i>	Party politics; reform of collective employment law	Pressure-group politics; reform of individual employment law