PUTTING PARTNERSHIP INTO PRACTICE IN BRITAIN

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Abstract

The paper reviews industrial relations developments in Britain during 1999 by assessing how New Labour's policy commitment to encouraging 'partnership' is developing in practice. After a discussion of the Employment Relations Act it considers the wider influence of European legislation. It then describes how partnership approaches have been developing in trade union policy and industrial practice. This leads to an analysis of the operation of two explicit 'social partnership' institutions, ACAS and the Low Pay Commission. The paper ends with a consideration of the developing arguments at the ILO and WTO over international labour standards.

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1. Introduction

After the rhetoric and hopes of New Labour's honeymoon, it became clearer during 1999 how British industrial relations might develop in the longer term. In his review in the British Journal of Industrial Relations of 1998, Roger Undy discussed the 'industrial relations settlement' that was being proposed by the new government (Undy, 1999). He explored how New Labour's 'Third Way' approaches might translate into industrial relations institutions and, in particular, into those involving some form of 'social partnership' approach. Nineteen ninety nine, described by the government itself as its 'year of delivery', was one in which the true nature of its commitment and capacity to deliver began to emerge. At the same time the influence of Europe continued to grow, and arguments at the International Labour Organisation in Geneva and World Trade Organisation in Seattle made clear the extent to which labour regulation is increasingly transcending national frontiers.

This article initially follows from Undy's discussion by describing the implementation of New Labour's policies during 1999. It then looks a little closer at how notions of partnership are developing in practice. Partnership is a term that has come to be loosely applied to a broad range of collective bargaining relationships which place emphasis mutual co-operation[1]. It is beyond the scope of this paper to explore the details of the many partnership arrangements at workplace level that were reported during the year. The article can, however, say more about social partnership in the European sense of relationships between the summit employer and trade union bodies. It does this by discussing the experience of two social partnership institutions: the Advisory, Conciliation and Arbitration Service (ACAS) which celebrated its 25th birthday, and the relatively new Low Pay Commission (LPC) whose National Minimum Wage was implemented during the year. The article

concludes with a discussion of the expanding international debate about labour standards and their regulation, and speculates that ever-widening markets are forcing a more consensual approach on the shrinking realm of British collective bargaining.

2. Economic and political background

The economic circumstances of 1999 were, by any standards, exceptionally benign for Britain. The adverse effects of the economic crisis in the East Asia and elsewhere did not materialise and, by theyear end, GDP growth had risen to an annual rate of two per cent and was continuing to rise. Average nominal earnings (excluding bonus) rose by almost four per cent. Both inflation and unemployment fell to lower levels than for over twenty years. Inflation (excluding mortgage interest payments) fell to an annual rate of below two per cent by the end of the year. Unemployment levels (under the claimant count measure) fell over the course of the year to as low as four per cent (ONS, 2000). A substantial contribution to the reduced unemployment was made by the New Deal policy as it brought many long term unemployed back into work. The introduction of the Working Family Tax Credit as part of a wholesale reform of the tax and benefit system is likely to contribute further to this process[2]. So changed was the labour and product market context even in terms of recent history that by the end of the year authorities within the Bank of England's Monetary Policy Committee were arguing that the economists' vexed relationship between unemployment and inflation, the NAIRU, had undergone a substantial, enduring, and employment-friendly shift (Wadhwani, 1999).

The politically most significant development of the year was the establishment of separate elected bodies for Scotland, Wales and Northern Ireland. Although this has for the time being no direct or immediate implications for employment law and practices, this may change. Attitudes to trade unionism differ between the four components

of the United Kingdom. Union density is substantially higher in Scotland, Wales and Northern Ireland than in England; the respective densities in 1996 were estimated as 36 per cent, 41 per cent and 41 per cent as against the English 30 per cent (ONS, 1997). Unions are playing a more important political role outside England, not least in the reconciliation process in Northern Ireland. Devolution of government may encourage more positive local policies towards collectivism in employment relations.

3. Legislative change

Back in Westminster, 1998 had ended with the abrupt departure of Peter Mandelson as the Secretary of State at the Department of Trade and Industry (DTI) and his replacement by Stephen Byers. Although successive New Labour Secretaries of State have had no industrial relations experience, it was important for the implementation of policy that the junior minister directly responsible for industrial relations issues, Ian McCartney, and also the man who replaced him in mid-year, Alan Johnson, had come from strong trade union backgrounds.

The first task of the year for the employment ministers was to distil the extended consultation over the *Fairness at Work* White Paper into what was titled the Employment Relations Bill, embodying the framework of law behind the government's 'industrial relations settlement'. The origins of this, and the vigorous bargaining over its contents, are described in Undy's review (1999: 326-331). The Employment Relations Act received Royal Assent in July 1999 after passing through Parliament with relatively small alterations but with a number of key details still remaining to be clarified in regulations and guidance during 2000.

In broad terms the Act offered, first, a considerable extension of individual employment rights and, second, a number of measures to facilitate trade union organisation, including a procedure to achieve

recognition in the face of employer opposition. A number of new individual rights were concerned with the extension of 'family friendly' policies whereby employees were to be protected from dismissal if they were obliged to take unpaid time off work for childbirth and 'domestic emergencies'. The period of basic maternity leave was to be increased. A right to parental leave (although unpaid) was introduced for the first time. Part-time workers were to have the right to be treated equally with similarly placed full-time workers in the same employment. The amount of compensation payable to someone unfairly dismissed was to have its limit raised from £12,000 to £50,000, a far more serious penalty for an employer than hitherto, and was to be index-linked to retain its real value. Employees on fixed-term contracts were to have normal entitlement to unfair dismissal protections, thus outlawing the sort of waiver clauses common in the past. With relatively little alteration these rights had come into force by the end of the year. In a further change, not made as part of the Act, the qualifying period for general unfair dismissal protection was reduced from two years to one.

The notable absence from New Labour's 'settlement' was any weakening of the constraints on industrial action that had been introduced by previous Conservative governments. But a combination of measures promised to make things easier for trade union organisation. Employer blacklists of union activists were to be banned, as was the dismissal of union activists and those involved in the first two months of lawful strike action. Discrimination against union members by giving preferable terms and conditions to non-unionists, which was a growing practice in the 1990s, was to be outlawed. Chances of victimisation were to be reduced by ensuring that unions were no longer to be required to give employers the names of those members who balloted over industrial action. Indeed, strike ballot procedures were to be simplified generally. The requirement for a periodic ballot for the deduction of union dues from the pay roll ('check-off') was to be abolished altogether. The Act also provided for the abolition of the office of the Commissioner who

combined responsibility for both the Rights of Trade Union Members (CRTUM), and for Protection Against Unlawful Industrial Action (CPAUIA), roles which had offered a form of 'legal aid' to individuals considering legal action against trade unions. In practice these powers had barely been used and the Commissioner's office had languished for a decade as an expensive irrelevance. In future any complaints would be dealt with by the Certification Officer. A fund was to be established to facilitate joint training programmes intended to facilitate partnership or more co-operative relationships between employers and unions.

The part of the Bill which attracted most attention was concerned with statutory trade union recognition. This set out a detailed procedure, applying to firms employing more than 20 workers, which started with ACAS conciliation and continued on to a ballot under the guidance of a reconstituted Central Arbitration Committee (CAC) (see Wood and Godard, 1999 for details). Some elements of this had come from the talks between the Confederation of British Industry (CBI) and the Trades Union Congress (TUC) that the Prime Minister had initiated in 1997, but it had been left to the government to decide that the principal threshold should be that a majority of those voting, and at least 40 per cent of those eligible to vote in the bargaining unit, should vote in favour of recognition. An alternative threshold was proof that 50 per cent of workers were already trade union members. The CAC was to have considerable powers, first and foremost in deciding what bargaining units would be appropriate. On this the legislation provided the important guidance that they should be, *inter alia*, 'compatible with effective management' and 'avoiding small fragmented bargaining units within an undertaking'.

The proposed procedure contained a number of legal conundrums, of which perhaps the greatest was its answer to the problem of what would happen if an employer refused to abide by a legal order to recognise a union. Instead of choosing the option, for which there was precedent in

the legislation of the 1970s, of terms and conditions being imposed following an industrial arbitration, it opted for the far more legalistic route of obliging ordinary courts to require and supervise 'specific performance', a route of direct enforcement which may lead to much legal controversy (McCarthy, 1999; Hepple, 1999).

As the year ended there were still a number of aspects of the proposed procedure that were unresolved, awaiting rulings and guidance from the CAC and ACAS. Still unresolved but of considerable significance to how the CAC would develop its new role was whether its new Chair would be selected from a conventional legal background or from one in industrial arbitration. But despite the considerable uncertainty as to what the procedures would finally turn out to be, throughout 1999 there were increasing efforts by employers and unions to anticipate them. Many employers who had resisted or rejected trade unions began to review their policy, often with ACAS advice, and considered granting recognition rights in advance of any employee pressure and, furthermore, considered doing so in favour of a union of the employer's own choosing (author's field notes). In the first ten months of 1999 the TUC reported 74 new recognition agreements, covering over 21,000 workers, with more than half arising from a direct approach by the employer (Financial Times (FT), 7.1.00). This constituted more than a doubling in the number of agreements over a comparable period in 1998, which had itself seen a substantial increase over the previous year (FT, 9.2.99).

A surer basis than the statutory recognition procedure for the retention and expansion of membership for trade unions may turn out to be the Act's provision whereby individual employees would have a right to be accompanied by a 'fellow worker or trade union representative' in certain disciplinary and grievance hearings. This 'right to representation' applies irrespective of the size of the firm and will have far more significance in the myriad of small firms which are outside the

recognition procedures and where union membership is generally very low; in 1998 only 8 per cent of employees were unionised in private sector workplaces of fewer than 25 employees (Bland, 1999). The delicate task of setting out the procedural guidelines for the application of this right was to be left to ACAS, as will be discussed later.

4. Increasing European influence

Long before Britain signed up to the Social Chapter in 1997, membership of the European Union (EU) had encouraged two tendencies which were already in evidence in British industrial relations. One was the steady growth in the range of statutory individual rights for employees. The other was the development of the trade unions' role as facilitators of co-operative collective relationships, often through consultative arrangements. Both developments reflect in part the declining ability of trade unions to mobilise effective collective sanctions. While, on the one hand, unions were now able to deliver less to their members by traditional collective bargaining, they had also, on the other hand, become less of a threat to employers and thereby more attractive as their employees' authoritative representatives (Brown*et al*, 1999). Both tendencies were much in evidence in 1999.

Many of the new individual rights offered by the Employment Relations Act reflected the pressure of EU directives - the parental leave rights and the extension of full-time employees' rights to comparable part-time employees. Of all individual statutory minima it was, however, the regulations implementing the Working Time Directive, although introduced back in 1998, which continued to create most dismay among employers. The common view was that the regulations had been introduced with undue complexity, and with inadequate notice and consultation. Many firms had responded by organising extensive individual opt-outs for their employees, often with trade union agreement (author's field notes). The government's belated response to

business criticism was to table amendments extending the range of those excluded from the average 48-hour week upper limit for working hours, and removing the need for detailed records of hours worked by those individual employees who had opted out. Aware of the vulnerability of many employees to intimidation on this matter, the TUC opposed it strongly (FT, 26.8.99).

In one significant respect the government resisted the tide of European consultative rights. Although the European Works Council Directive was fully implemented in January 2000, the Prime Minister continued to take the lead among EU member states in opposing a draft European Commission proposal calling for the introduction of statutory consultative arrangements at national level in all companies employing 50 or more workers. The TUC, believing there to be far-reaching and beneficial implications of such rights for trade unionism, committed itself to trying to change the government's position should it win a second term in office (FT, 2.3.99; 29.10.99).

The role of the EU in encouraging co-operation between employers and trade unions at the highest level was demonstrated early in 1999 by an agreement between UNICE, the European employers' federation, and the European Trade Union Confederation (ETUC) under the EU's 'social dialogue' arrangements. These provide for discussions between the 'summit' organisations of social partners which, if agreement is reached, then set the scene for national governments to introduce appropriate legislation in due course. This most recent agreement proposed legal protection for workers on fixed term contracts against discrimination on matters such as working hours, holidays and company pensions. Later came a reminder that such broad-brushed 'social dialogue' agreements leave important detail for national negotiation. As the year ended the drafting of the regulations for the implementation of both the previous such EU agreements involved the government in controversy with both CBI and TUC. The TUC opposed the suggestion that part-time work

regulations should have a voluntary rather than statutory basis. The CBI opposed what it considered to be the excessive detail of regulations on parental leave (FT, 17.11.99; 26.11.99; 22.11.99).

5. Partnership at the workplace

In 1997 the TUC had published *Partners for Progress - Next Steps for the New Unionism* in which it argued that trade unions had an essential role in helping Britain meet its economic challenges. It was couched primarily in terms of national policy on training, jobs, investment and Europe. In May 1999 it followed this up with *Partners for Progress - New Unionism at the Workplace* which advocated industrial partnership at the level of the individual enterprise. In his address to the conference at which the document was launched, the Prime Minister declared that 'I see trade unions as a force for good, an essential part of our democracy, but as more than that, potentially, as a force for economic success. They are part of the solution to achieving business success and not an obstacle to it' (transcript, 24.5.99). The warmth of his support for 'workplace partnerships' between employers and unions marked a clear shift from the guarded, arms-length attitude that New Labour appeared to have adopted towards the union movement since its election, a shift reciprocated when he was warmly received for his address to the annual Trades Union Congress at Brighton three months later (FT, 15.9.99).

New Unionism at the Workplace was an important statement which defined in very practical terms what the TUC meant by partnership at the workplace, and illustrated this with ample case studies of partnership arrangements in operation. Six underlying principles of partnership were spelled out[3]. First, there should be a shared commitment to the business goals of the organisation. Second, there should be a clear recognition that there might be quite legitimate differences of interest and priorities between the partners, differences which needed to be listened to, respected, and represented. Third, that measures to ensure flexibility of

employment must not be at the expense of employees' security, which should be protected by such measures as ensuring the transferability of skills and qualifications. Fourth, partnership arrangements must improve opportunities for the personal development of employees. Fifth, they must be based upon open and well-informed consultation, involving genuine dialogue. Sixth and finally, effective partnerships will seek to 'add value' by raising the level of employee motivation.

This was a very deliberate attempt to signal and to promote a new role for trade unions. As John Monks, the TUC General Secretary, put it when introducing the policy: 'The agenda is to improve both organisational performance and the quality of working life for union members. Collective bargaining yes - but matched by a commitment to joint problem solving across an agenda of training, skills and career development' (transcript, 24.5.99). It was notable that the CBI was closely, if informally, associated with this initiative, with the Director General, Adair Turner speaking at its launch. Despite publicity attracted by the CBI President's hostile comments about trade unions and about partnership (FT, 24.6.99), there was no evidence of any change in CBI policy. The Director-General maintained a positive working relationship with the TUC and, on his resignation at the end of the year, was replaced by Digby Jones, a West Midlands businessman and CBI leader with a legal background and a reputation for pragmatism with regard to trade unions. Social partnership, in the European sense of collaboration between employer and union national organisations, appeared to be firmly based.

The TUC's embracing of partnership was part of a broader strategy through which it sought to regain the initiative in building relationships with employers. Although there was evidence that, for the first time in 18 years, trade union membership had ceased to fall, the TUC had been obliged to trim its costs through a ten per cent reduction in its own staff (FT, 4.5.99). Despite this, the TUC invested in a second year of its

Organising Academy, whose first graduates were already having a positive impact on several major unions' recruitment activities (author's field notes).

Uncomfortably aware that the prospect of statutory recognition procedures was already provoking damaging inter-union disputes, the TUC leadership launched a ten-year programme whereby it would try to orchestrate substantial restructuring based on fewer sector-based unions and a speeding up of union mergers. In aiming for fewer unions with more rational coverage, one long-term objective was single unions covering single industries, possible cases being public services, education, transport, private services, and manufacturing. The merger resulting in the finance industry trade union UNIFI during the year was very much in this spirit. It was becoming increasingly evident that the TUC's own internal dispute machinery was under strain, often being perceived as trying to defend an irrational structure against the democratically expressed wishes of union members (FT, 18.3.99). Remedies suggested included a more independent appeals body and more use of financial compensation as a means of settling inter-union differences (FT, 11.9.99).

Meanwhile, at the level of individual firms, the announcement of partnership deals of one sort or another became almost a weekly occurrence. All major unions were involved in them, although their content and emphasis appeared to vary substantially. The AEEU attracted most publicity with deals emphasising high productivity, flexible work reorganisation, employment security, compulsory arbitration, and consultation (FT, 21.5.99). TheGMB's approach to such deals placed special emphasis upon the replacing of dead-end jobs with work that is interesting and more fulfilling, as a means of winning employee commitment (FT, 14.6.99). The TGWU was a party to, among others, a radical partnership deal in the nuclear industry and ground-breaking agreement in the generally hostile North Sea oil and gas fields

(FT, 12.8.99; 13.9.99). A possible taste of things to come was what was called a partnership agreement for Millennium Dome staff with both the TGWU and the GMB, offering joint membership in a combined union with a single contribution rate (FT, 11.6.99). A significant straw in the wind was UNISON's signing of a partnership agreement with a privatised utility company in the North West which been especially truculent in derecognising it less than a decade earlier (FT, 7.11.99).

A more co-operative and less confrontational relationship between employers and unions is, as has already been observed, in part a symptom of a weakened union movement. It is thus of considerable significance that this talk of workplace partnership took place against a background of unprecedented industrial peace. The number of labour disputes, which in 1998 had been the lowest since records began over a hundred years ago, was likely to be at least as low over the course of 1999 (ONS, 2000). But there were still cases of effective industrial action, and three disputes during the year deserve particular note. First, the government's proposal to introduce performance-related pay increases for teachers had the rare effect of almost uniting the various teachers' unions in opposition. After a summer of strike threats and discussions, an acceptable compromise emerged that was perceived to be more sensitive to the individual circumstances of teachers, an outcome that suggested that collective bargaining of a sort continued. Second, at a time of remarkably rapid expansion of call centres as an employment sector, the telecommunications company BT experienced a one-day strike at its 37 centres in protest about working conditions. Shortly afterwards the Health and Safety Executive announced its first full investigation into the psychological and physical risks associated with call centres. Third, there was a reminder of the latent problem of racism. As a result of bitter work disruptions over allegations of racial harassment at its Dagenham plant, the company president of the Ford Motor Company came over specially from America and negotiated a new agreement with union leaders on anti-discrimination measures.

6. The survival of partnership at ACAS

The celebration of its 25th Anniversary by ACAS during the course on the year was a tribute to the tenacity of an organisation whose operation has always been critically dependent upon joint problem-solving by employers and trade unions. Its original terms of reference had specified that one of its functions was 'the improvement and extension of collective bargaining' and, although it lost this formal duty in 1993, for much of the period until then it operated under a government very publicly committed to placing constraints on collective bargaining. Such was the suspicion of 'corporatism' under the Conservative governments after 1979 that other bodies with CBI and TUC representation built into them, such as the Manpower Services Commission and the National Economic Development Council, were abolished. The Anniversary offers a good opportunity to ask why ACAS survived, and how its social partnership operates.

Part of the secret of ACAS's survival is simple financial arithmetic. ACAS conciliation probably reduces by over a half the number of employment tribunal cases going on to hearings. Since a tribunal hearing costs about four times more than a conciliation, so long as hearings are provided at state expense, the total money saved by clearing up cases before they get as far as hearings more than matches the entire annual budget of ACAS. But, while this may be sufficient from a Treasury point of view, it does not explain why ACAS has retained strong support among practitioners throughout a period when governments have been very hostile to collective bargaining. Here its impartiality is crucial. Whether conciliating, arbitrating or offering advice, the third party in industrial relations disputes, where differences of interest are to the fore, is only effective if it is seen to be disinterested. The brokers will only be perceived to be honest if they are clearly not dependent financially on

anyone, including government, who might benefit directly from the settlement being sought.

Constitutionally ACAS is publicly funded, and each year bargains over its budget through the DTI, but it is explicitly not subject to ministerial direction. Instead it is run by a tripartite Council of eleven plus the Chair. There are four employer and four worker members, three of each of whom are appointed following consultation with, respectively, the CBI and TUC, and there are three independents with backgrounds in an appropriate expertise. All posts are now subject to open competition for fixed periods in line with the Nolan Committee's recommendations. Throughout its history Council members have included some of the nationally most influential employers and union general secretaries as well as senior officials of the TUC and CBI.

Council members visit regional offices and receive reports from one or other regional directors at monthly Council meetings, in order to keep in touch with the issues facing the staff of around 700 who carry out the conciliation and advisory work across the country. In addition to the effective running of the Service itself, Council meetings are concerned with two sorts of policy issues. One is the provision of guidance, in the form of advisory handbooks, codes of practice and check-lists, to encourage best practice on a wide range of very down-to-earth matters such as personnel records, sexual harassment, induction, and working hours. Drafts prepared by ACAS staff receive often detailed discussion by Council to ensure a balance with which members feel comfortable. These advisory booklets are widely disseminated and some, such as *Discipline at Work*, have acquired considerable authority across large tracts of employment.

The other sort of policy issue is concerned with more fundamental and politically sensitive developments, when building a consensus within Council may be more difficult. A relatively uncontroversial example,

which began to be introduced during 1999, was a new scheme to use arbitration to settle unfair dismissal cases arising from the Employment Rights (Dispute Resolution) Act 1998. This was Conservative government initiative to try to achieve a faster, cheaper, andmore user-friendly form of settlement than tribunals. More difficult issues which Council began to tackle during the year were by-products of the 1999 Employment Relations Act. As a first step, ACAS had been asked by the government to develop a new code of practice on disciplinary and grievance procedures that takes into account the important new statutory right to be accompanied at hearings. The legislation raises, but does not resolve, delicate matters for guidance concerning issues such as the subject of the hearing where this might apply, and the criteria for judging what sort of accompanying person is appropriate. It is up to Council, through external consultation and internal compromise, to fill the gaps in the legislation in a way that will help the busy practitioners who will have to work with it. It would be hard to find a clearer example of ACAS being the vehicle whereby the social partners work together to fine-tune an institutional change.

The ACAS work load changes with the use that is made of employment law. Although strikes have fallen dramatically in recent years, the use of conciliation on collective issues has not fallen *pro rata*, and has actually been rising over 1999, with a steady growth in disputes over trade union recognition, stimulated by anticipation of the new statutory recognition procedures. The biggest growth in ACAS activity has been on individual cases and advisory work. There has been a steady increase in employment tribunal applications, with them doubling over the decade to around 100,000 for 1999. In part this has been a result of the steady increase in the number of individual employment rights, already referred to, on which ACAS is obliged to conciliate, but 1999 has also seen a substantial increase in unfair dismissal cases. Also growing fast is the demand for ACAS' telephone enquiry services at its regional Public Enquiry Points, with the number of calls dealt with during 1999

approaching 700,000, an increase of over a third on the previous year. Partly to deal with this apparently insatiable appetite of employers and workers for information about employment rights and practices, the regional offices have organised growing numbers, rising to several hundreds in 1999, of conferences and seminars on specific topics, including many promoting workplace partnership arrangements.

At first sight there is a paradox in the fact that ACAS has reached its first 25 years busier than ever before, despite the fact that the influence of collective bargaining has diminished to an extent that would have been inconceivable 25 years ago. But further reflection suggests that in part it has actually been the retreat of collective bargaining which has brought this about. Denied the shelter of collective agreements and the infrastructure of trade union representation, employees are increasingly dependent on the protection of statutory rights and onpublicly-provided assistance in their use. The real paradox is that it is an institution managed through social partnership between employers and trade unions that is ever more important to the effective functioning of Britain's increasingly individualistic industrial relations system.

7. Partnership through consultation with the Low Pay Commission

In April the National Minimum Wage came into force, belatedly bringing Britain into line with the rest of the industrialised world. It provided a floor of £3.60 to the wages of all workers over 21 years of age, a time-limited rate of £3.20 for accredited trainees, and a rate of £3.00 for those between 18 and 21 years old. In fixing the rate the government had accepted almost all the recommendations of the Low Pay Commission which it had established for this purpose (Low Pay Commission, 1998). The main exception was that the government had been more cautious on the youth rate. Concerned that there might be an adverse impact on the New Deal policy against long-term youth unemployment, the government set the youth rate 20plower, and the age

of transition to the full rate one year later, than the Commission had advised. At the end of 1998 the government had given the Commission new terms of reference, which were broadly to monitor the initial impact of the Minimum Wage and to report on this by the end of 1999, with particular reference to the suitability of the provisions for young people. The Commission's second report, entitled *The National Minimum Wage - The Story So Far* was duly delivered to the Prime Minister in December (Low Pay Commission, 2000).

The Story So Far was able to be very positive, drawing authoritatively on widespread consultation and an ambitious and varied research programme. It reported that, while the Minimum Wage appeared to have had a substantial beneficial effect for the low paid, there was little evidence of the adverse effects which its detractors had predicted. It estimated that a substantial majority of the over one and a half million workers entitled to higher pay were likely to be receiving it. Those earning below the Minimum Wage in 1998 had achieved substantial increases, on average 30 per cent, by April 1999. With the introduction of the Working Families' Tax Credit in the autumn there was likely to be a substantial further amplification of disposable income for the many low paid workers gaining from the Minimum Wage who were also receiving benefits. The evidence suggested that awareness of the Minimum Wage was high, compliance appeared to be high, and the enforcement arrangements implemented by the Inland Revenue had started well. There were no signs of any significant adverse impact on unemployment or on prices. Most affected employers appeared to be coping with the adjustment without shedding labour. The Commission reconfirmed their original recommendations on the level and age-range of the rate for younger workers, warning that early uprating was necessary if the Minimum Wage was to remain an effective policy instrument.

Ministers have on many occasions described the Low Pay Commission as an outstanding example of social partnership in action[4]. What has that meant in practice? The nine Commissioners were appointed on Nolan Committee principles as independent and unpaid individuals and not as delegates. But the fact that three come from trade union backgrounds and three from employer backgrounds and are closely connected with, respectively, the TUC and CBI, is crucial to the legitimacy of their recommendations. The remaining three, including the Chair, have relevant academic and arbitration experience. They were insulated from ministerial influence, although serviced by a small secretariat within the DTI which had been selected from across the Civil Service for their relevant specialist expertise. Their initial task had been to advise on the definition and level of the National Minimum Wage. During 1999 the task became to assess, in the light of initial experience, the suitability of the definition and the effectiveness and impact of the Wage.

The style adopted by the Commission was strongly influenced by two characteristics of the underlying problem. The first was that remarkably little was known about the terms and conditions of low paid employment. If a definition were to be both enforceable and compatible with industrial practice, it was necessary to find out, quickly, about a host of specific practices, mostly idiosyncratic to particular sectors. Why do retailers give staff discounts? What does night-time availability for a resident carer amount to? What sort of training does a trainee beautician get? How can a minimum wage have minimal impact upon a piecework incentive? Do in-work benefits affect the hours people are asked to work? What information is available on pay-slips, if they are used at all? And so on. The second characteristic of the underlying problem was that a myriad of organisations and individuals were willing to help in the exercise. On the one hand there were pressure groups, trade unions, and community associations keen to reduce the exploitation of the weak. On the other hand there were trade associations and employers whose

normal desire to prevent under-cutting by unscrupulous operators was heightened by the prospect of legal sanctions.

The Commission therefore decided, despite the submission of a great deal of formal evidence, to consult widely in the field, with individual low payers and low-paid. Embarking on a series of one-day visits to different locations across the UK over a number of months, the Commissioners normally split into three groups, each balanced in 'social partnership' terms. They interviewed a diverse range of employers, employment interest groups, unemployed, and people with relevant labour market insights such as industrial priests, rural gang-masters, community workers, and probation officers. The choice of these was variously guided by organisations with regional knowledge such as Chambers of Commerce, Citizens' Advice Bureaux, Low Pay Units, and local Federations of Small Businesses.

This grass-roots consultative process was important in ensuring that the Minimum Wage was initially defined in a way that evidence so far suggests was sympathetic to industrial practice. During the monitoring process in 1999 the Commission put special effort into visiting those who claimed that the new Minimum Wage shoe pinched. These included people who work in 'intentional communities' for spiritual rather than financial reasons, people who run 'activity holiday' centres, where young staff traditionally work for bed, board and pocket money, and employers who claimed their payment-by-results schemes were damaged by the Minimum Wage. This led to the recommendation of a small number of refinements in definition, not all as the protesters would have wished. A similar consultative process might have made the Working Time Directive regulations less troublesome.

The Commission's consultations have been important in building good relationships with the varied interest groups arrayed around the Minimum Wage, and have helped thereby in establishing the

Commission's authority with government. They have also played a vital role in developing a consensus among the Commissioners themselves. As was unavoidable in designing so complex a labour market intervention, there were many issues on which Commissioners initially disagreed. Interestingly enough, the lines of disagreement were rarely along a simple employer/union divide. Such disagreements as did occur were usually satisfactorily resolved during the course of the consultative process as Commissioners developed a common understanding of the practicalities and facts of very low paid work. On the two key issues on which there was an employer/union divide - the level of the Wage and the treatment of young workers - agreement was achieved through compromise, but those compromises grew from a shared and well-informed understanding of the facts. As in the more successful recent workplace partnership agreements, making social partnership work for the Low Pay Commission involved an extended process of joint, and mutual, education.

The Commission was able to move consultation on to a more active level in the second phase of its work. Representative organisations were enlisted into the research and monitoring process. Short of time and resources, the Commission initiated over twenty research projects to examine different aspects of the initial impact of the Minimum Wage: for example, the consequences for training, incentive systems, wage differentials, young workers, ethnic minorities, and labour turnover. Some of these drew fruitfully on the existing knowledge bases of academic researchers and consultancy firms, benefiting from, for instance, the updating of past surveys and case studies. But over half of them used the unique access and knowledge of trade associations and of interest groups with charitable status concerned with, for example, homeworkers, people with disabilities, and voluntary organisations, as well as local Low Pay Units and Citizens' Advice Bureaux. This permitted *The Story So Far* to draw on evidence arising from many thousands of individual cases of adjustment to the Minimum Wage by

employers and employees. Most of these would have been inaccessible to normal research and they revealed a wide range of methods of adjustment, from the laudable to the illegal. Encouraged by this response, the Commission has recommended that, as part of the enforcement mechanism, the government should fund a small number of community-based pilot projects in areas where workers are likely to be at most risk of non-compliance. Procedures for the up-rating of the Minimum Wage remain undecided, but its successful implementation is likely to build upon the active involvement of local employer and worker organisations.

8. International partnership and labour standards

The theme of this review has been that a harsher competitive climate and a weakened trade union movement have required a more co-operative and less confrontational style of collective bargaining. But Britain is not alone in this respect. Furthermore, external competitive threats have had the effect of forcing employers and trade unions into defensive co-operation, both nationally and internationally, throughout labour history. It is therefore appropriate to end a review of industrial relations in the last year of the Twentieth Century with an international perspective since it has been the growing pace of international trade over the Century, combined with technological change, which has presented the main challenge to the stability of employment and skills.

Collective bargaining arrangements that have supported common labour standards across whole product markets have come under increasing strain as those product markets have become internationally exposed. The response to this, at the end of the Century as it was at the beginning, has been to attempt to extend the regulation of labour standards beyond the reach of the bargainers. Because this is in the interests of nationally based employers as well as nationally based trade unions, such efforts have traditionally provided a strong common agenda for co-operation.

So strong was this mutuality of interest at the start of the Century that in 1919 it gave birth to one of the most enduring international economic institutions, the International Labour Organisation (ILO)

Eighty years later the international competitive pressures in both product and capital markets are vastly greater. But while trade unions are no less concerned than before to protect domestic employment and jobs, many major employers are no longer committed to their country of origin. For the ILO this created a crisis of confidence in 1999. For long apparently content with constructing admirable but unenforceable minimum standards for employment, the ILO was stung into a change of gear by two developments. The first was increasingly vociferous campaigns against the exploitation of sweatshop labour in the developing world by famous brand name companies based in the developed world. Prominent American manufacturers and retailers against which such lawsuits were filed in the year included Gap, Tommy Hilfiger, Sears Roebuck and Wal-Mart (FT, 14.1.99). The second development was the prospect of another round of trade liberalisation talks under the World Trade Organisation (WTO), in the long sequence that started fifty years ago with the General Agreement on Trade and Tariffs, and which has done so much to encourage the growth not only of the world economy, but of the footloose employers whose international mobility encourages the 'race to the bottom' in terms of labour standards. Both ILO and WTO are strongly influenced by American policy, but the ability of the WTO to impose effective sanctions on trade matters such as beef and bananas has made it much more feared by national governments.

At its annual conference in June 1999, addressed for the first time in over fifty years by an American President, the ILO took two steps to try to reassert its position as the upholder of international labour standards. The first, which was unprecedented, was to approve a resolution barring a country, Burma (Myanmar), from ILO activities until it put a stop to forced labour. Delegates were told there were over 800,000 people

working under forced labour by the government of Burma. While hardly a serious sanction in its own right, lying behind this lay the threat that if Burma did not conform then the ILO would recommend sanctions by United Nations bodies and by the International Monetary Fund and the World Bank (FT, 18.6.99). The second step was to agree a global treaty banning the worst forms of child labour - defined as slavery, forced labour, child prostitution and pornography, drug trafficking, and work which harms children's health, safety and morals. Proposals to ban labour which denied children an education and to ban military recruitment of under-18s were blocked (FT, 15.6.99). As always, the question of enforcement was unanswered, but at least such standards provide active consumer campaigns with a focus of attention.

There was a steady build up of lobbying for the World Trade Organisation talks in Seattle at the end of the year, an event whose inept policing gained it unprecedented publicity. Traditionally dominated by European and American influence, its 135 members now included a majority of developing countries who perceived high-minded talk about decent labour standards to be no more than thinly disguised protection by the developed world.

The history of the European Union makes Europeans familiar with the political necessity of common labour standards to under-pin a free trade area. They are also well aware of the difficulties of international trade union co-operation. In June the European Trade Union Confederation met in Helsinki in the biggest gathering of trade unions in Europe in fifty years. Addressing them, Bill Jordan, the general secretary of the Brussels based International Confederation of Free Trade Unions (ICFTU) announced his intention to reform the ICFTU structure, saying that 'Globalisation has shown companies, countries and trade unions that unless you organise to succeed internationally, you will not stay in the game' (FT, 30.6.99). Later in the year John Monks called for trade unions to be actively involved in the international trade debate, and

Jordan proposed that the WTO and the ILO should establish core labour standards to moderate the impact of trade liberalisation (FT, 5.8.99, 20.11.99).

But it was the American AFL-CIO trade union confederation that took the most determined stand, bruised by experience of liberalisation under the North American Free Trade Agreement and encouraged by the success of consumer campaigns to keep jobs in America (FT, 13.10.99). In Seattle, keen to reinforce Democrat credentials as the party of labour, Mr Clinton called for labour standards to be included in trade agreements and ultimately backed by sanctions. This was enough to alarm the majority of countries present and contributed to the fruitless collapse of the WTO talks (FT, 7.12.99).

Whatever emerges from the recriminations and tear gas of Seattle in due course, international labour standards and trade liberalisation are firmly linked on the agenda for the Twenty-first Century. In Britain, as elsewhere, the more that international competition denies trade unions and consenting employers control of markets, the more they will find themselves exploring the practice of partnership as they strive for both political influence and competitive survival.

9. Conclusion

By the end of 1999 there was a general weariness with*post mortems* on the decade, century, and millennium. This article makes no claims for the year having particular significance in terms of British industrial relations history. It has reviewed events in order to tease out some of the ways in which the practice and rhetoric of partnership were being used as New Labour's 'industrial relations settlement' began to take effect. With the new statutory structures largely in place, there were signs of a cautious growth of confidence in trade unions, and of a pragmatic increase in the willingness of employers to develop new relationships

with them. A common feature of these relationships was the emphasis placed by trade unions on adopting a co-operative rather than confrontational stance. At the national level, the TUC and CBI were involved in employment policy to an extent unknown for twenty years. Social partnership appeared to be taking root.

Notes

[1] Critical analyses of the current use of the term are provided by Kelly (1996, 1998), Ackers and Payne (1998), Undy (1999) and Haynes and Allen (1999).

[2] From October 1999 the Working Families' Tax Credit (WFTC) replaced Family Credit as the main source of in-work support for low-paid working families in which the main earner works for 16 hours or more a week. The earnings threshold, above which the credit is reduced on a tapered basis, the taper itself, and the childcare tax credit were all more generous than those which applied for Family Credit. The coverage is also expected to be substantially greater than Family Credit. Initially the payment of WFTC was made directly to the female partner but from April 2000 it is to be payable through the payroll.

[3] These had much in common with the four principles proposed by the Involvement and Participation Association (Undy, 1999: 319)

[4] For example: Stephen Byers, Unions 21 Conference, 27.2.99; Tony Blair, TUC Partnership Conference, 24.5.99.

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