Chapter 29
United Kingdom: a long-term assault on collective bargaining

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The election of the Conservative government led by Margaret Thatcher in May 1979 marked the end of the post-war consensus regarding the management of the UK economy and industrial relations. Between 1979 and 1997 successive Conservative governments generated a sea change in economic policy, centred on a neoliberal programme of reform in which trade unions and collective bargaining were viewed as unwanted rigidities in the labour market. With the stated objective of deregulating or 'freeing' the UK economy, the Conservative governments regulated trade union practice and activity on a scale not matched elsewhere in Western Europe. Although contemporary claims were made that there was no initial concerted intention to curb unions and collective bargaining (Prior 1986), between 1980 and 1993 no fewer than nine pieces of legislation were enacted, each of which restricted trade unions' scope of action. In addition to weakening trade unions these measures promoted individual rather than collective rights and values, and encouraged employer prerogative, evidenced in the form of increasing derecognition of trade unions from the mid-1980s (Clayton 1989; Gall and McKay 1994). In summation, contrary to the situation prior to 1979, the legislation no longer accepted 'the legitimacy of collective labour power' (Wedderburn 1986: 84–85).

As a consequence of the neoliberal assault the period 1980 to 2017 saw the contraction of union density from 54.5 per cent to 23.2 per cent, while collective bargaining coverage fell from 70 per cent in 1980 to 26 per cent in 2016. Accompanying this neoliberal transformation of the economy was a sharp rise in inequality, which generated economic inefficiencies (Piketty 2014; Ostry *et al.* 2016). The rate of productivity growth remained lower than that achieved in the United Kingdom prior to 1980 and that attained by competitor countries (Cowen 2011), confirming that the presence of trade unions and collective bargaining does not necessarily inhibit productivity growth, as claimed by advocates of the neoliberal programme (Minford 1998). Furthermore, low levels of investment and training, weak employment protections to facilitate 'hire and fire' policies and the recommodification of labour characterise the UK economy (Keep *et al.* 2010; Glyn 2006; Gamble 2014). This chapter argues that the contraction of collective bargaining resulting from the neoliberal assault constitutes a diminution of a democratic structure of representation, which has generated little in terms of improved economic performance, the neoliberal stated intention, but has led to a polarised society within which the working lives of a significant number of workers have deteriorated markedly. To these ends the chapter reviews the industrial relations context and principal actors of UK industrial relations before assessing the six dimensions of collective bargaining identified by Clegg (1976). Table 29.1 outlines the impact of the neoliberal assault on the principal characteristics of collective bargaining, highlighting in particular the

Table 29.1 **Principal characteristics of collective bargaining in the United Kingdom**

Key features	1980	2000	2017
Actors entitled to collective bargaining	Trade union(s) together with employers' association(s) or company management		
Importance of bargaining levels			
Private sector	Industrial/company	Company	Company
Public sector	Industrial	Industrial	Industrial
Favourability principle/derogation possibilities	Yes		
Collective bargaining coverage (%)	70*	36**	26 (2016)***
Extension mechanism (or functional equivalent)	No extension mechanism or functional equivalent		
Trade union density (%)	54.5	29.8	23.2
Employers' association rate (%)	n.a.	n.a.	n.a.

Source: * Milner 1995; ** Appendix A1.A; *** OECD (2018).

decline in collective bargaining coverage and trade union density, coupled with the decentralisation of collective bargaining in the private sector. These developments loom large in the analysis that follows.

Industrial relations context and principal actors

Historically, the United Kingdom was characterised by voluntarist approaches to industrial relations in which employers and trade unions advocated a minimum of legal intervention. This characterisation became increasingly inappropriate during the 1960s and 1970s, however, when a range of legislation was enacted that impinged on industrial relations practices. The 1980s marked the end of voluntarism with the introduction of legislation intended to facilitate the implementation of the neoliberal programme.

Accompanying the programme of legislative reform introduced by the Conservative governments of 1979–1997 were four wide-ranging policies designed to consolidate the neoliberal political agenda: privatisation, the marketisation of public services, the abolition of the wages councils and steadfast Conservative government support for employers confronted by strike action. Although the Conservative government sold shares in companies that operated as private enterprises during the early years of its tenure,[1] it was only after 1984 that the sale of major public utilities took place, with the intention of sharply reducing the role of the state.[2] Integral to these privatisations was a contraction in, largely unionised, employment, the decentralisation of bargaining and

1. Prominent among the publically held shares sold off early during the period of Conservative government were those in Cable and Wireless and in British Petroleum.
2. Among the public utilities and services privatised were British Telecom, Sealink Ferries and British Transport Hotels (1984), British Gas (1986), British Airports Authority and British Airways (1987), British Steel (1988), Regional Water Authorities: England and Wales (1989), Regional Electricity Companies: England and Wales (1990), Electricity Generating Companies: England and Wales (1991), Scottish Electricity Companies (1992), British Rail (1994–1997).

the emergence of a more confrontational management style (Colling and Ferner 1995: 491–514).

In those services that remained within the public sector, measures to promote so-called internal markets took centre stage, whereby competition was introduced between the component parts of a particular public service. The outsourcing of elements of these public services, such as catering, cleaning and laundry services, added to the diminution of the public service ethos, a process accentuated by the withdrawal of the state from its role as 'model employer' (Winchester and Bach 1995: 304–334).

Wages councils originated in the Trades Boards Acts of 1909 and 1918 and were intended to provide a floor of protections, including pay and holidays, to workers in industries in which wage rates were particularly low.[3] Almost continual expansion of the coverage of these arrangements led to the Wages Council Act 1945, at which point 'approximately one in four of all workers were covered', with trade unionists negotiating on behalf of the workers covered (Deakin and Green 2009: 7). Because it regarded the wages councils as a rigidity in the labour market, the Conservative government dismantled them in 1993, thereby removing a floor of protections in a wide range of industries.[4]

The Conservative governments also offered support to employers confronted by strike action in strategic industries. In particular, the steel strike (1980), the miners' strike (1984–1985) and the printers' strike (1987) resulted in defeats for well-organised sections of the trade union movement that had a significant 'demonstration effect', as each defeat discouraged others from striking.

In the absence of any extension mechanism or a functional equivalent and confronted by the neoliberal assault, trade union membership collapsed from 54.5 per cent in 1980 to 30.7 per cent in 1997 (Waddington and Whitston 1995; DBEIS 2018), while the coverage of collective bargaining fell from 70 per cent to 36 per cent over the same period (Milner 1995; Appendix A1.A).

The Labour governments in office between 1997 and 2010 maintained many of the neoliberal policies of the previous Conservative administrations (Murray 2003; Ali 2018) in pursuit of the so-called 'third way'. In his outline of this approach the leading academic proponent of the 'third way' did not consider it necessary to include any analysis of trade unions or collective bargaining (Giddens 1998). The Conservative legislation regulating the activities of trade unions remained largely in place, thereby restricting their scope of activity, a point acknowledged by Prime Minister Blair prior to the election in 1997. He stated that 'the changes that we do propose would leave British law the most restrictive on trade unions in the western world' (Blair 1997). In 1999 the Labour government reversed the United Kingdom's opt-out from the European Social Charter. Two measures, however, impinged more directly upon collective bargaining.

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3. Initially the Trades Boards Act of 1909 established trades boards in four industries: ready to wear and bespoke tailoring, paper box making, lace finishing and chain making.

4. In practice the process of dismantling the wages councils comprised three stages: initially in 1986 the power to set statutory paid holiday entitlements was removed, followed in 1993 by the abolition of 26 wages councils and in 2013 by the abolition of the wages council for agriculture.

First, the Employment Relations Act 1999 introduced new legislation on trade union recognition, which was intended to formalise the procedure whereby trade unions obtained recognition from employers. At best, however, the legislation had an impact on slowing the rate of decline in trade union density, which fell from 30.7 per cent in 1997 to 26.6 per cent in 2010 (DBEIS 2018). Second, the introduction of a national minimum wage in 1999 set a floor beneath which wages should not fall and, for the first time in the United Kingdom, set a minimum wage of national coverage. As the level of the national minimum wage failed to provide satisfactory living standards, more recent campaigns have focused on a UK living wage (Prowse and Fells 2016; Sellers 2017). Neither the recognition legislation nor the initiatives regarding minimum or living wages promoted the coverage of collective bargaining, which fell from 36 per cent in 1997 to 31 per cent in 2010 (Appendix A1.A).

A hung parliament resulted from the general election in 2010, the outcome of which was a Conservative-led coalition government.[5] The coalition implemented a wide-ranging neoliberal austerity programme in response to the financial crisis of 2007–2008, which resulted in lower living standards, particularly for those on the lower rungs of the earnings distribution, and deep financial cuts to public services. In addition, collective bargaining in the public sector was effectively suspended as a pay freeze was implemented. The pay freeze continued until 2017. Subsequent general elections in 2015 and 2017 returned Conservative governments,[6] while a referendum in 2016 resulted in a narrow majority favouring the United Kingdom's exit from the European Union. The principal legislative change during this period directly relevant to collective bargaining was the enactment of the Trade Union Act 2016, which continued the pattern of 1980–1993 in imposing yet further restrictions on trade union activity, notably regarding strike ballots (Tuck 2018; Darlington and Dobson 2015). Trade union membership declined from 26.6 per cent in 2010 to 23.2 per cent in 2017, while the coverage of collective bargaining contracted from 31 per cent in 2010 to 26 per cent in 2016 (Appendix A1.A).

While neoliberal collective labour legislation restricted the scope for trade union activity, after the 1960s a range of individual labour law measures provided some protections regarding, among other things, sex, race and disability discrimination; parental and maternity rights; for part-time workers; health and safety; and equality. Employment tribunals, initially called industrial tribunals, were set up to provide a relatively cheap means whereby disputes could be settled informally and were given the power to hear unfair dismissal claims in 1971. The Coalition government (2010–2015) reformed the procedures and introduced fees for those taking cases to an employment tribunal. The intention of the Coalition was to reduce the number of claims and thus undermine the range of individual rights available to workers. While the number of claims fell sharply after the legislation was enacted in 2013, the Supreme Court ruled in 2017 that the government had acted unlawfully and unconstitutionally in introducing fees and the fee system was abandoned. It remains to be seen whether the

5. The Conservative Party was in coalition with the Liberal Democratic Party between 2010 and 2015.
6. Prime Minister May called the 2017 general election in an attempt to improve her parliamentary majority and thus strengthen her hand in the Brexit negotiations. Contrary to many expectations the Conservative position was weakened with the consequence that an alliance between the Conservative Party and the Democratic Unionist Party of Northern Ireland was negotiated to ensure a parliamentary majority.

ruling of the Supreme Court will result in an increased number of employment tribunal claimants.

Throughout the period since 1980 the actors authorised to engage in collective bargaining are individual companies, employers' organisations and trade unions. Most UK trade unionists are represented by trade unions affiliated to the Trades Union Congress (TUC). The TUC is the only UK trade union confederation. Similar to the trade union confederation in Germany, the Deutsche Gewerkschaftsbund (DGB, see Chapter 12), the TUC has very limited constitutional authority over affiliated trade unions, with the single exception of the capacity to expel affiliates. While TUC affiliates have always retained control over collective bargaining and excluded the TUC from involvement, during the 1960s and 1970s the TUC coordinated trade union engagement in the burgeoning range of tripartite institutions established by both Conservative and Labour governments. The Thatcher-led governments of the 1980s dismantled these tripartite institutions as part of the sea change in economic management, with the result that the trade union movement was effectively excluded from involvement in macroeconomic policy formulation. The Labour governments of 1997–2010 did not restore the tripartite institutions.

Most major unions are among the 49 affiliated to the TUC in 2018. The principal exceptions are the Royal College of Nursing and the British Medical Association. It should be noted, however, that there are about 130 trade unions listed by the Certification Officer, meaning that the TUC represents the majority of trade unionists, but a minority of trade unions. There is currently no single dominant 'type' of trade union in the United Kingdom. Among today's larger unions UNITE and the General, Municipal, Boilermakers and Allied Trade Union (GMB) are multi-industry unions with membership in both the private and public sectors, UNISON is a multi-industry union with membership concentrated in the public sector, while the Union of Shop, Distributive and Allied Workers (USDAW) organises members in retail and commerce.[7] Eight of the remaining nine unions with more than 100,000 members are occupational unions representing teachers, doctors or nurses. The ninth is the Communication Workers' Union, which organises workers in post, cable and telephones.

The Confederation of British Industry (CBI) is the principal employers' organisation. Similar to the TUC, the CBI does not have, and has never had, a collective bargaining function, although it participated in tripartite institutions during the 1960s and 1970s. The CBI accepts both individual companies and trade and employers' associations as members.[8] In all, the CBI claims to represent 188,500 businesses, which employ about one-third of employees in the private sector. Reflecting the diminution of the coverage of industrial collective bargaining, the number of employers' associations in the United Kingdom fell from 514 in 1976 to 97 in 2013–2014, while over the same period the membership declined from 210,615 to 93,585 employers (Gooberman *et al.* 2018).

7. UNITE and UNISON are not acronyms. UNITE and the GMB are general trade unions with membership in both the public and private sectors. In both unions the private sector membership is larger than that of the public sector. UNISON also organises in both the private and public sectors, with the majority of members in public sector.

8. The CBI makes no distinction between trade associations and employers' associations in its membership details.

Only 13 per cent of contemporary employers' associations conduct collective bargaining (Gooberman *et al.* 2018).

Employers' associations in the private sector until the 1980s tended to represent companies on an industrial basis and were engaged in industrial collective bargaining to settle terms and conditions of employment and administered dispute procedures. In order to undertake these tasks many employers' associations developed an infrastructure to bring together the views of member companies and to conduct negotiations. Throughout the 1960s and 1970s the pay rates set by many private sector employers' associations, particularly in engineering, automobiles and ship building, were subject to wage drift, as local supplementary pay rates negotiated by company management and shop stewards improved the rates set through industrial bargaining. The emergence of 'two systems' of collective bargaining, identified by the Donovan Report (1968), constituted a challenge for employers' associations and national trade unions, as local supplementary bargaining was relatively autonomous from both. During the 1970s the number of companies leaving employers' associations to conduct collective bargaining independently increased, but the 'collapse of associational activity among employers' (Crouch 1993: 269) in the United Kingdom took place during the 1990s when, with the support of the then Conservative government, many employers' associations withdrew from industrial collective bargaining, marked in 1990 by the abandonment of industrial bargaining in the engineering industry by the Engineering Employers' Federation. Although the character of industrial bargaining in the public sector changed markedly between 1980 and 2017 (see below), such bargaining remained in place. Employers' associations thus continue to conduct collective bargaining in many segments of the public sector.

Extent of bargaining

As demonstrated above, the decline in collective bargaining coverage in the United Kingdom commenced during the 1980s. Table 29.2 shows that the decline in coverage continued between 1998 and 2017.[9] Depending on the data source used, the collective bargaining coverage declined from 40/35 per cent in 1998 to 26 per cent in 2017, according to the Labour Force Survey (LFS). Coverage is markedly lower in the private sector than in the public sector, but in both sectors it declined after 1998.

Data on the proportion of workplaces covered by collective bargaining elaborate the extent of contraction of collective bargaining. In the private sector, for example, collective bargaining covered 24 per cent of workplaces in 1998 but only 12 per cent in 2011 (Cully *et al.* 1999; van Wanrooy *et al.* 2013). In the private sector the contraction of collective bargaining has been accompanied by a rise in unilateral management pay setting, either by managers at senior levels within the organisation or by managers based in the workplace (Brown *et al.* 2009). In 2011 at private sector workplaces with five or more employees higher level management in organisations set pay at 42 per

9. The year 1998 is used as the reference date in this chapter as a comprehensive Workplace Employment Relations Survey (WERS) was conducted during the year. Data drawn from this survey inform the analysis of each of the dimensions of collective bargaining identified by Clegg (1976).

Table 29.2 **Coverage of collective bargaining (% of employees)**

	1998	2004	2011	2017*
Workplace Employment Relations Survey (WERS)				
All workplaces	40	28	23	
Private sector	26	16	16	
Public sector	82	68	44**	
Labour Force Survey (LFS)				
All workplaces	35	35	31	26
Private sector	22	21	17	15
Public sector	75	71	68	58

Notes:
* The WERS survey for 2011 is the most recent, hence no data are available for 2017.
** This figure may overstate the extent of decline as a public sector pay freeze was in operation when the survey was conducted, which may have prompted respondents to state that there was no collective bargaining (see van Wanrooy *et al.* 2013: 84).

cent of workplaces and management based in the workplace set pay at 53 per cent of workplaces (van Wanrooy *et al.* 2013:83). In short, unilateral management pay setting has largely replaced collective bargaining in the private sector.

Four principal, but not mutually exclusive explanations of the protracted decline in collective bargaining coverage have been identified (Brown *et al.* 2009; Marginson 2012, 2015). The first explanation emphasises the shift in the composition of the labour force. In particular, the long-standing decline of manufacturing employment and the growth of employment in private sector services is effectively contraction in an area of relatively high collective bargaining coverage and expansion in an area of relative weakness. Similar shifts from areas of relative strength to weakness have been concurrent with the growth of private sector services in the form of a reduction in the average size of workplaces; the growth of part-time, temporary and agency employment; and the shift from manual to white-collar employment. Estimates suggest that around 10 per cent of the contraction in collective bargaining coverage can be attributed to these shifts in labour force composition (Brown *et al.* 2009).

A second explanation focuses on changes in the pattern of private sector ownership. WERS data suggest that the growth of foreign ownership and privatisation have exacerbated the rate of decline of collective bargaining, albeit in different ways. Privatisation appears to have had a direct effect insofar as privatised organisations are likely to eliminate collective bargaining for some or all of their employees (Bach 2010). Foreign ownership, in contrast, is viewed as having had an indirect effect in that foreign-owned companies have tended to conduct single-employer bargaining in preference to multi-employer bargaining (Edwards and Walsh 2009), thus prompting imitation among their British-owned counterparts, which initially encouraged the decline of multi-employer bargaining, and latterly a decline in bargaining coverage.

A third explanation of the decline in collective bargaining coverage focuses on the intensification of competitive pressures in product markets, which lead employers to abandon collective bargaining in order to secure pay flexibility and enhanced profitability (Brown *et al*. 2009). While these researchers identify the intensification of competitive pressures in product markets as the most influential factor on the decline in the coverage of collective bargaining, their analysis has been questioned on the grounds that the model employed is theoretically flawed, particularly regarding the extent of competition, the specification of the tested variables and the interpretation of the results (Marginson 2012). It thus remains to be seen how influential, if at all, the intensification of competitive pressures in product markets has been on the decline in collective bargaining coverage.

A fourth explanation rests upon the character of legal intervention and the changes in public policy towards collective bargaining and trade unionism that commenced in 1979. The impact of this explanation has been assessed above. Two additional points are apposite at this juncture, however. First, legislative and policy changes created the circumstances in which employers could act with considerable autonomy. Political change thus enabled employers to act to reduce the coverage of collective bargaining. Second, without a substantive change in the legislative framework it is difficult to imagine how trade union action alone can reverse the decline in collective bargaining coverage.

Level of bargaining

In general terms, countries with high collective bargaining coverage tend to have multi-employer industrial bargaining systems. Such systems were in place in the United Kingdom during the 1960s and 1970s and it is no surprise that the decline in UK bargaining coverage is associated with the decline of multi-employer industrial collective bargaining and, if collective bargaining is retained, the rise of company bargaining. Three introductory points are noteworthy. First, the voluntarist tradition that prevailed until the 1970s resulted in relatively weak legal support for multi-employer industrial bargaining compared with other Western European countries (Sisson 1987: 109–136). Extension mechanisms were absent, for example, as was legal enforcement of settlements. Second, the Fair Wages Resolution was rescinded as part of the neoliberal assault, thereby weakening, if not undermining, multi-employer bargaining in segments of the public sector.[10] Third, in promoting individualised pay setting practices in the public sector, the state signalled a preferred course of action for private sector employers to imitate. The decentralisation of collective bargaining in Britain is thus integral to the neoliberal project.

Given the marked differences between the private and public sectors vis-à-vis the level of bargaining, the two sectors are considered separately. Successive WERS chart the decline of multi-employer bargaining: in 1984, 18 per cent of private sector workplaces

10. Since 1891 the Fair Wages Resolution had required private sector holders of public service contracts to sustain the relevant terms of sectoral or occupational collective agreements.

set pay for some workers by multi-employer bargaining, a proportion that had declined to 9 per cent by 1990, to 3 per cent in 1998 and 2004, and to 2 per cent in 2011.[11] From around 150 multi-employer industrial agreements concluded during the mid-1980s, there are now around 30 agreements, concentrated in construction and the offshore energy sector (Emery 2015). During the latter half of the 1980s it is estimated that about one million workers moved out of the coverage of multi-employer industry-level agreements (Brown and Walsh 1991). Where collective bargaining remains in the private sector it has thus been decentralised to company level and, within some of the larger or more diverse companies, to group or divisional level.

In contrast, multi-employer bargaining remains relatively resilient in the public sector, with 58 per cent of workplaces reporting that pay for some workers was set by multi-employer bargaining in 2004 and 43 per cent in 2011 (van Wanrooy *et al.* 2013: 83). Two factors account for this recent decline. First, Pay Review Bodies[12] set pay at a larger proportion of workplaces in 2011 (35 per cent) than in 2004 (28 per cent). Second, the 2011 WERS was conducted when the public sector pay freeze was in force, which may have led survey respondents to report that employees were not covered by collective bargaining (van Wanrooy *et al.* 2013: 84).

Many of the larger groups of public sector workers have their pay set by multi-employer industrial bargaining. These groups include workers in local government, the National Health Service, education, community and youth work and the police. There is evidence, however, of debate about the relationship between national and local decision-making within the framework of public sector multi-employer industrial bargaining (Bach and Stroleny 2014). Variations in local pay rates for teachers have been encouraged by government changes to the pay system and the exclusion of Academies and 'free schools' from the national collective agreement. This weakening of national public sector multi-employer bargaining has been compounded by extensive outsourcing of services from the public sector, such as cleaning, catering and laundry, which effectively removes workers from coverage and transfers them to the private sector, where there is no guarantee of collective bargaining.

Scope of bargaining

An employer in Britain has a clear legal obligation to negotiate aspects of the employment contract only when a trade union(s) has obtained recognition by means of the statutory procedure. The scope of bargaining is thus an indicator of the depth of recognition offered by an employer to a trade union (Brown *et al.* 1998). Similarly, the extent to which work is regulated by collective bargaining is influenced by the relative power of the employer and trade union. As a result of the shift in power towards employers promoted by the neoliberal reform programme, the scope of bargaining in Britain has

11. The data for 1984 to 2004 are based on workplaces with 25 or more employees, while those for 2011 are based on workplaces with five or more employees.

12. Pay Review Bodies are set up under statute to consider evidence from employers and trade unions before making a recommendation on a pay settlement to government. The government is not obliged to follow the recommendation made by a Pay Review Body.

Table 29.3 **Scope of collective bargaining**

	Public sector		Private sector		All workplaces	
	2004	2011	2004	2011	2004	2011
All workplaces with union members						
All seven items*	4	7	5	1	5	4
One to six items	59	57	39	36	47	45
None	37	36	57	62	49	51
Mean number of items	2.3	2.4	1.6	1.1	1.9	1.6
Workplaces with recognised unions and members at the workplace						
All seven items*	5	8	8	3	7	6
One to six items	62	58	63	61	63	59
None	33	35	28	37	31	35
Mean number of items	2.5	2.4	2.7	2.0	2.6	2.5

Note: * The seven items are pay, hours, holidays, pensions, training, grievance procedures, and health and safety.
Source: van Wanrooy *et al*. 2013: 81.

been narrowed or 'hollowed out' and the emphasis in bargaining has shifted towards a competition-oriented agenda and away from an emphasis on productivity (Marginson 2015).

It was noted above that the extent of collective bargaining in the private sector remained broadly constant between 2004 and 2011. Table 29.3 shows that there was a marked contraction in the range of seven bargaining items negotiated by employers: pay, hours, holidays, pensions, training, grievance procedures and health and safety. This contraction demonstrates a hollowing out of the bargaining agenda. This process is illustrated by reductions in the proportion of workplaces with union members at which 'all seven items' and 'one to six items' were negotiated, a fall in the mean number of items negotiated and an increase in the proportion of workplaces at which none of the seven items were negotiated. While the proportions are higher at private sector workplaces with recognised unions and members present, the same pattern of development between 2004 and 2011 is observed. In other words, the scope of bargaining is narrowing irrespective of union recognition. In the private sector the proportion of workplaces at which unions were recognised and negotiations took place declined for each of the seven issues. In particular, negotiations over pay took place at 56 per cent of such workplaces in 2011 compared to 61 per cent in 2004, over hours at 37 per cent of such workplaces in 2011 compared to 50 per cent in 2004, and over holidays at 41 per cent of such workplaces in 2011 compared to 52 per cent in 2004 (van Wanrooy *et al*. 2013:81). To put this another way, in 2011 in the private sector where unions were recognised and trade unionists were present at the workplace, no negotiations took place at 44 per cent of workplaces over pay, at 63 per cent of workplaces over hours and at 59 per cent of workplaces over holidays.

By comparison with the private sector, the scope of bargaining in the public sector was relatively constant between 2004 and 2011. In particular, there was no change in the mean number of items negotiated both at workplaces with union members and at workplaces with recognised unions and members present. Furthermore, negotiations over pensions, training, grievance procedures, and health and safety took place at a larger proportion of workplaces at which unions were recognised in 2011 than in 2004, although the proportion of such workplaces at which pay, hours and holidays were negotiated declined (van Wanrooy *et al.* 2013: 81).

In addition to the hollowing out of the collective bargaining agenda there has also been a shift in the content of agreements towards items concerned with competitiveness of the enterprise. Studies of collective bargaining during the 1960s emphasised a basic 'trade-off' between productivity growth and pay within the enterprise, and the benefits that were thought to accrue to both bargaining parties (Flanders 1964; Jones and Golding 1966). While this view was contested (Cliff 1970), there is no doubt that these studies reflected the shift towards company bargaining and performance. Concurrent research explored similar issues within the context of piecework (Brown 1973). More recently, management has emphasised issues concerned with flexibility to increase competitiveness, whereas unions emphasise the maintenance of employment levels and/or the continuity of production (Marginson 2012). Working time flexibility; cost reducing measures, including reductions in bonuses, shift, unsocial hours and overtime allowances and new forms of labour usage are now pursued by management in return for commitments to maintain employment levels. While evidence from successive WERS suggests that pay remains the principal collective bargaining agenda item, it is apparent that issues involved in the trade-off between competitiveness and job security are assuming a greater significance (van Wanrooy *et al.* 2013: 25–48).

Security of bargaining

Security of bargaining concerns the factors that determine trade unions' collective bargaining role. The voluntarist tradition ensured a relatively weak legislative framework to secure bargaining compared with the other Western European countries considered in these volumes. Collective bargaining in Britain, as in Ireland (see Chapter 15), may be secured through the achievement of union recognition, which, once attained, places a legal obligation on employers to negotiate over aspects of the employment contract.

Legislation on union recognition has had a mixed history. No legislation was in place between 1980 and 1999 following the enactment of the Employment Act 1980, the first of the neoliberal measures designed to restrict trade unionism. A recognition procedure was reintroduced in the Employment Relations Act 1999, but currently the limitations of the statutory recognition procedure mean that it is rarely invoked (Moore *et al.* 2013).

The absence or limitations of recognition procedures place great importance on trade union density in ensuring security of bargaining. Where trade unions are strong, they are more likely to secure bargaining arrangements and, as noted above, a wider bargaining

agenda. The absence of an extension mechanism further highlights the imperative of dense trade union organisation to sustain any security of bargaining arrangements. In this sense the United Kingdom and Ireland (see Chapter 15) are similar.

The converse of trade unions seeking recognition is employers seeking to derecognise unions and thus evade any obligation to bargain collectively. Derecognition was observed first on a relatively large scale during the mid- and late-1980s (Clayton 1989). During the early 1990s derecognition became more widespread as some employers, galvanised by the neoliberal regulatory regime, sought to eliminate union influence (Gall and McKay 1994). Derecognition tended to be concentrated in specific industries, such as ports and print and publishing, rather than becoming an economy-wide phenomenon. By the late-1990s derecognition was negligible (Gall and McKay 2000), in part due to a change in employers' strategies following the election of a Labour government in 1997. Derecognition was thus a contributory factor in promoting the contraction of collective bargaining, but, apart from a few specific industries, was not the principal factor.

More important than derecognition for the contraction of bargaining was the limited recognition secured by trade unions at newly established workplaces (Millward *et al.* 2000). Although there was an initial surge in recognition agreements following the enactment of the Employment Relations Act 1999, resulting in about 200,000 new trade union members (Gall 2007), recognition fell away rapidly thereafter (Moore *et al.* 2013). While many limitations of the legislation of 1999 have been documented (Ewing 2001), the point remains that collective bargaining in Britain is inherently insecure because it is over-dependent on recognition legislation and union density rather than, as elsewhere, an enforceable right to bargain linked to support for bargaining in the form of an extension mechanism and legally enforced collective agreements.

Also associated with the voluntarist tradition is the absence of a 'right to strike' in the United Kingdom, a feature found in many other EU Member States. Instead of a right to strike UK trade unions have immunity from known liabilities for organising industrial action, initially established by the Trade Disputes Act 1906. What constitutes lawful industrial action has been the subject of regular debate since 1906 and has been subject to numerous legislative changes. Given the objectives of the neoliberal reform programme it is no surprise that restricting industrial action and thus reducing security of bargaining has been a key policy objective. In particular, the Employment Act 1980 imposed restrictions on secondary industrial action and picketing and, furthermore, facilitated the dismissal of workers taking unofficial industrial action; the Employment Act 1982 reduced the range of immunities within which industrial action was lawful; the Trade Union Act 1984 required a majority of members to vote for industrial action in a secret ballot if the trade union was to retain immunity; the Employment Act 1988 introduced measures to make it easier for individual trade union members to take legal action against trade unions when industrial action was called; and the Trade Union Act 2016 imposed further restrictions concerning strike ballots (Davies and Freedland 1993; Tuck 2018). In short, the legislation limited security of bargaining by restricting the circumstances in which trade union immunities applied to the organisation of industrial action.

Degree of control

The degree of control of collective agreements refers to the extent to which the terms and conditions agreed by collective bargaining correspond to actual terms and conditions of employment. In addition, the degree of control embraces issues concerned with the resolution of disputes concerning the interpretation of agreements.

During the 1960s and 1970s wage drift, particularly in the engineering and chemical industries, was marked, with the consequence that multi-employer bargaining in these industries did not set the terms and conditions applied at the workplace (Phelps Brown 1962). By 1978, for example, survey evidence suggested that less than 10 per cent of employers in the engineering industry and less than 25 per cent in the chemical industry regarded multi-employer agreements as the most important level of pay bargaining (Sisson 1987: 21). The absence of any mechanisms whereby the terms and conditions set by multi-employer industrial agreements were legally binding ensured that there were few limitations to wage drift. In practice, a tight labour market coupled with high rates of unionisation and strike activity strengthened the bargaining position of local union representatives.

Even though local managers agreed these supplementary terms and conditions, senior managers cited wage drift as the reason for their later withdrawal from multi-employer industrial bargaining (McKinlay and McNulty 1992; Zagelmeyer 2003: 212–18). The decentralisation of collective bargaining in the private sector to company or workplace level has effectively promoted closer correspondence between the terms agreed through collective bargaining and those in operation. This development took place during the 1980s and 1990s when unemployment was relatively high and trade union membership was in decline, thereby weakening the trade union bargaining position.

During the 1960s and 1970s wage drift in Britain was viewed primarily as a private sector issue that was most marked when labour markets were tight and the capacity of labour to mobilise was high. This explanation certainly applies to the period after the financial crisis of 2007–2008 when average weekly earnings rose at a slower rate than collectively agreed wages and the capacity of labour to mobilise was low. The Labour Research Department database, for example, shows that for seven of the eleven years after 2007–2008 earnings increases lagged behind collective agreements in the private sector. In other words, in the private sector there has been a negative earnings drift for the majority of the period since the financial crisis as the capacity of labour to mobilise is much more restricted compared with the 1960s and 1970s.

A second element of the control of collective bargaining concerns the procedures in place to resolve disputes over the content of agreements. In this context the impact of the neoliberal assault is readily observed. In 1998, 80 per cent of workplaces with a recognised trade union had a collective disputes procedure in place (Millward *et al.* 2000: 157). This proportion fell to 78 per cent in 2004 and to 75 per cent by 2011 (van Wanrooy *et al.* 2013: 159). Taking all workplaces into account, however, reveals a significant decline, reflecting the diminution in trade union coverage, as the proportion of workplaces with a collective disputes procedure declined between 2004 and 2011

from 40 per cent to 35 per cent, while the proportion of workplaces without a recognised trade union, but with a collective disputes procedure, fell from 29 per cent to 24 per cent over the same period (van Wanrooy *et al.* 2013: 159). Where a collective disputes procedure is in place, the majority (68 per cent) make provision for cases to be referred to an institution beyond the workplace and of these, 54 per cent prohibit industrial action before the matter is referred to the outside institution (van Wanrooy *et al.* 2013: 160). The institutions beyond the workplace to which reference should be made include the Advisory, Conciliation and Arbitration Service (ACAS) for conciliation, mentioned in 37 per cent of collective disputes procedures; ACAS for arbitration, 25 per cent; independent mediation, 11 per cent; a trade union, 38 per cent; and an employers' association, 13 per cent (van Wanrooy *et al.* 2013: 160).

Depth of bargaining

Depth of bargaining refers to the extent to which local managers and local trade union representatives are involved in the formulation of claims and the subsequent implementation of collective agreements. As conceived by Clegg (1976: 8) the depth of bargaining assumes the presence of multi-employer industrial bargaining and is concerned to establish how the terms of industrial collective agreements are formulated and administered at the workplace. The decentralisation of collective bargaining to the company level in the private sector in Britain has thus tended to eliminate debate about the depth of bargaining as originally formulated.

Two caveats should be raised at this juncture regarding depth of bargaining. The first and most apparent is that multi-employer industrial bargaining remains in place throughout much of the public sector, with the consequence that the depth of bargaining as formulated by Clegg (1976) retains its significance. Second, where private sector collective bargaining has been decentralised to company level multi-industry trade unions attempt to coordinate their bargaining activities to achieve the same or similar outcomes in separate company-level negotiations within the same industry (Traxler and Mermet 2003). The depth of bargaining in this context thus has many similarities with Clegg's formulation, particularly regarding the generation of agreed negotiating targets. Arguing that trade unions attempt to coordinate their negotiating targets is not to assume that these targets are achieved through bargaining. Indeed, commentators view Britain as characterised by uncoordinated bargaining in the private sector (Marginson and Sisson 2004: 67–70). It is to argue, however, that trade unions bring together local representatives to identify bargaining targets that might be prioritised, on the understanding that these targets will not be achieved universally.

Industrial bargaining in the public sector and attempts to coordinate bargaining objectives within an industry in the private sector comprise essentially similar processes. Initially, local representatives and senior trade union officers meet to set targets and priorities for negotiation in both the public and private sectors. In some segments of the public sector this initial meeting may involve representatives from more than one trade union. Local government manual workers, for example, are represented by

UNISON, UNITE and the GMB. Irrespective of sector, the rates of increase of inflation and earnings are the principal indicators used to formulate a claim. In addition, in the private sector company profitability and productivity growth may also be taken into account. More recently, both trade union negotiators and employers have taken rises in the national minimum wage and the UK living wage into account in the course of wage bargaining (Sellers 2017).

In the public sector senior national officers then lead the bargaining, often in conjunction with a team that comprises some lay representatives. The outcome of these negotiations will be subject to a ballot of all members covered by the agreement. In the private sector, local representatives and/or full-time officers bargain at company level within the framework agreed at the initial meeting. The outcome of company bargaining is then put to a ballot of all members covered by the agreement. In both the public and private sectors a failure to agree may lead to strike action. Once an agreement is in place it is assumed that local representatives will act to ensure compliance. Recent evidence suggests that the capacity of trade unions to ensure compliance is open to question, as workplaces with recognised trade unions are increasingly unlikely to have an on-site lay representative (Charlwood and Forth 2009). In 2011, 34 per cent of workplaces with a recognised trade union had an on-site lay representative (van Wanrooy *et al*. 2013: 58), suggesting that the capacity of trade unions to monitor the operation of agreements at the workplace is compromised.

Public sector employers and private sector employers where multi-employer industrial bargaining remains in place will also meet prior to bargaining to set negotiating objectives, usually under the auspices of the relevant employers' association. In the public sector these objectives may be subject to constraints based in government policy. After 2010, for example, the Conservative-led coalition government implemented a series of annual pay freezes or pay caps, which effectively eliminated the need for employers to set negotiating objectives for pay. When private sector multi-employer industrial bargaining was widespread, cleavages between large and small and between domestic and international companies had to be overcome to set negotiating objectives. Currently, however, multi-employer industrial bargaining in the private sector tends to be found in industries comprising smaller companies (Emery 2015: 229–332), suggesting that such cleavages are no longer key to establishing a negotiating stance.

Exceptions to the above at which the depth of bargaining is limited are the Pay Review Bodies, established by government to set terms and conditions of employment for large numbers of public sector workers.[13] Each Pay Review Body takes evidence from government, employers and trade unions and then makes a recommendation. Government is not obliged to implement the recommendation, however, and trade unionists may take industrial action if they are dissatisfied with the outcome. In the context of the depth of bargaining Pay Review Bodies are more technocratic exercises than traditional collective bargaining insofar as the objective of the parties, government, employers and trade unions is to make a case to convince the Pay Review Body rather

13. There are six Pay Review Bodies, which cover about a quarter of the 5.8 million public sector workforce. Pay Review Bodies operate for Doctors and Dentists, Armed Forces, Nursing and Other Health Professions, Prison Service, School Teachers and Senior Salaried Staff.

than engage in a direct exchange with a competing party. The implementation of a Pay Review Body Recommendation, however, requires the same presence of local representatives to ensure compliance.

Conclusions

The aim of the neoliberal strategy is to deregulate or 'free' markets by removing rigidities in the labour market, including trade unions and collective bargaining. A wide-ranging series of legislative measures restricted trade unionism, with the consequence that the coverage and scope of collective bargaining contracted. A corollary of restricting trade union activity was the promotion of employer prerogative. Employers took the opportunity to decentralise collective bargaining, to restrict the scope of bargaining and to establish a greater degree of control over collective agreements, where they remain in place. The decline in collective bargaining coverage is associated with a rise in the proportion of workplaces at which either senior or local managers set pay unilaterally.

The neoliberal programme has thus effectively removed the democratising processes associated with collective bargaining from many public sector workplaces and the majority of private sector workplaces in Britain. Evidence from successive WERS demonstrate that the presence of trade unions and collective bargaining is associated with more intense communication between managers and workers, and greater trust between the parties. Furthermore, there is no consistent evidence to suggest that human resource management techniques are sufficient to generate the communication and trust lost as a result of contracting collective bargaining (Sisson and Purcell 2010). In short, the British workplace has become less democratic and more subject to unilateral management decision-making as a result of the neoliberal programme. This shift is associated with higher levels of inequality and poverty among those in work, and a lower wage share for labour. The increase in productivity growth sought by proponents of the neoliberal programme has also not materialised.

Governments elected after 1997, irrespective of their composition, have retained the principal elements of the neoliberal programme. The Labour governments of 1997 to 2010 led by Prime Ministers Blair and Brown, for example, retained the measures that restricted trade union activity that were enacted between 1980 and 1993 by successive Conservative governments. The contraction in the coverage and scope of collective bargaining, coupled with the decentralisation of bargaining were thus features of the entire period 1980 to 2017, albeit occurring at different annual rates. While trade unions have invested considerable resources in organising new members, these initiatives, at best, have slowed the rate of decline rather than reversed it. At the time of writing it is difficult to imagine a reversal of the effects of the neoliberal programme without state intervention to promote the coverage of both trade unionism and collective bargaining.

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All links were checked on 29 November 2018.

Abbreviations

ACAS	Advisory, Conciliation and Arbitration Service
CBI	Confederation of British Industry
GMB	General, Municipal, Boilermakers and Allied Trade Union
LFS	Labour Force Survey
TUC	Trades Union Congress
USDAW	Union of Shop, Distributive and Allied Workers
WERS	Workplace Employment Relations Survey