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## ANALYSIS

Voices from the movement: What can the Trade Union Act (2016) tell us about trade union organising?

Fenella Porter, Heather Blakey, Michael Chater, Graeme Chesters, Matt Hannam, Ian Manborde

### Introduction

It is easy to think of the Trade Union Act (2016) as ‘Thatcher Round 2’: the economic strategy of austerity once again pits the haves against the have-nots, creating the potential for a re-invigorated trade union movement to return to its economically disruptive habits, which the government seeks to constrict. Thus, TUC General Secretary Frances O’Grady condemned the Conservatives for ‘refighting the battles of the 1980s’ instead of taking a more constructive approach (O’Grady, 2016).

However, while the trade union legislation of the 1980s followed a decade marked by entrenched union disputes, the Trade Union Act (2016) has been introduced against a very different backdrop. The UK currently has historically low levels of industrial action, stagnating levels of union membership and limited areas of union density (DBIS, 2015; Godard, 2011; Dix *et al*, 2008). Could it be that the Trade Union Act (TUA) has more to tell us about trade union weakness than their strength?

The Act comes at an important moment in the history of the labour movement. The Conservative austerity agenda not only attacks living standards,

but reduces union membership through extensive job losses. The significance of this for the movement is exacerbated because the public sector is the most heavily unionised sector. This matters for many reasons, not least because the movement's ability to resist the worst excesses of the austerity agenda rests on its membership and strength. This situation in turn shines a spotlight on what is perhaps the most pressing question facing the movement – the need for a model of unionism which can reach beyond the public sector, and in particular which meets the needs of the ever-growing body of precarious workers.

This article presents the views of thirty-six Trade Union leaders, politicians, paid officials, activists and members, across twelve unions and the TUC, at this critical juncture, on what the TUA reveals about trade unions, their relationship with their members, and their understanding of organising in this new statutory and political environment. Our respondents came from a wide range of unions, including Unite, Unison, GMB, and several small, independent unions such as the IWW (Industrial Workers of the World) and the IWGB (Independent Workers Union of Great Britain).<sup>1</sup> It is noteworthy that there was no significant distinction in the views of activists and officials, therefore we have in general not identified participants by role. Data was gathered from individual interviews and focus group discussions, which were semi-structured, enabling the development of discussion between respondents. The research was carried out in the summer of 2016, as the Bill progressed through the Houses of Parliament.

Participants' responses suggest that the Act could represent a turning point for the union movement: whilst it has revealed weaknesses in trade unions, it arguably also creates opportunities for revitalisation. This article offers a snapshot of views from within the movement. These are certainly not representative, but are, rather, voices for change: activists reflecting on the Act, on the movement itself, and on possibilities for renewal.

## Movement responses to the Trade Union Act 2016

When the Trade Union Bill was introduced in July 2015, it included a number of provisions which were deeply concerning to many in the trade union move-

ment, including restrictive ballot thresholds for industrial action, an expiry date on the mandate for action, the removal of DOCAS (or 'check-off' – the payment of subscriptions via payroll), further restrictions on pickets, changes to the certification officer role, and a cap on facilities time. While some of these elements were moderated by the House of Lords, ballot thresholds, longer notice of industrial action, and restrictions on picketing were among the provisions that remained. Many respondents highlighted specific parts of the Act, in particular, ballot thresholds, facilities time, and for some unions, the threat to DOCAS/check-off. However, for all respondents, the most worrying aspect of the TUA is the more general attack on workers' rights, *'a way of shackling and probably suppressing an already beaten down workforce throughout the UK'* (FBU, interview, 3/5/16).

Unsurprisingly, all our respondents viewed the TUA as ideological in nature. While some presented the Act as business as usual from a Conservative Party traditionally hostile to the labour movement and emboldened by a recent election victory, others placed it in the context of a wider neoliberal, austerity and privatisation agenda. In this analysis, (some) trade unions were seen as a major barrier by the Government to further privatisation, and a voice against the wider austerity neoliberal agenda. These responses echo the argument that the TUA is the state response to a perceived (and perhaps actual) threat to the dominant narrative and economic model.

In this hostile political environment, it is perhaps unsurprising that the coordinated response of the union movement at leadership level tended towards lobbying rather than organising. Leadership respondents focused on the House of Lords campaign (including the importance of cross-bench support). Connected to this, Diana Holland (Assistant General Secretary, Unite, interview, 7/9/16) emphasised the importance of alliance-building at the campaigning level, with charities and other social justice organisations experiencing the same ideological attack. For Richard Burgon MP, opposition to the Bill had of necessity focused on getting the most pernicious aspects removed (interview, 22/4/16).

This approach was welcomed by some as both realistic (the leadership *'looking after the union [and] ... taking issues we care about into the heart of the political*

*process*, CWU, interview, 19/4/16), and successful, in raising public awareness of the TUA, and galvanising support amongst MPs and Peers. For others, the response had been inadequate: a *'PR campaign'* rather than an activist response (GMB, focus group, 4/6/16), with the TUC *'in panic mode'* (PCS, focus group, 4/6/16). FBU respondents, in particular, expressed disappointment that the response was limited to mitigation, rather than outright opposition to the Bill itself (interviews 3/5/16; 18/6/16; focus group 30/6/16). Some CWU and Unison respondents were also critical of the limited planning they saw at the level of their own union leadership (CWU, interview, 26/4/16; Unison, focus group, 4/6/16). Nevertheless, in some unions this critique was also in evidence at leadership level. For Matt Wrack (General Secretary, FBU, interview 18/6/16), the underlying issue is that the TUC needs to reimagine its role. As he put it:

*if the TUC just thinks it can be this major player where governments call it in for meetings periodically then that's probably just a recipe for further decline.*

Significantly, while all our respondents agreed that the TUC response has been focused on lobbying rather than activism, their assessment of this strategy depended on whether they believed that wider mobilisation was possible. For some, most notably within Unison and CWU, there was an underlying sense that opposition had to come from the top, because *'we can't get the membership to come out with us'* (Unison, focus group, 30/6/16), a sense that activity *'grinds to a halt at activist level'* (CWU, interview, 19/4/16). However, others (again, including at leadership level) believed that members *can* be mobilised. Thus, some respondents observed that there in fact *had* been an activist response, alongside the 'lobbying' response of the TUC, but that the leadership had not built on this:

*Senior trade union leaders ... see the membership as a stage army to be walked on and walked off, you know, as appropriate, to show we have got some backing, now leave it to us* (UCU, focus group, 4/6/16).

According to these respondents, members are thinking about what is needed, but their ideas and energy have not been incorporated into the response at leadership level. They therefore see the Act as a clear wakeup call to a movement in decline, and suggest that recognising this is an essential first step in recovery. For Matt Wrack:

*the audience is, first of all, six million trade union members – and unless we mobilise them, why would the other side take the remotest notice of us?* (inter-view, 18/6/16).

#### Voices from the movement: weaknesses revealed

It was striking that in reflecting on the Act, many respondents moved quickly to reflecting on the limits and challenges facing the movement itself (or, to put it another way, the reasons the movement is vulnerable to attack). These fell broadly into four categories: dependency on the employer, limited relationship with members, fragmentation of the movement, and the changing landscape of work.

#### Dependency on the employer

The dominant relationship between trade unions and employers in recent years has been widely characterised as a ‘partnership approach’, which arguably creates a dependency on the employer, and results in the union-employer relationship taking precedence over the union-member relationship (see Daniels & McIlroy, 2009). This is illustrated in the concerns of many respondents regarding check-off and facility time – as one put it, *‘you shouldn’t be relying on the employer to collect your membership dues, you should never be in a position where you are reliant on that in the first place’* (RMT, focus group, 15/6/16). Others spoke more generally about the partnership approach, and how it has made it too easy to *‘slip into inertia’* through reliance on facility time, with nobody *‘above me’* in the union caring (CWU, interview, 19/4/16) – *‘conveners who rely on that time off... rely on the powers that be to maintain that facility time for themselves... it becomes a source of resentment for members’* (Unison, focus group, 30/6/16). For some independent union activists, *‘that’s what’s led to the reification of unions is that the organisation becomes the end in itself not what it’s doing’* (IWW, focus group, 15/6/16). As one respondent reflected:

*We became puppets of the employer because they controlled the union and they told us how much of the cake we could have, how we divvied it up and how we operated. And we fed into that for too long* (PCS, focus group, 4/6/16).

It is, of course, easy to see how this dependency increases the movement's vulnerability to anti-union legislation such as the TUA.

#### Limited relationship with members

Decline in membership and low levels of engagement were consistently raised by respondents as illustrative of a 'top-down' and bureaucratic model, as well as factors encouraging a lobbying rather than activist response to the Act.

Respondents identified the servicing model of trade unionism as reducing membership to insurance, which becomes almost a self-fulfilling prophecy. As one respondent put it:

*it is difficult to get engagement with members if they have joined a union for insurance, rather than as a movement (Unison, focus group, 30/6/16).*

There is also a danger of institutionalising norms and behaviours that provide a 'comfort zone' for some, but which many perceive as perpetuating entrenched interests, and discouraging new and energetic activists. Thus, '*a [branch officer] who's been steeped in the traditions, is so conversant with the mechanisms and levers of change, that an upstart who might want to come along and make those changes ... can be quickly browbeaten and put in their place*' (CWU, interview, 26/4/16). In addition, the style of engagement is off-putting for many members: '*not everyone wants to go to formal meetings... whereas if it's more informal, more like 'let's get something done ... it's starting to work*' (Unite Community, focus group, 4/6/16). Bureaucracy can also mean that trade unions are slow to react and '*behind the curve*' when it comes to seeing and planning for change (CWU, interview, 26/4/16).

The key effect of the servicing model of trade unionism, however, was understood to be a real decline in organising. Our respondents gave many examples. These included: branches who sit on funds that could be used for organising purposes (Unison, focus group, 15/6/16); a Unite initiative for a national workplace branch which never got off the ground despite three years of requests (Unite, focus group 4/6/16); PCS members who had '*not seen a trade union rep in [their] workplace for five years*' (PCS, focus group 4/6/16); GMB meetings attended by 6 out of 1300 members, while other branches do not even hold meetings (GMB,

focus group 4/6/16), and a Unison branch where meetings are held for officers but not for members (Unison, focus group 4/6/16). The effect is understood to be a huge concentration of trade union activism in a small number of people, who in turn become disillusioned. In the words of one respondent:

*[Organising] is not magic, it's a specific skill set which can be trained to anyone, [but] I don't think it's trained that well to union staff, and then it doesn't cascade down, it's not trained to lay activists either* (Unison, focus group, 15/6/16).

This limited connection with members both undermines trade union legitimacy, and generates another weakness revealed by the TUA: the potential inability to meet the new ballot thresholds. As Matt Wrack put it; *'if you're in an industry where you don't see a union rep for months and months and suddenly a ballot paper turns up there's a good chance you won't know it's coming and therefore won't vote in it'* (interview, 18/6/16). Of the respondents who spoke about this specifically, all accepted that the ballot threshold should not be problematic in a democratic organisation: *'if you can't get past the thresholds that the government is demanding then you shouldn't be calling a strike anyway'* (IWW, focus group, 15/6/16). The fact that the ballot thresholds are understood as a threat was felt to be telling.

#### Fragmentation of the movement

Another strong theme for our respondents was the fragmentation of the movement, both in response to the Act and more broadly. For example, some PCS officials (having come through a successful direct debit transfer campaign), found it frustrating that other unions directed a great deal of energy into removing the threat to check-off, rather than putting their efforts into challenging aspects of the Act which were important to the movement as a whole (focus group, 4/6/16).

More broadly, although the trade union movement frequently presents itself as unified in the face of the government attacks on workers (*'an attack on one is an attack on all'*, Diana Holland, interview, 7/9/16), many respondents indicated a level of competitiveness in reality, what one called *'that bit of rivalry around members, poaching members and all of that'* (Britannia Staff Association, focus group, 4/6/16). For example, one respondent suggested that GMB would

emerge stronger than other unions because it is (they suggested) more '*willing to fight*' (GMB, interview, 6/9/16). Similarly, other respondents talked about internal tensions within particular unions, for example, between Unite Community and Unite Industrial (Unite Community, focus group, 4/6/16). Within this research, one activist reacted strongly to a critique by an official (of her own union), because it was articulated in front of other unions (Unison, focus group, 30/6/16).

The movement is also understood to be fracturing in response to the changing landscape of work. Employers have been allowed to '*divide and conquer*', using tactics such as changing pension terms for new starters and then attacking existing members' terms – which new starters understandably would not mobilise to defend (FBU, interview, 3/5/16). Diana Holland reflected how protecting gains has sometimes '*been done at the expense of new workers ... protecting an old-fashioned thing they'll never get access to*' (interview, 7/9/16). Another respondent put it more strongly: '*it's abandonment – fragmented and precarious workers and ... nobody's trying to organise them*' (Unison, focus group, 30/6/16).

#### The changing landscape of trade unionism

The final area of weakness goes beyond the Act itself. It is increasingly evident that some forms of organising are simply no longer relevant or effective for the way work and workers are now structured. Roger McKenzie spoke about how the increasing precarity and fragmentation of the workplace has produced a wholly different set of labour relations:

*How do we make and maintain contact [with] people in such fragmented workplaces? ... thousands of our members haven't even got a workplace where they see anybody else, so we're actually also dealing with the breakdown of the usual workplace collective* (interview, 21/7/16).

The new landscape of work, in particular, the so-called gig economy, means that unions need new ways of collectivising. Many issues about labour relations are raised by Deliveroo, Sports Direct, Amazon-type employers, which are not yet being adequately considered – in short, '*the demographic of people that unions used to organise isn't there anymore*' (GMB, interview 6/9/16).

For many of our respondents, this stark environment presents a clear choice for the future. For one respondent, *'[the Act] has made us look, as a labour movement, [at] how to make ourselves relevant and current [so] that in a hundred years' time, the labour movement will still be here'* (PCS, focus group, 4/6/16).

#### Voices from the movement: opportunities of the TUA

Despite – or perhaps because of – this context, many of our respondents identified opportunities in response to the Act: *'inadvertently, the Tories are actually pushing unionstowards the organising strategy... because if we can't [get] all those benefits, why would we stay in a partnership arrangement?'* (GMB, interview, 6/9/16). As Diana Holland reflected, *'did we need [this] anyway without the Trade Union Act – yes, we did'* (interview, 7/6/16).

For these activists, a better response means, quite simply, a stronger movement at grassroots level. For some, the response is simply *'to ensure that all workplaces are organised to the point where it shouldn't matter what the law says about strike action'* (RMT, focus group, 15/6/16). This was strongly echoed by activists in smaller independent unions, who did not feel affected by the Act, because: *'if we were going to take some action we would do it anyway, because we had the power to do it'* (IWW, focus group, 15/6/16). For Roger Mackenzie, asserting the movement's politics is essential in building a wider social justice movement, beyond the workplace (interview, 21/7/16). For Matt Wrack, if we want to rebuild confidence in the movement, we need to be winning (interview, 18/6/16).

In terms of concrete ideas, respondents focused on improved communication, rethinking organising approaches, and building stronger community alliances.

#### Communication with members

Perceived opportunities centred on the possibility of improved communication through a move to direct debit, improved resilience in response to the loss of facilities time, and a wake-up call to organise better. One respondent asked, *'are we falling into the trap, playing games [on their terms] – should we not be discussing, how do we organise?'* (Unison, focus group, 30/6/16).

The approach to improved communication is rooted in the recognition that something has been lost with check-off, which must be rebuilt (this was recognised even by those who felt the threat to check-off as a primary challenge of the TUA). Thus, CWU respondents talked about how they used to speak to every member every couple of years to renew membership; the convenience of check-off came at the cost of lost conversations (interview, 26/4/16). Following the example of PCS, which was proactive in embracing the switch to direct debit in 2015, FBU respondents described how they are continuing the move to direct debit despite the reprieve on check-off in the Act, emphasising the value of these one-to-one conversations for talking about the Act itself, as well as what the union is doing locally and nationally, and how members can be involved (focus group, 30/6/16). Some Unison activists reported a similar approach at their own branch level, despite a perceived lack of leadership on this at national level (focus group, 4/6/16).

Similarly, alongside frustration with the 'double standards' of politicians setting higher thresholds for turnout than they were elected on themselves (FBU, interview 3/5/16), many activists approached thresholds as another opportunity to talk to members and build support for a dispute. Furthermore, while low turnout represents a risk, the incentive to achieve a high turnout and a strong vote could strengthen the appetite for action, and reassure members that they could win (UCU, focus group, 4/6/16).

More broadly, respondents talked about the need for communication to be regular, for officials to be '*out at the coal-face, not cosy in an office*' (PCS, focus group, 4/6/16). From the perspective of smaller, independent unions, there is a need not just for more communication, but for rethinking what communication should look like. The IWGB in particular emphasised the need to listen as well as talk, changing the model from '*four guys getting up and saying why the world's a bad place*' to a more empowering approach which asks people to talk about and build from their own experiences (IWGB, focus group, 15/6/16). While most respondents emphasised the importance of face-to-face communication, Roger McKenzie (interview, 21/7/16) also talked about the 'Unison app' (a '*steward in your pocket*'), which Unison are trialling as a means of reaching workers in more precarious or fragmented workplaces.

## Re-defining organising and re-imagining the role of members

These approaches to communication were reflected in a broader discussion about the pressing need for the movement to rethink what is meant by organising. The independent unions articulated this as rooted in a bottom-up approach, which allows for much greater creativity, as members begin by talking about what they want to do, rather than following a pre-existing idea of what industrial action 'should' look like:

*In a small union a member can approach another member or go to a branch meeting and suggest a course of action and that can be put into operation within a few days. You can act instantly. That's an example of small union organising. It's bottom up. It's a response to the needs of members. (IWW, focus group, 15/6/16).*

In practice, this often leads to more fluid (and lower commitment) collective action than strikes, for example 'flash mobs' presenting demands to employers and their clients, or group approaches to the employer which avoid identifying a named individual as a representative (IWW, focus group, 15/6/16).

While some activists in independent unions identified this as the clear difference between themselves and '*mainstream unions*', it is interesting to note that the majority of our respondents from a wide range of unions, both large and small, also clearly talked about how an organising approach meant rethinking the role of the membership. For a Unite respondent, '*you create activists by taking action*' (focus group, 4/6/16). Respondents described how flexible structures facilitate a more dynamic role for members, including Unite Community's informal meetings and the PCS trialling weekend meetings (focus group, 4/6/16). Starting from members' passions, such as housing or poverty, was felt to be important (PCS, focus group, 4/6/16), or, as another respondent put it, '*we need to find the issues that are there in the grassroots and make campaigns out of those*' (GMB, interview, 6/9/16). The FBU now has an organiser in every brigade, replacing the older, more administrative role of membership secretary (interview, 3/5/16). Respondents from both independent unions and larger unions such as Unison talked about the importance of fostering union identity as a means of building activism, for example through social events (focus groups, 4/6/16 and 15/6/16). One respondent described the IWGB approach

with enthusiasm, as *'the same model'* he was trying to enact in newer and more precarious workplaces (GMB, interview, 6/9/16) – for another, *'if it means syndicalism ... let's do it!'* (PCS, focus group, 4/6/16).

There was also widespread agreement amongst respondents that rethinking the role of members cannot happen in isolation, but requires a much broader organisational culture change, including rethinking the central role of full-time officers – *'we don't stand or fall by them, we stand or fall by basic community organisation'* (Unite, focus group, 30/6/16). For Matt Wrack, this kind of organising can be supported *'from the top'* but it can't be *'done from the top'* (interview, 18/6/16). While some respondents (most notably in the FBU and PCS) were encouraged by the approach of their leadership, others felt that organising is *'not where the General Secretaries are focused'* (GMB, interview, 6/9/16).

With reference to the changing landscape of work, respondents discussed the need to overcome divisions within workforces. CWU respondents talked about the need to organise outsourced workers within the Royal Mail's dedicated agency service, while Roger McKenzie described Unison's interest in worker centres, which recognise that many employees are no longer based in static workplaces (interview, 21/7/16). More broadly, Diana Holland talked about the need for a move to industrial unionism rather than trade unionism; *'not allowing this divide between different types of workers depending on what contract you're employed on'* (interview, 7/9/16). This was also a strong theme for several independent union activists, who talked about supporting solidarity between, for example, social workers and care staff (focus group, 15/6/16).

With reference to un-unionised workplaces in particular, where the case for a union has to be actively demonstrated, not assumed, activists from the independent unions talked about the importance of conveying to workers that the workplace struggle comes first, not union organisation (in contrast to the approach of refusing help until the workers have 'signed up') (IWW, focus group, 15/6/16). As with the need to rethink the role of members, the changing workplace environment is also an important catalyst for rethinking union cultures and approaches. This was expressed by one respondent as the core dilemma facing the movement – *'this [Act] is a threat largely to the public sector ... should the emphasis be upon us as a labour movement, trying to organise those people'*

*in more precarious positions, or should we be fighting this Act?* (Unison, focus group, 30/6/16).

### Community alliances

It was striking that a great many respondents talked about the need to organise beyond the workplace: from Unite Community (focus group), whose activists talked about this as *'creating unity and solidarity, and bringing people along in a group'*, to a – perhaps more instrumental – recognition that it is not possible to win industrial struggles without mobilising communities behind the campaign. Roger McKenzie saw it as critical *'to build links... with organisations working with us against austerity'* (interview, 21/7/16). For Diana Holland, this isn't a culture shift so much as the need to consciously talk more about the fact that unions have always *'fought for things which have protected communities as well'* (interview, 7/9/16). It is worth noting that a very small minority of our respondents were actively opposed to this type of approach, insisting that unions have to be focused on industry not communities. One respondent asserted that the unions which are winning are those tied to a single industry, such as RMT and the FBU (Unison, focus group, 30/6/16). However, for other respondents there was a clear recognition that the context had changed around them (arguably, unions such as RMT and the FBU have been more protected from these changes than most, but even there, they see a change coming). For many of our participants, the truth is that unions are losing ground, not because they have changed too much – but because they haven't changed enough.

### Conclusion – where next?

The Trade Union Act 2016 focuses our attention on a set of issues much broader than Conservative antipathy to organised labour. The movement is facing the confluence of an austerity agenda which erodes union membership precisely as it ratchets up the need for collective action, a changing landscape of work which challenges unions' traditional modes of working, and a direct, ideological attack on the very partnership model with which the movement responded to the anti-union legislation in the 1980s. Set against this political landscape, this research has showcased a set of voices from within the labour

movement who can and do have the capacity to challenge the narrative of inevitable union decline.

These voices are varied, including as they do a range of roles from grassroots activists to union leaders, and a wide range of trade unions from small, independent and self-identified radical unions to trade unions of very different sizes and cultures, we are in no way suggesting that they represent a cross-section of views within the union movement (indeed, more than one respondent lamented the '*lack of evidence*' that unions are in practice turning the Act into an opportunity (focus group, 4/6/16). As self-selecting participants choosing to reflect on the crossroads at which the movement finds itself, it could be said that in many ways, this research privileges voices for change within the movement. Certainly, this research also affirms that 'old-style' unionism is alive and well in the movement: resistant pockets of the 'macho' left, competition between unions unchallenged even by many who see the need for other changes, practices which exclude or limit the role of members, and an ongoing focus on 'easy pickings' in the public sector over precarious workers elsewhere. The picture that emerges is of frequently frustrated activists, committed to the labour movement and seeing opportunities to move forward, but facing huge constraints and barriers, both external and internal.

This begs the question of how awareness of these issues and of the need for change can be translated into practice – understanding the choices facing the movement does not, of course, mean that there are easy answers. It is therefore essential to ask how the movement as a whole can make space to support and strengthen counter-cultural voices, for example through critical education, and through stronger links with communities and allied social movements. Perhaps it would then be possible for the existential threat posed by the Trade Union Act to be grasped as an opportunity.

**Fenella Porter**, Ruskin College

**Heather Blakey**, University of Leeds

**Michael Chater**, independent researcher

**Graeme Chesters**, University of Bradford

**Matt Hannam**, independent researcher

**Ian Manborde**, Ruskin College

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## Note

- 1 Trade unions represented are: Unite and Unite Community, Unison, GMB, PCS, UCU, FBU, CWU, RMT, Britannia Staff Union, IWW, IWGB, IWU (Ireland).