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By Matthew Taylor

## Bargaining for the future

Chair of the Modern Employment Review shares his thinking

Two things occurred to me soon after I was appointed by the Prime Minister to chair the Review of Modern Employment. First, the questions arising from modern employment forms such as 'gig' work are not separable from longer standing and wider issues about people's experience of work, and particularly the lives of those at the lower end of the labour market. There is, for example, no fundamental difference between the relationship between Uber drivers and the global corporation hiring them and the employment form that has existed for decades in large parts of the mini cab sector.

Second, for the Review to have any chance of making an impact beyond some tidying up of labour regulation, we need as a nation to make a principled decision. I hope the top line of the Review's final report is that 'all work should be fair and decent with scope for development and fulfilment' (to give its recommendations extra impetus I am exploring developing an RSA campaign around this goal ahead of the Review's launch).

Standing back and taking this wider view of the future of work has rekindled my enthusiasm for employee engagement. Greater worker voice and workplace dialogue has many virtues. While we need, and the Review will recommend, regulatory changes, the history of both employment and labour tax rules is characterised

by perverse outcomes with lawyers and accountants finding ways of circumventing the spirit of the law to the benefit of their clients. If employers and workers work with each other they are likely to develop better and more flexible solutions than can be imposed nationally. This is one reason why evidence suggests a broad correlation between employee engagement and productivity. It also helps explain why the UK suffers both from low levels of employee engagement by international comparison and poor productivity.

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**A growing body of research shows engagement is also associated with higher levels of employee health and well-being.**

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A growing body of research shows engagement is also associated with higher levels of employee health and well-being. This is hardly surprising given evidence from psychology of the importance of both control and meaning in human satisfaction and resilience.

If we want all work to be good work – and no one should underestimate the importance of setting this as a national goal – then engagement is a vital tool.

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## NOTE FROM THE DIRECTOR

# Looking to the future

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Welcome to another edition of Agenda, the Unions 21 newsletter. This edition seems to be one of change as we move into 2017. As the Taylor Review

goes into full steam, our 'Changing World of Work' research which was conducted in conjunction with NIESR has never seemed more timely. Where will people be working, how will they work and what are their expectations of work are the key questions being asked, but for us here there is a follow up - where will unions be and how do unions respond? I'm pleased we could have Michelle Miller from Co-Worker share her ideas and research (more over on the website) on this and that we are linking with with Matthew's review. He's writing a series of blogs on the RSA website which I recommend you taking the time to read. It's also a great reflective series, a style which is reflected in Kathleen Christie's review of the work on the Trade Union Act.

As well as a jam packed research schedule, we've started our Masterclass programme of events which is open to supporters and look forward to the next year's priorities. As always, we want to hear from you about what you think we should be working on - come to conference, email or tweet us, our door is always open.

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As I have gone round the country for the Review most people I have met agree. The difficulty comes when the conversation turns to how we achieve progress.

## CONSULTATION AND DIALOGUE

Broadly, I am an enthusiast for the Information and Consultation of Employees regulations introduced by the Labour Government in 2005. Work in this country would be better if the threshold for the introduction of ICE into firms had not been set so high that it has only been enacted in one in five companies. But when I make this argument I find equal levels of scepticism from two opposing sides. On the one hand, employers and their organisations say that formal arrangements are unnecessary and onerous. Unsurprisingly, they prefer models of 'engagement' that are predominantly about the firm communicating to its workers on the management's terms. On the other hand, trade unions can be scornful of information and consultation given that it falls short of what they see as the real need - which is for workers to join trade unions and demand collective bargaining.

I have great sympathy for the view that both our society and economy would be stronger if the UK had more members of progressive trade unions. But we can't simply wish away very low rates of unionisation in large parts of the economy. The view that employee engagement is a poor alternative to union organisation and recognition rests on a false dichotomy. Instead, as Unite has shown in several instances, employee engagement techniques can provide a 'shallow end' of collective action encouraging workers to see the benefits of having a voice and being represented and thus opening them to the possibility of taking the next step into union membership.

## LOOKING AHEAD

In the face of employer suspicion and union ambivalence the ICE regulations have been described as 'an idea without a constituency'. It won't be easy persuading the Review team and the Government to provide that constituency and to make structured engagement the norm in British workplaces rather than the exception. I could do with all the support Unions 21 can provide.

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## GOOD WORK

# Workers on the Board – or not?



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By Simon Sapper

**Industrial democracy has made a welcome return to the political frontline. With positive news for workers and the economy in general hard to come by, this could be a glimmer of good news in a fairly bleak landscape.**

I'm talking of course about the idea of Worker Directors. Theresa May has been tying herself in knots on this – showing rather less poise than Ed on *Strictly* – having first pinched the idea from Ed Miliband, going big on it on her way to Downing Street, pulled the plug on it in front of the CBI and finally rekindled interest in response to a question from Gloria del Piero at the fag-end of PMQs during the week in question.

But the idea of worker directors is not new – the modern era opened with the Bullock Report into industrial democracy in 1977. As debates at the time illustrate, then, as now, this was seen as something of a magic bullet for solving deficiencies in employee engagement and boardroom arrogance.

Bullock directly led to six worker directors being appointed to the board of the then-state run forerunner to BT.

The experiment ran from 1978 to 1980, all concerned felt it was successful, but it was allowed to lapse by the in-coming Thatcher government who perhaps already had privatisation in mind.

The value of the worker director concept works on two levels. On the plus side, they have important symbolism. A witness in the boardroom. A civilizing influence to curb corporate excess. An advocate of realism to speak truth unto power.

But a more inclusive approach can also lead to real change, especially as part of a wider democratization of workplaces. The TUC's 2014 report on workplace democracy set out clearly and convincingly how and why more inclusive employers would also

be more effective and efficient.

Both the symbolism and practical effects of Worker Directors speak to issues regarded by employees and workers as being important. UKCES survey work paints a picture of "a climate of fear [as] employees face greater stress and job insecurity while working harder."

But nor should the potential of worker directors be over-stated. They can only ever be one part of effective employee relations. And they can actually be very damaging to industry if mistakenly seen as a panacea.

You can immediately see the limitations: What are the terms of reference? What is off-limits? What information has to be disclosed – and when? Is there enough time and detail to form the basis for a proper discussion? The fundamental constraint is that worker directors are always, always "playing away" – the agenda is set, predetermined. They cannot on their own bridge the gap between boardroom and shop floor. They do not replace effective communications within a company and they are too restricted in number and scope to be a truly effective tool for employee engagement.

And the very real risk is that this then becomes a tick-box exercise. "We've got a worker on the board, what more do we need to do?" The answer is likely to be "nothing".

So worker directors need to sit alongside effective collective bargaining arrangements. They can certainly add value and encourage dialogue at a strategic level.

But we need to be aware of the capacity for worker director arrangements to act as black holes

– sucking everything in, generating no light or understanding, leaving nothing outside.

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**The potential of worker-directors can be over-stated. They can only ever be one part of effective employee relations.**

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Quite apart from the PM's acrobatics, the high level of interest in the latest Government consultation on corporate governance shows it remains a live issue. But if employers try to weaken consultative strictures in favour of more limited and regulated dialogue with worker directors, they should not be surprised to find poorer outcomes as a result.

And we may not even get as far as this debate on practicalities. As the TUC's Janet Williamson observes, "appointing a non-executive director to speak on behalf of the workforce or setting up a stakeholder advisory body are not the same as putting workers on company boards. Don't think that working people won't notice the difference."

In this era of post-truth left-behind politics, worker directors would seem to be a straightforward win-win issue.

Simon tweets at @simonsapper and blogs at [www.loudshirts.org](http://www.loudshirts.org)

## GOOD WORK

# Complications with the changing nature of work

© Photographers credit



By Michelle Miller  
Coworker.org

**In the US and elsewhere, the entire government and union structure designed to ensure economic stability for workers no longer matches the situation in which many people actually work.**

In the US today, the federal definition of an employee does not apply to the fastest growing sector of the workforce – the informal ‘gig’ economy.

There has been some effort, via litigation, to define these workers as employees of the platforms. The platforms maintain that they simply provide technology that connects independent contractors to customers. But cases against Handy, Crowdfunder, Uber and Lyft have all argued that the centrality of the tasks performed by these workers to the basic functions of the companies and the control exerted over the manner in which those workers were paid and were able to access the tasks indicated that the platforms were functioning far more as employers than just technology providers.

But determining workers’ rights on a case-by-case basis is resource-intensive and time-consuming. It will not create broad-based economic stability, even if juries ultimately decide in workers’ favour in these particular cases.

In the absence of any kind of institutional or federal support, gig workers could advocate directly to platforms to provide stability or a support system. However, this workforce is disaggregated and disconnected due to the lack of physical workplace or easily identifiable shared employer. In

addition, individuals who rock the boat can be erased from the app within seconds. Drivers for Uber in Boston, Albuquerque, and Dallas have all reported being “deactivated” from the app after making critical comments about the company on social media.

Therefore, any direct advocacy needs to be engaged in collectively. The same kind of platform and cloud technology that helps these workers connect to work should make it possible for them to connect with one another.

Even then, it will be critical for workers to identify the ultimate power brokers as they are advocating for changes in their conditions. The economic power is difficult to identify in these setups—workers are often hired directly by consumers who are requesting tasks. The platforms position themselves as matching services, not employers, because workers using them choose how, when, and where to complete tasks.

The platforms say that they are simply establishing an online space where they match individuals, who then engage in transactions that benefit both parties equally. The stated intent of this structure is not to provide enough work to replace full-time employment but to instead create opportunities for people to put their skills or assets to work for a little extra cash.

Workers, therefore, are classified and treated as independent contractors, not as employees. But the platforms have the power to manage the conditions of those transactions, encourage fair behaviour by consumers, set wages, monitor health and safety, and protect parties from one another.

In exchange for facilitating and managing the transaction, the platform takes a small percentage of fees paid to the worker. However, the platform controls the manner in which work is assigned to individual workers, the mechanisms through which money is paid, and the entire system through which the transaction takes place. Therefore, it has far more power than either individual in the transaction.

Given the current situation and the complications outlined above, we need to answer the following questions:

- What are some ways to create stability for workers in the gig/freelance economy?
- What are trends and signals of the way organizing and representation may be changing, and how could those be applied to the future of the union?
- What questions should policymakers consider?

## WHAT WILL THE UNION OF THE FUTURE LOOK LIKE?

The union of the future will be structured radically differently to meet the needs of workers in the emerging platform-based economy. It will transition from focusing solely on generating and supporting collective bargaining agreements to providing a variety of services to these workers. It will only thrive in a federal policy environment that is willing to reimagine its own definitions of work. The union of the future will combine elements of platform-based global networks of employees, facilitated mutual aid, and revamped trade unions.

## PLATFORM-BASED GLOBAL NETWORKS OF EMPLOYEES

People will connect with one another and organize around issues through platform-based global networks of employees. Because work will be distributed via platforms assigning specific tasks, workers will be part of multiple digital networks that relate to the kind of work they are performing. The networks will consist of people all around the world who perform similar tasks or occupations. They will be task-oriented rather than employer-oriented. These online spaces will function as digital union halls—places for workers to discuss issues they are experiencing related to their work, share information, rate platforms and employers, and recruit supporters for campaigns. The campaigns and organizations that emerge from these networks will be worker-initiated. A team of organizers, researchers, campaign experts, and facilitators will provide support to the networks as needed.

Within the task-based networks will be sub-networks by platform. Within these sub-networks, workers will share specific information about what it's like to work on those platforms and will advocate as collectives to those platforms when necessary.

Because the physical location of work will be disaggregated, digital networks will be global. This will

require that a significant enough percentage of the workforce must combine their voices/actions to persuade the company to make a change rather than in the single employer model, where workers could disrupt operations at one location. This digital density has to be achieved via networks that can quickly connect many people in a single “space” to coordinate advocacy.

## FACILITATED MUTUAL AID

The union of the future will also contain networks that may become sources of peer-to-peer economic support through shared resources. As the overall sector of independent, freelance, contingent, and temporary workers increases, the demand for services that introduce stability, consistency, and basic protections into this workforce is growing.

Several organizations are experimenting with services and products that meet the growing needs of the “1099” workforce.

## REVAMPED TRADE UNIONS

Much of the work of trade unions in their current form involves contract negotiation, processing of grievances, mobilizations around key political and workplace issues, grassroots organizing, lobbying, legal support, and coordinating/connecting activists to one another. In the past, they provided access to networks, media, research, and communications that required a certain level of expertise, expensive in-house technology, and centralized information databases.

Cloud technology has dramatically altered all of these. Some major changes in traditional functions:

- Peer-to-peer contact and communication no longer needs to be facilitated by an institution; a single organization doesn't need to function as the “holder” of a list of contacts. Instead, people can find one another online without that facilitation.
- There is an expectation that access to information and research is universally accessible, navigable,

and actionable online. If I want to learn Arabic, use a circular saw, or file a FOIA request, I can find out how online. People do not want to go through the process of institution-building to address issues at work; they want to apply existing tools to the problem like they do with anything else.

- Mass communication is more accessible via social networks and journalists' ability to directly reach people.
- Direct action can be coordinated in a decentralized manner.

## EXPERT NAVIGATORS

Instead of acting as instigators and mobilizers for organizing and corporate campaigns, unions will provide expert research and support to campaigns instigated by workers in the digital networks.

While information and research may be readily available online, making sense of them – how laws apply to a specific campaign, for example – is something that will be a unique strength of a union.

The key difference is that they will be acting in response to worker-led efforts as opposed to launching efforts around which they mobilize workers.

## CONCLUSION

The union of the future will grow out of a fundamentally different way of understanding both the nature of work and the formation of a collective. The introduction of platform-based technologies that manage and distribute tasks to workers on a global scale is fundamentally changing the meaning of employment, requiring new or revamped structures and institutions that are designed to navigate these.

This article is an extract from *The Union of The Future* by Michelle Miller, available in full at [unions21.org.uk/files/1/Miller-The-Union-of-the-Future.pdf](https://unions21.org.uk/files/1/Miller-The-Union-of-the-Future.pdf)



## NEW WORKERS, NEW ECONOMIES

# Lessons learned? The campaign against the Trade Union Bill



Kathleen Christie

**The Trade Union Bill represented the most significant and sustained attack on the trade union members in a generation. The movement's response had to be powerful and fast moving.**

The campaign's success hinged on movement-wide support involving activating grassroots members in schools, hospitals, factories and offices up and down the country. Union members were kept up to speed through in-depth issue briefings on key aspects of the bill and weekly news updates to keep the campaign current. To get members actively talking about the campaign from the outset, a 'flash mob' featuring a range of union members telling their stories of why they had taken the difficult decision to strike, took place unannounced at Congress, the biggest annual gathering of union members.

The TUC knew we could defeat or secure positive amendments to the bill if we successfully rallied the politically disaffected, including Conservative MPs and peers and cross bench peers who were prepared to speak out about their concerns. Alongside parliamentary support, we had to secure some surprising allies as well as civil liberties organisations and employers in our corner and build in moments of peak public pressure. This formed the basis of what's known in campaigning circles as a 'theory of change'.

The TUC's 10-month campaign sought to mirror the bill's Parliamentary passage. It employed a concerted and coordinated lobbying strategy with target

parliamentarians. Importantly, unions shared intelligence about MPs' and peers' positions and the TUC in turn supported union staff with briefings.

## SURPRISING ALLIES

Surprising allies included the First Minister of Scotland Nicola Sturgeon who criticised the bill's attack on workers fundamental rights to organise. Employer organisations put their concerns on record, concerning how the bill would make it harder for public sector union representatives to carry out their work in areas like health and safety. Human rights groups attracted front page media coverage for their joint statement highlighting concerns over civil liberties. In this way, the broad opposition to bill made its voice heard.

A key campaign tactic was making sure that considerable attention was drawn to the bill's proposals and their impact outside parliament, to make it harder for MPs to vote them through without proper debate. Movement-wide actions were developed at key moments, including the largest ever parliamentary lobby as the bill received its second reading, and the first-ever 'heartunions' awareness week celebrating the positive contributions of unions in the bill's final stage.

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Public opinion research identified that the campaign would be stronger if we focused on protecting the right to strike, emphasising that strikes are a last resort, and foregrounding the voices of sympathetic ordinary workers who gone on strike in understandable circumstances. This approach was turned into the TUC's first major public advertising campaign, highlighting the stories of less typical women union members including a fire fighter, a midwife and a cinema worker who felt they had no choice but to strike to protect their rights. A series of well-received

## NEW WORKERS, NEW ECONOMIES

on and off line adverts were amplified across social media and political websites including Conservative Home.

The TUC's ultimate goal was to force the government to drop the trade union bill or defeat it. Building on political intelligence, we also identified a secondary aim of disrupting and delaying the bill's reach by securing concessions and amendments to limit its scope. The end result was significant – the bill suffered a bruising defeat in the House of Lords and the final scope of the legislation was hugely reduced.

The campaign's approach of mobilising less likely MPs, tackling stereotypes and ultimately proving its worth by contributing to the amendment of government legislation were key reasons behind its success. PR industry experts duly awarded the TUC the PR Week Award 2016 for best public affairs campaign, praising it as 'an outstanding campaign, delivered at pace with an imaginative approach'.

Our hard fought campaign led to some important concessions in areas that were least supported by the public including facility time, balloting and check-off. Despite this, the trade union bill formally became the Trade Union Act 2016 in May with its main parts intact.

Kathleen Christie is a consultant for INGO Influencing and tweets at @kathchristie3

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## UNIONS21 CONFERENCE 2017

**The Unions 21 Conference 2017 is our most ambitious yet. Focusing on current major preoccupations for the movement, we have secured some top level speakers to share their analysis and solutions, and to engage and challenge the audience.**

GMB General Secretary Tim Roache and Unions 21 Director Becky Wright will look at New Work, New Economies to discuss how trade unions can remain relevant and vibrant in the transformed near-future landscape.

Under the heading of Good Work, Amy Lame, London's 'Night Czar' will consider the challenges and opportunities for the union movement in a devolved UK.

We also have Nick Anstead from the London School of Economics giving us a preview of his ground-breaking research into what unions need to do to be digitally successful.

Innovation and change cannot simply be buzzwords – and a common theme throughout the event is to look at practical ways for us to increase capacity and extend influence. In a special interactive session, we will be giving conference participants the opportunity to share their experiences and thoughts on how we shape the future world of work.

And then we end the day with the one Brexit debate you simply cannot afford to miss. Frances O'Grady, Keir Starmer (Lab), Vince Cable (Lib Dem) and Neil Grey (SNP) and Tony Travers from the LSE answer your questions on the theme of "Are we ready?"



**It's not too late to register for a place at this keenly awaited event. Visit [unions21.org.uk/events/unions21-conference-2017-1](http://unions21.org.uk/events/unions21-conference-2017-1). We look forward to welcoming you on 21 March!**

## INNOVATION AND CHANGE

# From 78s to gig economy



By John Smith

As his term as General Secretary of the Musicians' Union draws to a close, John Smith takes some time to look back and reflect upon the changes he has witnessed, not just in his union but across the creative sector.

During my period as General Secretary the MU celebrated its 120th anniversary in the city where it was founded in 1893, Manchester.

The MU has remained the union for working musicians from then until the present day. The history of the union chronicles its ongoing battle with, and adjustment to, changes in technology. The MU was formed just as wax cylinders and shellac 78s, soon to be followed by radio, brought entertainment into people's homes. Developments in technology meant that low cost music was available for all. Something that has always been problematic for the MU.

The rapid development and roll-out of digital technology has been one of the biggest challenges in recent years. This has not just encouraged new forms of piracy but has had an enormous impact on how performers interact with their audiences presenting the sector with enormous challenges. When I first became General Secretary music fans were still mainly buying records, in fact in the '80s and '90s we'd had a resurgence of the music industry with people renewing their record collections by ditching their old LPs

and buying the new CDs. This bubble was short-lived as big players like Apple, Microsoft and Google quickly began to dominate the sector. You could now download a track for a few pence without having to buy the album and soon that downloads became old-hat with the onset of streaming services such as Spotify followed by Netflix and Amazon Prime etc.

So, while music became cheaper and more available and ubiquitous than ever, the remuneration that musicians and other artists received drifted downward. This was mainly due to contracts with their roots in the analogue age being shoehorned into the digital age. Royalty rates that had been adequate in the days of physical sales no longer worked in the digital era. This resulted in famous artists such as Taylor Swift taking a stand against the way that their music was undervalued by the new tech giants – if the new business models have an adverse effect on the superstars the knock-on effect for session and orchestral musicians has proved even more severe.

Life goes on and performing artists still have to make a living

despite the changes in the way that music is consumed. What has been really pleasing in recent years is the resurgence of the popularity of live performance including big arena shows and festivals. So while the world of recorded media has changed dramatically artists performing live in front of their audiences remains a staple of our industry.

I've really enjoyed working for the MU and with the musicians it represents and I think that I leave the Union in better shape than when I took over. New challenges lie ahead and my successor must ensure that the rights and status of musicians are at least maintained and hopefully enhanced during the negotiations over Brexit; the maintenance of a network of small music venues; the campaign to secure fair remuneration from streaming services; and securing recognition from national and local funding bodies of the importance of public investment in the arts.

Visit the Musicians' Union at [www.themu.org](http://www.themu.org)

John tweets at @js1mu



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