

UK Trade Union Bill: Latest in line of global attacks on right to strike

By Helen Russell

Across the globe trade unions are faced with increasing restrictions on their ability to take industrial action. Within days of being elected to power, the British Conservative government announced its intention to make it harder for trade unions to take industrial action and introduced the Trade Union Bill, describing it as a “legislation to reform trade unions and to protect essential public services against strikes” (Queen Elizabeth II 2015).

The Bill is an assault on British trade unions, containing a raft of draconian measures designed to stifle their ability to protect workers’ rights. Although a continuation of the anti-trade union legislation passed since the 1980s by Conservative governments, the Trade Union Bill goes further than anything that Margaret Thatcher introduced.

New thresholds on union balloting

The Bill contains new thresholds and minimum turnouts for any industrial action ballot. Currently in the UK there is no minimum threshold for turnouts and ballots only require a simple majority to take action. However, for a ballot to be accepted now, unions in all sectors have to ensure that 50 percent of members vote.

The situation is even worse in ‘important public services’ where there will be a double threshold. Not only must 50 percent of members turn out to vote but also 40 percent of the entire membership must vote in favour. This in effect means 80 percent for those voting on a 50 percent ballot and that abstentions will count as a vote against. For example, if 100 members are balloted, at least 50 members must vote in the ballot and 40 must vote yes for industrial action to be permitted.

Of grave concern is that the Bill also contains an order-making power which gives the government the power to define more specifically which occupations will be classified as important public services. This has resulted in Members of Parliament (MPs) debating the Bill without knowing exactly which groups of workers the double threshold will cover. It is likely that the UK Civil Contingencies Act definition of essential services will be applied, which identifies nine areas: water, energy, food, health, emergency services, communications, transport, government and finance. This is far broader than the definition of ‘essential services’ recognised in international law and will go beyond the public sector into the private sector.

The new laws would also require unions to give employers fourteen days-notice of strike action, which is double the current seven days-notice required and unions will also have to re-ballot for action on the same dispute every four months, which is designed to stop long-term industrial action.

The UK already has some of the most restrictive and complex legislation governing industrial action balloting, including compulsory postal rather than workplace ballots and this new legislation will make it extremely difficult, if not impossible for unions to strike.

Ending the payment of union dues via wages

Alongside the Bill the government has indicated that it plans to abolish check-off in the public sector. In the UK, many union members’ dues are deducted automatically from their wages, called check-off. This method of payment has already been attacked in the civil service resulting in members of Public and Commercial Services Union (PCS) no longer being able to pay their dues this way. Members will have to set up a direct debit from their bank which adds an unnecessary barrier to membership, making it likely that union membership will further reduce.

Use of agency staff during strikes

Since 1973 it has been illegal in the UK to use agency staff to cover the work of striking workers. However, the government plans to scrap this legislation and allow agency workers to replace striking workers. The proposed requirement to force unions to give fourteen days’ notice of strike action means that employers will have more time to make the arrangements to contract agency workers to work during strikes. This puts the UK out of step with recent initiatives in many European countries where large employment agencies across the EU and the Ciett (International Confederation of Private Employment Agencies) have agreed with unions not to use agency workers as strike-breakers. There is also an obvious risk of negative impact on the quality of services and potential health and safety implications by allowing untrained and inexperienced agency workers to cover for striking staff.

Increased role of Certification Officer

The Bill will increase the role and powers of the Certification Officer, the government regulator for trade unions and employers’ associations. They will be able to access

and confiscate union membership lists and investigate unions even where no complaint against the union has been received. Unions will have to provide the Certification Officer with detailed information on industrial action, disputes and expenditure on political activities. This is clearly an attempt to over-burden unions with bureaucracy. Furthermore black-listing has been a common practice in the UK, particularly in the construction industry and has resulted in union activists being denied work due to their union activities (Ewing 2009). The unions are therefore rightly concerned as to how this information might be misused against members. The Certification Officer will be able to impose fines of up to £20,000 on unions for non-compliance and to add insult to injury the government will be able to charge unions to pay for the running costs of the Certification Officer. As Frances O'Grady, General Secretary of the Trade Union Congress (TUC) warns, the Certification Officer will become "investigator, judge and jury of trade union activity" (Grady 2015).

Other proposals include limits on what unions can spend on supporting political parties and political campaigning and also reducing the amount of paid time-off for trade union officials.

Ironically, the level of industrial action and days lost to strikes in the UK is at a historically low level, with just 647,000 days lost to industrial action between 2010-2014 compared to 7,213,000 between 1980-1989 (Office for National Statistics 2014). The proposals are therefore a disproportionate response to a problem which does not really exist and are clearly ideologically driven, with the Bill being the latest in a long line of anti-trade union laws introduced by the Conservatives, who view unions as interfering with the free market. The government talks about this being part of a modernisation agenda, yet of course when the unions have proposed modernising the ballot process by introducing online voting they have been ignored as this would inevitably lead to a higher turnout, which the government wants to prevent.

The unions are united in their opposition to the Bill and the TUC has submitted a complaint to the ILO Committee of Experts arguing that the measures in the Bill contravene Conventions 87 'Freedom of Association and Protection of the Right to Organise', 98 'Right to Organise and Collective Bargaining', 135 'Workers' Representatives' and 151 'Labour Relations (Public Service)'.

Opposition is rapidly growing, even from the business and human resources sectors, who argue that the measures will be detrimental to partnership working and positive industrial relations. In fact, such is the extent of opposition in the devolved nations that it looks as if some of the measures will not even be introduced; in October the Welsh Assembly vot-

ed to reject the Bill and all thirty-two councils in Scotland announced they will ignore the new legislation. The election of Jeremy Corbyn as leader of the Labour Party also means that there will be a strong parliamentary opposition to the Bill. The TUC organised a large lobby of Parliament against the Bill on 2 November and the following day the government backed down on a number of proposed measures in the Bill around picketing and protesting. For example the government has been forced to abandon proposals to make unions publish protest and picketing plans, including plans for the use of social media during industrial action. In addition they have withdrawn proposals to create a new criminal offence around picketing and also the requirement for picket supervisors to wear an arm-band and carry a letter of authorisation to be presented to the police or other people upon request.

Pressure from unions and human rights groups has made a difference and won some concessions. However, at its third reading at the House of Commons on 10 November the Bill was passed by a majority of 34 votes. It now goes to the House of Lords before returning to the House of Commons for the final reading in early 2016. Despite this setback the unions need to continue to mobilise their members to campaign against the Bill and the TUC needs to develop a strategy on what unions should do if it becomes law. This could include lodging a complaint with the European Court of Human Rights, campaigning to get local councils to pledge that they will not scrap the check-off system or employ agency workers during strikes and using other non-compliance measures that make the draconian laws unworkable.

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