

The evolution of employers' organisations in the United Kingdom: Extending countervailing power

The concept of countervailing power has been used to suggest that the power of unions explains the origins and development of employers' organisations (EOs). However, unions have declined since the 1970s but EOs continue to play an important role in employment relations. If pressure from unions is not sufficient to explain continuing employer organisation, what does account for it? This article pursues this question by examining the evolution and activity of UK EOs between the 1960s and 2016. Our countervailing power argument goes beyond a sole focus on unions to include changing pressures and demands on EOs caused by the state such as individual rights legislation, and campaigns by civil society organisations. The changing force exerted by these societal pressures helps to explain the shift of EOs' focus from collective bargaining, nowadays only pursued by a minority of EOs, to lobbying, provision of services, legal support and training.

Journal keywords: employers' organizations, collective bargaining, employment relationship, collectivism, employers' association, employer forum

Keywords – methodological: longitudinal research; qualitative research methods

INTRODUCTION

The evolution of employers' organisations (EOs) is closely intertwined with that of unions. In the early stages of industrialization, employers founded EOs to countervail union power as is well-established in the literature (Phelps Brown, 1959; Slate, 1957). However, EOs continued to play a significant role in employment relations (ER) in a number of countries despite declining union membership (Behrens, 2004; Gooberman, Hauptmeier and Heery 2017a,b; Sheldon and Thornthwaite, 1999). This suggests that countervailing union power is not sufficient in itself to explain continuing employer organisation. How then can the evolution of employer organisation and activity be explained? This article pursues this question by examining UK EOs between the 1960s and 2016.

In the 1960s and 1970s EOs bargained collectively with unions and such arrangements covered most of the British workforce (Armstrong, 1984). EOs also took part in the governance of ER and the wider economy through tripartite bodies in areas such as training and workplace conflict (Crouch, 1978). However, unions declined during the Thatcher Governments after 1979 and an increasing number of employers withdrew from collective bargaining (Purcell, 1995). EOs gradually broadened their services and their most prominent activity became representing employer interests in the political process, although EOs also assisted employers to deal with new challenges in managing employees. Organisational changes included mergers of EOs (Grant and Marsh, 1977), a focus on regional employer representation in the context of devolution and the foundation of a new type of EO, the employer forum (EF). EFs' assisted members with the implementation of individual rights legislation and corporate social responsibility (CSR) through raising standards within their business operations. Given that many employer bodies no longer bargain collectively, a narrow focus on employers'

associations would not have captured this new employer collective action. Thus, the article casts a wider net to examine membership-based EOs active in the areas of work, ER and Human Resource Management (HRM).

In explaining the changes in employer organisation and activity, our argument builds on previous countervailing power arguments (Barry and Wilkinson, 2011; Galbraith, 1952; Zhu and Nyland, 2016) and extends them beyond unions to include new pressures by the state and civil society organisations (CSOs), including non-governmental organisations and identity groups. Countering unions was the initial focus for EOs but when union power waned, new and additional pressures on employers emerged. These pressures included individual rights such as those inscribed within equality opportunity laws and minimum work standards, as well as campaigns from CSOs that targeted deficient labour standards. EOs responded to these new challenges and risks by changing their foci of activity, service provision and organisational forms.

This article makes two contributions to the literature. First, studies of changing ER in the UK (e.g. Brown, Bryson, and Forth, 2009) tend to subsume the study of EOs within that unions and collective bargaining. This article is the first empirical study that longitudinally traces EOs' activities and organisational forms. Second, our extension of countervailing power highlights how societal and regulatory pressures have changed over time, as has the need and impetus for employer organisation.

EXTENDING COUNTERVAILING POWER

Countervailing power is a well-established concept in ER (Plowman, 1984; Barry and Wilkinson, 2011; Zhu and Nyland, 2016) and has been used to describe how employers founded EOs to counter and suppress unions (Derber, 1984). When such attempts failed, employers offered unions a quid-pro-quo to limit their influence. EOs recognised unions and accepted the negotiation of working conditions and pay through collective bargaining, while unions accepted the right of employers to manage the workplace (Sisson, 1987). Unions and EOs often voluntarily developed this type of procedural approach to managing conflict within ER (Armstrong, 1984). States institutionalized ER and defined the role of EOs to a greater degree in the decades following World War II (Windmuller and Gladstone, 1984; Howell, 2005). Unions reached the apex of their power in this period and were able to whipsaw employers under conditions of expanding national markets. Individual employers sought protection from these pressures through multi-employer collective bargaining (Sisson, 1987), although it could still happen that company-level labour representatives pushed for wage levels that exceeded outcomes of sectoral collective bargaining agreements (Gospel, 1992). As market conditions changed from the 1970s, becoming more international and competitive, unions lost power and the need for employers to counter union action through collective bargaining decreased.

While the focus on unions and the state's support of institutional ER has some merits in explaining the origins and development of EOs (McIvor, 1996; Sisson, 1987) it does not fully explain more recent developments. Barry and Wilkinson (2011) reconceptualise Galbraith's original countervailing power argument for the current economic environment. They identify three preconditions that enable countervailing power to be applied to contemporary employer

organisation. The first precondition is competitive (rather than oligopolistic) markets with a large number of diverse firms, forcing EOs to develop renewal strategies to retain members (Sheldon et al., 2016). The second is the continuing capacity of employees to use market power against employers (at least in some markets). The final precondition is decentralised bargaining within which EOs seek to persuade the state to countervail employee power by limiting collective worker rights. This state agency in curtailing labour and collective bargaining rights took place in many countries (Blyth 2002; Sheldon and Thornthwaite, 1999). It has further impacted the power balance between EOs and unions in addition to the economic changes mentioned above.

However, two extensions of the countervailing power perspective have yet to be considered: the impact of individual employment rights legislation, and CSOs, on individual employers and EOs. In relation to the first extension, different strands of individual rights legislation exist. These include equal opportunity or antidiscrimination laws, minimum working standards and work related social benefits (in addition, involvement and participation rights in the areas of redundancy and health and safety often tend to be a combination of individual and collective rights). While individual rights legislation has long existed, as in Australia where the first minimum wage laws were introduced in the late 19th century, states have developed a greater focus on individual rights in the wake of the decline of collective bargaining (Piore and Safford, 2006).

Centre left governments such as the Labour Government in the UK from 1997 sought a third way between the deregulatory culling of worker rights and corporatist labour markets (Howell, 2004). Such governments introduced or strengthened minimum standards to introduce a floor in the labour market under which standards were not to fall; while social benefits focussed on

welfare to work programmes (Greer et al., 2017). Governments also introduced equal rights legislation or extended existing acts. These laws were Janus-faced, aiming to protect employees while enabling groups of workers to compete in the market on a level playing field (Hauptmeier, 2011). A further impetus came from international organisations such as the International Labour Organisation and the European Union (EU) although rights were implemented unevenly across nation states.

Employers initially saw the individual rights agenda as a threat to profitability as new norms might create rigid work practices. In addition, equal opportunities laws were often articulated in ambiguous and open-ended terms (Dobbin, 2009), causing uncertainty amongst employers. Various employer responses to the new pressures could be observed. Employers engaged in lobbying and either sought to prevent new or dilute existing legislation (Howell, 2004). Some employers opposed new legislation after its introduction, but others propagated the commercial advantages of diversity management and went beyond minimum compliance (Dobbin, 2009). This article explores the role of EOs in responding to the individual rights agenda.

The second extension of countervailing power is the impact of CSOs on EOs (Heery, Abbott, and Williams, 2012). The role and impact of CSOs is closely related to the individual rights agenda discussed above. Piore and Safford (2006) observed how the partial replacement of collective ER with an employment rights regime was caused by shifting axes of political and social mobilisation away from class, industry and occupation towards identities rooted outside the workplace such as race, ethnicity, disability and sexual orientation. They describe how identity groups mobilised equal opportunity rights within the workplace, requiring new instruments and approaches for managing ER.

CSOs campaign in different ways. They seek to positively promote working conditions or social outcomes for groups of workers, including low wage workers, older workers, disabled or immigrants (Luce, 2004; Heery, Abbott, and Williams, 2012). However, CSOs also directly target rogue corporate behaviour and employer abuse of the type targeted by the anti-sweatshop movement within the garment industry. CSOs' positive and negative campaigning seeks to exploit the brand and image sensitivity of companies in consumer markets. Employers seek to avoid negative publicity and consumer wrath by curbing labour rights violations; while simultaneously presenting themselves as a good employer to consumers by adapting CSR strategies and improving working conditions. Other employers sought to countervail such pressures by joining EFs as elaborated below.

In plea to develop the literature on EOs further, Barry and Wilkinson (2011) urge inquiry into 'what role [EOs] continue to play, and whether they have also needed to revise their functions and activities in relation to other types of pressures' (p. 158). This article pursues this agenda by examining the changing role, function and activities of collective employer organisation through a countervailing power perspective, focussing on the state's expansion of individual workplace rights and the increasing importance of CSOs.

METHODS AND DATA

We examine the evolution of EOs in the UK across two periods, from 1964 to 1979 during the heyday of corporatism, and from 1979 to 2016 when collective regulation declined and the salience of individual rights increased. We use empirical data to map the forms and activities of EOs as well as the actors that influenced them: unions, CSOs and state (see Table 1 for an overview of UK governments over time).

Table 1 about here

While governments held broad lists of EOs prior to the 1970s, the only official source of detailed time-series data are the government's Certification Office. However, data were not collected before 1976 and subsequent data include only those EOs active within collective bargaining. Time-series are similarly missing from the literature on UK ER, while the rare surveys (e.g. Brown, 1981) are neither comprehensive nor comparable.

We therefore used a range of qualitative and quantitative data as well as previous literature to assemble our account, triangulate our findings and outline the contemporary incidence of employer collective action in the UK. First, we consulted EO websites in 2014-15 to populate a database comprising all UK EOs, with more than 60 data points for each EO across categories comprising: general information; governance; activities and services, and; relationships to government and other organisations. By broadening the definition of employer collective organisations beyond only those organisations that bargain collectively, our database captures membership-based EOs active across work, ER and HRM. We identified 447 EOs pursuing a wide range of activities such as collective bargaining, training, advice on HRM practices, support for selection and recruitment, arbitration, legal advice on employment and labour matters, representation in employment tribunals and political representation.

Second, we conducted 98 semi-structured interviews between 2013 and 2017 with representatives from EOs (63), unions (13), government (5), CSOs (6), member firms (5) and six experts with knowledge of EOs (for example, representatives of the Advisory, Conciliation and Arbitration Service [Acas]). Interviews were carried out with representatives from across the range of UK EOs, including regional EOs, general national EOs, sectoral-national EOs and

EOs focused on an issue-specific policy agenda. In the first stage we used snowball sampling, whereby initial interviewees suggested subsequent interviewees. Many interviewees had significant historical knowledge gained over long careers, and our questioning sought to draw out their experience.

Third, further historical evidence was available from data deposited by governmental organisations at the National Archives. For example, Certification Office data present in the National Archive include annual reports as well as data on individual EOs that registered with the office, while data from other bodies included submissions to government commissions and internal working papers.

CORPORATIST GOVERNANCE AND SECTORAL COLLECTIVE BARGAINING, 1960s-1979

Employer organisation and activity

The most important EO activity in the 1960s was representing employer interests within national multi-employer bargaining structures. For example, the National Joint Council in the ceramics industry negotiated and implemented an agreement that was ‘intrusive’ where ‘every employer was held to the book by the union’ (interview with representative of British Ceramics Confederation, 20.11.2013). However, sectoral collective bargaining became less important for EOs due to the growing incidence of plant-level bargaining. Employers sometimes withdrew from national agreements and terminated their membership of EOs, contributing to the development of a two-tier bargaining system. The national agreement provided minimum conditions which local negotiators supplemented at workplace-level, an approach taken by 20

out of 24 EOs surveyed in 1966 (Clegg, 1979). EOs also took part in the governance of tripartite bodies such as: Wages Councils that set industry-specific wages and conditions; the National Economic Development Council that advised governments, and; Industrial Training Boards that coordinated vocational training (Gospel and Edwards, 2012).

EOs' greater role and representation in the political system triggered consolidation. Most importantly, the foundation of the Confederation of British Industry (CBI) in 1965 from a merger between the Federation of British Industries, the British Employers' Confederation and the National Association of British Manufacturers aimed to centralize employer interest representation and strengthen their political influence at a time of growing union power (Grant and Marsh, 1977). Employer organisation settled into a multi-level structure, characterised by large, industry specific national federations, sectoral EOs as well as smaller regional or local organisations. Organisations in the latter categories were usually affiliated to national federations. Official data are sparse but at the turn of the 1960s, some 1,600 EOs existed, of which some 240 were national federations (HMSO, 1961) while the figures were 1,200 and 300 respectively by 1971 (CIR, 1972, 13).

Assessing EO density as employee proportions by industry is hampered by lack of data, but membership bias towards large firms often led to high densities. In 1968 the CBI stated that density in 'major industries' was '80 per cent or more' and was below 50 per cent 'in few industries' (HMSO, 1969, 21). More detailed Certification Office data on EO membership were available from 1976, when 514 organisations had some 210,000 employer members (Certification Office, 1977, 48-49).¹

¹ Farmers' Unions removed, as their scale floods members' data.

The state

While collective bargaining followed a voluntarist tradition, governments were supportive, and the Ministry of Labour stated that the ‘policy of successive governments’ was to support collective dispute resolution arrangements ‘to the fullest extent possible’ (HMSO, 1961, 133). Governments also created new tripartite bodies such as the Industrial Training Boards in 1964 and the National Board for Prices and Incomes in 1965, while it delegated most of the Department of Employment’s functions to tripartite bodies in the mid-1970s.

However, the worsening industrial relations climate spurred the government to appoint a Royal Commission on Trade Unions and Employers Associations (the ‘Donovan Commission’) (HMSO, 1969). The commission found that a primary cause of industrial strife was the disconnect between formal multi-level bargaining procedures operated by unions and EOs, and informal plant-level agreements between managements and shop stewards (Emmenegger, 2014). The government could address this disconnect, according to the Commission, by creating plant/company-level bargaining and dispute resolution structures (HMSO, 1969). Thus, the state made frequent efforts to reduce industrial conflict throughout the 1960s and 1970s, but with mixed results. The Labour Government’s 1969 ‘In Place of Strife’ White Paper aimed to implement most of the Commission’s recommendations but was withdrawn due to union and EO pressure (Weekes et al., 1975).

Attempts by the 1970-1974 Conservative Government to create industrial courts to deal with a new civil offence of ‘unfair industrial practice’ failed amidst industrial turmoil. The 1974-1979 Labour Government adopted a more conciliatory stance through its ‘Social Contract’, the high point of neo-corporatism in the UK but this collapsed during a wave of strikes at the end of the

decade. It was noted that ‘the universal agreement [of the 1950s] on keeping industrial relations out of politics has become a hopeless aspiration’ (Crouch, 1978, 106). As part of the government’s regulatory intervention within ER, it also acted to deepen the legal status of employment. This began with the 1963 Contracts of Employment Act and the subsequent introduction of Employment Tribunals. Overall, state intervention was such that Jackson and Sisson concluded in 1977 that the post-war behaviour of employers was ‘inextricably bound up with the state’ (1977, 315).

Unions

How did unions influence the formation and activities of EOs? Unions were at the apex of their post-war influence as membership peaked at 13.3 million people in 1979, a density of 55.4% (Howell, 2005, 131). Union influence grew due to a range of factors including: their ability to protect members against adverse economic circumstances; the growth of the public sector, and; a political and legal environment which often encouraged union membership and incorporated union leadership into tripartite decision making.

Growing union influence acted to simultaneously strengthen and weaken EOs. The Trades Union Congress’ (TUC) informal political influence grew as it co-ordinated union opposition to government incomes and ER policies, with its power entrenched within formal tripartite structures by the mid-1970s. Conversely, the unions’ increasing preference for plant-level bargaining weakened EOs. Unions often supported such bargaining as it enabled pay rises above those mandated by government’s incomes policies. This cemented the plant-level role of unions and reduced incentives for employers to join EOs (McKinlay, 2013).

Civil Society Organisations

New social movements gained in importance in the UK in the 1960s and 1970s, of which the gender and race equality movements were particularly important. An early expression of the race equality movement was the 1963 Bristol Bus Boycott that challenged the barring of blacks and Asians from employment (Dresser, 1986). The women's movement focussed on issues including equal pay, exemplified by the successful strike action taken in 1968 by female machinists at Ford's Dagenham factory (Clegg, 1979).

Equality movements provided an impetus to government legislation such as the 1965 Race Relations Act (and subsequent extensions) and the 1970 Equal Pay Act, as well as the government's creation of the Equal Opportunities Commission and the Commission for Racial Equality. Collaborations between equality movements and unions existed such as the campaign for equal pay; however, differences remained as union representatives were predominantly white and male. Overall, the leadership role of unions within employee representation was unchallenged even as other social movements emerged

THE DECLINE OF COLLECTIVE EMPLOYMENT RELATIONS AND THE RECASTING OF EMPLOYER ORGANISATION AND ACTIVITY, 1979-2016

Employer organisation and activity

EOs' foci transformed as core activities such as collective bargaining decreased in importance while once peripheral services and political representation became more important. A noticeable shift was within collective bargaining as the proportion of workers in workplaces

covered by bargaining fell from 66% in 1984 to 40% in 1998 (Brown et al., 2009, 26). By 2004 multi-employer collective bargaining covered only three per cent of private sector workplaces (Brown et al., 2009, 34) although 68 per cent of the much smaller workforce in the public-sector retained coverage (Van Wanrooy et al., 2013, 22).

Although over 200 Joint Industrial Councils remained in place in the early 1990s (HMSO, 1991), many were disused as sixteen national agreements covering over a million workers terminated between 1986 and 1991 (Brown and Walsh, 1991). A representative of the Chemicals Industry Association (interview, 6.2.2015) noted that:

Years ago (...) we used to have collective bargaining and they used to meet in a little restaurant around the corner and the trade unions would argue with the employers over a meal and some wine and they'd come to an agreement, but [industry-wide collective bargaining is] (...) completely gone.

Such sectoral bargaining generally retained a foothold only in those industries with distinctive traditions typically populated by small firms that confronted strong, occupational unions. Even within industries where multi-employer bargaining survived, loosening was apparent with joint industry board membership made optional for Electrical Contractors Association (ECA) members after 2000 (interview with ECA representative, 2.3.15).

Slower decline within the public sector was in part caused by independent pay review bodies, consulting (as opposed to negotiating) with EOs as they reviewed pay and conditions. Six existed by 2003 covering 1.5 million employees (Horsman, 2003, 229). In addition, EOs and unions in the public sector and the not-for-profit private sector increasingly negotiated loose non-binding frameworks, although a representative of the Association of Colleges (interview,

7.10.2015) pointed to an ‘ebb and flow’ in the number of colleges that followed such frameworks.

The most noticeable change was the number of EOs bargaining collectively, declining from 418 in 1980 to 214 in 1997 and 97 in 2014. While mergers helped total EO membership to stabilise in the 1980s, the collapse of national bargaining saw rapid decline thereafter, accentuated by structural decline in traditional manufacturing industries where bargaining was common (Gooberman, Hauptmeier, and Heery, 2017c). The combined membership of EOs recorded by the Certification Office was 223,103 in 1980 and 204,072 in 1989, before declining to 146,813 by 1997 and 93,585 in 2014.² Some organisations emerged to represent newer industries or respond to specific demands such as those within the North Sea oil industry (Brown and Walsh, 1991), but these were few.

EOs faced a crisis. How could they remain relevant if their roles within bargaining and tripartite bodies were scaling down? The answer was diversification as EOs responded to new pressures from governments and social movements. EOs that survived were those that created or expanded HRM services and lobbying activities. As ER became ‘privatized’ within firms (Gospel and Edwards, 2012), EO members sought support to manage workforces through the developing practice of HRM (McKinlay, 2011). EOs responded by offering private services such as legal support that minimised risks from individual contracts. Increased lobbying of government also offered renewal opportunities, with a representative of the Manufacturers’ Organisation (EEF) (interview, 4.11.2014) stating that it:

Decided to move into areas where it had dabbled before but never really got involved in, which is if you like lobbying representation [...] So it started off with very much getting involved in representing the interests of manufacturers [...] to government,

² Farmers’ Unions removed, as their scale floods these data.

initially starting quite narrowly looking at just employment issues. Broadening that out into what I suppose we would call employment-related issues. Pensions, health and safety, education or training.

EOs were increasingly likely to describe themselves as lobbying organisations (interview with British Hospitality Association representative, London, 6.2.2015; interview with Chemical Industry Association representative, London, 6.2.2015). Territorial differentiation was also apparent, with a representative of Dairy Northern Ireland (interview, 3.6.15) discussing the importance of lobbying in a devolved political system, featuring governments separate from Westminster.

EOs also began to operate in Brussels after the UK's 1997 accession to the EU's Social Chapter. The changing perspective on Europe was summarised by a former EEF representative:

[The EU] didn't really feature at all until Labour came to power and decided to sign up to the Social Contract [...] in 1997 that changed dramatically, and [the] EEF has had somebody permanently based out in Brussels since about 2000' (Interview with EEF former representative, 4.11.2014).

Many EOs also expanded legal services, responding to a changing legal environment. For example, EEF Northern Ireland developed a greater emphasis on legal services, with a representative stating that (interview, 3.6.15):

I would have thought that collective labour law would be less than ten per cent [of ER workload] because with the sort of post-Thatcher change in going from collective to individual rights, the rights are enforced differently [...] The two most likely cases you're going to have are race and age.

The authors' database reflects the evolution of EO activities, with 73% lobbying governments, 69% providing training, 47% providing advice linked to employment law and only 13% active within collective bargaining.

While traditional EOs adapted to new pressures and demands, a new type of employer body emerged. EFs responded to new threats and challenges to employer profitability, such as new individual rights legislation and consumer expectations of better corporate behaviour, with the latter often given more force through CSO campaigns. EFs promoted good corporate practice and often encouraged employers to exceed legal standards by: providing guidelines for positive work practices; benchmarking member standards; rewarding best practice at award ceremonies, and; providing training. Most EFs focused on disadvantaged or vulnerable groups of employees, such as those with: disabilities (Business Disability Forum [BDF]); caring responsibilities (Employer for Carers); experience of domestic violence (Corporate Alliance Against Domestic Violence), and; mental health conditions (Mindful Employer).

EFs promoted membership through a business case, arguing that they could protect members against legal risks, increase members' productivity by adjusting work practices, and enhance brand reputation. Member firms voluntarily adhered to EF standards without fines or disciplinary measures. Traditional EOs and EFs both assisted employers but used different techniques. While traditional EOs focused on assisting employers with legal compliance, EFs sought to raise standards within employers by promoting voluntary best practice approaches that often exceeded legal requirements. Seven were founded after 2003 and 10 national EFs existed by 2016 (Demougin, Goberman, Hauptmeier, and Heery, 2017; Bowkett C, Hauptmeier, and Heery, 2017). While they were few in numbers, their reach was broad as demonstrated by the BDF's coverage of 20% of the UK's workforce. EFs' members tended to be large businesses when compared to typical UK firms: 'over a hundred [of our members] are multinationals' (BDF, Director of strategy and external affairs, 11.8.2016).

The state

The election of Prime Minister Margaret Thatcher saw a sea change in British ER. According to David Young, Secretary of State for Trade and Industry: ‘We gave up the TUC, we gave up the CBI, we do not see them coming up again. We gave up the corporate state’ (Financial Times, 1988). The government saw bargaining as establishing rigid wage rates that hampered job creation (Brown and Walsh, 1991). It thus lobbied EOs and was outspoken in opposing multi-employer bargaining from the late 1980s, although it did not legislate (Interview with EEF representative, London, 4.11.2014). As well as this, successive governments’ curtailment of collective labour rights weakened unions while the end of incomes policies undermined collective bargaining.

However, the 1990s saw a lessening pace of change as the Conservative Governments had already achieved many of their main objectives within ER, while European Directives reduced the government’s freedom of manoeuvre (Emmenegger, 2014). Some expansion of individual rights occurred such as the 1995 Disability Discrimination Act, although an opt-out to the EU’s Social Chapter was negotiated in 1992. Finally, Conservative Governments in the 1980s and 1990s abolished tripartite structures such as the National Economic Development Council and almost all of the wages councils. Industrial Training Boards were replaced with a tripartite Manpower Services Commission, supplanted in 1987 by Training and Enterprise Councils, with a governance role for individual employers but not EOs, while EOs maintained a role in the joint governance of health and safety (Health and Safety Executive) and conflict (ACAS).

Labour Governments after 1997 retained the neoliberal character of post-1979 ER although some change was apparent. First, it created a small number of tripartite bodies, including a Low

Pay Commission to regulate the newly introduced minimum wage. Second, the Government's decision to join the EU's Social Chapter led to some extension of workplace rights across European Works Councils, parental leave, part-time work and fixed-term contracts. Finally, the government created the Equality and Human Rights Commission in 2006 through merging existing commissions covering gender, disability and race equality (Dickens, 2007). Its review of equality legislation resulted in the Equality Act 2010 (passed under the incoming Conservative-Liberal Government), which set out comprehensive workplace rights and duties for individuals. Although the Labour Government broadly accepted the contours of post-1979 ER in relation to collective issues, it was not uncritical and some new legislation was introduced. These included a statutory union recognition procedure and other defences for trade unions such as new laws on strikes and protections against blacklisting.

The Conservative-led Governments from 2010-2016 saw a partial return to previous themes, including restrictive union legislation and the weakening of individual rights such as extending the qualifying period for the right to claim unfair dismissal. Further diminution of ER structures was apparent as tripartite boards were increasingly likely to be comprised of independent experts as opposed to EO or union representatives (Email correspondence with former Acas and Low Pay Commission board member, 4.9.2016). However, devolution did lead to some territorial divergences with, for example, the government's abolition of the England and Wales Agricultural Wages Board in 2013 opposed successfully in Wales by the Welsh Government.

Unions

How influential were unions on the evolution of EOs? Unions underwent a series of shocks throughout the 1980s that reduced their bargaining power and membership. By the end of the

1990s only 24% of private sector employers with more than 25 employees recognised unions, compared to 87% in the public sector (Brown, Bryson and Forth, 2009, 24). Union influence declined with the Civil and Public Services Association complaining in 1994 that unions ‘have not had a scintilla of influence over government policies’ (Taylor, 2000, 257). Overall, unions were generally powerless to resist the decline of collective bargaining. For example, after the abolition of the wages council covering working men’s clubs, the union and EO negotiated an industry agreement but this faded over time (Interview with Unite representative, 28.08.2015).

While unions sought to renew themselves after 1997, they did not rebuild relationships with EOs. However, some formal and informal relationships remained. For the TUC, formal relationships existed through tripartite bodies such as the Low Pay Commission and regional bodies such as Local Enterprise Boards. Informal relationships included contact at a senior level between the TUC and EOs over a range of workplace issues (Interview with TUC representative, 13.03.2015). However, relationships were more distant elsewhere in the absence of government encouragement or the existence of institutional forums, with a representative of Unite remarking on the ‘uneasy’ relationship with the UK Homecare Association, given persistent employment problems in the care industry (Interview with Unite representative, 26.08.2015).

Civil Society Organisations

The influence of CSOs increased as union power declined. CSOs often acted in effect as institutions of worker representation, seeking to improve the conditions experienced by their worker constituents. Fieldwork carried out in 2007-2008 (Heery, Abbott and Williams, 2012) identified 422 CSOs attempting to influence some aspects of ER, with most founded since the

1980s. CSO activity increased as an agenda emerged within governments, in particular under Labour, to widen participation in the labour market through reducing barriers faced by disadvantaged groups.

CSOs acted across four broad areas: discrimination and equality (e.g. Age UK, Stonewall), legal advice and advocacy (e.g. Law Works), caring and work life issues (e.g. Carers UK) and vulnerable workers (e.g. Citizens Organising Foundation). CSOs pursued their agenda in the following ways. First, CSOs promoted legislative change as, for example, Stonewall campaigned for the adoption of the EU's Equal Framework Directive, which was transposed into UK regulations in 2003; while Carers UK campaigned for provisions in the Carers' Equal Opportunities Act introduced in 2004 (interview Carers UK, 2.3.15). As well as lobbying, CSOs were involved in the legislative process, such as appearing before parliamentary committees or assisting the drafting of legislation.

Second, CSOs used existing legislation to pursue employers, for example Stonewall supported cases that targeted discrimination at work while Age Concern successfully challenged discrimination against older workers. Such strategic litigation contributed to the effectiveness of existing laws, raised awareness about new legal norms amongst employers and contributed to the development of case law.

Third, CSOs received grants and contracts offered by governments to support its legislative agenda and targeted groups, acting to strengthen legislation or codes of conduct that operated within their policy domains. As examples, Age Concern delivered training programmes for older job seekers to disseminate the code on age diversity and The Age and Employment Network won government contracts to run seminars on new employment regulation

(Demougin, Gooberman, Hauptmeier, and Heery, 2017; Bowkett C, Hauptmeier, and Heery, 2017).

Fourth, CSOs and related advocacy groups directly targeted individual companies through campaigns to raise standards. A recent example has been local living wage campaigns against individual companies initiated by employee or community groups in collaboration with the Living Wage Foundation. In the same vein, identity groups within the workplace sought to advance the cause of their constituents in collaboration with CSOs such as Stonewall. In the UK, corporate campaigns mostly struck a positive tone, gently encouraging employers to raise standards in contrast to the USA where advocacy groups often deployed more aggressive tactics.

Fifth, many CSOs offered remedies for employers targeted by campaigns. Alternatively, employers collaborated with CSOs to pre-empt campaigns and raise labour standards. While such collaboration was often carried out by individual employers, CSOs were active in creating some employer forums, such as Employers for Carers. CSOs themselves offered accreditation, codes of conducts, benchmarking or the use of their logo to employers. For example, employers who implemented the standards of the Living Wage Foundation could be accredited as a Living Wage Employer. In addition, CSOs promoted best cases of corporate social responsibility or honoured outstanding companies at award ceremonies. Both the recognition by CSOs as well as the accreditation could be used by companies to promote themselves to consumers and the workforce as a good company to buy from or to work for.

DISCUSSION

This article has sought to explain the evolution of UK EOs from the 1960s to 2016, as summarised in table 2.

Table 2 about here

In the first period, collective employer representation took place through national federations as well as sectoral, regional and local EOs. Industry bargaining was conducted on the employers' side by national EOs and covered much of the workforce. Throughout the 1960s and 1970s, EOs were drawn into the management of the economy as social partners while they represented their employer members on tripartite bodies (Crouch, 1978). Institutional stability, however, masked underlying weakness. In much of the private sector enterprise and workplace bargaining had grown, hollowing out multi-employer, industry agreements. Institutional weakness was exposed after 1979 as multi-employer bargaining through EOs largely disappeared from the private sector. In the public sector, multi-employer bargaining survived but was supplemented by the extension of the Pay Review Body system. A final indicator of decline was the abolition of many of the tripartite structures upon which EOs were represented. Representative bodies of business were pushed to the margins of policy making by a more assertive, unilateral mode of government.

These lineaments of decline have been identified elsewhere (Brown and Walsh 1991; Purcell 1995) and form part of the common meta-narrative of industrial relations change within the UK. Less commonly identified, however, have been changes in EOs' nature and form. Our evidence indicates that political activity has become more important for EOs at UK, European and, latterly, devolved government levels. The regulatory impulses of the state operated across

these scales to elicit a response from EOs which increasingly functioned as lobbyists. Another expanding activity has been advisory and advocacy work on behalf of individual members. From the 1980s EOs often played an important role in facilitating HRM within member companies. EOs' services have focused on managing the relationship between businesses and the expanded realm of employment law, such as advising members on legal compliance and providing representation in courts and tribunals.

A key change in the form of EOs in this second period was the emergence of issue-based employer bodies, EFs. These promoted good practice across CSR and equality amongst member businesses (Demougin, Gooberman, Hauptmeier and Heery, 2017; Bowkett C, Hauptmeier, and Heery, 2017). EFs promoted good practice in HRM to member companies and sought to upgrade issue-based forms of management through education, training, consultancy and advice. EFs first emerged in the mid-1980s before growing in number and in influence, and were notable for their almost complete detachment from the traditional system of union-based ER.

What forces have driven these developments? In answering this question we used previous concepts of countervailing power (Barry and Wilkinson, 2011; Galbraith, 1952; Zhu and Nyland, 2016) but extended them through three arguments. First, change is a product of the absolute and relative decline of unionism. The requirement for EOs to function as a counterweight to unions has been felt less urgently since the 1970s. Second, developments have been driven by the activities of the state. The decline of unionism and associated dismantling of multi-employer industrial relations were largely artefacts of state policy. At the same time, however, state intervention in the individual ER expanded and employment law grew, often originating in the EU's social policy. A more active regulatory state has presented EOs with

fresh opportunities to act as a buffering mechanism, lobbying government to secure favourable changes in the law and mediating the impact of law on member firms through expanded advisory and advocacy services. Associated with this increased volume of individual employment law were consultative bodies, such as the Low Pay Commission, which played an important role in the regulatory framework and provided fresh opportunities for employer representation.

The final stimulus to change has come from ‘new’ social movements, grounded in non-work identities, such as disability, gender, ethnicity, and caring responsibility (Heery, Abbott and Williams, 2012; Piore and Safford, 2006). CSOs representing these movements targeted employers directly to shape management practices, and indirectly impacted on traditional EOs through the law. Where there has been direct contact with employer bodies has been with the EFs, which were in many respects a business-specific expression of these movements. The influence here was more direct than was the case for other EOs. In addition, CSOs played a large part in creating the new rights-based employment law regime, reinforcing pressures from the state. As the ‘old’ social movement of labour declined, new movements have partly taken its place. The concrete organisational expression of this shift in the locus of pressure on employers was the creation of EFs.

CONCLUSION

The article contributes to the literature on countervailing power in ER, which aims to explain EO formation and behaviour. Early arguments focussed on the power of unions, to which employers responded by organizing collectively in EOs and developing capabilities to countervail union power (Phelps Brown, 1959; Slate, 1957; Sisson, 1987). Recent extensions

of the countervailing power argument considered the role of the state in the context of competitive markets and decentralized collective bargaining structures (Barry and Wilkinson, 2011), in which employers lobbied the state to curtail union power. This form of political intervention, whereby EOs moved beyond a narrower labour market role, could be observed in different countries (Blyth, 2002; Sheldon and Thornthwaite, 1999).

Our argument adds to this literature by specifying two extensions to which countervailing employer action is needed, although we acknowledge the continuing influence of unions. Our first extension considers a further role of the state to the one identified by Barry and Wilkinson (2011). As bargaining declined, states sought a less collective and more ‘flexible’ form of labour market regulation and focussed on individual rights, advancing equal opportunities and minimum standards at work. Our second extension refers to CSOs active in work and employment who seek to advance the interests of groups of workers. CSOs do this by lobbying for the introduction of new law, playing a role in the formulation of law before subsequently mobilising these to improve standards at work (Piore and Safford, 2006; Heery, Abbott, and Williams, 2012). In sum, while union power diminished, pressures by new individual rights and CSOs became more prevalent. We argue that this shift in challenges helps to explain the changing role of EOs from a narrow labour market role focussed on collective bargaining to a greater diversity of activities, including political representation, extending legal provision, developing private and voluntary regulation (Heery, Abbott and Williams, 2012) as well as founding of new types of EOs such as EFs.

Changes of employer organisation and activities are not unique to the UK and similar evolution has been observed elsewhere (Martin and Swank, 2012). However, our argument differs from other accounts. Alternative arguments emphasize the provision of new selective incentives and

the role of institutional entrepreneurs, which helped EOs to adapt and survive when their previous core competency, negotiating collective bargaining agreements, was less in demand by individual employers (Sheldon et al., 2016; Sheldon and Thornthwaite, 2004; Behrens 2004). At first sight, these seem to be directly competing arguments. Countervailing power arguments tend to jointly consider individual employers and EOs, focussing on the identification of external pressures on employers, while selective goods arguments provide a more fine-grained account of the motives underlying the interactions between individual employers and EOs but do less in specifying the external environment. In our view, a complementary interpretation of these two sets of arguments is possible. In response to new pressures and challenges on individual employers, which the countervailing power literature specifies, institutional entrepreneurs within EOs interpret these challenges and respond to them by providing new selective incentives that are needed by individual employers and help them to adapt to a changing external environment, which in turn secures the survival of EOs.

Another competing argument places a greater emphasis on institutions of collective bargaining in maintaining EOs, arguing that it is not so much union power but the collective bargaining machinery that sustains EOs (Sheldon and Thornthwaite, 1999; Behrens 2004; Silvia and Schroeder, 2007). While we recognise that bargaining institutions contribute to some inertia, we argue that there is some correspondence between union power and the incidence of collective bargaining in a voluntarist ER system such as that of the UK. The role of institutions and related inertia might play a greater role in sustaining EOs in coordinated market economies, where extension rules extend collective bargaining coverage and guarantee broad coverage even in a context of lower union density.

This discussion highlights that our argument needs to be tested in other countries, to establish whether it more broadly explains change in collective employer behaviour, requires refinements or the identification of additional extensions and pressures in other contexts. For example, research focusing on post-communist Eastern Europe (Markus, 2008; Duvanova, 2007) argued that EOs were formed as defensive mechanisms to protect business against state-sponsored corruption and regulation. In the case of liberal market economies, it seems possible that individual rights are more significant, while coordinated market economies might continue to have a greater reliance on setting work standards through collective regulation. However, these and other cross-national variation will have to be empirically and theoretically substantiated in future research.

In conclusion, the concept of countervailing power continues to display utility and can guide the analysis of the changing forms and activity of employer collective action. We have identified three types of power to which a counter-balance is needed, with the state and new social movements joining the labour movement. The empirical pattern we have described has emerged from the decline of the latter and the rise in significance of the former. Organized labour continues to pressure employers to act collectively and to associate, but its force is weakened. The state and other, non-labour movements which target the employment relationship, have correspondingly risen in importance.

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Table 1: *Governments of the United Kingdom, 1957-2016*

Source: <https://www.gov.uk/government/history/past-prime-ministers> [accessed on 14 February 2018]

Table 2: *Evolution of Employers' Organisation and Determining Factors, 1960s to 2016*

Source: authors' analysis

Table 1: *Governments of the United Kingdom, 1957-2016*

Years	Governing Parties	Prime Ministers
1957 – 1964	Conservative	Harold Macmillan, Alec Douglas-Home
1964 – 1970	Labour	Harold Wilson
1970 – 1974	Conservative	Edward Heath
1974 – 1979	Labour	Harold Wilson, James Callaghan
1979 – 1997	Conservative	Margaret Thatcher, John Major
1997 – 2010	Labour	Tony Blair, Gordon Brown
2010 – 2015	Conservative & Liberal Democrats	David Cameron
2015 – 2016	Conservative	David Cameron

Source: <https://www.gov.uk/government/history/past-prime-ministers> [accessed on 14 February 2018]

Table 2: *Evolution of Employers' Organisation and Determining Factors, 1960s to 2016*

	1960s to 1979	1979 - 2016
EO Activity	Focus on collective bargaining and tripartite structures.	Decline in participation within collective bargaining and tripartite bodies. Political representation, legal provisions and private, voluntary regulation increasing in importance.
EO Organisation/structure	Multi-level structure: National federations and sectoral, regional and local EOs	Collapse of many national federations; instead greater prevalence of sectoral EOs. Growth of Employer Forums and EOs solely active in devolved nations. Expanding employer representation in the EU.
Role of the state	Supportive of collective bargaining but increasing emphasis on plant level agreements. Attempts to reform ER, and the creation and maintenance of tripartite structures.	Informal pressure to abandon collective bargaining, abolition of some tripartite bodies and curtailing of unions' discretionary power in the 1980s and 1990s. Increasing focus on individual rights throughout, especially after 1997. Some consultative bodies established after 1997.
Role of unions	Levels of strikes and whipsawing gradually increasing. Active within tripartite structures. Union membership peaks in 1970s.	Heightened conflict in the early 1980s, fewer strikes and less participation in tripartite bodies thereafter. Declining influence.

**Role of civil
society
organisations**

Gradually emerging, but limited in their volume and influence.

Increasing scale, profile and influence within the workplace. Greater use of campaigning, targeting the state and individual employers.

Source: authors' analysis