

The Institute of
Employment Rights
**TWENTY YEARS
OF PROGRESS**



**A REPORT ON IER'S
CONTRIBUTION TO
ADVANCING
WORKERS' RIGHTS**

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Workers shackled by anti-trade union laws
demonstrating outside Parliament
in support of the Trade Union Freedom Bill

**THE
INSTITUTE
OF
EMPLOYMENT
RIGHTS**

The Institute of Employment Rights in a global recession

As the world teeters on the edge of an economic abyss, these are painful times for trade unions and their members. Thousands of workers are losing their jobs or facing shorter hours and lower pay. The bargaining power of those who remain in work is greatly diminished. As ever, it is working people and their families who carry the burden of economic mismanagement. Gloomy predictions of the worst downturn since 1931 present grave challenges for workers, trade unions and workers' rights. Not only the challenge to ensure that in the struggle to retain and create jobs, workers' rights are not jettisoned. But a challenge to ensure that better rights are in place to assist workers whose jobs are threatened and lives turned upside down.

But we do not start from a strong base. British employment rights are as fragile as the British economy. Although much has been done to recover ground lost in the Thatcher years, the achievements have not been as great as many hoped, with Labour governments gripped by market economics, guided by the mantra that nothing can be done to imperil Britain's flexible labour market.

Employment rights under Labour

The Institute of Employment Rights was formed on 28 February 1989, by those concerned about the alarming erosion of trade union rights in Thatcher's Britain. At the time, the country was at the mid point of the Thatcher revolution, yet by 1989 there were already five major pieces of legislation on the statute book with more on the way.

The election of a Labour government in 1997 saw a modification of the neo-liberal agenda, including the introduction of a statutory minimum wage and the trade union recognition procedure. Nevertheless, the failure to reverse the Tory legacy has meant British governments continue to be

found in breach of international labour standards by bodies such as the ILO Committee of Experts. Although deeply disappointing, this failure is only one of several disappointments. The United Kingdom continues to obstruct European Social Policy, as recently seen in the United Kingdom's resistance to the EU Charter of Fundamental Rights and the government's John Major-style opt out from the solidarity provisions of the Lisbon Treaty.

An urgent challenge

Perhaps the greatest disappointment, however, has been the failure of the trade union recognition legislation to protect, still less extend the frontiers of collective bargaining. This is hardly surprising, given that the procedure does not apply to many workers by means of the small business exemption and requires majority support in hostile conditions. The current procedure needs to be reviewed, as is being done in other countries – notably the USA under the new President, and Australia under a new Prime Minister. This year's 60th anniversary of ILO Convention 98 on the Right to Organise and Collective Bargaining, provides a timely opportunity for Britain to follow these examples.

A new threat for trade unions

But another threat to trade union rights is posed from elsewhere in Europe. The European Court of Justice, in its recent *Viking*, *Laval*, *Ruffert* and *Luxembourg* judgments, undermine the ability of trade unions to take collective action to protect jobs and negotiated working conditions, allowing employers to undercut established terms and conditions.

First, the judgments present new threats to the ability of trade unions to take action in disputes with a cross-border dimension. In the *BALPA v British Airways* case the union was threatened with legal action under EU law (and the

possibility of unlimited damages) if it proceeded with industrial action in connection with the company's plans to run part of its operations from France, giving rise to fears about pilots' jobs in the UK.

Secondly, the judgments threaten the ability of unions to negotiate effective 'living wage' agreements, to be applied to workers posted from other countries. The new case law suggests that companies from other member states, that win service or other contracts in the UK, will be required only to meet the minimum conditions set down in legislation, rather than the 'going rate' set down in collective agreements. With a potential to impact on all workers, this will clearly present an Olympian challenge.

Facing up to the problems

These challenges are huge but we can meet them. Labour law in the 21st century must promote jobs and protect rights. We could start by taking a leaf out of President Obama's book, and recognise the legitimate role of trade unions *"We're ready to play offense for organized labor. It's time we had a President who didn't choke saying the word "union." A President who knows it's the Department of Labor and not the Department of Management. And a President who strengthens our unions by letting them do what they do best - organize our workers. If a majority of workers want a union, they should get a union. It's that simple. Let's stand up to the business lobby..."*

To this end, the UK could do with a Department of Labour, to take employment rights and labour law away from the Department for Business and Regulatory Reform. We could follow with a strategy for collective bargaining, starting with the implementation of Labour's 2005 manifesto commitment to establish sectoral forums in low

paying sectors. Beyond that we need the fundamental right to industrial action as defined by international law and ratified by the UK.

An immediate challenge, however, is to ensure that we have effective laws on job insecurity - meaningful information and consultation with trade unions and effective remedies where these are ignored; protection against unilateral changes to terms and conditions and effective remedies where changes are imposed; and laws that ensure decent redundancy payments, fully recoverable following a business failure.

In the 20 years of its life, the IER has been through the bleak days of Thatcherism, has shared the disappointment of New Labour, and now views with alarm the threats posed by the ECJ. At the time of its formation it could not have been contemplated that worker and trade union rights would continue to be eroded, or that the EU (then promoting social rights) would become a source of restraint, after having been seen by many as a source of hope.

The Institute will continue to work with unions to advance workers' and union rights. We welcomed the Trade Union Freedom Bill 2006, and the courage that led to the decisions in the *Wilson* and *ASLEF* cases. We look forward to working on legislative and litigation initiatives of these kinds in the future. We have learned that election results are no panacea, and that even the smallest change requires the greatest struggle, in as many forums as possible.

Keith Ewing
President

John Hendy
Chair

Carolyn Jones
Director

Geoff Shears
Treasurer

The Institute of Employment Rights – Twenty Years of Progress

The stalwarts

Every successful organisation working with limited resources and operating in a changing and uncertain environment, needs a strong nucleus of activists with long term commitment.

In the nature of things, trade union General Secretaries come and go through elections and retirement. They also have unions to run!

So it is no surprise that within the Institute of Employment Rights the main figures providing continuity and consistency, as well as strategic direction, have come from the legal and academic community.

On 28th February 1989 Lord Bill Wedderburn and John Hendy QC were joined by the Ex-Lord Chancellor, Lord Elwyn Jones and Lord Bill McCarthy on the platform of a meeting in the House of Lords to launch the IER to the press. David Cockburn, the third important figure in the inaugural days of IER, joined Wedderburn and Hendy to meet unions, academics and lawyers later that day to discuss how to turn the emerging concept of an Institute into an operating reality.

The response was magnificent and immediate. Ken Gill, General Secretary of MSF stepped forward and offered not only a standard-setting donation to IER but provided affordable office space and seconded a member of his research team as the IER's first member of staff. The Institute was up and running!

Changes in IER personnel have followed but the commitment and perseverance of those leading IER can not be questioned. In particular John Hendy QC and Keith Ewing have been very

much at the Institute's helm - writing, editing, chairing discussion groups, addressing meetings and bringing forward proposals for projects.

Above all, they have convinced many that not only is progress worth struggling for but that it is possible despite the worst efforts of politicians and judges.

But an organisation like the Institute needs an organiser - someone not only with the backroom skills required but with the commitment to go the extra mile for the cause. Someone with the charisma to represent the organisation in all sorts of forums plus the charm to convince sometimes sceptical, sometimes cautious leading trade unionists that the next Institute project is the most important yet.

When Carolyn Jones (known affectionately to everyone as Cad) was appointed 20 years ago, she was a young trade union researcher with loads of energy and plenty of optimism.

In every sense she has met the requirements for the job. She has literally held it together - a fact widely recognised in the movement.

Twenty years of progress

The Institute of Employment Rights, respectfully known as the "Institute" to its many friends in and beyond the labour movement, was born at a challenging time.

It was conceived in 1989, following a tranche of anti union laws, introduced by three successive, Thatcher led Tory governments.

It was also a time when it was becoming evident that the official labour movement was

Full versions of the supporting statements are available at www.ier.org.uk

TWENTY YEARS OF PROGRESS

Ken Gill

I have long admired the work of the Institute. Its strategic vision has been immeasurable in the long running campaign to secure economic and social justice for working people.

Unfortunately there are still some labour leaders who cling to neo-liberal dogmas and prefer to promote business interests rather than trade union freedoms and workers' rights. The Institute provides the ammunition with which to challenge these backward, anti-union elements as well as the ideas on which to build a new progressive employment law framework.

Rodney Bickerstaff

For the last 20 years the Institute has been a beacon of enlightenment and has highlighted the need and shown the means for radical reform in workplace relationships. In these uncertain times, the Institute is needed more than ever.

John Foster

The Institute was born 20 years ago; the time of Thatcher and the rise of free-market dogma, an end to the idea that there was any such thing as society or public service. At the forefront of the attack on collective responsibility and people's rights was the attack on the trade union movement.

The Institute brought together academics, lawyers, and trade unionists to discuss ideas and give confidence to workers. It has produced a body of work to be proud of, stimulating debate and organising meetings in all parts of the country at the TUC, at party conferences, and in workplaces.

New Labour was built on shifting sands – every public enterprise was bad and all private enterprise good. The Institute has stood against these wrong-headed short-term fundamentalists. There is an even greater need to continue the work, which has been a source of inspiration to many people.

Jeremy Dear, NUJ

The NUJ's proud association with the Institute goes back many years. Harry Conroy represented the NUJ on the IER's first Executive Committee. That role was enthusiastically taken up by John Foster, who worked closely with the Institute, bringing the Press for Union Rights and other groups under the effective umbrella of the Institute. Over the years the NUJ has supported the Institute's work financially, practically and politically - transposing IER ideas into NUJ policies and campaigns. We supported the IER's call for extended rights for freelance journalists; we campaigned for the Charter of Workers' Rights, for much needed improvements to the recognition procedures and for the Trade Union Freedom Bill.

*Perhaps the most significant and memorable issue for the NUJ was the seminal case of *Wilson v Associated Newspapers*, which declared UK laws in breach of fundamental human rights and in need of reform. The support, guidance and assistance offered by the Institute, particularly John Hendy, throughout that long battle will never be forgotten.*



Members of the Institute meet once a year to discuss the Institute's Annual Report and elect Officers and Executive Committee members. The EC meets six times a year to give direction to the day to day work of the Institute.

experiencing a serious crisis of confidence and seemed no longer clear about the sort of labour law framework it wanted to protect and advance workers' interests in a modern globalising economy.

Labour was therefore unable to adequately respond to the Thatcherite challenge.

In the face of this Tory assault and Labour uncertainties, a group of progressive labour lawyers and trade union leaders came together to set up the Institute, with the active support of leading progressive economists such as Frank Wilkinson.

It set itself the task of consulting widely in order to draw up, for discussion, a framework of progressive labour law to advance working peoples' interests by challenging the unequal nature of existing workplace relations with employers.

From the beginning, the Institute's Executive Committee drew widely on well established international Conventions to which the British government was a signatory but which were routinely flouted in British employment law and practice.

Tory laws

In practical terms this ambitious strategy required the Institute to develop a critique of how the Tory laws undermined democratic rights and international law in order to weaken trade union power and collective bargaining institutions. The result of such attacks, as highlighted in successive IER publications, was that on almost every established measure of workplace rights, social provision and employment security, British workers lagged behind those in other advanced industrial countries – particularly its main European counterparts.

The Institute also set itself the task of providing an educational service. It began a publishing programme centred on relatively short, accessible pamphlets which nevertheless took in the complexities involved in determining progressive labour law principles and in overcoming the obstacles presented by judge made common law. The publishing programme was vital in quickly establishing the Institute's reputation as an entirely reliable and always progressive think tank, doing important work with and for the labour movement. In doing so it provided an arena for discussion and an opportunity for progressive lawyers, both academic and employment law practitioners, to develop new ideas and thinking, often drawing on international experience, and to have these published and widely distributed

The Working Life project

Following the 1992 General Election the Institute, now established and attracting an impressive width of trade union support, began to focus on its strategic role. It worked to assist unions in influencing the political debate as well as developing its own overarching views on a possible new framework of employment law.

To do this the Institute needed to consult and involve leading trade unionists and lawyers working for, or closely with, the labour movement. Under the direction of Professor Keith Ewing a Working Party was set up to begin work on this project.

After some 18 months and with inputs from over one hundred individuals and organisations, the results were published in **Just the Job** - a consultation document on the future of employment law (October 1995) and **Working Life** (September 1996), the Institute's largest piece of work, launched at the 1996 TUC – the last prior to the election of a Labour Government.

Mary Stacey

I first got involved with IER when I started working for Thompsons about 15 years ago. I loved the way the Institute forged leading academic labour law perspectives with trade union aims and involved workaday lawyer practitioners like myself. It gave meaning and strategic purpose to case law on the ground, and a framework as well as a campaigning edge.

The IER is sometimes a lonely voice in a hostile climate. But its feisty and dogged work has brought notable successes, not least the Wilson amendment, the outlawing of sweeteners for relinquishing bargaining rights and the issue of BNP membership and union discipline.

The sense of urgency rightly remains – labour insecurity, the vulnerability of unorganised labour and endemic discrimination and pay inequality are pressing concerns. The challenge for the future will be to find political or legal solutions and maintain attention on labour rights in a globalised world.

Tony Woodley, UNITE

I am delighted to congratulate the IER on its 20th anniversary. It has been fighting on one of the most important issues of our time – workers and trade union rights – in a difficult and sometimes hostile climate.

Unite is committed to working closely with the IER. We need your ideas, analysis and research to empower our work and give it political focus. At the same time we know that it is when workers have the confidence to stand up and fight that real change is secured.

Our struggles now move forward in the difficult conditions of a savage recession, caused by the excesses of capitalism. Part of that programme is defending and extending employment rights, so unions can really give our people the protection they need.

I know that IER will be our partner in that struggle, and that under a real labour government we will secure our objectives.

Derek Simpson, UNITE

The IER has made a great contribution to the development of left policy, particularly in support of the trade union movement, over the last 20 years, providing a forum for discussion and exchange unlike any other.

*In terms of recent domestic politics and workers' rights; their information flow and policy documents on the Employment Bill have assisted in our parliamentary work, including getting the government to properly implement the decision of the ECHR in *ASLEF v UK* so that we can expel fascists from the union movement and concentrate our energies on uniting workers.*

Similarly, IER has made an important contribution to the thinking and debate on rights for temporary and agency workers.

I am sure that the next 20 years hold grave challenges for all of us in the labour movement, and I look forward to the Institute continuing to play its vital role in helping us through.



Working Life offered the labour movement a blueprint for a new framework of labour law, immediately prior to the election of a Labour Government. It was launched to wide acclaim, first to the press and then at a packed TUC fringe meeting.

Both versions of the document were offered – as the editors stressed - for discussion and debate rather than for adoption by a future Labour Government. The Institute has always recognised and respected the fact that policy making and campaigning is for the official movement through its democratic structures.

Press comment was widespread and lively. But New Labour frontbenchers remained distant and unsupportive of any proposals to extend trade union freedoms and workers' collective rights even when these did no more than to bring British law into line with international conventions and treaties to which the Government was already a signatory.

The right-wing press took the opportunity ahead of a general election to present the Institute's proposals as indicative of Labour's continuing "vulnerability" to trade union pressure, claiming that proposals for paternity leave, protection against dismissal, and a statutory national minimum wage would increase employers' costs and result in even greater unemployment levels.

The Daily Mail, in a first editorial (20/5/96), suggested that the Institute's proposals were simply a "wish list" which could be used by Tory Central Office to "revive the union bogey".

Ever mindful of the Daily Mail's views and influences, New Labour responded with Pavlovian instincts when Stephen Byers, then a frontbencher with responsibilities for employment law, banally said "This document has no status as far as the party is concerned" (Daily Mail 20/5/96).

As usual, the Murdoch owned Sun was even more lurid than the Mail. Focussing on the Institute's proposal to restore the right to take secondary action and totally misrepresenting that

right, the paper's self-regarding Deputy Political Editor, Pascoe Watson, incorrectly claimed that "Secondary picketing lets workers down tools if their job was linked to other factories on strike" and that such actions had "crippled much of British industry in the 1970's and 1980's until outlawed under Mrs Thatcher" (Sun 20/5/96)

The national broadsheet press by and large produced accurate summaries of the documents main proposals which extended workplace democracy and strengthened employee rights. Writing in the Guardian, Seumas Milne said the proposals would "sweep away Tory legislation and replace it for the first time in industrial relations history with a coherent, alternative framework" (Guardian 4/9/96).

However, David Blunkett could see no value in the Institute's overall approach. Labour, he said "would not be responding to impossible demands" (Independent 4/9/96)

Although the Institute's proposals were in line with best international practice, they were clearly much too radical for the New Labour leadership which saw commitment to an extension of trade union rights as both an electoral liability and a hindrance to the development of an internationally competitive economy.

For New Labour leaders, business profit appeared always to be more important than working peoples' rights. In this, their views corresponded with those of Ruth Lea, head of the Institute of Directors (IoD). Commenting on **Working Life** Lea said she would be "very worried if this sort of legislation returned" but added "we are relieved to see the Labour Party has little time for it" (People Management 12th September 1996).

Many trade union leaders welcomed the Institute's proposals. They recognised that the

Tony Benn

It is an amazing fact that the legal rights of trade unions today are less than they were in 1906 when the Liberal Government introduced the Trade Disputes Act.

The IER has maintained a consistent policy of securing for working people through their unions the rights needed for the betterment of the nation as a whole.

Denied the bargaining power that would have allowed better wages and conditions, trade unionists were encouraged to meet their needs by borrowing. As a result, personal debt has weakened them further, since those in debt are less likely to risk industrial actions if it could lead to the repossession of their own homes.

When the whole free market philosophy has been exposed for the fraud it was, this is the time to intensify the campaign by forcing the government to introduce the necessary legislation. This is not only politically right but also electorally necessary.

John Monks, ETUC

From time to time the IER has tested my good humour by disagreeing with some of my strongest beliefs. In my view, it has underestimated the importance and generally positive contribution of European Union-generated labour law and overestimated what a UK government could be persuaded to do.

Yet none of that is a reason for not warmly congratulating the IER on its 20th birthday.

There are problems with recent decisions of the European Court of Justice but I have no doubt the European balance sheet remains positive on worker rights. We need to further and establish European-wide rights to collective bargaining and industrial action based on the Charter of Fundamental Rights. The sooner this is incorporated fully into UK law the better.

So now the IER leaves behind its teenage years and approaches the age of maturity. May it continue to stimulate, and no doubt irritate, for many years ahead.

Bob Crow, RMT

As a socialist, dedicated to fighting for fairness, justice and equality, I find it completely frustrating that, 11 years into a Labour Government, trade unions in the UK still struggle to do their job under the most restrictive trade union laws in Western Europe.

For 20 years the Institute has offered progressive ideas for improving our laws - what's lacking is the political determination elsewhere to turn those ideas into legislative reality. How much longer must UK workers wait for similar employment rights and levels of pay enjoyed by other European workers?

The Institute's work offers a template for the way forward. What we need now is a government with the political will to reject neo-liberalism and embrace a collective solution to workplace injustices.



The information in Institute publications extends beyond national borders, highlighting best practices throughout Europe and measuring UK laws against our obligations under international laws.

proposed new framework of law went far beyond the preoccupations of politicians and press barons and focused on the balance of power at the workplace, extending rights and fairness for working people.

Working Life had five guiding principles; equality of opportunity, social justice, workplace democracy, the protection of civil liberties and fairness. As Rodney Bickerstaffe, General Secretary of the country's largest union at the time said, "When you enter a workplace you leave your civil rights at the door. This report should come as an antidote to the view that if they pay you a little money, they've got you for life" (People Management 12/9/96)

And yet the TUC Secretariat remained cautious claiming that the Institute's agenda for change could "prove unhelpful". In this response the TUC's top leadership was trying to indicate to Labour's leadership that it wanted to be helpful in the vain hope that the TUC could influence the policy and direction of a future Labour government.

But successive TUC General Secretaries were to be disappointed, if not disillusioned, about the nature and usefulness of the relationship with New Labour as it relentlessly pursued its pro-business agenda.

From those well qualified to comment from a progressive, pro-worker perspective but not directly associated with the Institute, **Working Life** received very warm reviews. The academic John McLroy, in a review essay said: "It is cogent in its arguments, detailed and precise in its proposals; and at all times, it is informed by an understanding of the law and the realities of industrial relations...it insists upon unity of individual rights and their articulation through strong collective organisation" (Socialist Policy Review January 1997).

ILO experts were strongly supportive. In a lengthy essay, the ILO's Senior Research Officer, Duncan Campbell, commented "What is a legal discussion makes convincing reading on economic grounds, but the books real merit lies in its normative thrust and its hard-headed detailed proposals for reform".

Campbell concludes his review thus: "In fact, whether one agrees with all of its contents or not, this volume inaugurates and frames the debate with more specific and sound proposals than have appeared anywhere else" (International Review Applied Economics 1997)

Writing in European Labour Forum, Tony Topham wrote: "This magnificent study comes so timely, to remind us in astonishing detail and with luminous clarity, just how repressive current labour law is in Britain, and just how much legislation and restructured industrial relations practice are needed before we can begin to think of this society as industrially democratic... It succeeds superbly in its aim, which is to set out a vital new framework for the future of the labour market and industrial relations.

It sets out systematically, thoroughly, and dispassionately, to document the law as it is and as it should be. It ought to be the benchmark guide by which an incoming Labour government is judged"

New Labour disappoints

The response to **Working Life**, both in quantity and quality clearly showed that the Institute had put itself centre-stage in the debate about the future of employment law and human rights at work. For a young and small organisation (with a full time staff of two!) it had arrived and was punching far above its weight. This was clearly illustrated at a packed fringe meeting (which included a number of shadow cabinet members in the audience) at the 1996 TUC Congress where the Institute launched **Working Life**.

Jim Mortimer

The history of the IER is a success story. From the outset the Institute was determined that its role should be informative and stimulating. It has always sought a high standard of factual reliability in its many publications.

A noteworthy feature of the Institute has been its success in bringing together lawyers, academic specialists and trade union activists. They have all contributed knowledge and experience to give the Institute its distinctive role. It is this cooperative effort that has made it possible for the Institute's publications and seminars to embrace a very wide range of issues.

A feature of the Institute's activity in recent years has been the growth and popularity of seminars. They provide an area in which people dealing with day-to-day problems in the workplace can discuss issues with lecturers experienced in the application and interpretation of the law. All who participate benefit from this exchange.

Stephan Cavalier, Thompsons

Many congratulations to the Institute on its 20th anniversary. It has been 20 years of considerable achievement - raising the profile of labour law issues and putting them at the heart of trade union debate.

The Institute has succeeded in making previously controversial issues part of mainstream union policy and thinking. I would particularly highlight the Institute's excellent contributions on working time, Wilson & Palmer and the ASLEF case which have helped to forge new rights for workers.

Through the Institute, I have been privileged to work with some great people. I would like to pay special tribute to Brian Bercusson - a great lawyer and a great friend who is so much missed. IER remains as relevant today as ever - and will be even more so as we face the turbulent times ahead.

Megan Dobney, SERTUC

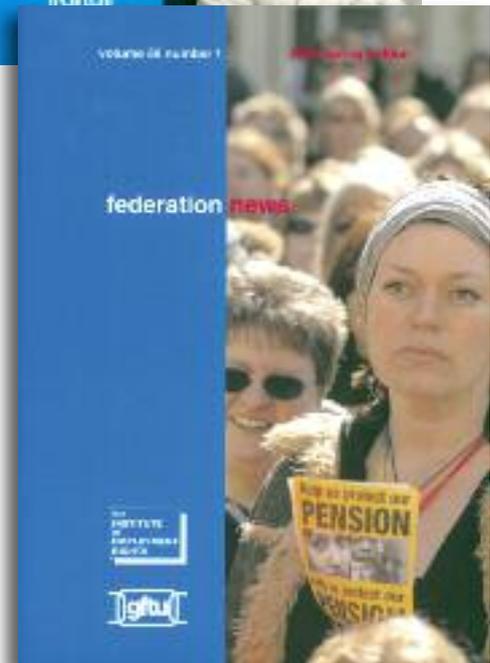
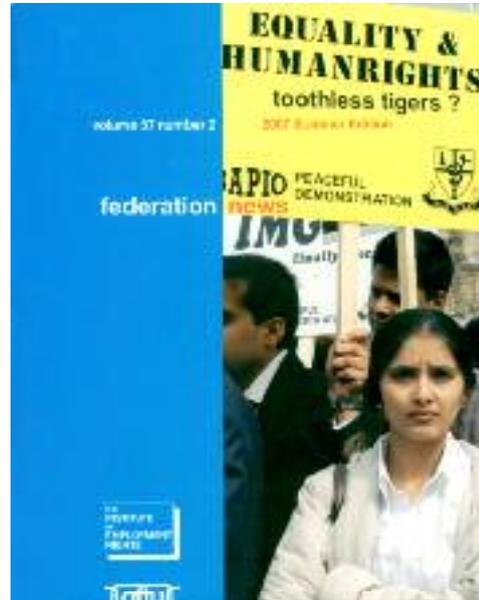
I was privileged to work for the Institute from 1998 to 2006. It was a time of great optimism with the election of the Labour government, and the promise of some of the worst aspects of Tory employment legislation being rolled back.

Some of it was – but much of it wasn't...

Key events were the introduction of a statutory minimum wage, working time regulations and the trade union recognition procedures in the 1999 Employment Relations Act.

The Institute can't claim all the credit for these successes, but can claim to have advised, informed and illuminated unions, officers, activists and members on key issues, the legal background and context, and strategic and tactical considerations. The freely-given participation of our finest academics, legal practitioners and trade unionists lies at the core of its success.

Thanks for everything you've done. May your successes multiply and the government recognise its faults and rectify them!



Since 2005 the IER has been producing Federation News for the GFTU. Two editions of the Journal are produced annually. Each edition contains a selection of short, commissioned articles around a specific theme. Usually an expert specialising in the themed discussion is invited as a Guest Editor.

On the top table of speakers was one, David Blunkett, who used his speech to urge caution and realism in the face of demands to introduce democratic rights at the workplace for working people. When it came to advancing working people's interests the signs were that, if elected, a new Labour Government would be an obstacle to overcome, rather than a promoter of, progressive change.

And so it was to prove. At the margins Labour was somewhat easier to persuade on issues of social justice. But even when this is conceded it has to be said that most of the limited progress achieved was thanks to European Directives rather than Labour Government initiatives. And even here, it soon became clear that the Labour Government was the main barrier to the progressive development of a social Europe, as British Ministers blocked and watered down proposals to extend workers' rights.

By 1997 the Tories writ was run. Mired in sleaze and divided on Europe the Tories presented an unattractive option to the electorate. They were remembered as the Government which introduced the Poll Tax, used mass unemployment as "tools of economic management" and mobilised the full power of the state to defeat the miners in order to run down the coal industry. The Major administration was easily defeated at the May 1997 General Election. For the first time in two decades employment law and trade union power was not a big issue at the polls and the victorious Labour leadership did all it could to reassure business interests and the millionaire press that it would keep all the essentials of the Tory employment laws on the statute book.

The only real concessions of substance to trade union concerns were the removal of the ban on trade unions at GCHQ, the promise of a national

minimum wage, welcome reductions in the qualifying periods for some individual workers' rights (e.g. reduced from 2 years to 1 year for protection against unfair dismissal) plus proposals to grant unions recognition provided they could establish significant support in a workplace ballot. Labour also promised to sign up to the European Union Social Chapter, which the Tories had opted out of. This raised at least the possibility of future EU Directives being applied in Britain in a progressive manner.

Although these appeared at the time to be important though limited advances, in the event the legislation introduced was disappointing in scope and application. At a specially convened meeting with General Secretaries, Institute Officers asked labour movement leaders whether there was still a need for an Institute under a Labour Government and if so, what its role should be. The conclusion was unanimous – the Institute should continue its work and maintain its critical analysis. That decision was all too soon proved correct.

As successive Labour Governments championed the benefits of neoliberalism, embracing marketisation, privatisation and deregulation of labour markets to benefit employers, the Institute's work had to embrace a critique of the new Government's overall approach, as well as giving much greater emphasis to questions of economic justice. If anything, the priorities established by the Blair government presented an even greater challenge than the Thatcherite approach to workers' rights.

Before 1997 the labour movement could look forward to the re-election of a Labour Government to repair the damage done by Tory administrations and address new proposals for reform arising out of changing economic and social conditions. By 1998 it was clear that the

Michael Siefert

The IER has played a vital role as educator, campaigner and strategist for the Labour movement. Few organisations live up to the grandiose titles they give themselves but the Institute more than fulfils everything stated in its title – it stands unequivocally for workers’ rights on a solid theoretical foundation.

During more than half the life of the Institute we have had a Labour government. It is a matter of great disappointment (although not necessarily surprise) that the party has not perceptively improved the employment rights of workers in this country. Hand in hand with the deregulation of financial institutions – with catastrophic results – the unions have been shackled in their right to free collective bargaining and independent organisation by anti-union laws which have shamefully been a source of pride to New Labour.

In this morass of cynicism and disillusionment the IER stands as one of a handful of beacons of hope.

Geoffrey Goodman

The role of the IER has been an essential part of the trade union fight back against the immensely destructive years of the Thatcher period. The research, publications and general platform offering positive signposts for union recovery and fresh development have been extremely valuable contributions in promoting the importance of trade unionism in the life of the nation.

It may well be that the crisis in the financial and market system will revive the attraction of trade unionism among generations who have never before experienced such economic collapse. This could make younger people more receptive to the role and importance of unions.

These elements all offer a major opportunity for the IER to play a most important role in helping and advising trade unions how to tackle the challenges ahead, to encourage more imaginative leadership and to counter-attack against media indifference.

Margaret Prosser

Women and other more vulnerable workers have relied over the years on legal developments in Europe to provide protection and general rights. The TGWU’s campaign in the 1980s, supported by the IER, called for “full-time rights for part-time workers and permanent rights for temporary workers”.

Part-time rights arrived in the UK in April 1998 via a European Council Directive under the Social Chapter. Temporary or “agency” workers have had to wait rather longer for protection, the government nervous of the likely affect on “flexibility”. Campaigns and political pressure by the unions and organisations like IER have eventually won the day and legislation is to be introduced.

Most change comes about via presentation of the case, by campaigning, by lobbying and influencing. Through its work in producing written arguments, holding seminars and debates and keeping up the political pressure, the IER has played a major role in helping to deliver a better deal for working people in the United Kingdom.



The bedrock of the Institute has been its authoritative yet accessible publications. Leading academic and legal experts give generously of their time and knowledge to ensure a steady flow of booklets on all aspects of labour law.

Blair Government was determined to establish Thatcherite employment laws on collective rights as a permanent feature of industrial life and to campaign to make this new settlement a consensus position, extending right across the political establishment.

So in the quest to popularise the view that progressive employment laws were an essential element in a democratic society based on social justice, the Institute was left with a much narrower base of support within the political class. The overwhelming majority of “movers and shakers” had hitched their wagon to neo-liberalism, free markets, monetarism, and strict controls and limits on trade union freedoms and workers’ rights.

Broadening the base

The Institute’s response was to step up its activities and seek to build stronger links with unions at regional level. Its educational and discussion role was enhanced by adding seminars and conferences to the continuing publications effort. The task was to convince labour movement activists that there remained a viable alternative to the neo-liberal approach and that the Institute stood ready to inform the necessary debate with informed research and new ideas which addressed the realities of a rapidly changing and globalising world.

To advance this ambitious agenda the Institute set up a series of working parties based on the experience of the **Working Life** project to look at specific areas of labour law and workers’ rights. These included Health and Safety law, a Charter of Workers’ Rights, Migrant Workers’ Rights, the Right to Strike, and Equality at Work. As the challenges grew so did the Institute’s response. Discussion papers, briefing notes and pamphlets, continued to promote new approaches and concepts. These were complemented by seminars

and conferences, based either on the ongoing work of the expert Working Groups, new Institute publications or addressing urgent topical issues. The organisation has also sought to broaden its activities still further in recent years.

Firstly it developed new educational courses. On the initiative of the late and greatly committed Brian Bercusson, IER secured European Union funding to launch a new educational project issuing a Certificate in European Employment law to successful part-time students recruited mainly from trade unions. Later, in conjunction with Birkbeck College and motored by Frank Wilkinson, IER it developed a Bachelor of Arts Degree in Industrial Relations, Economics and Labour Law, with mature students drawn mainly from the trade union movement. The Institute, in association with Middlesex University and helped by Phil James devised, produced and delivered a course on European Employment Law for the Officers of a large civil service trade union.

As part of a 5 year development plan, the Institute has also undertaken commissioned work from trade unions including drawing up legislative proposals and providing briefings to pursue cases at European and UN levels. The IER worked with the TGWU in 2004 in drafting the Gangmasters Bill (now law); with ASLEF in 2003 on ideas for an integrated collective bargaining system on the railways; with the Creators’ Rights Alliance on promoting publishing rights for freelance writers; and with TGWU to win a framework of fair right for workers in Jersey.

The Institute is now committed to intervening in public policy areas, responding either directly or with member unions in consultation papers and policy debates on employment law issues promoted by national and international bodies including elected Parliaments and UN agencies. For example, John Henty QC and Keith Ewing

Grahame Smith, Scottish Trades Union Congress

The STUC is delighted to have been associated with the IER over the last 20 years and recognises the importance of the work of the Institute in influencing thinking in all areas of labour rights.

From its infancy, during the worst attacks on our labour laws and trade union rights by the Thatcher Government, the Institute of Employment Rights has worked with trade unions, their lawyers and academics to campaign for improved rights for British workers.

Trade unions will continue to campaign for improved legislation in all aspects of employment law, building on our proud history of collectively securing fair and safe workplaces for the benefits of our members. In order to achieve this the continued existence of the IER is vitally important to the trade union movement if we are to identify weaknesses in current legislation and secure improvements for the benefits of union members and wider society.

Prof. Phil James, Oxford Brookes University

If the Institute didn't exist, a body like it would need to be invented. The impressive work that has been done under the umbrella of the Institute, and the impressive leadership of its Director, Carolyn Jones, is impossible to succinctly detail. It encompasses a vast number of publications, numerous responses to government consultation exercises, the carrying out of a range of projects and an extensive programme of conferences and seminars.

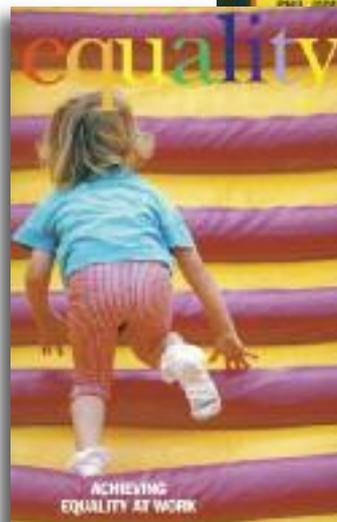
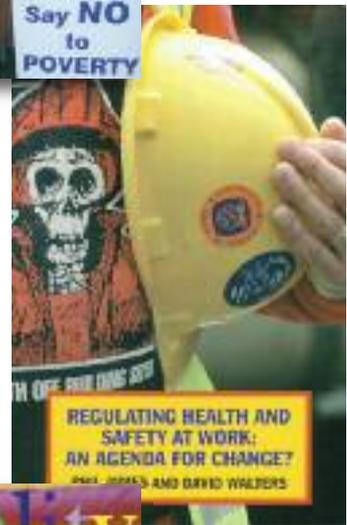
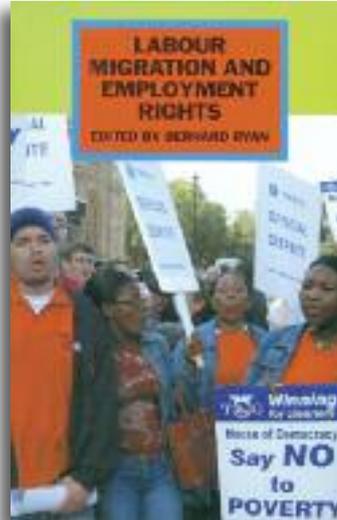
John Hendy, the Institute's founding, and current, chair must look back with pride at what the Institute has achieved. He identified the need for a labour movement-based employment law think tank and set about getting the Institute established to fulfil this function. Even he could not have envisaged that 20 years on it is not only thriving, but has come to provide the labour movement with an unparalleled resource in the battle to achieve decent employment standards for all workers.

Sarah Veale, TUC

It is essential for trade union activists that there is an independent organisation that conducts original research into employment protection, carefully examining current law to see what is in need of improvement.

The IER has attracted an impressive array of academics, lawyers and senior trade unionists, using their expertise to inform and educate union activists. Materials are written in an accessible style and link into real working lives so that they are active materials for union reps and officers. The IER has always recognised the need for flexibility and adapts quickly to meet new circumstances. The speed with which it focussed on the current economic situation was a good example of political nous and relevance.

The other key feature of the IER is the constant awareness of the international context within which the UK trade union movement operates. I'm delighted to offer congratulations – let's keep going for many more years.



IER projects allow themes to be developed in more depth. They also allow greater participation and collective input into policy proposals. Inevitably, publications derived from projects reach a far wider audience and enjoy much higher profiles.

have prepared several submissions to Parliament's Joint Committee on Human Rights; the late Brian Bercusson prepared a submission for the House of Lords Select Committee on the EU's Green Paper proposals for Modernising EU Labour Law and Aileen McColgan drew up a submission on the pay gap for the Women and Work Commission.

Major projects

All of these projects (listed on the IER Website) are of importance to the work of the Institute. But certain projects stand out as making a particularly influential contribution to trade union and workers' rights. We refer earlier to the groundbreaking report **Working Life** published in 1996. Since then the IER has published studies and proposals in **Human Rights at Work** (2000), **A Charter of Workers' Rights**, (2002), **Achieving Equality at Work** (2003), **Migrant Workers' Rights** (2005), **The Right to Strike** (2006) and **A Trade Union Freedom Bill** (2006-2007). Without exception these proposals have been extremely well received in the trade union movement, including by the TUC Secretariat, which in the late 1980's was cautious and nervous about associating with the Institute's work but now participates in many of its projects and events.

On the publications front we have seen some diversification in recent years. In collaboration with the General Federation of Trade Unions, IER has undertaken to edit the GFTU's journal, Federation News. The two editions of **Federation News** produced for 2008 provided short articles summarising the main arguments and issues raised in larger IER publications - one on the

Right to Strike edited by Keith Ewing and the other on Equality Law edited by Aileen McColgan.

Conclusion

The Institute has developed from a small ginger group, barely on the fringes of organised labour to an organisation widely respected in the trade union movement and at the centre of all debates concerning employment law now and in the future. This is a considerable achievement for which the officers and staff at IER deserve great credit and the thanks of all who treasure human rights and democratic freedoms.

It is often said that for any institution the first few years are the worst. The Institute has come through these with flying colours and is now a mature organisation of standing and influence. But as the current recession bites and threatens to become a slump then we are faced again with the doleful prospect of a return to mass unemployment and demands, particularly from the business community, for cuts in the social wage. Already we are hearing voices calling for a reduction in real terms of the minimum wage and resistance to measures designed to improve working conditions such as the full application in Britain of the European Union's Working Time Directive.

In the next period we shall need the Institute more than ever, working alongside trade unions. As ever, its job will be to produce the ideas and possible strategies to better protect and advance human dignity at the workplace and the rights and welfare of the unemployed, working families and pensioners.

Matt Wrack, FBU

The FBU has been associated with the Institute since its inaugural event in February 1989. Represented at that meeting by Ken Cameron, the FBU has been a strong supporter of the Institute's work ever since.

The FBU appreciates the continuing need for a labour law think tank offering expertise, authority and understanding of the issues facing trade unions. And the Institute delivers.

When it was clear the Tories would be voted out of power, the Institute was at the forefront of developing a template for a new framework of law. Had the Labour government embraced the ideas of the Institute with the same enthusiasm with which Thatcher embraced the ideas of right-wing think tanks, UK unions would not now be suffering from the most restrictive trade union rights in Europe.

We wish you a very happy 20th birthday and look forward to working with you for many more years ahead.

Ed Sweeney, ACAS

The debate surrounding the shape and format of employment law has raged for well over 20 years. Since its inception the IER has been at the cutting edge of that debate – sometimes providing a loan cogent voice against the prevailing orthodoxy.

In the last 20 years we have seen the swing from a collectivist approach in employment relations to one largely based on the individual. Whatever the Government approach is; it is clear that working people and their unions need to understand it.

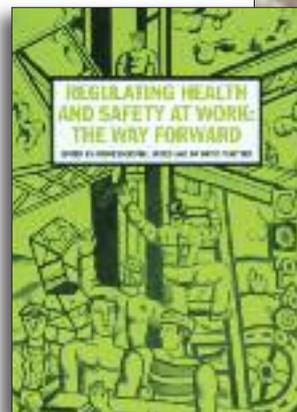
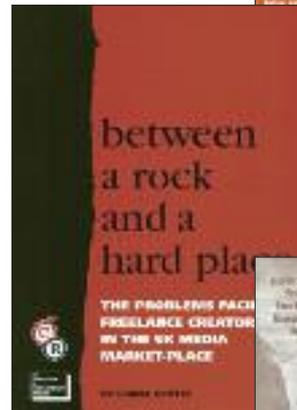
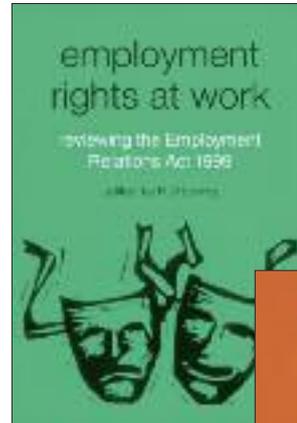
The IER provides a unique service for those unions which do not have their own in-depth research materials and have to face daily legal questions of supporting their own members in difficult circumstances. By offering access to the network of academic and legal experts together with a forum which can discuss very technical issues the Institute provides a fantastic service for the movement. Long may it continue.

Chris Keates, NASUWT

The Institute has more than fulfilled its aim of providing the labour movement with information and education in labour-related matters. It has made a major contribution to making progress towards a more equitable legal framework for workers and a recognition that all workers deserve to receive fair pay and good conditions of service.

The significant political and legal issues addressed by the Institute are both comprehensive and relevant to the needs of those who work to improve the circumstances of working people. The NASUWT believes that of particular note is the IER's analysis and support of the ASLEF v UK case regarding a trade union's right to expel members of the BNP.

For the NASUWT and all who are committed to combating racism and fascism, this was a significant landmark.



Individual unions, campaigning for changes in public policy, seek assistance from IER by commissioning authoritative, independent reports, researched and written by IER experts. The IER library of publications also contains informed critiques of government legislation and policy proposals.

IER: facts, figures and achievements

IER Events

The Institute began seriously concentrating on seminars and conferences in 1999. Since then over 100 events have been held with an estimated 10,000 paying delegates attending. The Institute has built a reputation for organising one of the more popular fringe events at TUC Congress. It is now taking IER platforms out into the nations and regions of the UK with events in Scotland, Wales and most recently a series of conferences in Liverpool. The success of IER events is reflected in the fact that income from such events has risen by 406% in the last 10 years.

International Solidarity

The IER recognises the importance of international standards and global solidarity. In 1998 the first Comparative Note was published looking at Australian Labour law. Since then IER has reported on developments in Canada, New Zealand, South Africa, USA and Cuba. International speakers have joined IER platforms and IER representatives have addressed events in South Africa, New Zealand, America and Canada. In 2006 a sister organisation was born in the form of the Australian Institute of Employment Rights (www.aierights.com.au)



Booklets

The IER have produced over 150 titles, circulated nearly a quarter of a million booklets, and raised over £375,000 in sales.

The Charter of Workers' Rights Summary was the biggest seller, with over 7,000 circulated throughout the labour movement. Publications range from the short labour law review annual reports, comparative notes on international developments, twice yearly editions of Federation News, through to larger books based on the collective input of themed Working Parties.

Staffing the Institute

The Institute has survived due to the hard work and commitment of its staff including:

Monica Brown
Kwame Ocloo
Lee Hurst
Megan Dobney
Sally Bland
Phelim Mac Cafferty
Treena Johnson

Special mention to Jessica Webb and Tom Sibley, Acting Directors during periods of maternity leave.

Further details and a full list of booklets are available at www.ier.org.uk

Supporters packed into two Committee Rooms at a Parliamentary Rally in support of the Trade Union Freedom Bill.

Brian Caton, POA

For many years the POA has worked closely with the Institute in relation to trade union rights, not only for prison staff who were denied the right to take industrial action by the Conservative Government in 1994.

Despite promises by Labour in opposition to reinstate the rights of prison staff, the New Labour Government reneged on these promises as soon as they came to power. Since that time, the POA has fought alongside the Institute to right this wrong.

We at the POA are sure that through the irrepressible commitment of all those at the IER we can succeed in bringing about real trade union rights for workers in the UK and real improvements in our currently disgraceful employment laws.

The POA wishes to thank all of those at the Institute for their support in recent years and give our commitment that we will continue our support for you.

Gordon Taylor, PFA

The emergence of the IER was important and has been enduring because it has, through reasoned argument and the use of compelling data and information, been able to put forward a coherent and intellectually robust case for a more equitable framework of labour law.

The PFA will continue to support the valuable work of the IER. A new constitutional settlement combining the direct enforcement of collective agreements with a clear set of rights and responsibilities for trade unions could ensure a harmonious period in industrial relations and at the same time recognise the essential and pivotal role that trade unions play in society.

This approach has worked well in football where our collective bargaining agreements, particularly in relation to TV rights and contractual protection, have been instrumental in developing a conducive and positive relationship with the employers.

Mike Bradley, GFTU

The General Federation of Trade Unions (GFTU) has been pleased to have been affiliated to IER since its inception.

We have collaborated extensively particularly in respect of our annual Advanced Course for full time officials and the publication of Federation News. The latest edition of Federation news covering recent ECJ decisions has been widely welcomed as a major contribution to debate within the Trade Union and Labour movement.

IER publications are used extensively on our education and training courses and the seminars organised by the institute are always relevant and informative.

Here's to the next 20 years and keep up the good work. The movement needs authoritative and well researched material in order to campaign affectively for our members.



The Trade Union Freedom Bill was an excellent example of a campaign born out of an IER idea, drafted with the help of IER experts and popularised through IER publications, conferences and fringe meetings. It caught the imagination of activists and generated a lively debate in Parliament.

1989

Officers and Executive Committee Elected February 1989

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Treasurer: David Cockburn
Director: Carolyn Jones

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Leslie Christie, General Secretary, SCPS
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Brenda Dean, General Secretary, SOGAT
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Lord Bill McCarthy
Jim Mortimer
Frank Wilkinson
Joe O'Hara

2009

Officers and Executive Committee January 2009

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Professor Phil James	Barbara Switzer
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Dr Sonia McKay	Dr Frank Wilkinson

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Rosie Eagleson - PCS

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John Foster
Paul Gates - Community
Ken Gill
Tess Gill - Old Square Chambers
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Mickey Rubenstein
Mike Seifert - Simons Muirhead & Burton
Derek Simpson - UNITE Amicus
Graeme Smith - STUC
Gordon Taylor - PFA
Muriel Turner
Charles Ward - AEP
Bill Wedderburn QC
Matt Wrack - FBU

LAURA COX, British Member of the CEACR

I am delighted to be asked to contribute a few words on the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), to mark the 20th anniversary of the Institute of Employment Rights. Whilst the Institute can rightly congratulate itself on a full 20 years in existence, the CEACR recently celebrated its 80th anniversary. As the current British member of the CEACR, I am pleased to have this opportunity to say something about its continued relevance and importance. This is especially so given that one of the Institute's aims over the years has been to increase awareness and understanding of international labour standards.

It is a testament to the success of the CEACR that it is still fulfilling its essential task and is widely regarded as one of the most effective supervisory bodies within the UN system. Their work has led to the accumulation of a substantial body of jurisprudence, increasingly referred to by members of the judiciary and representatives appearing before them, when interpreting national laws which are the subject of ILO Conventions. In this way the important work of the ILO has had and will continue to have recognition and influence in the sphere of labour rights. (Full text on www.ier.org.uk)

MARK SERWOTKA

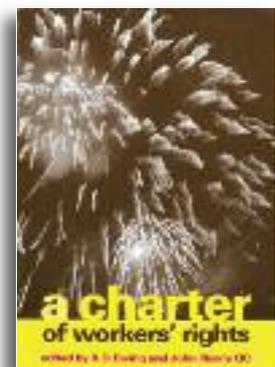
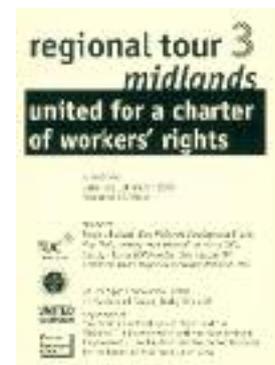
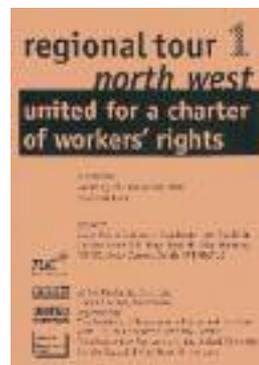
PCS are proud to be associated with the 20th Anniversary of the Institute. The IER's commitment to improving workers' rights and promoting trade union freedoms has been steadfast.

According to the IER's Constitution, "The object of the Institute shall be to advance the education of the public in labour law, work, unemployment, trade unions and related issues." And the IER has certainly delivered.

PCS has used, encouraged and supported IER's substantial range of publications, briefings, seminars and educational courses. Through them, the Institute has argued relentlessly and authoritatively for workers' rights. The immediate future will be difficult for workers and unions. We have no doubt the Institute will rise to the challenge and offer the labour movement informed policy ideas for a better world of work.

BRENDAN BARBER

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Getting the word out to subscribers and the wider public is an important aspect of IER's work. Organising regional meetings, holding conferences in Liverpool and London and ensuring an IER presence at labour movement events helps IER to reach wider audiences.

INSTITUTE OF EMPLOYMENT RIGHTS



“In contemporary Britain it is not sufficient to defend trade unionism as a passive conviction. It demands active support for the re-assertion and extension of trade union rights”.

JIM MORTIMER

1998, 10th IER Anniversary Lecture



www.ier.org.uk

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