



# Civil regulation of employment relations in the UK



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# Definition of civil regulation

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## ▶ Employment rules:-

- ▶ Created & administered by non-state actors
- ▶ Adhered to voluntarily by workers & their employers
- ▶ Enforced primarily through systems of incentive, not sanctions
- ▶ Targeted at particular worker-constituents or issues
- ▶ Apply to employment relations in the UK



# Objectives

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- ▶ **Actors:**
  - ▶ Civil Society Organizations (CSOs)
  - ▶ Employer Forums
- ▶ **Regulation:**
  - ▶ Substantive
  - ▶ Procedural
- ▶ **Enforcement**
  - ▶ Incentives
  - ▶ Minimising risk
- ▶ **Relationship to other forms**
  - ▶ Statutory regulation
  - ▶ Union-based regulation
- ▶ **Significance & research**



# Actors

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## ▶ Who is creating civil regulation?

### 1. Civil Society Organizations

- ▶ Voluntary organizations representing a particular constituency
- ▶ Examples include *Stonewall, Age UK, Carers UK, MacMillan, Migrants' Rights Network, Chwarae Teg, Public Concern at Work, Citizens UK*
- ▶ Represent work & non-work interests, use multiple methods

### 2. Employer Forums

- ▶ Membership organizations of employers focused on a particular issue
  - ▶ Examples include *Opportunity Now, Race for Opportunity, Employers' Forum on Age & Belief, Employers' Forum on Disability, Corporate Alliance against Domestic Violence, Inclusive Employers*
  - ▶ Focus on customer as well as employment relations
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# Regulation

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- ▶ What form does regulation take?
  - ▶ Scope
    - ▶ Rules governing the employment of:
      - Particular groups e.g. LGBT, women, workers with disability, carers
      - Particular issues e.g. low pay, bullying, health & safety, whistleblowing
  - ▶ Substantive regulation
    - ▶ Charters, codes & statements of best practice
    - ▶ Minimum standards: living wage
    - ▶ Equal treatment: same-sex partner benefits
    - ▶ Diverse treatment: flexible employment to accommodate disability
    - ▶ Development: access to training & support networks



# Regulation

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## ▶ Form of regulation

### ▶ Procedural regulation

- ▶ Disputes procedure: whistleblowing; bullying
- ▶ Roles: management champions, 'straight allies', critical friends
- ▶ Preparation: diversity training; reverse mentoring; consultancy
- ▶ Participation: employer-supported diversity network (mentoring, networking, consultation)
- ▶ Review: data collection & monitoring; equality audits, benchmarking

### ▶ Expressive regulation

- ▶ Acceptance, celebration & prioritization of interests associated with constituency or issue: symbols, events & discourse (pride, respect, dignity)



# Enforcement & Compliance

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- ▶ How are employers encouraged to comply with civil regulation?

## I. Incentives

- ▶ Business case for ethical management
  - ▶ Recruitment & retention; productivity; quality & responsiveness
- ▶ Brand protection & enhancement
  - ▶ Indicator or corporate social responsibility & citizenship
  - ▶ Strengthening of corporate & employer brands
- ▶ Recognition
  - ▶ Accreditation
  - ▶ Awards
  - ▶ Publicity



# Enforcement & compliance

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## ▶ Encouragement for compliance

### 2. Minimising risk

- ▶ Avoiding legal action through adherence to best practice
- ▶ Avoiding hostile campaigning through partnership with CSOs
- ▶ Protection of vulnerable brands through citizenship behaviour

### 3. Strategies of CSOs/Forums

- ▶ Business legitimacy: leading firms & organizations
- ▶ Partnership: on-going supportive relationship; membership
- ▶ Servicing: provision of selective incentives; consultancy, advice, expertise, development
- ▶ Monitoring: auditing & benchmarking





# Relationship to other forms

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- ▶ How does civil regulation relate to other forms of regulation?
  - I. Legal regulation
    - ▶ Stimulus
      - ▶ Legal regulation & need for compliance stimulates civil regulation
    - ▶ Supplement
      - ▶ Civil regulation may supplement law through codes & other forms of guidance
    - ▶ Pre-emption
      - ▶ Civil regulation may pre-empt the need for further law and act as a functional alternative
    - ▶ Civil and legal regulation are closely entwined & mutually supportive



# Relationship to other forms

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## ▶ Relationship to other forms of regulation

### 2. Union-based regulation

- ▶ Civil regulation typically is not developed with union involvement & it does not derive from collective bargaining
- ▶ Civil regulation associated with the promotion of employer-supported identity networks independent of trade unions
- ▶ Compliance & enforcement mechanisms typically operate without union involvement
- ▶ Unions often cooperate with CSOs (not Forums) but typically through joint campaigning & within the political process
- ▶ Unions may develop parallel and similar systems of regulation through collective bargaining but there is limited integration of forms



# Significance

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## ▶ How significant is civil regulation?

### 1. Breadth of regulation

- ▶ Substantial coverage by civil regulation
- ▶ Membership of CSO schemes & Forums can number several hundred, employing many thousands of workers
- ▶ Prominence of large firms, leading brands & public sector organizations

### 2. Depth of regulation

- ▶ Likely problems:
  - ▶ Surface compliance; accreditation of pre-existing practice; impact confined to issues with minimal cost or clear business benefit
- ▶ Some evidence of success:
  - ▶ Living wage campaigns; LGBT networks



# Significance

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## ▶ How significant is civil regulation?

3. Research question – Under what conditions does civil regulation generate significant changes in employment relations?

### ▶ Internal mediating agents

- ❑ Worker voice: trade union presence & activity; identity-based networks
- ❑ Management commitment: presence of champions & specialists; social movement adherents within management
- ❑ Management structure: allocation of responsibility for issue (HR v CSR); centralized management structure with formal HR systems
- ❑ Management strategy: branded organizations with valuable corporate & employer brands

### ▶ Credible threats

- ❑ Legal action: experience or threats of legal action
  - ❑ Campaigning: external campaigning organizations that pose a threat to legitimacy & brand
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