Employment and Work Relations in Context Series

PAYING FOR THE PIPER

Capital and Labour in Britain's Offshore Oil Industry

Charles Woolfson
John Foster
Matthias Beck

Series Editors
Tony Elger and Peter Fairbrother
Centre for Comparative Labour Studies
Department of Sociology
University of Warwick

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PAYING FOR THE PIPER

'... has all the hallmarks of [the authors'] previous works ... the vivid style, the careful description of tactical debates and the eye for telling detail ... a highly readable, often fascinating account of a grim and depressing saga.'
John Kelly, Senior Lecturer in Industrial Relations, London School of Economics. Editor, *British Journal of Industrial Relations*

The North Sea oil industry has been riven by industrial conflict, human tragedy and disaster. This book investigates the crisis of industrial relations which followed the 1988 Piper Alpha disaster, the world's worst offshore accident, in which 167 oil workers died. The strikes which followed in 1989 and 1990 challenged the health and safety practices upon which the system of offshore production had been based, rejecting as unacceptably high the human price of oil extraction. In mounting this challenge the labour force precipitated a fundamental strategic shift in the political economy of the British oil and gas industry.

Paying for the Piper makes the first serious appraisal of the current offshore safety regulatory regime instituted after Piper Alpha, and of the oil industry's attempts to contain subsequent unwelcome regulatory interference. It concludes that, as yet, offshore safety is little or not at all improved. The authors also examine the fraught history of trade unionism in the offshore industry and the largely successful strategies of employers to sustain a virtually union-free environment. The conflict over health and safety offshore has been inextricably bound up with the sometimes brutal struggle over union rights as the workforce has attempted to achieve a collective voice in the reform of safety and production standards. *Paying for the Piper* shows how the offshore unions have attempted to alter the unfavourable balance of class forces shaped by some of the world's most powerful concerns.

Charles Woolfson is Senior Lecturer in Industrial Relations, University of Glasgow.

John Foster is Professor of Applied Social Studies, University of Paisley.

Matthias Beck is Lecturer in Economics, University of St Andrews.

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which non-payment might have entailed. Nevertheless, there was no strict legal obligation to make payment of the fine, as a result of the intervening corporate restructuring. Some of the delay in bringing the Ocean Odyssey case to court may well be attributed to the fact that the original incident investigation occurred while the DEn was still the responsible agency. In the aftermath of the Odeco prosecution, the HSE was keen to point out that if it investigated an incident in the Scottish sector of the North Sea which it felt warranted prosecution, it would forward a report to the Procurator Fiscal. The Fiscal's office would then decide on whether to proceed to court, the matter then being out of the hands of the HSE. The appointment of a full-time Fiscal (prosecuting officer) in Aberdeen, with the oil industry as a specific remit, could be seen as a step towards more prompt action by the legal authorities, although it is by no means clear that a more pro-active prosecution strategy has been formally sanctioned. Nevertheless, the following remarks by the Senior Procurator Fiscal Depute appointed for this task are an indication that issues of corporate responsibility are now given some importance. With the discomfort caused by cases like Ocean Odyssey very much in mind, he has observed, 'It is a pity that we cannot more directly link Company Directors to actions for which they are responsible and which are carried out at their behest within the corporate concern, when it is applicable.'[33]

Cormorant Alpha

A different illustration of possible corporate culpability and the difficulties in prosecuting companies which operate in the offshore sector is given by the Cormorant Alpha disaster.

On 14 March 1992, Bristow's Super Puma G–TIGH with seventeen men on board crashed into the sea near the Cormorant Alpha whilst shuttling to the nearby Safe Supporter accommodation barge. The Safe Supporter barge, normally connected to the platform, had pulled away from the platform some 72 hours previously, due to storm damage to its moorings. As soon as G–TIGH hit the sea it turned turtle and rapidly sank. There was no time to pull out the life rafts stowed inside the cabin, although incredibly one did break free and, partially inflated, allowed some men to cling to it and survive. Eleven men lost their lives in what should have been a routine two-minute flight. The appalling weather included one of the longest periods of freezing recorded in over six years. Wave heights in the North Sea exceeded eleven metres and winds were gusting to 65 knots. Two reports, one from the Fatal Accident

Inquiry held by Sheriff Jessop of Aberdeen and another from the Department of Transport's Air Accident Investigation Branch (AAIB), put most of the blame on the dismissed commander, Captain Jonathan Shelbourne. In turning the aircraft away from the strong gusting wind he had inadvertently allowed the airspeed, and the height of the helicopter, to decrease. Remedial action taken in the last seconds of the flight was insufficient to prevent the ditching. A survivor said, 'it was like a car going down hill out of gear'.[34] Both reports agree that the freezing blizzard conditions were not the cause of the accident; but they are at variance on the significance of the weather in the chain of events that led up to the disaster. Sheriff Jessop completely discounted it, saying: 'There is no reason why the flight should not have been safely carried out with reference to the weather conditions.' The Air Accident Investigation Branch report of May 1993 suggested that the flight should not have taken place at all.

It is an essential feature of the certification of the Super Puma that flight in cloud, fog, snow or rain must not take place in sub-zero temperatures unless there is a 500 ft layer of warm air above the surface of the sea into which the aircraft can descend and shed accumulated ice. It is also a requirement that the commander, prior to take-off, plan the flight. He is required to have regard to the performance capability of the aircraft and the weather expected en route. The AAIB report suggests that there was little possibility of the flight being carried out in accordance with the flight manual in this regard. Meteorological reports obtained by the crew prior to departure showed snow showers and sub-zero temperatures from sea level up. What the reports did not show was the presence of an unusual turbulent Arctic weather formation approaching the Cormorant Alpha. This is known as the Polar Low, a weather system only encountered once in several years. An urgent telex warning of the imminent approach of such a Polar Low, logged into the Cormorant Alpha radio room, was not passed to the pilot. Even without this, it was the coldest day recorded by the offshore weather service since record-keeping began. Helideck fire monitors were frozen solid on at least three other platforms in the area.[35] Hence there seems little doubt that the flight should never have taken place, given these weather conditions.

The explanation of why it did may be found in documents obtained by *Blowout* – documents which were never presented in evidence to the Fatal Acident Inquiry or to the AAIB. Read in conjunction with the AAIB report these point to conclusions which are disturbing. Says the AAIB report: 'A major factor in the accident was a hasty and ill-considered flight manoeuvre', but other factors include the commander's 'position of responsibility in the company'. Captain Shelbourne, in addition to being the commander of

G–TIGH, was Chief Pilot at Sumburgh Airport, responsible to Bristow's General Manager (Scotland) for the commercial and administrative management of the operation there. His other responsibilities included liaison with the client Shell Expro. Extreme weather had curtailed routine flying, with the two in-field aircraft based in the Brent Field in their hangars. Freight was required on the Brent Alpha and personnel required to be shuttled around the field including Cormorant Alpha. G–TIGH was on contract, and Shell requested it be used to the maximum. The limiting factors to this included the weather reports which showed an absence of the required 500 ft band of positive-temperature air over the sea. The assessment had to be made by whoever was to agree to the client's requested flying programme. It was the helicopter commander who did so, without reference to any superior authority. He was, as the AAIB report points out, effectively his own superior. As base manager, the relationship between Bristow and Shell fell very much within his ambit of responsibilities. He was required to maximize the company assets. The flight appears to have taken place in contravention of the relevant airworthiness directives despite the fact that, as the AAIB observes, it 'was not required under an emergency situation, and the maintenance of a public transport standard was paramount, even at the expense of perceived commercial emphasis'. A 'commercial emphasis' was implicated in the decision to undertake the flight to the Shell field. Had vital freight not been delivered, the Brent Alpha might have had to shut down the following day. In Captain Shelbourne's mind, there may have been little doubt as to what the company required of him in these circumstances.

In the unusually cold period from 11 to 14 January 1987, the meteorological reports show the North Sea to have been dominated by an intense anticyclone over Norway. The situation was unstable and unusually cold, with a Polar Low again developing to the north. Throughout that week heavy snow and hail showers were prevalent with warnings of airframe icing of moderate to severe extent in shower cloud. The question can be raised as to whether Bristow continued to fly its helicopters in contravention of the airworthiness directive relating to flying in icing conditions during this period. Moreover, the company appears to have picked up extra business due to the fact that competitors' helicopters did not fly. Senior Bristow managers expected its pilots to fly. The Area Manager, Mr A. MacGregor, had issued a memorandum to pilots on 16 January 1987. In this he congratulated those pilots who continued operations during the spate of bad weather. It was, he said, 'most laudable'. The memorandum went on to say, 'we flew over one hundred hours "ad-hoc" during the week and stole a march on other operators by our endeavours' (internal memo, A. MacGregor to D. Smith, 16 January 87). In 1992,

MacGregor was promoted to Deputy Managing Director of Bristow. The question being asked in the aftermath of the Cormorant Alpha crash was whether a company enthusiasm to 'steal a march' on competitors, exhibited in 1987, did not also colour the decision to fly G–TIGH on the night of 14 March 1992?

Since the tragedy, Shell on its own initiative has introduced an Adverse Weather Working Policy, uniquely so amongst North Sea operators. Despite employers' persistent denials that disciplinary action had been taken against workers who refused to fly because they feared for their safety, contrary evidence has emerged. One contractor employee, Tommy Roe, who died during the disaster, had previously received a written warning from Press Offshore (now AMEC) for reluctance to board a helicopter in bad weather. Tommy Roe's offence was described as, 'Failure to accept instructions from HLO (helicopter landing officer) prior to boarding helicopter'. This unfortunate individual was 'reminded' that 'any future misconduct or poor performance will be dealt with in accordance with the disciplinary procedure'.[36] An AMEC company memo from senior management on the beach instructed that written warnings 'issued to potential NRBs' had to be adequately filed. Tommy Roe and his fellow workers knew the inevitable consequences for their jobs of further protests.[37] As the Fatal Accident Inquiry got underway it transpired that several men had expressed apprehension about the flight. The Cormorant Alpha Helicopter Landing Officer (HLO) maintained no official complaint had been made to him. Tommy Roe, who had received the written disciplinary warning, had himself complained repeatedly at being made to sit in a seat he regarded as particularly unsafe. This was colloquially known as the 'dead man's seat'. It was an additional and cramped middle seat at the rear of the helicopter from which easy access to escape routes was restricted. Its use has subsequently been discontinued from Super Puma North Sea flights for Shell.

Five of the deceased were recovered along with the wreckage. Six more died on the surface while awaiting rescue. The six survivors claimed that but for the survival suits all would have perished in the freezing waters. One survivor had lasted more than 90 minutes in the sea. This in turn provoked the question as to why rescue had taken so long to carry out. First on the scene, some twenty minutes after the alarm was raised, was the standby vessel, closely followed by a Norwegian supply vessel. The sea was so rough that the standby vessel could not launch its fast rescue craft. The Norwegian supply vessel played a crucial role. One of its crew, with only a rope tied round him, dived into mountainous 50-foot waves in a repeated attempt to rescue a survivor. Counsel, press and onlookers at the Fatal Accident Inquiry

were ordered to stand by Sheriff Jessop as the whole court applauded the bravery of Norwegian seaman Knut Rogne.

During the inquiry there was some concern at the time taken to mount the rescue operation. The Norwegian helicopter pilot based on the Gullfaks accommodation vessel had offered immediate assistance in response to the Mayday call put out from the Cormorant Alpha. He claimed he could have been at the scene fifteen minutes earlier but had remained on standby for those vital minutes after the initial offer of help was refused. Shell's own two in-field helicopters in the Brent Field were on the Safe Gothia in their hangar. One was out of commission awaiting a parts delivery from the fateful Super Puma, while the other helicopter took 40 minutes to deploy in the emergency. This was the only offshore-based dedicated rescue helicopter in the UK's northern sector of the North Sea. There was no regulatory requirement for such a Search and Rescue helicopter to be in place. This was not the case, however, for the installation standby vessel. The Offshore Installations (Operational Safety Health and Welfare) Regulations (SI 1976, No. 1019) require the installation Helicopter Landing Officer 'to have ensured that before any helicopter lands or takes off, the vessel standing by to render assistance to the installation has been informed that helicopter operations are to take place'. The Fatal Accident Inquiry heard that, in contravention of these regulations, it was not the current practice on any Shell installation to inform the standby vessel of helicopter movements (Jessop, 1993: para 26.4). The Cormorant Alpha installation manager, whose ultimate responsibility it was, admitted that he did not ensure that these regulations were complied with. Nor did the senior Shell Helicopter Landing Officers who carried out periodic audits of the on-board Helicopter Landing Officers. The standby vessel, *Seaboard Support*, was in fact two miles away attempting to avoid the weather. Had it not been so, 'the death of some of the survivors of the accident might have been prevented' said the Fatal Accident Inquiry report (1993: para 36.5). Nevertheless, no charges were laid against the operator for regulatory breach, it being deemed 'not in the public interest'.

The Cormorant Alpha Fatal Accident Inquiry was an in-depth inquiry into this important area of North Sea safety. The Chinook crash inquiry had been very much more restricted in its scope, dealing primarily with the contributory influence of technical modifications to the aircraft. Sheriff Jessop was to pay tribute to the role of counsel for the bereaved at the Cormorant Alpha inquiry, in opening up a range of issues upon which he was able to make observations in his final determination. Six of the victims were members of the electricians' union. On the eve of the inquiry, Paul Gallagher, general secretary elect of the EETPU, and one of the TUC appointees on

the Health and Safety Commission, wrote to the relatives intimating that the union now intended to withdraw legal representation since, 'based on previous experience of fatal accident inquiries, the cost of representation would not materially affect the outcome of your claim for compensation.'[38] The union had estimated that it would cost £150,000 to provide representation. For the widows of the victims the point was not simply the amount of compensation, but rather the desire to see justice done and to ensure that the truth be exposed. OILC, which had four members on the flight, two of whom died, stepped in with legal representation for all of the deceased and survivors with the exception of the captain and co-pilot, who were each independently represented by counsel appointed by the pilots' union, BALPA. The EETPU view of OILC's intervention as revealed by Pat O'Hanlon, its Scottish Executive Councillor, is quoted:

> Nobody can alter the technical fact-finding work of the Fatal Accident Inquiry. All OILC is doing is displaying a fine turn of amateur dramatics to try to boost their recruitment efforts offshore. This cynical manipulation of people's emotions should be rejected.[39]

An interest-free loan of £30,000 to OILC from the Statoil Club of OFS, the Norwegian offshore union, enabled solicitor for OILC, Sandy Kemp, to be fielded at the inquiry. Sheriff Jessop noted that without the presence of such counsel 'much of the evidence would not have been properly tested' (1993, para 41.2). The questioning of witnesses 'brought out many points which might prevent a similar accident occurring in the future' (1993: para 41.3). It would have been 'unfortunate had they not participated in the inquiry on the ground of cost' (1993: para 41.2). Sheriff Jessop recommended a change in the law to allow the granting of legal aid or the award of expenses to those with 'limited means but with a real interest' in such inquiries. The crippling legal costs of representation at such enquiries has already been highlighted by Sheriff Risk in his Determination on the Brent Spar disaster. The government subsequently chose, however, not to amend the legal aid provisions in line with Sheriff Jessop's recommendation. The decision of the Procurator Fiscal's office not to prosecute, despite Shell's apparent admission of breach of regulations with respect to standby vessel precautions, was surprising.

The relatives of the victims and the survivors embarked on litigation against Bristow in the UK, and then in the courts of Texas and Louisiana against Shell and Exxon, Esso's US parent company. They were seeking compensation beyond that which, under the outmoded Warsaw convention on aviation accident compensation, restricts payment to those involved in a civil

aircraft disaster to a sum in the region of £90,000. With the prospect of US litigation, Shell sought and obtained interim interdicts in Scotland and injunctions in England against bereaved families and survivors, some 63 individuals in all. They were to be prevented from pursuing an award in the American courts. Violation of this court order, Shell warned, could result in the families and survivors concerned being 'subject to bodily imprisonment'. Faced with such legal harassment, even case-hardened lawyers involved in the proceedings reeled in disbelief. Shell confirmed: 'the action reflects the company's belief that the appropriate forum for a resolution of this matter is Scotland'.[40] Any reference to imprisonment, said Shell, was 'legal jargon'.

Shell's attempt to block compensation cases in the US courts proved not entirely successful and the initial interdicts sought in the Scottish High Court and south of the border were recalled.[41] Then, in late December 1994, a Texas district court judge in Brazoria County ruled that Exxon ultimately controlled the Shell–Esso joint venture operating installations like Cormorant Alpha and was responsible for its aviation policy. Judge Neil Caldwell ruled that Exxon could be held to conduct its business from the State of Texas, despite the company's attempt to avoid jurisdiction being granted by 'moving' its registered headquarters in the US and other legal manoeuvres (Caldwell, 1994).[42] In Judge Caldwell's view there appeared to be:

> reasonable grounds to allege that the co-venturers SUKL/EEPUKL (Shell UK Ltd/Esso Exploration and Production UK Ltd.) appear to have been responsible for the crash of the G-TIGH because of their unrelenting push to reduce NPT (non-productive time) by way of reducing WOW (waiting on weather). By using the Super Puma G-TIGH (upgraded equipment) in storm conditions when WOW had previously caused NPT (non-productive time), the co-venturers (Shell/Esso) achieved their goal of reducing NPT and, not coincidentally, caused the death of eleven (11) men and permanent disability of a remaining six (6). (1994: para. 53)

The ruling potentially opened the way for US-level settlements to be awarded to the victims of the disaster, although further legal challenges from Shell/Esso continued. In April 1995 Shell/Esso and the relatives and survivors returned to the Court of Session in Edinburgh. The companies had obtained an interdict order prohibiting the survivors and relatives from taking any steps to secure transfer of the US proceedings from a Texas State court to a federal court. Now the survivors and relatives asked for the interdict against them to be withdrawn, as they had been threatened that if the transfer went

ahead, they would be summoned for breach of interdict. There was also the threat of a £1 million expenses claim for costs incurred in defending the US proceedings. US attorneys acting for the deceased were described by Shell's QC as 'dogs straining at the leash'. The legal moves were justified as getting 'the handlers to order the dogs to sit down'.[43] Shell did attempt, unsuccessfully as it turned out, to have the interdict enforced. An article in Shell's house magazine for employees by Richard Wiseman, Head of Shell UK, Legal Division, put forward the company's position: 'We are not fighting Texas jurisdiction to avoid paying huge damages as has been alleged by the media on several occasions. Shell UK is a British company with no operations outside the UK.'[44] The ability of such oil companies to persevere financially, through long and tedious court battles, is unfortunately greater than that of the pursuers or plaintiffs. Judge Caldwell's initial determination of jurisdiction in favour of the latter could not detract from this crucial asymmetry. In the end, when faced with the imminent prospect of US court proceedings going ahead, Shell proposed an out-of-court settlement which was reached in early 1996, nearly four years after the disaster. As yet, the size of this settlement remains undisclosed. While the families received substantially greater compensation than they would have obtained in the British courts, the imposition of 'gagging clauses' left unanswered vital questions about corporate culpability.

Sheriff Jessop, at the Fatal Accident Inquiry, recommended that 'a review of helicopter safety in the North Sea 'be undertaken as a matter of urgency' (1993: para 38.9). The regulatory body was the Civil Aviation Authority (CAA). During the inquiry the CAA had admitted that it altered its minimum safety standards *only in response* to an accident or near-miss. It was given seven major areas of priority investigation. These were: restrictions on operations in adverse weather, the adequacy of in-field 'search and rescue' facilities, the positioning of standby vessels during shuttling, the mandatory use of survival suits, the effectiveness of life jackets in combination with survival suits, the automatic deployment of flotation bags on helicopters and the possibility of fitting externally mounted life-rafts to helicopters.

Up to half a million helicopter flights take place offshore each year. The announcement in November 1993 that the CAA had set up a review of offshore helicopter passenger safety and survivability was certainly welcomed by the workforce. As yet, the CAA was said to have failed as an effective regulator and appeared to lack familiarity with the rigours of helicopter travel in the offshore environment. One senior Bristow's pilot, with 27 years' experience of North Sea helicopter operations, has written:

> The regulators: If I have one criticism of the CAA it is that it is getting more remote from the industry's need to grow and develop. All the bad weather work has been wasted. All the early low visibility approach minima and the offshore rig detection ranges were withdrawn in 1986 and have never been replaced.
>
> I do not consider that many of the CAA airworthiness test pilots are competent in the operational use of helicopters. They should not be involved in the simulation of bad weather operations, which are entirely to do with the use of the aircraft, until they are competent and experienced in that area themselves. It is a fact that in the mid-1980s a CAA test pilot flying as co-pilot in the Super Puma said, 'I didn't realise that helicopters could operate in weather like this'. (Gordon, 1992: 11)

The review had come after three major disasters in the North Sea in six years, resulting in 62 helicopter fatalities. Overall, since 1969 a total of 113 men had died as a result of helicopter incidents in the UK sector of the North Sea, of which about three-quarters were not listed as oil-related fatalities. The clamour for such a review from unions and political figures was now irresistible. Evidence from an HSE investigation begun after the Brent Spar crash found aviation deficiencies in half of the 82 oil and gas installations surveyed. On two rigs, problems were so serious that the inspectors banned operations.

Shell had voluntarily taken the Brent Spar out of operation some time after the July 1990 tragedy. The installation was to achieve renewed notoriety in 1995 during its final decommissioning. Shell, with the support of the British government, but in the face of opposition from governments of other European countries, proposed to dump the installation and its toxic contents in the deep waters of the Atlantic. Harried by Greenpeace activists and a growing Europe-wide consumer boycott, Shell eventually capitulated and in the process exposed a damaging split with its co-venturer Esso which we examine in Chapter 11. The weight of expert scientific evidence was eventually to confirm Shell's estimate of sea-disposal for Brent Spar as less damaging environmentally than onshore disposal.[45] The episode focused public concern on Shell in such a way as to seriously undermine its carefully constructed environmentally-sensitive image. In their jubilation over Shell's climbdown, Greenpeace campaigners declared, 'Three months ago, no-one had heard of the Brent Spar . . . and look at it now'.[46] In the world of environmental activism this was probably true. In the world of the offshore workforce, however, Brent Spar, on which a total of nine men lost their lives, would remain yet another enduring memory of the human price of North Sea oil.

As the CAA review continued, issues of helicopter travel remained deeply

contentious for the North Sea workforce, proving again the impossibility of a strict compartmentalization of safety and industrial relations. As the final submissions were being made at the Cormorant Alpha inquiry in January 1993, 30 workers who refused to board a helicopter shuttle to Piper Bravo in severe weather had their wages docked, in an act of retaliation by their employer.[47] Once again, elected safety representatives resigned in protest after the incident. Finally, on the Tiffany, in an incident previously referred to, nine men were suspended on the spot for similar reasons and were sent ashore without pay for three and a half weeks. Their crime had been to ask if Agip had an 'adverse weather policy' and whether, in the stormy seas prevailing, the standby vessel would be able to launch its fast rescue craft. The question was not unreasonable given what had occurred during the Cormorant Alpha disaster. The construction supervision had an answer to the men's concerns. In the time-honoured parlance of the North Sea, the responsible supervisor reportedly replied – 'How the *fuck* would I know?'

Sheriff Jessop recommended that all North Sea companies should 'consider the availability of rescue resources' in 'any safe system of work involving helicopter shuttling' in adverse weather (1993: para 37.7). The CAA review reported in March 1995 almost exactly three years after the disaster. It contained a number of recommendations, including suggestions to improve lifesaving jacket design in response to criticism which emerged from those involved in the crash, and modification of cabin layouts of aircraft, as well as further research into helicopter crashworthiness and flotation capabilities. However, in relation to Sheriff Jessop's call for consideration of flying restrictions in bad weather, the report was contradictory. It argued both for managers to consider restrictions in adverse weather with an 'emphasis on the importance of comparing likely survival and rescue times at the most remote points of flight', but suggested that it would be 'impracticable' to specify 'the prohibition of offshore flights in weather unsuitable for ditching' (CAA, 1995).

In 1996 the role of helicopters in the North Sea became a renewed source of controversy. This followed the announcement by Shell, subsequently temporarily rescinded, that the Search and Rescue facility provided by the Bell 212 on the Safe Gothia for the Brent field was to be withdrawn, following completion of the refurbishment programme. This facility had played a major role in medical evacuation and rescue over the years, including the Cormorant Alpha disaster. It was to be replaced by reliance on the Coastguard S–61, located in Sumburgh, nearly one hour's flying time away. Shell's primary reason for withdrawal was cost considerations amounting to £4 million per year, a burden not shared by other operators using the facility.[48]

9 Striking Out: Setting a New Agenda

In resuming the tangled history of trade unionism offshore, it is useful to remind ourselves that what had already transpired – the trauma of Piper Alpha, the dramatic labour insurrection of 1989 and again of 1990 – meant that the offshore workforce had come to see itself in a new way. It would no longer tolerate the role of passive victim, far less silent witness to perceived injustice. The workforce had found its 'collective voice' and it could not now be silenced (Greenfield and Pleasure, 1993). That voice was the OILC. Once mobilized by the OILC, the offshore workforce saw that body as 'the legitimate and powerful expression of the collective voice of the workers . . . directed to . . . the establishment of a particular system of industrial justice' (Greenfield and Pleasure, 1993: 172).

OILC had crystallized the new-found identity and collective unity of the offshore workforce in a series of interrelated demands for recognition and participation in safety. Up until this moment, the voice of OILC had been exercised on behalf of the existing trade union movement. Paradoxically, at the moment of its greatest strength, when it could easily have persuaded the workforce to pursue a path of independent action, OILC had focused its energies in a different direction, namely on rebuilding the legitimacy of and loyalty towards the established unions rather than to itself as an unofficial committee. Yet that support for the official trade union movement was necessarily provisional. It was predicated upon two things: the genuine desire and capacity of these trade unions to resolve their existing differences and with that, a real intervention in the new arena of offshore safety following Lord Cullen's report. What follows in this chapter charts the unravelling of that provisional support for and loyalty to the existing trade union structures.

The Cullen report had at least offered the trade unions an opportunity for future direct involvement in safety offshore. The OILC-led industrial action of the summer of 1990 had not produced a decisive outcome. It did not persuade the employers to co-operate with the unions in organizing ballots on

recognition which would have enabled trade union involvement in safety matters. At best, there was a stalemate, with the established union leaderships searching for a new accommodation with the employers in the post-Cullen atmosphere of *rapprochement*. Such moves were viewed with increasing suspicion by the OILC. OILC now carried the legacy of over 500 workers still blacklisted as a result of their participation in the industrial unrest. The employers, and UKOOA in particular, were not slow to read signs of hesitation on the part of the unions over conducting an independently organized ballot on recognition. Statements of the national union officer, Tom MacLean, welcoming the Cullen report and suggesting less urgency for a ballot, were interpreted by the operators as evidence of a trade union 'backtrack'.[1]

But the employers were not waiting passively for their labour problems to resolve themselves. Operators such as Mobil began introducing the new concept of a 'core team' of secure employment among the contracting workforce. This had potentially divisive results, especially among those deemed excluded from the core. The 'core contracts' offered a 'guarantee' of three years' work to contractor employees, together with various fringe benefits. This was the carrot. The stick was the weapon that the employers had always used, fear, in particular of blacklisting and the threat of unemployment. On Mobil's Beryl Alpha, overtime working was again compulsory, while the company had threatened a downmanning if the workforce failed to co-operate in meeting overtime requirements.[2] This kind of pressure was crucial in repressing the remaining militancy as 1990 drew to a close. Those workers who now worked offshore knew full well that hundreds of their colleagues remained stranded 'on the beach' with no immediate prospect of reinstatement. It was a salutary reminder of where the ultimate balance of power in the industry lay. Shell's OPRIS bar remained in place for those who had taken action in the East Shetland Basin, although some had managed to trickle back offshore, working for other contractors elsewhere in the North Sea. But not only construction workers had to pay the price for activism. One hundred and seven catering workers were blacklisted by Shell and effectively prevented from re-employment in any other part of the North Sea. Shell had commented that it 'did not see why other operators should be obliged to import problems onto their platforms'.[3]

The joint arbitration panels, which the contractors and unions had agreed upon in the wake of the previous year's action, at last began their work. From early November there were to be a number of 'test cases' for dismissed workers with key contractors such as Vauldale, Press Offshore and Wood Group. Contractors such as Asco-Smidt, who were not with the OCC, refused to

hold such panels. In addition, some 300 applications had been lodged for Industrial Tribunal hearings for unfair dismissal, although the dates for these would be many months away. In any event, only one-fifth of those workers dismissed had applied for a hearing before the closing date for application had passed. The only remaining challenge to the employers in the form of industrial action was in the Morecambe Bay area, where workers had embarked on a strike, ultimately successful, to achieve full parity with the Northern sector. The key contractors, George Craig Services and Cape Scaffolding, now agreed to meet the officials. These employers were impressed by their failure to persuade scaffolders who had been flown offshore, to break a continuing strike of 350 men. Although the Morecambe Bay strike was essentially a 'domestic' dispute, behind the scenes OILC provided the finance and logistics to maintain heliport picket-lines. This enabled these workers in the western gas field to secure an important advance, bringing parity of rates with the northern sector.

Almost unnoticed by the media, the 1990 Employment Act received Royal Assent on 1 November. Expectations that the Act would have been in place even before the 1990 summer industrial action commenced had proved incorrect. The 1990 Act had in view precisely the kind of unofficial action that OILC had initiated, but its origins were in the train and London Underground drivers' unofficial strikes the previous year. To a lesser extent strikes by the London steel erectors and dockworkers in 1989 also lay behind the Act, as did the 1989 action of offshore workers. Unofficial strikes now had to be formally 'repudiated' by their trade unions which would otherwise face penalties, up to and including sequestration of their funds. For the first time, unofficial strike leaders could be individually singled out and selectively dismissed within 24 hours. So too could any groups of workers who took industrial action seeking to secure the reinstatement of strike leaders. In December 1990, Eric Hammond, general secretary of the EETPU, warned all shop stewards and branch secretaries of the implications for the union of taking unofficial action, including even a simple go-slow.[4] Gavin Laird of the AEU wrote a similar communication.[5] The overtime ban, which OILC still sought to retain, albeit with limited success after the cessation of the strikes and sit-ins, was now identified as the kind of unofficial action which the unions would repudiate. When exhausted workers refused to 'turn to' after being fog-bound on an installation for three days, having endured three consecutive nights of 'hard-lie' on the installation cinema floor, management distributed the *union* warning memos to the contractor workforce in order to secure a resumption of work. Unions were now co-opted into a policing role.

OILC's future as an unofficial activist committee had become increasingly

problematic by the autumn of 1990. This new legislation raised questions as to its entire future strategy. The advantages of being a purely *ad hoc* body were now reduced, and OILC had to consider whether having a rule book, office bearers and a constitution was more advantageous. As the incentive of union officials to discipline unofficial action was strengthened by the new legislation, the tensions between the different levels within trade unions, especially where official leaders were seen to be 'compromising', were also heightened. Inherent divisions between the various unions also now reasserted themselves offshore, heightened by a legislative context which reinforced the growing polarization of official and unofficial movements.

The Slide to Sectionalism

The major source of tension between OILC and the official trade unions was exemplified in the growing disintegration of the one-table approach. Catering workers had now received an offer from COTA, the catering employers' association, which amounted to 14.5 per cent over nine months. This offer was calculated to buy off future unrest in this sector, although it still only produced an average wage of £16,000 per year for catering workers. Fred Higgs, as national secretary for the oil industry section of the TGWU, recommended acceptance, as the employers had also agreed to talks on union recognition for catering workers in the southern sector. The TGWU had suspended industrial action over COTA's attempt in the early summer to impose a two-tier wage system between production and drilling platforms. Once again, and much to the embarrassment of COTA employers on fixed installations, the drilling companies refused to honour the deal. A settlement which Higgs had characterized as a 'step towards a single agreement covering all offshore workers', lay in shambles by the end of the year with threats of industrial action renewed.

But this was nothing compared to the divisions created by the engineering and construction unions. As promised, John Wakeham, Secretary of State for Energy, had met national engineering union officials including Jimmy Airlie, responsible for the Scottish area, and Tom MacLean of the constructional section, to discuss the Cullen report. It was an event duly photographed and recorded in the AEU journal.[6] Airlie and MacLean chose this moment to announce that the unions had also made a 'breakthrough' in their campaign for recognition. The OCC had suggested private exploratory talks with the unions after months of deadlock. According to a letter from Les Balcombe, OCC secretary, talks covering both maintenance and construction, would

'investigate the possibilities of negotiating an agreement'.[7] This, said MacLean, was a 'major breakthrough' for the unions.[8] There was talk of preventing further industrial unrest and of a no-strike deal. The employers' offer of talks was conditioned by the context of four or five major new hook-ups, including the Miller field, the biggest offshore construction project since the Brae Bravo. When the OCC discovered that what they thought had been a confidential letter was publicly quoted by the unions, they were appalled. An angry spokesperson accused the unions of 'trying to hype the meeting ... and railroad the OCC into arriving with an offer'.[9] There was even talk of possible OCC withdrawal.

What started as a union triumph ended in chaos when it transpired that three construction unions, AEU, EETPU and GMB had been invited to talks. The fourth signatory to the Offshore Construction Agreement, MSF, was to be excluded. The OCC argued that MSF did not have significant membership among the employees of the contracting companies. MSF did, however, represent a small number of sheet metal workers, acquired by the amalgamation of the National Union of Sheet Metal Workers. Now excluded, MSF immediately called for a boycott of the talks, only to be informed by the other three unions that they intended to proceed regardless. This was a particularly ironic twist, since it had been the MSF officials who had been most reluctant of all to abandon the Hook-up agreement in January 1990 as a prelude to the summer of industrial action. Then, MSF had been the only union to re-initial the agreement. MSF was not the only union to view these prospective talks with doubts. NUS (now RMT) had always had a cautious, even ambivalent, attitude to the one-table approach. A letter from Keith Jobling, RMT national official, to a disgruntled shop steward reveals the full extent of the reassertion of sectional interest. Once it had become clear that RMTwere to be excluded from any talks with employers, said Jobling:

> there is no way I am going to jeopardise our vast number of offshore agreements with companies which we have obtained over a number of years because we have been told by the OCC, ... and from Tom MacLean ... that we are not to be invited to any talks ... It is a sad day when I have to write letters like this. However, I am employed as a senior official of RMT, ex-NUS, and my remit is to look after the members of that union.[10]

This view of the need to preserve existing agreements had in fact been supported by the local RMT officials who in their autumn branch report stated that:

> this OILC/National Offshore Committee is tying up too much of our time for negligible return [and] gives rise to the conclusion that A) at national level we should participate and B) at a local level we should distance ourselves from the OILC and give a higher profile to RMT.[11]

Norrie McVicar, who as local official for NUS in Aberdeen had been an active participant in the offshore saga, wrote to a key union offshore activist, Jerry Chambers, also a leading member of OILC Standing Committee. McVicar viewed the campaign for the single-table Continental Shelf Agreement with hindsight:

> The Continental Shelf Agreement – from its conception – has in my view been impractical and unworkable, in particular, the way it was set down in the draft UKCS Agreement and portrayed by the offshore workers, i.e. a single agreement covering the terms and conditions of all offshore workers with negotiations involving every man and his dog, if you pardon the expression![12]

From the point of view of OILC these various manoeuvres by the unions were little more than an attempt to reinstate the previous sectional agreements. Talk of no-strike deals also did not sit well with the OILC committee, composed of activists for whom the right to withdraw labour was seen as integral to effective trade unionism. When the National Offshore Committee met in early December it endorsed the TGWU and RMT seeking separate agreement with COTA, although the issue of the dismissed catering workers remained unresolved.[13] The construction unions intended to engage in purely sectional talks with their employers. The EETPU, for its part, had long indicated its intention to meet the electrical contractors to discuss renewing the SJIB agreement, ostensibly, as national official Hector Barlow claimed, due to pressure on the officers from the union's membership.[14] By 1991 all vestiges of the one-table approach had been dissolved. Official union co-ordinated industrial action for a comprehensive offshore agreement was no longer on the agenda.

The only glimmer of optimism for the offshore workforce was the announcement by Shell of a 'goodwill gesture'. The 'temporary OPRIS bar', the offshore blacklist, would be lifted by the company from 1 January 1991. For those languishing onshore, it meant that a four-month punishment period of unemployment now had an end in sight. Shell's action was part of the employers' attempt to build on the post-Cullen optimism that a 'new era' was about to begin in the North Sea. More immediately, a number of Opposition

MPs had taken every opportunity to remind the government that the plight of the dismissed workforce remained an obstacle to any new beginning offshore. At a private meeting with Colin Moynihan MP, who had now replaced Morrison as the Minister responsible for oil, Ronnie McDonald had reiterated the need for Shell's blacklist to be rescinded before any progress could be made towards restoring industrial peace offshore.

Moynihan had promised to make contact with Shell management. Shell's 'goodwill gesture' came the following week. As a further measure to restore its benevolent face, Shell announced a new anti-victimization initiative. In future, all decisions which resulted in the dismissal of a safety representative would be reviewed by a senior onshore Shell executive along with the respective contractor's management. As a Shell spokesperson put it, the company wished to start the New Year with 'a clean slate . . . mindful of criticisms of politicians and others to which we are not impervious'.[15]

Welcome though these developments were to offshore workers, they were offset by OCC's signals that the joint employer/union arbitration panels would not now be going ahead. The employers felt these panels were not capable of dealing with the situation where there had been mass dismissals. If there was to be a single decisive illustration of the impotence of the trade unions in the face of unilateral employer diktat, this was surely it. Meanwhile, despite Shell's 'no victimization' announcement, two vocal safety representatives on the Brent Bravo, one of them, Jake Boyle, a prominent OILC activist, were soon to be inexplicably 'down-manned'. Brian Ward, Shell's Production Director, had been quoted in the company press release on the new 'anti-victimization' policy: 'The revised procedures should go a long way towards reassuring those who have been concerned about rumours of victimisation in the past, particularly on safety. Safeguards for Safety Representatives are particularly important.'[16] In the North Sea, however, it was business as usual.

The lack of power of the local union officials in advancing the cases of the dismissed workers was mirrored at the highest levels of the trade union hierarchy. The TUC had called a meeting of the Offshore Safety Group in December 1990 to review the way forward after Cullen. All the key national officers, along with Allan Tuffin, a TUC-nominated commissioner on the HSC, were present. It was clear that some had barely read the report. The Cullen report was to be treated, at best, as a potential lever to ensure more government resources for the HSE in the future. There was no discussion of a coherent future strategy for offshore unionization, nor of direct workforce involvement in health and safety through their trade unions. In the ranks of OILC there was now a growing disillusionment with the official union movement, coupled with a deep sense of frustration at the lack of any broader longer-term perspective.

By the end of the year the committee was convinced that it had entered 'a whole new phase of inevitable confrontation'.[17] The issue for 1991 would be whether these accumulated tensions could be resolved within, or in opposition to, the established structures of the trade union movement.

The *Blowout* Controversy

Over the early part of the New Year of 1991, differences over how to resolve the problems of offshore unionism became crystallized in a bitter internal division on OILC's Standing Committee. This conflict centred around a referendum, suggested by the *Blowout* editor, on the creation of a single new offshore union. The need to analyse the issues facing the offshore trade union movement had been recognized as paramount, in the wake of the industrial action. The lessons of previous struggle needed to be drawn and a new agenda had to be developed. Contributions to the debate were invited from members of the Standing Committee and about ten written submissions were produced. These, together with the analysis of a mass of documentary material detailing the whole evolution of offshore trade unionism from its inception up to and including the Cullen report, formed the basis of a discussion document which was the product of this collective authorship.

This document was titled *Striking Out: New Directions for Offshore Workers and their Unions* (OILC, 1991a). *Striking Out* was to be the first attempt at a detailed and comprehensive historical overview of how the trade unions had reached the current impasse. It ran to 60,000 words and was to become required reading throughout the industry. Its writing was the result of intensive research over the period between December 1990 and early February 1991. On the Standing Committee of OILC there was impatience over the seemingly endless delay, in fact only a matter of weeks, in producing the first draft of the discussion document. It was heightened by the feeling among certain leading members of the committee that the discussion document would arrive at politically unpalatable proposals. Within OILC, there had always been a barely concealed tension between those who had now lost, or had never had, any faith in the established trade unions, and those who still sought to resolve the issues in the framework of the official labour movement. This divergence now resurfaced in internal OILC debates.

By early February the Standing Committee had become a battleground of oppositional factional intrigue. It was led by the editor of the *Blowout* newspaper, Neil Rothnie. Rothnie's forceful and fluent rhetorical style had swayed the opinions of many workers at OILC meetings who otherwise had little in