Mobilizing and bargaining at the edge of informality:

The '3 Cosas campaign' by outsourced migrant workers at the University of London

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Abstract

In September 2012 a group of outsourced service workers at the University of London, many from Latin America, launched the '3 Cosas Campaign' demanding equal treatment with in-house employees. Drawing from qualitative interviews and social media analysis this article explores the extent to which formal and informal mechanisms of union voice provide effective bargaining and mobilization tools to low-paid outsourced workers. The rank-and-file autonomous union that led the campaign, although excluded from union recognition, developed powerful strategies to expose the employer publicly obtaining key improvements for the workers. The central argument is that a mix of strategies 'at the edge of informality' including unpredictable direct action, community mobilization and media campaigns provide additional leverage to outsourced workers confronting their multiple employers, while union recognition remains a key strategy of legitimization for relatively disenfranchised migrant workers.

> …informal rules allow whichever is the stronger party at the procedural level, or *place* within the workplace, where the rules operate to behave in a way which the other side might find *hard to predict*. Such an advantage is itself a power resource, and the party which benefits from it is unlikely to wish to see that situation altered (Terry 1977: 88)

Introduction

One of the most compelling questions for organizers and scholars of labor movements in the in the twenty first century XXI century is to identify strategic sources of leverage for the millions of workers in the low-paid, insecure and highly exploitative service jobs of the Global North. Trade unions in the United Kingdom, despite recent efforts at implementing alternative community organizing methods (Wills 2001; Holgate and Wills

2007), can be hardly described as the most innovative at engaging these low-paid, precarious immigrant workers with new forms of mobilization. Some would argue this is due to the fact that British unions have remained stubbornly attached to a tradition of bureaucratized unionism based on the role of union officers (Kelly and Heery 2009) primarily concerned with protecting the 'vested' or 'sectional interest' (Virdee 2000) of their often 'male and pale', 'standard' members (Cockburn 1995; Greene 2015; Martinez Lucio and Perrett 2009). They do so mainly via institutional forms of representation and more recently favoring partnerships with employers away from workplace organizing (Martinez Lucio and Stuart 2004; Simms 2015). Such 'conservatism' seems to have failed at reverting the deepening crisis of trade union representation. The number of unionized workers in the UK has been dropping steadily in the past twenty years: in 2011 in the private sector only 6% of workplaces bargained collectively over terms and conditions and only 14% of employees were union members (Van Wanrooy et al. 2013).

The gap of representation for the growing section of *contracted out* and precarious workers appears to be cause and effect of the decline of union power and incapacity of traditional unions to respond strategically to the impact of restructuring. Moody (2015) has highlighted how while outsourced workers in low-skilled service industries may be technically on 'permanent' contracts, they often enjoy lower conditions and poorer wages of those directly employed, remain insecure, with fewer possibilities of union voice (see also Grimshaw et al. 2014). What has been defined in the literature as the spread of 'subcontracted capitalism' across the private and public sector has made it increasingly hard to organize workers who cannot bargaining directly with their 'main employer' (Wills 2009).

A marked growth of 'zero-hour contracts' during the recession and the continuing tendency of workplaces to outsource at least some of their services to save costs (Van Wanrooy et al. 2013: 11) have further weakened the limited bargaining power of migrants and ethnic minorities in traditionally non-unionised sectors (Holgate et al., 2012). And yet, labour and community organizing initiatives, with different degrees of support from official unions, have achieved some successes at contrasting the degrading conditions of low-paid workers across hospitals, universities, banks and hotels in the UK and beyond (Alberti 2016; Adler et al. 2013; Jordhus-Lier and Underthun 2014). In the face of the hollowing out of traditional union bargaining broad labor-community alliances such as

the Living Wage Campaigns (LWCs) emerged as more effective strategies to put pressure on the main employer through 'blaming and shaming' strategies targeting the corporate employer in 'high profile' campaigns (Anderson et al. 2010; Holgate and Wills 2007; Tattersal and Reynolds 2007; Wills 2008).

A limit of this literature on migrant workers organizing and 'community unionism' is that it tends to study trade union and wider community campaigns from the perspective of the wider alliances built by the organizational actors involved (Wills 2008); the politics of UK unions vis-a-vis migrants as vulnerable workers (Fitzgerald and Hardy 2010); and only seldom from the perspective of workers and organizers in a specific sector or workplace (Holgate 2005; Pearson et al. 2013). We rather start from the workers and lay organizers' own accounts of their experiences of unionisation, mobilization and involvement in labour campaigns.. Also, rather than treating migrant workers organizing as a segregated area within Industrial Relations, often left to the 'specialists' similarly to what happened to the study of women and black members in trade unions (Holgate et al. 2006, Kirton and Greene 2002), the organization of migrant precarious labor is addressed engaging directly with some of the long standing debates in the IR literature, including the challenges for trade unions to organize workers in jobs contracted out to private companies (Grimshaw et al. 2014; Weinkopf et al. 2013; Wills 2009); the impact of the regulatory limitations of union recognition (Gall 2004; 2007; Ewing 2011; McKay and Moore 2004); and the traditional distinction between 'formal' and 'informal' trade union voice (Dundon and Gollan 2007; Kaufman 2015, Marchington and Suter 2013; Terry 1977; Wilkinson et al. 2010). The recent debate on the resurgence of autonomist worker organizations (Ness 2014) is also considered in our attempt to de-construct the assumptions of employment research associating 'informal voice' with weak and individualized forms of employee involvement and 'formal voice' with the institutional channels of collective representation (Kaufman 2015: 34)[i].

Ironically, from the heart of the British IR tradition we may find ways to introduce migrant worker's mobilization into the wider debate on the crisis of trade unions in search of new sources of leverage. Many years ago, at a peculiar historical time when a new compromise between the British Government and the trade unions attempted to insert formal mechanisms of negotiation to replace 'the amalgam' of informal understandings between workers and foremen on the shopfloor, Terry (1977) envisaged

the 'inevitable growth of informality' in UK employment relations. Being aware of the different historical context and the changes brought about by new wave of 'formalization' of union voice (Gall 2004), Terry's reflections seem particularly relevant today as we witness conflicting patterns between a 're-formalization' of union activity in response to the increasing hostility of employers to workplace organizing (Gall 2007), and what we identify as an example of the *revival of informal bargaining* in sectors with low or constrained union presence.

Considering these different sets of literature and drawing from a qualitative study of a campaign led by outsourced migrant workers at the University of London, the following analysis explores the extent to which formal/informal mechanisms of bargaining and mobilization work effectively for migrant precarious workers in fragmented workplaces. Is union recognition even more important in the context of contracted out work and the wider 'informalization of employment relations'? To what extent are workplace-based organizations still relevant in determining the outcomes of such campaigns? And finally, what are the implications for industrial actors collaborating with social movement/community groups and vice-versa?

The striking result of the study is that despite significant social, legal and organizational barriers and the joint pressure by multiple employer and the recognized union, the outsourced migrant workers, organized in a small rank-and-file 'social movement union' (Schenk 2003) achieved remarkable victories in terms of equalizing their sick pay, holiday and pension rights with those directly employed. Our main contention is that the emergence of alternative forms of struggles in service jobs deemed 'unorganizable' hints to the growing relevance of 'informal bargaining' and social movement strategies *outside* recognised trade unions. Yet, at the same time unofficial unions seek formal mechanisms of voice and legitimization to increase the power of their relatively disenfranchised constituencies, including the use of legal action to defend workers' rights and develop alternative forms of collective voice.

Subcontracted capitalism in the United Kingdom and the constraints to union voice
With 'subcontracted capitalism' (Wills, 2009) spreading across the private and public sectors in UK, trade unions are facing increasing difficulties to organize and bargain for

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workers in outsourced low-paid services (Grimshaw et al. 2014; Weinkopf et al. 2013; Wills et al. 2009). The combination of the short-term nature of contracts and increased competition means that contractors tend to cut back on employees' pay and standards of work. Grimshaw et al. (2014) explored the role of trade unions in the context of outsourced cleaning in the UK, highlighting the impact of the 'fragmentation of organizational boundaries' between the client organization and the contractor on the voice and trade union rights of contract workers (see also Marchington and Rubery 2005). Fragmentation of the employment relationship occurs in those settings where workers have multiple employers accountable for their everyday terms and conditions, a factor that generates confusion over to whom to direct their grievances. For instance, the supervisor or company manager may retain control over the actual performance of assignments in situ, while the contractor remains responsible for questions of payroll, replacement and sickness. Furthermore, for an externalised workforce it is not possible to reach collective agreements across different occupations, skills sets and wages (Grimshaw et al. 2014). In such 'multi-employer settings' traditional forms of trade unionism are complicated by the outsourced workers' 'indirect dependency' on the client organization, who will ultimately decide over HR and working conditions. In this regard Wills (2008) argues that even when workers organize at the level of the single supplier to improve pay and conditions, the result may be detrimental for their jobs in terms of pricing the contractor out of the market. In the bargaining process, unions have to consider the overlapping and at times conflicting interests among the different parties to the outsourcing contract (Grimshaw et al. 2014). The complex inter-organizational relations characterising outsourced job indeed contain points of fragility that can be more easily tackled by new alliances of workers and community groups interested in advancing the conditions of workers at the bottom of the chain. Public campaigns demanding the Living Wage may be more powerful than traditional union activity in those sectors by bringing together corporations, political authorities and media institutions at the local level and building a 'moral argument' in support of low-paid migrant workers while exposing those responsible to public scrutiny (Anderson et al., 2010: 387).

However, even from within the literature on community unionism it is acknowledged that, while able to put pressure on their 'real employer' along the contracting chain, LWCs provide only limited power to workers to 'recalibrate' the day-to-day employment relations *vis-a-vis* their contractor (Wills, 2009). The admission that 'community unionism'

may not be sufficient for outsourced workers to confront issues arising from within the everyday relations at work points to the continuing relevance of rank-and-file and workplace-based organizing. Critics have also highlighted the limits of the top-down approaches of 'community' or corporate campaigns, including the risks of leaving the rank-and-file out of strategic decision-making, reproducing patronizing approaches towards those considered 'too vulnerable to organize' (Kirkpatrick 2014; Ness 2014) or 'contracting out' the struggle to the community rather than engaging workers on the ground (Alberti 2016).

In the face of increasing hostility by employers who avoid trade unions recognition, new forms of autonomous worker organizations rooted in worker self-activity similar to the syndicalist organizations of the early twentieth century are rather '…expanding beyond, into the complex, transforming nexus of community and workplace' (Ness 2014: 10). For Ness there are reasons to remain skeptical of traditional forms of collective bargaining as well as 'corporatist models' of organizing, including new variations of social movement and community unionism involving the use of professional, university-educated organizers since they fail to promote worker democratic control of their organization. Others in the US have more optimistically highlighted the possibility to reconcile the mobilization of workers through community-wide and social movement campaigns with 'rank-and-file intensive organizing' (Bronfenbrenner 1997; Turner and Cornfield, 2007).

The present article, focusing on the innovative strategies of outsourced migrant workers organized in an autonomous rank-and-file union, falls exactly at the crossroad of these approaches. It shows how, while workers rely on alternative self-directed action and social movement imaginative strategies, they use strategically the existing repertoire of union bargaining to confront their employers while trying to circumvent the legal strictures of UK employment relations. While British unions have historically operated within a tradition of 'collective laissez-faire', whereby both employers and workers are assumed to *voluntarily* engage in collaborative relations, in 1999 the then Labour party in government introduced a mechanism of trade union Statutory Recognition that partly changed these dynamics. Statutory recognition compels employers to recognize a trade union within a specified bargaining unit under defined circumstances. First, the union needs to demonstrate to have at least 10% of the membership as a condition to apply to the Central Arbitration Committee (CAC). This is an independent body intervening in

recognition and de-recognition processes where the parties cannot agree voluntarily (Acas 2014a). Second, the CAC will only grant recognition if the trade union shows 'either through a ballot or through levels of membership that it has the support of *a majority* of workers in the bargaining unit' (Acas 2014: 2)[ii] Critical to the current case, in order for the union to make an application to the CAC , there must be *no other voluntary recognized unions* in the workplace (Acas 2014a; see also Gall 2007:78).

The introduction of statutory mechanisms has been considered a step away from the tradition of 'collective voluntarism' typical of the British system under which collective agreements are *not* legally binding and it is rather the actual bargaining power of the social parts on the ground that determines the outcomes of the negotiation. The official positions of UK trade unions at the time of the changes in favour of statutory recognition might be understood as a preference for a 'formalization of IR' in the face of their overall declining power and growing hostility from employers (Gall 2007: 79).

In the last decade however the use of statutory procedures by UK trade unions has been *declining:* from 89 per year in the first five years the number of application reached 54 in the five years to 2010-11 (Moore et al. 2013). These trends can be attributed to the increasing anti-union climate in the UK, the effects of employer tactics of 'union suppression' including open victimization of members carrying out recruitment initiatives (Gall 2004, 2007) and risks of 'union substitution' with employers appointing their own 'in-house' unions and negotiating agreements with non-union representative bodies (Ewing 2011). These problems have not been considered in contexts such as that of the 3 Cosas campaign, where there are more than one 'independent union' competing for union recognition.

Despite the hurdles in obtaining trade union recognition due to the legal procedure in force in the UK (e.g. the need to demonstrate to have more than 50% membership support and the impossibility to make a referral to the CAC for a ballot if there is already a recognised union in the same bargaining unit), and the specific barriers to unionizing jobs that are contracted out, outsourced workers may still benefit from formal collective representation. An earlier report on the impact of recognition agreements in the UK highlighted how the very fact that workers felt they had a voice in their workplace increased their sense of security and 'was often more important to them than the material

benefits arising from collective bargaining' (McKay and Moore 2004: 376). Overall the shift to a relatively higher degree of formalisation in a context of increasingly 'informal' and precarious employment relations can be understood as an expression of the crisis of British trade unions put under pressure by 'unilaterally minded employers' (Gall 2004: 79). In this contest it is striking that, exactly in the face of increasing hostility and legal constraints, the 'unorganizable' (Milkman 2006) are getting organized through a range of innovative forms of bargaining and mobilization, within and beyond the boundaries of existing rules.

Methods

The present research on the '3 Cosas Campaign' is based on a range of qualitative methods, including: documentary analysis of campaign material collected between 2013 and 2014; 10 in-depth qualitative interviews with outsourced workers involved in the campaign (3), trade unionists from the Independent Worker of Great Britain (IWGB) and Unison (4) and community activists (3); monthly annotations of relevant information emerging from the media and ongoing conversation with key participants; fieldnotes developed from observations of public events, demonstrations and social gatherings part of the campaign. Namely the researcher travelled to London in two occasions (during a fundraising event in October 2013 and to visit the IWGB office in June 2014), and conducted overt participant observation of a promotional event during the 3 Cosas 'National Tour' (February 2014).

A central part of the research was based on online media research inspired by critical theory of social media and social movements (Fuchs 2014), including content analysis of blogs, websites, articles, YouTube videos, web and Facebook pages developed by the IWGB and Unison in the context of the 3 Cosas campaign (a list of which is provided after the references below) as well as newspaper reports of the campaign. The online material produced by the 3 Cosas campaigners has been extensive including an average of 3 Facebook and Blog postings per week, and a total of 12 You Tube videos published during the period of online data collection (January 2013- September 2014). The information gathered online was stored in a word document and organized according to the type (e.g. FB posts; blog entries; videos) and chronological order to keep track of the key developments of the campaign. *Content analysis* of the interview transcripts (translated into English by professional interpreters) and the other documentary material including

of social media contents (Kozinet al 2013), was carried out according to the central questions on the workers and organizers' own experiences of bargaining and mobilization.

The choice of social media research witnesses the increasing relevance of digital forms of resistance to amplify the voices of groups of workers that would otherwise remain hidden or perceived as marginal. While unions have been slow at taking up social technologies, and particularly so when compared to the creative and innovative tactics and street protests developed by social movements in the past decades, there is growing awareness in the literature on workforce diversity of how social media can be considered new critical channels of employee voice (Greene 2015): beside creating 'shared identification and mutuality between geographically and socially separated individuals' (Saundry et al. 2007:180), on line technologies also provide 'safer spaces' for workers who fear exposure, prefer to stay invisible or cannot confront their employers directly. Still some scepticism persists about the extent to which mediated participation via new technologies produces empowering tools for labour and other social movements or rather remain relatively individualistic channels of political expression (Fenton and Barassi 2011).

Taking account of these and of wider limitations of the culturally mediated nature of online media research (Kozinet et al. 2013), the research combined the media analysis and fieldnotes with qualitative face-to face interviews on workers' different experiences of the campaign. Interviewees were selected so that they included both male and female individuals with different functions and positions within the two unions. We purposely decided to focus on the perspectives of the rank-and-file, lay representatives and activists to explore workers' and organizers' own experiences of bargaining and mobilization rather than the point of view of the union leadership. The qualitative interviews and social media contents were analysed in conjunction with secondary sources such as the articles published on the campaign by journalists from the Guardian and the Independent. These provided critical insights into the dynamics of the negotiation between workers and management and the wider 'economy' of the University of London as an example of a multi-employer setting characterized by tense and politically-loaded relationships.

Ethical challenges emerged from conducting a qualitative case study of a campaign that achieved high publicity while remaining contentious. To avoid individuals to be identified the specific roles of the leaders and members within the union branch are not revealed (unless their testimonies had been already published on line). Written correspondences between the two unions, the UoL and the contractor(s) have been treated with confidentiality avoiding reproduction of personal names and functions. It was of primary importance to protect the real identities of the precarious, often non-English speaking migrant workers, to avoid further victimisation of those mainly exposed as a result of their union involvement. However it is worth highlighting that the 'strategy of visibility' at the centre of the 3 Cosas campaign, including the willingness of the women workers to become visible to their employers even as they risked dismissal, put into question common assumptions about the 'vulnerability' of such participants.

Bloomsbury campus: an historical site of Living Wage Campaigns by migrant workers

In the last decade the University of London (UoL) Bloomsbury campus has constituted a contentious terrain where low-paid contract workers, have staged remarkable battles to obtain a living wage, improve their terms and conditions and demanded recognition of their collective voice. These workers are often migrants employed by outside private contractors providing cleaning, hospitality, maintenance and security services to the University.

Outsourced workers at the School of Oriental and African Studies (SOAS) at Bloomsbury Campus started to organize in 2006 demanding a pay rise. In particular Latin American cleaners were the first to approach the campus union Unison, reporting stories of unpaid wages and experiences of abuse in particular by the often undocumented, migrant workers employed by the large cleaning companies (Interview with Unison rep, SOAS, October 2014). After a series of struggles, by the summer 2008 SOAS contract workers won the London Living Wage (LLW) with the additional support of the academic union UCU and the Student union on campus and Unison obtained union recognition from the new contractor ISS (Interview with Unison rep, SOAS, October 2014).

Since 2008 the Living wage campaign has expanded to other sites including workers hired under different contractors. The struggle has also expanded in terms of including new demands with which workers have confronted both their immediate employer and the University as the main employer at the top of the contracting chain.

The 3 Cosas Campaign: context, key actors and phases

Taking inspiration from the SOAS campaign in July 2011 contract workers at Senate House, the administrative centre of the UoL situated at the heart of Bloomsbury campus, started a campaign for the LLW with support from Unison. This is the largest public sector union in the UK with more than 1.3 million members. Unison leadership is increasingly aware of the need to represent employees of private companies given the relentless process of privatisation of public services (Interview with Unison rep, SOAS, October 2014).

The workers organized within Unison Senate House Branch (which covers all non-academic workers in the Central University, including contract workers in Estate and Facilities and Halls of Residence), obtained key victories. These included: payment of overdue wages (2011), union recognition from the cleaning contractor Balfour Beatty (end of 2011) and the payment of the LLW (July 2012) thus increasing their wages by 4 times within a year. The recognition agreement secured with the cleaning contractor crucially included members' right to collective bargaining and time-off for trade union activists. Thanks to these victories, within a short time Unison Senate House branch increased its membership by 2/3 recruiting a substantial number of outsourced workers, many of whom migrants of Latin American background. Attracting these workers for most of whom English was the second language with the provision of free English classes, the activity of informal leaders and student activists was also key in this phase.

The start of the 3 Cosas campaign can be traced back to September 2012, when after winning the LLW, a group of outsourced workers members of the Senate House branch launched a new initiative to demand three fundamental things ('cosas'): sick pay, holiday pay and pensions in line with those directly employed by UoL. Each of the three demands assumed particular value for these workers because of their disadvantaged contractual position, transient working lives and complex social needs as migrant and

often women workers, struggling with intense and fragmented work shifts, variable schedules, the high costs of London and family responsibilities.

This time though the campaign did not receive support from the Unison Senate House branch who denied funding to bring the campaign to the new stage. In February 2013 some serious frictions emerged between the workers and the Unison leaders who decided to cancel the results of the elections after some of the outsourced workers stood for leadership positions in the Senate House branch. In sign of protest, about 70 among cleaners, security guards, catering and other maintenance workers decided to leave the branch to join a newly formed rank-and-file union on campus, the 'Independent Workers Union of Great Britain' (IWGB). Since the summer 2012 the IWGB union represents workers of all employers at UoL. It currently includes 600-700 members nationally and about 200 outsourced workers in the UoL branch, of which 170 employed by the contractor Cofely. It has yet to be recognized by any employer but as 'certified union' (Carr 2014, 46) it can represent workers at grievances, disciplinary and at employment tribunals over unfair dismissal, discrimination and personal injury claims.

It is likely that factors related to cultural, linguistic and political differences explain the internal frictions that led to the split between the outsourced workers (mainly from Latin America) and the leadership of Senate House Branch. These aspects are only partially explored here, as we rather focus on the *specific issues* experienced by the outsourced workers because of their migrant and employment status, that led to their involvement in the campaign.

A contractually differentiated workforce

Service workers' terms and conditions at Bloomsbury campus are shaped by the complex inter-organizational relationships between their contractor and 'main employer'. Outsourcing of maintenance and cleaning services to external providers are common and spreading practices by many British Universities as well as across a wide range of public and private enterprises in UK. The contractual profile of the workforce at Bloomsbury Campus reflected a typical 'multi-employers arrangement' with two main occupational groups, one of cleaners, security and porters employed by the large infrastructure business Balfour Beatty Workplace (BBW) and a group of catering workers employed by

'Aramark', the UK branch of the global managed services company 'Aramark corporation'.

At the start of the campaign the main contractor and direct employer of the cleaners and maintenance workers was BBW, a facilities management business with core sites in UK and US. In December 2013 'Cofely UK Limited' (another big company, subsidiary of GDF SUEZ, the French energy giant) acquired BBW, reaching a turnover of about £1 billion and a workforce of 15,000. While BBW management was responsible for the daily supervision, organization and working conditions of these outsourced workers, their pay and terms of employment ultimately depend on the main client of those companies, UoL, a 'public sector' institution with an increasingly corporate profile. With revenue of £5.8 billion (2011-12), UoL bundled up most of the contracts to BBW and from 2012 UoL outsources the total management and maintenance of 31 academic and student accommodation buildings to the contractor Cofely.

A factor of differentiation *within the outsourced* workforce is given by the application of the Transfer of Undertakings [Protection of Employment] Regulations 1981 (TUPE), according to which when a new contractor wins the contract, the terms and conditions of staff in that particular workplace remain the same until they are changed by agreements by the parties. Yet, while transferred workers have their terms and conditions protected, TUPE does not apply to newly employed workers who may be employed on different (possibly inferior) terms under the new contractor, leading to the creation of a 'two-tier workforce' (Wills 2009)[iii]. In Senate House BBW workers were working side by side with workers initially employed by OCS, so that between the 'ex-OCS workers' and the 'new BBW' there were also contractual differences (Interview with Juan, porter, IWGB UoL branch, September 2013).

Sick Pay, Holiday, Pensions now!

Among the issues most lamented by the outsourced workers there was poor coverage of *health-related absence*. Since anyone who earns over £107 per week is entitled to sick pay by law, the vast majority of the outsourced workers are only entitled to Statutory Sick Pay (SSP)[iv]. As highlighted by one interviewee, given that most of the workers do not know how long they will be sick for when they fall ill, and given that it is extremely difficult to survive on £85.85 per week in London (granted on the 4th consecutive day of absence),

the reality is that many of the workers come in to work when sick or injured as they cannot afford doing otherwise (Interview with Juan, porter, IWGB UoL branch, September 2013). This issue is worsened by the nature of cleaning and maintenance work. Health issues are ordinary for workers doing physically demanding jobs and exposed to a series of chemicals such as cleaners. In response to this situation one demand of the campaign has been to receive the same treatment as in-house workers and occupational sick pay increasing with seniority.

A second key area of discontent for outsourced workers has been in relation to *holiday pay*. As emphasised by the organiser interviewed:

> It is not just about the number of days, but the possibility to take them for certain periods of time, *especially for migrant workers* who wish to visit their family overseas (Interview with IWGB organizer, September 2012).

As a solution to these problems, linked to both the migrant and contractual status of the outsourced workers, the campaigners demanded: flexibility in the period for taking holidays; entitlement to 30 paid holidays, bank holidays, school closure days for all outsourced workers on similar terms with the UoL employees entitled to 44 paid holidays per year (see 3 Cosas Campaign Website 2014).

Thirdly, outsourced workers were unsatisfied with the existing *pension scheme*. As the campaign started there was a scheme that outsourced workers were allowed to join but the workers deemed it 'not worth it' (Interview with Juan, porter, IWGB UoL branch September 2013). A major gap with those directly employed by UoL was that, not only the latter received a higher percentage of contributions from their employer (6%) but also enjoyed further personal and family benefits (3 Cosas Campaign Website 2014).

There were other groups of workers on campus who struggled even to gain entitlement to statutory rights. This groups is constituted by agency workers and workers on 'zero-hour contracts' whose status as 'workers' rather than 'employees' implies only statutory minimum entitlements and exclusion from benefits such as protection from unfair dismissal, redundancy protection, a minimum notice period and rights to maternity and paternity leave (TUC 2007). They are now entitled to equal treatment with directly

employed employees after 12 weeks in the same job (according to the Agency Workers Regulations in force since October 2011), but improvements on the ground are limited due to employers' tendency to circumvent the rules by moving workers around (TUC 2013). According to the informant and media reports *zero hours contracts had increased* under the catering contractor Aramark (Workers Liberties, April 2013), confirming wider trends highlighted by WERS 2011 for sectors such as hospitality (van Wanrooy 2013). To overcome these divisions and the multiplication of contractual statuses the campaigners articulated their demands around the straightforward *question of equality* of treatment of contract workers with in-house workers, which they brought to the fore through a range of innovative strategies.

A mix of community mobilization, informal bargaining tactics, direct and legal action

Between January 2013 and the summer 2014 the 3 Cosas campaign experimented with a wide range of tactics drawing from a mix of traditional rank-and-file, social movement, official and unofficial industrial action and employment tribunal claims.

The *community side* of the strategy involved the development of a campus-based coalition including a range of political and community allies. Visibility was achieved thanks to the imaginative forms of solidarity organized in the larger community of supporters on campus, including the Students Union, academic staff, migrant organizations from the Latino community in London and socialist and anarchist activists supporting the cause of low-waged migrants. The campaigners also decided for a strategic engagement with the national press, crucial in keeping the employers accountable and 'scaling up' publicity for the campaign. The *social movement* tactics involved an impressive use of social media aimed at mobilizing the public on campus and the city at large with a strong online presence, systematic use of Facebook, Twitter and a YouTube channel featuring interviews with workers and students supporting 3 Cosas. This was combined with noisy street protests and marches, with the aim of obtaining support from politicians and public figures.

This mobilization approach typical of social movement campaigns did not exclude however the use of more traditional 'rank and file' *workplace-based unionism* tactics, including workplace daily negotiation, strikes, pickets and worker-led direct action. In

tune with the syndicalist style of the Wobblies (IWGB represented a break-away union from the London-based IWW Cleaners Branch ^v), direct actions included sit-ins, occupation of University sites and contractor's offices by both workers and supporters. Yet, in the latest phase of the campaign, the grass root union embraced the use of more traditional legal action strategies such as employment tribunal claims against the contractor.

In November 2013 the union IWGB received a massive mandate from the ballot and organized three successful strikes involving the outsourced cleaners, porters and maintenance workers at Senate House and in the Halls for residence. Thanks to the students' mobilization for the collection of *a strike fund* using of a 'promotional' You Tube video, within a short time the campaign managed to raise about £4,000. The outsourced workers, already struggling to make ends meet, felt massively encouraged in their choice to engage in this path of strike action (You Tube Video, November 2013).

Concomitant with the second round of strikes on January 2014 to further the battle for pension rights and union recognition, one of the highest profile initiatives was the city parade called the 'Bus For Justice'. Moving the struggle beyond the picket lines into a loud street tour across the city of London, the aim of the demonstration was to raise public awareness about the working conditions of outsourced workers at UoL, quite literally reaching to the institutional heart of the city to lobby key public figures to support the 3 Cosas' cause. In that occasion the workers obtained formal support from MP John McDonnell and from the leader of Green Party Natalie Bennett (see also Alberti 2014).

Improved sick pay, longer holidays, and access to a better pension scheme were important results that outsourced workers obtained during the second wave of strikes:

> After a 2-day strike in November of 2013 the University of London announced that cleaners and other outsourced workers would be entitled to up to 6 months sick pay, 33 days holiday, and access to the Cofely pension scheme. This was a ground-breaking victory, which paved the way for similar victories months later at SOAS, Birkbeck, and the London School of Hygiene and Tropical Medicine (IWGB Facebook Page, 16th of March, *3Cosas Women go to Tribunal*)

In contrast Unison described the recent victories as a 'victory for moderation' while UoL claimed that they would not negotiate with a union using 'direct action and adversarial tactics such as those employed by the campaigners' (the Guardian 2014, 24 March 2014). The workers involved in the 3 Cosas campaign tried to revise the narrative claiming that without the pressure put by the series of strikes, BBW would have never decided to negotiate with Unison. IWGB lay members and organizers emphasized *the power of unauthorized industrial* action including the first unofficial strike conducted in 2011 which pushed the contractor to pay wages in the first phase.

In November 2013 the 'Carr Independent Review on the Law Governing Industrial Dispute' was commissioned by the government to an employment law barrister to investigate unions' 'intimidatory actions in trade disputes' (cited in Pyper 2015: 48). The inclusion of the 3 Cosas campaign as a case study in this review can be interpreted as testament to the effectiveness of the unusual forms of protest adopted by IWGB's. And yet Carr also introduced the idea that the activities of the 3 Cosas could fall under the so-called extreme or 'leverage tactics' that the government aimed to curb as a result of the investigation. At that time the choice of IWGB to submit evidence to Carr differed from all the other unions who expressed major concerns about the political use of the review by the Government's intending to attack trade union rights (Pyper 2015: 49). Despite Carr's own decision not to provide any formal recommendation, the review clearly contains the seeds of some of the controversial measures included in the Trade Union Bill by the new Conservative Government. For example, Clause 9 of the Bill restricting behaviors and introducing policing requirements in the context of picketing (up to the criminalization of picketing and other types of protest that do not provide in advance a 'plan of intended actions'), directly reflects some of the recommendations presented by the University of London suggesting to review the code on picketing and turn it into a legal framework (Pyper 2015: 50) (for an overview of the changes on the right to strike in the New Trade Union Bill see Darlington and Dobson 2015)

Interestingly though the review highlighted how because of its exclusion from collective bargaining with the employers (Cofely in this case) IWGB tended to develop *alternative forms of industrial action* including 'noisy, arguably disruptive protests' (Carr 2014, 49) which may engender 'confusion' on both the side of the employers and workers about the legal

frames that apply to their intervention. Arguably the fact that those 'sympathetic' to the case such as the students, activists and community supporters take part in this *mix of protest and industrial action* further complicates the management of such disputes by traditional industrial actors. One cannot exclude that such 'confusing' leverage tactics will continue in the face of the new restrictive regime becoming law

Meanwhile the pieces of investigative journalism that disclosed the 'Senate House files' seized by the students during an incursion into the VC office (February 2014), contributed to exposing the University as morally responsible for the conditions of the outsourced staff and revealed the underling tensions among the different parties to the contract. In the 'secret files' the University admitted that outsourcing increased the costs while worsening the services. The contractor BBW itself admitted a loss on the contract of almost £1M implying further squeeze in workers' conditions. The response by the University was to launch a new and even bigger 'shared service programme' (the Guardian 2014, 24 March 2014).

The files also shed light on the 'tightening partnership' between the University and the recognized union on campus, according to which Unison, not only distanced themselves from the 'style' of protest by 3 Cosas campaigners, but also consulted with UoL management on how to avoid the radicalization of the protest. As a result IWGB accused the two parties of collusion against their own members and continued to re-claim their role as the only *true representative* of the outsourced worker at Bloomsbury. The burning questions of legitimate representation and *union recognition contended* between the two unions representing the contract workers on campus appeared a critical element running throughout the campaign.

The 4th 'cosa': demanding recognition

Amidst the growing tensions between the University, the new contractor Cofely Suez, the officially recognized Unison and the IWGB, the question of union recognition became a critical terrain of contention.

On their side the IWGB claimed to be the largest union among the Cofely workers and considered invalid any agreements made on behalf of workers by Unison. In the early months of 2014 IWGB decided to launch a public 'letter campaign', whereby outsourced

workers would write individual letters asking the contractor to recognize IWGB as their representative union. One cleaner listed the fundamental reasons for feeling *better supported* by the unrecognized union:

> The reason for believing in the IWGB union is that it is made up of workers like us and we feel confident, understood and listened to since there are various cases which have been resolved. I was one of those who benefited greatly and it is because of all of that that we want the union to please be recognized. Union recognition is very important for us (Letter by Marta Luna Marroquin, IWGB member, worker of Hughes Parry hall, February 2014).

In a later interview another woman cleaner from Bolivia among, a key activist of the IWGB branch, highlighted how the demand for union recognition had *always been at the core* of the 3 Cosas campaign:

> Yes the demand for recognition for us is very important, it was part of our demands already during the strike at the end of November 2013, as well as in the strike of last January. We have always gone for official union recognition. But they have refused it (Interview with Esther, cleaner, Student Hall, IWGB branch, June 2014)

Both UoL and the contractors openly refused to deal with 3 Cosas or IWGB. The contractor rather highlighted the importance of maintaining good relationships with Unison and that any negotiation with IWGB would jeopardize their partnership with the recognized partner:

> For the University of London contract, this recognition agreement is with Unison and is a binding agreement to consult and negotiate with Unison alone. As is standard practice, the agreement does not allow the recognition, consultation or negotiation with any other unions who many have a presence on the University of London contract. To do so would not be only in breach of the agreement but would not demonstrate our commitment to working in partnership with any Trade Union who is recognized across our business nationwide (…) (Letter by Cofely management to IWGB branch, March 2014).

As discussed in the literature the current regulatory framework for voluntary and statutory union recognition in the UK prevents secondary unions to apply for recognition. The CAC, to whom the application for recognition needs to be submitted in case of lack of voluntary agreement among the parties, 'will not accept applications from competing trade unions' (Acas 2014a). Only if the trade unions applying ensure that they will cooperate with each other in the process of collective bargaining with the employers then a single joint application is acceptable. This narrow window for cross-union cooperation foresaw by the legislation was evidently shut in the case of Bloomsbury campus considering the ongoing conflict between Unison and IWGB.

According to President of the IWGB branch the real reasons for Cofely to reject IWGB's claim for recognition lied in the contractor's discomfort with the *adversarial type of union tactics* endorsed by the rank-and-file union as well as their use of 'formal procedures such as grievances, employment tribunals, and strikes, and that we cite employment law in our emails'' (IWGB Response to Cofely letter to IWGB members on recognition, 27 March 2014).

It is worth noticing that the leaders of the movement associated their 'adversarial industrial practices' to formal procedures rather than to the alternative and confusing tactics 'at the edge of legality' target of the Carr Review (2014).

The ambivalent function of recognition
The Unison rep who remained supportive of the campaign even after the split highlighted the material *benefits of recognition* for the outsourced workers. Loosing recognition has been one of the most serious consequences of the workers' decision to leave Unison, although recognition may be used by management to marginalize the unrecognized union:

> IWGB managed at times to obtain from people to respect their picket lines…But it is easier if you are in the same organisation… it (joining IWGB) put the workers in a weaker position because (…) BBW could voluntarily recognise them *but it would be quite odd* especially as this is an adversarial union, and if they have recognised another union previously. I think now IWGB have many more

members but BBW… *they are using the recognition agreement against them* (interview with Unison organiser, October 2013)

A worker member of IWGB further disclosed the ambivalent use of recognition agreements by the contractor:

> …especially now that some of the workers have left Unison, it not coincidence that employers are asking the workers to remain in the union. The recognition agreement (with BBW) didn't give much to the workers, but gave the bosses the opportunity *to control us, avoid unexpected strikes and industrial action* (Interview with Juan, porter, IWGB UoL branch, September 2013).

While appreciating the benefits of gaining union recognition on the basis of their doubly marginalized position as outsourced workers non-represented by the official union, the workers also appeared highly aware of the 'costs' of recognition. This in turn highlights the limitations of formal (recognized) bargaining practices and the *relative advantage* of informal, unpredictable industrial action.

The day-to-day work of an informal union

While the migrant outsourced workers in this research have continued to believe in the benefits of formal recognition, the interviews with lay reps also highlighted the role that a non-recognized union can play in terms of the day-to-day issues at work and to leverage power in the relationships between workers and managers. The few functions that a non-recognized union in the UK can still legally cover remain important for supporting and defending individual workers, such as accompanying and representing them in disciplinary or grievance hearings with the employers, and ballot workers for unofficial strikes (Interview with IWGB organizer, April 2013). And yet, for Esther, one of the leaders of the IWGB UoL branch, the role of a non-recognized union was important for outsourced workers not only because the union can still represent and defend individual cases vis-a-vis the contractor, but also because, thanks to their *presence in the workplace* the union reps can reduce everyday bullying, harassment and victimization of unionized workers:

Even if Cofely does not recognizes our union…*clearly it is still important.* Because you have a lot of members that are employed by Cofely and this union works very much to support them, *it has defended very many cases,* so that the company has at least ended the abuses that tended to perpetuate against workers before, because we used to have a lot of abuses (…) How do you say in English? 'Bullying' I think it is (Interview with Esther, cleaner, Student Hall, IWGB UoL branch June 2014)

When Esther recalls her first involvement with the union, as she became the Unison rep at the Student Hall, she highlighted how important it was to have a union *motivating* the rank-and-file, boosting their confidence and translating the sense of injustice already felt by the workers into collective action:

When I spoke with my fellow workers I told them: we cannot allow that they abuse us *because we are free people* and, even more, we are workers. As workers this does not mean that the company or individual peoples can trample our rights. The fact of being cleaners does not mean that we are less than nothing. We are human beings (…) I was telling to my fellow women workers 'we are living in England we cannot allow that anyone step on us, and we have to overcome this…everyday *animando y animando* ('encouraging and encouraging')... (Interview with Esther, cleaner, Student Hall, IWGB UoL branch, June 2104)

The struggle continues: the use of employment tribunal against union victimisation
In the summer 2014 UoL announced the closure of three of the intercollegiate halls of residence. Among them, the Garden Halls were those where key activists of the 3 Cosas campaign worked as cleaners. In order to avoid redundancies the IWGB members employed in the halls applied for permanent jobs but none of them obtained permanent positions. The IWGB denounced what was perceived as a relative arbitrary process of selection, implemented by the company in the person of the Recruitment Manager, who coincidentally, was also the appointed Unison rep (IWGB 2014b, Letter from IWGB to Unison).

Despite an unanimously supported strike at the Garden Halls and further direct action carried out by the Bloomsbury students who occupied the contractor's office in central

London, the redundancy procedure went ahead. These events marked a crucial turning point in the development of the strategy by the grass root union, with the leadership submitting an Employment Tribunal Claim (ETC) for trade union victimization. The decision to upscale the action to the legal level *had immediate effect* with 3 of the key IWGB activists being given permanent jobs by the contractors. However in solidarity with the other seven women still made redundant, the union decided to carry on the legal action and take the contractor to court[vi].

Conclusion: from formality to informality and back again?

Overall, the emergence of alternative forms of organization, bargaining and mobilization by the migrant outsourced workers involved in the 3 Cosas Campaign can be interpreted in the context of changing union voice *along the spectrum* of formal and informal strategies.

Certainly the approaches embraced by the two unions on Bloomsbury campus represent very different degrees of formalization and styles of collective voice. The partnership between Unison, the contractors and UoL, and the lack of recognition for IWGB seemed to have had a clear impact on the power dynamics of the different actors in their negotiations, opening up and at time closing down opportunities for those operating outside the boundaries of union recognition.

Rather than an 'escalator' (Wilkinson et al. 2010), the case of the 3 Cosas campaign highlights a *spectrum* or *dynamic interplay* of formality and informality of union voice, whereby workers and their leaders seem to 'move up and down the scale' mixing a range of strategies according to the specific context. This finding is in contrast with the mainstream IR literature that still tends to compartmentalize different forms of voice according to their structure and to the nature of the actors initiating them (individual vs. collective, formal/informal, union vs. employer) (Dundon and Gollan 2007; Kaufman 2015; Wilkinson et al. 2010). It also questions the tendency in the literature on rank-and-file unionism to associate institutionalized forms of union voice such as recognition campaigns and the use of legal action only to mainstream bargaining unions (Ness 2014).

While the campaign demonstrates the strategic advantage of informal, unpredictable industrial action, our argument is that relatively formalized union voice becomes of particular importance for precarious migrant workers, especially where recognition has

potential to strengthen their bargaining power *vis-a-vis their direct and indirect employers*. The strategic inter-play between formality and informality needs to be understood in relation to the specific nature of the employment relations in the context of contracting out of services and under multiple-employer arrangements (Grimshaw et al 2014; Wills 2009).

In the course of the campaign the demand for recognition has also played a critical role in terms of a battle for 'symbolic legitimacy' (cf. Gleeson 2013) that formal representation may confer to invisibilized migrant workers. Hence, formal union recognition appears even more important for workers in the context of 'informalization' of employment relations and especially for migrant low-paid workers, who are often unprotected and lack union representation. The use of informal strategies may be more effective in other circumstances, even if only by *disorienting* employers and the state on the correct response to manage industrial conflicts (cf. Carr 2014), e.g. by making available sources and leverage from *external supporters* outside both legalistic hurdles and the 'customs and practices' of the UK 'voluntarist' tradition (Terry 1977). Under the current push by employers and the government to turn codes of practices into legally binding frameworks to criminalise unplanned forms of protests (as in the proposed Trade Union Bill) the support of outsiders may become even more crucial to successful organising.

Certainly the distinction between recognized and non-recognized unions works as a mechanism to manage employment relations among contractually layered workforces, further marginalizing unrecognized unions. And yet, this study also highlighted the role that a non-recognized union can play in the outsourced workplace, *independently of recognition*. The existing critical literature has for some time highlighted the limitations and gaps inherent to current regulation of statutory recognition in the UK (Gall 2004; 2007) and that employers 'create' and recognize 'in-house unions to pre-empt and avoid independent unions' (Ewing 2011). Moving further, we showed how well established 'independent unions' might be rather used by employers to exclude new representatives and voices in the fragmented workplace as current processes of partnership and co-optation of managers into representative functions compromise the actual independence of 'independent' unions.

With regard the use of employment tribunals by IWGB this is nothing extraordinary when compared with the daily activities of unions representing workers in the low-paid,

barely unionised service jobs, struggling with individual casework, grievances and 'countless employment tribunal claims' (Turnbull, 2005: 15). Here however the use of employment tribunals, together with the recent attempts by IWGB at gaining Information and Consultation rights[vii] constitute particularly valuable tools for relatively disenfranchised workers, who benefit from any opportunity to 'train' their collective voice in front of their employers. The social movement character of the 3 Cosas seemed to have marked indelibly the process of politicization of these Latino workers, maintaining the collective spirit of their grievances even as they make individual claims.

The fact that the outsourced workers managed to exert pressure and revitalize the role of a workplace union *beyond* the channel of formal union recognition is testament to the fact that migrant collective practices follow their autonomous routes and reinvent new forms of voice, bargaining and mobilization within and across the fragmented workplace. The latest developments of the campaign showed that even a union endorsing 'alternative and disruptive practices' (in the words of the Carr review) resorts to the use of tribunal claims and develop a legalistic language as part of their adversarial way of approaching the employers. The wide spectrum of tactics endorsed by labour advocates in Houston in support of low-wage Latino immigrant workers studied by Gleeson (2013, 208) points to a similar mix of lobbying, advocacy and direct action to push employers into compliance going beyond the distinction between 'traditional trade union organizing' and 'individual lawyering' (see also Gordon 2007).

Overall, not only the series of strikes between 2013 and 2014 allowed to spotlight the conditions of the migrant outsourced workers, showing how it is possible to confront the main employers with a combination of workplace and community tactics. The inter-organizational tensions among the different actors in a multi-employer setting such as UoL provided leverage to tackle the conflicting interests of these powerful yet inter-dependent businesses even for a relatively 'informal' union such as IWGB. The powerful use of social media and creative action developed by the IWGB social movement activists made a high-risk action like a strike by vulnerable and financially precarious workers *more sustainable*.

It is hard to imagine how, without the wider mobilization and support by the students and other sympathizers at Bloomsbury campus, these workers would have made any

advancement in their claim for equality. The 3 Cosas campaign thus represents a step forward from the limitations of community-led LWCs identified by Wills (2009): while campaigns supported by broad community alliances are useful to win better wages for outsourced workers, to *re-calibrate the day to day relations at work* and obtain improvements on other aspects of the employment relations there is a need for organizations centred on workers' self-activity that develop the *daily bargaining power* to confront collectively their immediate employer. Most surprisingly the 3 Cosas campaign has showed how the inventiveness of new media labour struggles and the imaginative power of solidarity leveraged across a range of formal and informal action can bring important victories to those considered unorganizable as they trouble the 'orderly' space of our marketized universities and strive for a collective voice in the ruins of traditional representation.

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i See for example Wilkinson et al. (2010)'s notion of an 'escalator of participation' implying a gradual transition from direct and individualized voice procedures to representative plant-based structures, to collective bargaining and co-determination.

ii While CAC makes legally binding decisions on whether the applicant union qualifies for recognition (i.e. demonstrate the support of the majority of workers) it has no judicial powers in 'granting' recognition but rather offers a procedure for achieving it.

iii According to the changes introduced in 2014: 'Dismissals are no longer automatically unfair because of a change in the workplace location' Also: 'Terms and conditions from collective agreements may be renegotiated after one year provided that overall the contract is no less favourable to the employee' (Aces 2014b: 3).

Iii For a detailed account of the double split of IWGB from Unite Cleaners branch first, and then from IWW see Kirkpatrick (2014)

iv At the time of writing the tribunal case is ongoing and has called for public support via another high profile media campaign.

v This latest legal battle over Consultation rights has indeed potential to provide a critical precedent that could re-shape the current industrial relations system of recognition in the UK (IWGB, March 4, 2015 BREAKING NEWS! Victory at the Employment Appeal Tribunal!