

Human Beings with Rights: Unions and Democracy in the 21st Century

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ABSTRACT

It is often said that the cradle of democracy is the local community. In towns and cities around the world, issues of immediate practical interest to citizens are decided by elected officials who are known to the attentive public. They are accessible to the voters and the results of their work are immediately visible to their constituents. Trade unions are also cradles of democracy. Working people rarely get to choose their bosses. They work within rules that they have no part in determining. The workplace often more closely resembles an ancient tyranny more than an egalitarian community. Yet, the prevailing neoliberal ideology and the business community along with the politicians who represent its interests regularly attack unions as selfish, undemocratic and hurtful to economic prosperity. In fact, unions are strong advocates for justice both for their members and for society at large. Contemporary unions are developing vigorous and innovative strategies to reach out to others—unorganized workers, anti-poverty groups, environmentalists, aboriginal organizations, feminists and members of the GLBT community and other progressive people to build popular alliances for social justice. Strategic and tactical innovations are crucial to the union movement in the twenty-first century. The Ontario Public Service Employees Union (OPSEU) has been in the forefront of the labour movement in designing and implementing innovative initiatives to expand working people's influence in identifying and solving the *real* social problems that do environmental, economic, social and political harm not only to its membership, but to vulnerable people across the country and around the world.

Keywords: public sector unions, democracy, workplace, Rand formula, economism.

Introduction

The relationship between unions and democracy has been dramatically thrust into public debate in Canada in recent years. This sudden appearance out of nowhere of a topic normally of interest only to academics and union politicians comes as a result of a concerted push by business groups, conservative politicians, and right-wing commentators seeking to limit the economic and political effectiveness of trade unions.

“We need a lot more democracy in our supposedly democratic unions, and fewer top-down orders on how to think, vote, and run our communities,” writes Windsor *Star* blogger Chris Vander Doelen (2012). That unions are *undemocratic* is a constant theme

in much conservative commentary, which routinely depicts unions as self-serving bodies that are unaccountable to their members, unconcerned for their welfare, and frequently (it is implied) taking actions contrary to members' wishes. At the root of this critique, fundamentally, is the assertion that unions are authoritarian organizations contaminating democratic society.

As power is presently distributed, workplaces are factories of authoritarianism polluting our democracy. – Elaine Bernard

The idea of “union bosses,” so prevalent in the discourse of politicians like Ontario Progressive Conservative leader Tim Hudak, is the succinct distillation of this theme. It taps into and harnesses our deep emotional (and often negative) understanding of what a “boss” is, all the while inverting the term to associate it with the very people—union leaders—who make it their mission to hold accountable the *actual* bosses in any workplace, that is, the managers and owners. The “union boss” meme is designed to strip union leaders of all democratic legitimacy. It succeeds, at least partially, whenever it is repeated. It is brilliant public relations.

But in my experience, which now covers a quarter-century of close observation of Canadian union leaders, their legitimacy is most often hard-won through a democratic process that is just as demanding as the one that elects politicians at the municipal, provincial, and federal levels. In OPSEU, for example, the path to the presidency begins with winning election as a steward in the workplace; developing a track record of local-level advocacy to earn the right to represent one's co-workers at the regional level; gaining recognition and winning votes regionally to earn a spot on the provincial Executive Board; and winning the support of a clear majority of delegates (each of whom is elected at the local level) at a provincial Convention. A typical OPSEU president has been elected to a few dozen local, sectoral, or provincial bodies, and has much more than a decade of political apprenticeship under his or her belt, before winning the top job.

Still, if the best unions are democratic, the workplaces they exist to change are manifestly not. The worksite, says Harvard professor Elaine Bernard (1996), is

...a place where workers learn that they actually have few rights to participate in decisions about events of great consequence to their lives. As power is presently distributed, workplaces are factories of

authoritarianism polluting our democracy. Citizens cannot spend eight or more hours a day obeying orders and accepting that they have no rights, legal or otherwise, to participate in important decisions that affect them, and then be expected to engage in robust, critical dialogue about the structure of society.

Whether the boss is a harsh dictator making arbitrary, irrational demands or a skilled facilitator capable of winning the happy co-operation of workers is irrelevant in the standard workplace model. One way or another, compliance is always assured

by the employer's right—enshrined in law—to set conditions of employment and, most fundamentally, to hire and fire at will.

This is, of course, the law of the market in which workers are “human capital,” i.e., factor inputs no different from capital or raw materials in a production process controlled by the capitalist employer. This notion of labour as an “input,” and not as a uniquely human contribution without which production would be impossible, dates back at least as far as the ancestors of today's neoclassical economists. For Jean-Baptiste Say, writing in the early nineteenth century, “there was no qualitative difference, in the creation of utility [value], between the *exertion* of human labor on the one hand, and the *ownership* of capital, land, and property, on the other (Hunt, 2002, p. 136).

It follows logically that if labour is merely a factor of production and not an aspect of human agency, then we could hardly expect it to be accorded the rights normally accorded to human beings. In the capitalist workplace, much labour is taking place, but no human beings (seen as such) are present. Not surprisingly, then, in the standard workplace model, “the natural state of the workplace is union-free with workers having no rights,” in Bernard's words.

Thus, underlying unions' assertion that workplaces should be more democratic is an even more basic assertion that employers must recognize that workplaces are populated by human beings.

Confronted with workplace problems, workers will do what human beings do: they talk. The first step in the creation of a union in any workplace is always talk, just as talk is the heart of democracy generally (it put the “*parler*” in Parliament). But talk does not go beyond mere sharing and griping unless and until it turns into talk *with a purpose*. Legendary union leader Cesar Chavez was over-simplifying when he described organizing as “first you talk to one person, then you talk to another person, then you talk to another person” (Gibbs, 1997, p. 160). Union talk is not just talk, but talk with a purpose to compel the employer to modify the conditions of employment to the benefit of workers. Built into this talk is also the means to achieve that purpose—building workers' persuasive power by building community.

This is the essence of democratic talk, inside or outside of the workplace. While it is beyond the scope of this article to explore the hundreds of definitions of democracy, from a union perspective a few concepts stand out as fundamental. First, democracy involves people exerting or acquiring a measure of control over, or participation in, the decisions that affect them. Second, democracy can only take place in a community; it does not result from individual deliberation, but from a group dynamic. Third, the idea of community implies a substantial measure of equality among participants. Indeed, for Habermas (1991, p. 35), writing on the eighteenth-century transition of Britain from absolutist monarchic rule to [limited, bourgeois] parliamentary democracy, the political

talk that spurred that transition reached a point where it “disregarded status altogether [and] replaced the celebration of rank with a tact befitting equals.” Lastly, where there is differentiation among members of a community, in a democracy it is on the basis not of the predetermined status of any one participant, but on the power of that participant’s ideas and his or her ability to articulate them and persuade others to accept them.

That the ability to participate in democratic life is a skill or, perhaps more accurately, a craft is not always entirely appreciated. The fact remains, however, that some ideas in the public sphere achieve the status of Gramscian “common sense” while others fade quickly into obscurity; some politicians win re-election time after time while others never seem to “catch on” with voters; some people are knowledgeable about, and actively engaged in, discussions of the issues of the day while others see the incredibly rich information environment of the early twenty-first century as a site of endless virtual entertainment, but view the real world of democracy with resignation, passivity, and a general lack of enthusiasm. But if democracy matters, the question of where citizens can learn the skills it demands is of great importance.

Unions that are content to stick to the approach of economism, using economic tools like strikes but steering clear of class-based political activism beyond the workplace, are bound to suffer ...

Obviously it must be in places where human beings gather, where issues of common concern can be identified, and where a community of quasi-equals can be formed. Some writers (Jenkins, 2009, pp. xi-xiii) see the Internet as broadly supportive of a skill-developing “participatory culture,” defined as

a culture with relatively low barriers to artistic expression and civic engagement, strong support for creating and sharing creations, and some type of informal mentorship whereby experienced participants pass along knowledge to novices. In a participatory culture, members also believe their contributions matter and feel some degree of social connection with one another.... The new literacies almost all involve social skills developed through collaboration and networking.

It is indisputable that the Internet and related social media technologies were central to the sudden appearance of the “Arab Spring” of recent years, the Occupy movement of

2011, and the protests by Spain’s *Indignados* (with their call for “Real Democracy Now!”). But online skills are not enough. The problems that propelled these protests were, to a great degree, economic problems midwived by a neoliberal model that concentrates wealth and power at the top by sucking resources from the base of the economy, namely, the workplace. It is clear that democratic organizations with their roots in the workplace should have special knowledge of the challenge neoliberalism poses, and that this knowledge should be useful in developing the skills needed to empower the bottom, rein in the top, and reduce the inequality that runs so counter to democratic ideals. Transformation occurs when “factors of production” change back into human

beings through the intense application of the democratic skills learned in purposeful talk with their co-workers.

But bringing capital to heel through collective bargaining at the workplace level alone is a limited strategy, if for no other reason than that it is in the realm of politics where the scope and democratic effectiveness of collective bargaining is established. Struggle is struggle, regardless of the context, but where governments are inclined to support the efforts of unions, as the U.S. government notably did with the passage of the *Wagner Act* in 1935, then workers will tend to do better and income inequality will be reduced. If, on the other hand, governments move to stifle union organizing and bargaining, as many U.S. states did after passage of the *Taft-Hartley Act* in 1947, then workers will tend to do worse and inequality will increase. Hence, unions that are content to stick to the approach of economism, using economic tools like strikes but steering clear of class-based political activism beyond the workplace, are bound to suffer at a time when employers are on the offensive on all fronts, economic and political.

The U.S. example just cited has suddenly become important in Canada, where conservative politicians are proposing to enact American-style “right to work” legislation in the province of Ontario. “Right-to-work” laws, commonly known in union circles as “free rider” legislation, permit individuals to receive the benefits of union representation without paying the union dues that support that representation. Such laws are passed in the name of freedom.

The moral argument in favour of this “dues evasion” says that no individual should be compelled to join or pay tribute to any organization against his or her will (Hudak, 2013):

No one should be fired from their job, or not hired for a job for which they are the best candidate, simply because they aren’t a union member. We need to make it easier for employees to make this basic choice, based on what works for them.

Yet this argument is weak at best, if for no other reason than that democratic governments routinely collect taxes and fees to run government programs for whatever government deems to be for the general benefit, regardless of whether individuals, or even the majority of individuals, support those programs. This state of affairs, which should be opposed by all politicians for whom mandatory union dues are anathema, is in

fact accepted by them without question. The moral defense of this is, of course, that if someone receives the benefit of public roads, police protection, fire services, public health care, and so on, it is only fair that they should make a contribution to funding them. Indeed, this is exactly the argument in favour of mandatory union dues put forward by Canadian Supreme Court Justice Ivan Rand in a landmark arbitration ruling in 1946—a ruling that has been the foundation stone of “union security” rules in Canada ever since.

The “Rand formula” and labour laws derived from it have put Canadian unions on a strong legal foundation inside a commercial framework in which unions are service

providers entitled to appropriate compensation for the services they provide: collective bargaining, grievance-handling, and other forms of representation related to occupational health and safety, human rights, pension and benefits administration, and the like. This commercial focus, however, ignores unions' obvious interest in influencing the larger political context in which bread-and-butter union work takes place. Conservatives and employer organizations know that limiting unions' abilities to speak freely on political topics, build class-based alliances with other organizations, and support political parties is key to controlling unions' success at the bargaining table right across the economy. When employers set the rules, the game is over before it begins.

The millions who have been given the franchise [have] in fact been trained for subservience and this training has largely taken place [in] their daily occupation – Carol Pateman
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This is the real reason conservatives and employer organizations argue so ardently that union dues must not be used for political purposes, cloaking their argument in the moralistic language of individual rights. In the words of Alberta construction bosses (Construction Competitiveness Coalition, 2011, p. 13),

...many unions use funds received through union dues to engage in political activism. This is generally conducted without the employee's individual consent. Individual union members have the right to vote for candidates of their choosing and also have the right to financially support or not support a particular candidate or political party. Forced union dues used for political purposes circumvent this basic right.

Noble and altruistic as it sounds, the heart of this argument is the illogical conflation of two ideas: democracy, and individual freedom. While this conflation has been characteristic of liberal theory for a couple of centuries, they are distinct concepts. Democracy has always been about shaping, and often constraining, individual behaviour for the general good. As a citizen, I am required by law to refrain from speeding, to pay for sidewalks I never walk on, and so forth. All that is normal enough. As long as the process by which these impositions are created is fair—i.e., democratic—then I have little reason to object.

So it is with unions. The notion that democratically-led unions should limit the scope of their research, communication, or strategy because bosses (who, it should be said, are almost always appointed, never elected) tell them to do so is absurd.

Unions will be successful when they remember their democratic roots, and ... work ... to build the skills needed to counter authoritarianism wherever it is found: in the workplace, on the street, or at the ballot box.

Employers tout the virtues of individual choice and individual freedom because a lone worker is a weak worker. Without the support of a democratic union, or employment standards determined by democratic governments, every worker's fate is decided in the

market, whose ungoverned forces invariably produce an extreme concentration of wealth and power at one end and destitution at the other. The resulting inequality consigns the vast working majority of human beings to a form of freedom that is freedom in name only. For what is freedom to the person who is hungry with no way to get food? What is freedom to the child who wants an education, but whose parents cannot afford it?

Unions arose to eliminate “freedom from want,” to use Roosevelt’s term. Freedom from want is built implicitly on notions of community, equality, and the need for mutual support so that all community members have the freedom—real freedom—to fulfill their dreams. Unions will be successful when they remember their democratic roots, and when they work with workers to build the skills needed to counter authoritarianism wherever it is found: in the workplace, on the street, or at the ballot box.

As early as 1975, OPSEU began building persistent, well-organized community coalitions with anti-poverty groups, social planners, churches and others concerned with the plight of cutbacks that betokened subsequent moves to close psychiatric facilities under the guise of “progressive” deinstitutionalization, but with no effort to integrate patients back into their communities (Roberts, 1994: 188-190). In the intervening four decades, the Union has expanded its “social unionism” on many fronts. It has made inroads in organizing the unorganized, contributing to dissenting campaigns such as the “Occupy” movement and fighting for social justice and human rights wherever abuses are to be found by providing financial, research and organizing expertise to people as far away as Africa, Asia, the Caribbean and Latin America and as close as our neighbours down the street.

OPSEU has supported and helped to implement community projects dedicated to enhancing education, health care and sustainable economic development in countries such as Guatemala, Panama, Nicaragua and Costa Rica. It has joined with local organizations in Kenya, Malawi and South Africa to assist in battling AIDS and a large inventory of additional health, economic and social problems. As well, as the American state of Wisconsin recently imposed harsh restrictions on the rights of its own public sector workers, OPSEU sent its own personnel to assist in that struggle. It has also worked with local communities to ensure the maintenance of essential public services and called governments to account when they have allowed short-term fiscal savings to undermine the long-term needs of citizens. These, of course, are just some of the efforts

OPSEU has been making and that both the federal and provincial governments want to shut down in their crude attempts to limit the Union’s “political agenda.”

Ironically, one of the main claims made to discredit public sector trade unions is that they represent selfish, privileged employees with a false sense of entitlement and that the workers they represent enjoy benefits unavailable to others. In fact, trade unions of all kinds help raise the quality of life for all other working people—unionized and non-unionized, public sector and private sector. They achieve living wages and tolerable working conditions which apply not only to themselves but to all employees. Unions

have led the fight for employment equity, public health care, industrial health and safety legislation, safe food and water inspection and educational opportunities for all.

As global economic and ecological crises put ourselves and others at risk, OPSEU and like-minded trade unions are relentlessly engaged in building coalitions for environmental sustainability, social justice and human rights. It's what we have always done, but the extent and the urgency of current problems make innovation for social change a top priority, and we are doing our best to meet the challenge.

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