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The New Unionism:

Introduction to the second edition

Charles Heckscher

It is a rare opportunity and pleasure for an author to return to an earlier work, to try to patch gaps which others have identified. At the same time, the opportunity is a limited one. Critics of *The New Unionism* have raised, in the eight years since its first publication, far more issues than I can deal with in an introduction, and some important ones to which I have no certain answer. I can only try to clarify a few points and to explore some of the outer edges of the argument.

The essential case made in this book was that industrial relations is headed for a revolution, not an evolution. I did not start from the question of how to reconstruct unionism, which assumes that the answer involves reform of existing institutions. Instead I began with the prior question: what form of employee representation is needed the current conditions?

A first conclusion was that *some* independent structure of employee voice remains essential. It is true that there are economic forces pushing employers towards more “progressive,” participatory styles, and that there are some cases of non-union companies that have genuinely good employee relations. Nevertheless, on a broad scale, there are more powerful forces pushing managers to a short-term focus on investors at the expense of employees. These pressures have only become more apparent in the past few years, as the income gap between rich and poor has widened, and as corporate layoffs have become commonplace. Without some countervailing representation of the employees’ interests, the positive potential of the ongoing economic changes can be too easily overcome by the negative.

A second conclusion, however, was that the present system, as codified under the National Labor Relations Act of 1935, is inadequate. It can deal neither with the changes in the composition of the workforce – the growth of semi-professionals and the proliferation of social-identity groups – nor with the increased decentralization and pace of change in business. The structure of law and the structure of unions, built around a model of a “balance of power,” interlock to create a ponderous and hierarchical system that excludes most of the growing sectors of the work force, such as temporary and part-time employees and many professionals; is often unresponsive to the needs of social groups such as Blacks and women; and puts unnecessarily bureaucratic restrictions on business activity. This pattern cannot be broken without reworking the foundations. My search was for something more flexible, yet which would avoid the old trap of “company unionism.”

A final conclusion was that existing unions probably cannot drive the change. It is extremely difficult for organizations to reinvent themselves; the last great change in the labor relations system, during the 1930s, needed a split in the Federation. Today the obstacles to internal reform are at least as great. Forces outside the labor movement, or in a minority position inside it, need to come to the fore.

This point has been lost in much of the commentary on the book. Many readers have treated the argument as a tactical prescription for labor – most often as supporting cooperation with management. I would say that has little to do with the problem. Though certain joint efforts may provide valuable lessons, the system I am proposing will not result from greater labor-management cooperation; indeed, it is not likely to emerge solely from *any* union tactics. It can come only from a new alignment of social forces that includes, but stretches far beyond, those who are currently involved in organized labor.

My argument is that a successful system has to incorporate a large set of needs that lie outside the present system. In the 1930s the workforce was dominated by the blue-collar skilled and semi-skilled employed in large bureaucratic organizations: the Wagner Act was designed for them. Since then what might be called the “middle ranks” of employees have more than tripled: the categories of managerial and technical workers now make up well over half the workforce – more than the total of crafts, operatives, and service employees.¹ These categories, moreover, are no longer firmly allied with “management”: they have been suffering from layoffs and restructuring as much as their blue-collar brethren. The enormous growth of contingent work has made all levels of employees less reliant on particular companies. Finally, cross-cutting identities of race, ethnicity, gender, religion, and other “social” categories have become increasingly important alternatives to older occupational identities of “workers” and “managers.”

None of these shifts is reflected in the system of representation. Industrial unions are built to pull together large groups of non-management workers in long-term employment relationships with large and stable employers. They have never been terribly successful with small companies, and still less with temporary and transient workers. They have also had great difficulty dealing with internal diversity. Although women have greatly increased as a percentage of union membership, they are still severely underrepresented in leadership, and the relationship between unions and women’s groups is largely uneasy. As for the other categories I mentioned, mutual suspicion is typical.

In theory, perhaps, unions could lead the way by broadening their scope of action. Some of what I wrote in Chapter 9 was a hopeful exploration of that possibility. I am less optimistic now than I was then, for reasons that I will explain shortly; but even then my point was that at best the change would require a major transformation of unions, and was more likely to come from *outside* organized labor.

But if not from labor, then from where? That is a question that has become particularly urgent as the recent conservative wave has strengthened the hand of management and seemed to drive employee groups from the field. It was also not sufficiently dealt with in the original text.

So I see three tasks for this brief re-examination. The first is to explore whether events in the eight years since the first edition have forced any change in the argument. The second is to better define “associational unionism,” in an attempt to clear up some of the confusion the term has caused. And the third is to expand on the possible *sources* of movements for change in employment representation.

What has changed?

In many crucial respects very little has changed in the last eight years. The futility of organized labor has become even more clear as membership has dropped to below 11% in the private sector, and has largely stopped growing even in the public sector. Union leaders at all levels deplore the lack of understanding and sympathy for core labor values such as solidarity, seniority, security; but extensive advertising campaigns have not increased this understanding.

The frustration was further underlined by the failure of a Presidential commission (the so-called “Dunlop Commission”) which proposed revisions in labor law in early 1995. In trying to *modify* the existing system, the commission ran into a crossfire of conflicting interests that prevented anything close to a consensus: its final report managed to infuriate both labor and management and died a quick legislative death. From my perspective, this was clear evidence of the impossibility of any reformist solution at this stage. The problems are too deeply structural – involving the nature of the economy, of social identities, and of organizational change – to be dealt with by anything less than a radical transformation.

Unions have, I think, taken a step towards recognizing that there is a fundamental problem: the last year or two have seen a substantial decrease in self-justification (of the form, “If people understood us better they would support us”), and an increase in willingness to explore major change. The recent contest for the leadership of the AFL-CIO has been one indication that deep currents are coming to the surface; and John Sweeney, the victor in that race, has taken the hitherto taboo step of saying that labor is in danger of becoming “irrelevant.” But these are small beginnings relative to the claims I am making about the size of the needed innovation.

Most other trends I focused on in 1988 as leading towards a break with the Wagner Act also look very similar now.

- The extension of general employee rights took another giant step with the passage in 1990 of the Americans With Disabilities Act, one of the most important pieces of workplace legislation of the past few decades.

It also continues to be true that loose networks like the American Association of Retired People or the disabilities movement (or, for that matter, the Christian Coalition and the National Rifle Association) wield far greater power – especially in the political arena – than anything which organized labor has been able to muster.

- Radical experiments in reconfiguring the form of representation have continued and further developed, but they have also continued to be marginal and difficult.

The Shell-Sarnia plant described in these pages² is still highly successful on most dimensions. In business terms, it has been a clear triumph: it has been recognized as the most cost-efficient plant in the Royal Dutch Shell group, and last year it won recognition as the most customer-service oriented polymers business in North America. By all accounts worker satisfaction remains high and the contract is excellent. From the perspective of the union, it is notable that a number of national leaders of the union have come out of the plant, and it has never fallen into a narrow perspective of “plant unionism” that so many feared. (I am, I have to say, pleased by my prescience or my luck in picking a central example that has endured to a second edition – many recent books have not been so fortunate!)

New efforts since 1988 have further developed the basic principles visible at Shell-Sarnia. General Motors’ Saturn plant has received a great deal of (in my view) deserved publicity for pulling off a revolution in workplace

relations. Compared to Shell-Sarnia it is on a far larger scale, in a more dynamic industry, and has pushed the sophistication of joint decision-making to new levels. In another arena, the Harvard Union of Clerical and Technical Workers has overcome the bitterness of a hard-fought organizing campaign to establish a highly decentralized, participative, and problem-oriented form of representation, building largely on the energy of the women's movement. In telecommunications and steel unions have become deeply involved as business partners in strategic planning on a large scale.³

But important as these initiatives are, it still doesn't take much more than one hand to count them off. The Shell-Sarnia principles have spread only a little even within Shell; the Saturn approach is controversial in the labor movement and viewed with suspicion by the rest of GM; leaders of the Harvard union have frequently expressed frustration at the lack of support and enthusiasm shown by their peers in other unions. Resistance remains great.

- Underlying tensions have continued to grow. Evidence of the growing disparity in incomes between rich and poor has grown unmistakable, so that the debate is no longer about the fact but only about its interpretation. Real wages continue to stagnate, and appear to have fallen into an absolute decline in the last year. The contingent workforce – temporary, part-time, and contract employees – has continued to grow; and layoffs have increasingly extended into the ranks of middle management and professionals.⁴

In short, in most respects the evidence in this book still stands as written. The conflict of interests in employment, and the need for representation, is even wider and more intense. The avenue of reform of the current system is more clearly closed than ever. Efforts that seem to me to prefigure a different order have continued and grown, but without systematic support have not spread widely. The stage seems set for a “break.”

The significance of the conservative wave

There is, of course, one key recent development that *may* jeopardize not only my argument, but almost every other examination of the employment relation: the conservative wave that can be seen both in politics (“Gingrichism”) and in corporations (re-engineering, layoffs, and a general reassertion of management power). These, far more than the comparatively gentle conservatism of Reagan, are challenging my basic assumptions about the direction of social development.

1. “Gingrichism” in politics

The Republican “100 days” of 1995 has already moved to cut back on some workplace rights, to reinforce the concept of employment at will, and to undermine the power of identity groups. Much more clearly than the Reagan policies, the new

wave would destroy a pillar of the associational concept: the legitimacy of employee rights.

The success of this brand of politics depends on two beliefs: first, that the energy and power of social movements like those of women, African-Americans, and others is permanently waning, and that the “American people” share Gingrich’s disdain for these groups; and second, that the middle ranks of employees – professionals, middle managers, technicians, all of whom have suffered unprecedented harm from recent corporate restructurings – will remain dormant. If those are true, then it may well be that we will fall back to a simple bipolar battle between haves and have-nots, workers and managers, which generated the Wagner Act framework.

My argument, in contrast, is based on a view (essentially non-Marxist) that our era differs fundamentally and irreversibly from that of the ‘30s on these two dimensions: the growth of conscious and organized identity movements and the growth of semi-professional work. And despite the Republicans’ claims, there is no evidence that these are going away. The vitality of “new movements” seems undiminished, and in combination with reactions by disgruntled white-collar employees is continuing to fuel pressure for extended rights at work.

History gives us some further guidance. The Gingrich wave is rather clearly a reaction to extended demands on community – to new groups claiming rights, demanding to have their perspectives seen as legitimate. Much of the legislative agenda is a matter of trying to reassert an older, narrower community in the face of what seems a chaotic babel of voices. Whether the issue is prayer in schools, limits on abortions, restrictions on immigration, or cutting back on employment rights, the Congressional majority is saying quite explicitly: “All these social demands have led to moral disorder; it’s time to stop being so accommodating and to demand that they fall in line again behind the familiar and traditional principles that have always worked.”

The value of history here is that it reminds us that such moral backlashes have accompanied every widening of the American community, from the Southern reaction after Reconstruction through the anti-immigrant waves around the World Wars to the anti-Communist hysteria that culminated in McCarthyism.⁵ The phenomenon is not new. What is notable is that in the past it has never triumphed: the pressure for inclusion has always won out in the end, and sooner or later has come to be seen as a source of national pride and vitality. So I am continuing to base my argument on the social analysis in Chapter 4 below, believing that Gingrichism is temporary.

There is, however, a fundamental problem: the forces for employees voice are fragmented, each pulling for particular privileges. Labor has become a part of this pattern of segmentation by protecting its gains from past battles. Indeed, much of the liberal “problem” at this point is that the new movements are unwilling to fall in line behind the banner of organized labor. The pressures for diversity *within* the labor movement remain too great to pull together the kind of mass movement that produced the last transformation. Gingrich wins because the opposition is split.

The conservative wave makes it more urgent than ever, for those who see employee representation as vitally important, that we identify a new form. What Gingrich has effectively shown is that old types of action – especially organized labor – cannot pull together the diversity of identities into a coherent program for change. Though many long for the days of mass action, that model does not seem to work.

We therefore need to develop what I am searching for in this book: a way to work together through interacting networks of independent groups.

2. The managerial reaction

There is a second kind of reaction going on in tandem with this political one: an apparent increase in authoritarian management, marked most obviously by increased layoffs. My thesis is founded in part on a belief that for *economic* reasons there is an irresistible movement to more participatory organization – that an advanced information-based economy cannot function effectively in a bureaucratic and autocratic way. Yet it is certainly true that much of the current wave of “Total Quality Management,” and almost all of “Re-engineering,” is based on principles of control that would have been familiar to bureaucrats a century ago. “Empowerment,” in short, is often a sham.

If management widely seeks to control and disempower workers, as some believe, then again the most likely outcome is a pitched battle rather than a more developed system. Again, however, I am prepared to stick to my guns about the long-term trends. I think that the “authoritarian” trend in current management is a temporary one, and the “participative” trend has much deeper long-term roots.

This conviction is based, first of all, on the fact that the movement towards participation has not been driven back by the counter-wave: on the contrary, participation *also* appears to be accelerating its advance.⁶ Moreover, in recent years the evidence has become quite convincing that thorough employee involvement is, overall and in the long run, a better way to manage: more productive, more flexible, more responsive to the environment, more innovative.⁷ These data back up the reasoning of many management theorists and practitioners. More and more persuasive and complex arguments are being put forward for why management organization must make a fundamental shift away from the bureaucratic paradigm.⁸ Finally, a recent wave of evidence has stressed the limitations and failures of the re-engineering approach.⁹

On the other hand, a move to true empowerment is also extremely difficult – more difficult and radical than most have imagined. Many efforts, from “Quality of Work Life” to “Quality Circles” to “semi-autonomous teams,” have fallen short because, failing to challenge the basic premises of the old organization, they get strangled by it. It is certainly much easier to do something that I have called “cleaning up the bureaucracy”: sticking with the old approaches, but reducing head counts, pushing everyone to work harder, and eliminating any inefficiencies that have grown up over time. These initiatives – the essence of “re-engineering” – clearly do save money quickly. So it is not surprising that a lot of managers prefer this to the disturbing and often uncertain benefits of participation.

In short, in the economic as in the political arena there are two contrary currents running: a retreat to known “quick fixes,” and an advance to unknown levels of complexity. Often these are happening at the same time in the same company, and rhetoric tends to blur the difference. The argument in these pages depends on the assumption that complexity will win out: it is in part an attempt to find a form of representation that brings out the best aspects of “post-bureaucratic” organization and a pluralist polity.

Associational unionism: what is it?

The concept of “associational unionism,” meant to be paradoxical, has left many people confused. Let me try to draw a sharper outline.

First I should re-emphasize that the idea is meant as a piece of social forecasting. It is not something that could be created immediately: its development would require a systematic *break* with the current order, in the sense of a change in many institutions. I was and am trying to get a glimpse over a wall.

At the same time it is not intended as a utopian ideal. The pattern of associational unionism is an extension of trends that can be seen now – not necessarily within the field of traditional labor relations, but in society as a whole. It draws on recent developments among professional associations, employee caucuses, and social movements, as well as changes in the law of employment rights; the argument stands only if it is seen as *realistic* in that frame.

To my knowledge no one has tried to work out an alternative in as much detail as this book does, thinking about the interaction of organizational forms, social movements, government policies, dispute-resolution techniques, and management structures. Though the enterprise may seem speculative, I think a picture of something that could *work* is essential to guiding change.

Others have advanced at least two types of proposal, however, which share a good deal with my point of view. The first would involve a return to a kind of craft unionism; the second looks for importation of German-style codetermination.¹⁰ Though I don’t think that either form quite works in terms of a whole system, both have important things to contribute.

The organizational form

I would describe an associational union as an open professional association with a willingness to pressure employers.

Professional associations have a key characteristic which workers need now: they are not tied to any particular job or employer. Given the rapid change in the economy and the structure of almost every industry, and the growth of temporary and contingent work, any organization that is built around a stable collective contract is in trouble. Professions define themselves by a sense of shared identity among their members separate from their particular jobs.

In this crucial respect professions are very similar to craft unions. I essentially agree with those who see the self-sufficiency and autonomy of craft unionism as exemplary for the present. But crafts have not kept up with change: they have not changed their tactics much in a century, and so remain limited to small sectors of the economy. They have remained small, insular, and focused on traditional communities. They have not been able to expand their basic approach to dealing with complex systems and rapid change.

Professions are, in a sense, *modern* crafts. They are centered in the growing information-based economic sectors; they are far better at building large and dispersed organization, at consciously managing change, at dealing with complex issues.

Professional groups have gone far in helping their members in the modern employment relation by providing support and services. They can and do provide job placement advice, skill development, and – perhaps most important – portable benefits, such as retirement plans, which break the dependence of the employee on a single employer. These give people some options, at least, and reduce the extent to which an employer can coerce employees because they have no other options.

Such services are increasingly important as the attachment to individual firms weakens. Contingent employees, for example, desperately need improved access to health care and to information about job opportunities. Professions have a long experience of developing such aids to mobility.

Professionals, on the other hand, still have much to learn from crafts about how to apply pressure to employers. The latter learned a century ago to combine the strike with their traditional strategies of self-government and controls on entry. Professionals, historically averse to pressure, have instead preferred appealing for legislative protections. But as this approach has become more difficult in the past decade, professionals have started to develop types of pressure that are far more effective today than the strike.

Some have made creative use of information as a weapon. They publish lists, for example, of the best and worst employers in an industry, with descriptions of their policies. A few have gone as far as publishing standards for good employers. At least in those industries where there is competition for knowledgeable employees, this can generate a lot of pressure for employers to get onto the “good” list.

Some associations also offer legal support for members’ suits against employers. This is a particularly effective method that has too seldom been used in a strategic and coordinated way. Generally suits are clumsy: the direct benefits go only to the individuals who sue; those individuals also carry grave risks and costs; and indirect benefits to others are rather random. Associations can, and occasionally do, help individuals, thus reducing the danger to them; and they can then offer to negotiate a resolution with the employer that really addresses the underlying problems.

These mechanisms are still relatively undeveloped. There is no reason, though, why they shouldn’t be extended through the addition of the publicity tactics that unions have begun to master, such as “corporate campaigns” that put spotlights on employers’ actions not only towards workers but also towards communities and investors. The proof of the effectiveness of these tactics is that business lobbies are now trying to get Congress to restrict such campaigns, though it is hard to see how that could be done without deep incursions on free speech.

Professions and crafts share a crucial weakness: they both build their strength largely by exclusion, setting high barriers to entry and controlling access to a labor market.¹¹ As a result they tend to be seen by the public as narrowly self-interested. A key argument about associational unionism is that it need not rely on that type of power. The use of publicity and the appeal to generalized rights would be sufficient, if done strategically, to pressure employers; and these weapons have the advantage of being seen as broadly legitimate and constructive. Associations relying on them can be *open*, in the sense that they do not need to control membership; they may be based on the identity of a particular group, but they don’t test people for admission.

Many recently-formed organizations have adopted elements of this “open professional” structure: that is, they have sought to represent people on bases other than negotiations with a current employer, but not by forming closed membership societies. Women’s organizations like Nine To Five have often led the way in using publicity and legal action as forms of pressure. Other employee caucuses, usually built around social identities, have also spread rapidly using similar themes.¹² Many groups have grown up around the needs of part-time and temporary workers, who cannot be represented through traditional industrial unions. Finally, a whole range of groups has begun to try to represent the interests of employees outside the collective bargaining framework;

- Some have sought to go outside the boundary of the single employment relationship by building community or regional coalitions. “Jobs With Justice,” for instance, is a loose movement that seeks to unite many types of groups outside the traditional processes of organizing and collective bargaining. Many of its greatest successes have involved links with civil rights and community groups around local political issues, where traditional labor concerns have formed just one part of a larger picture.
- Middle managers and professionals experiencing the pain of corporate downsizing have started many groups to help them deal with their changed circumstances. A new group called “Working Today” has drawn considerable attention in the past year by calling for an “organization of employees.”¹³ It aims to work on two fronts: 1) offering a voice for general employee concerns through lobbying and publicity; and 2) developing “self-help” mechanisms to help people structure careers in a rapidly-changing economy – including portability of health insurance and pensions, job and financial advice, and access to education and training.

Both these efforts have strong ties to the labor movement: the bulk of their leadership has long experience with organized labor, and Jobs With Justice has a formal AFL-CIO affiliation. But both have preserved their independence, and they have often experienced resistance from existing unions who fear invasions of their turfs. They are exploring new bases for organizing employees, ones that recall worker organizations of a century ago in drawing on identities outside the workplace.

The representative system

The model of an open professional association suggests new types of services and new forms of pressure, but it doesn’t touch the traditional task of negotiating with employers about conditions of employment. The next question is how a *system* could work to link associations to employers on more than a case-by-case basis.

Here the best concrete image, I think, is of a kind of codetermination, like that of Germany or other Northern European countries. In these systems most personnel issues are managed through committees elected by employees, engaged to a greater or lesser extent in “negotiation” with management. These committees have proved reasonably successful at least for normal decision-making, though they have neither brought down capitalism nor produced a consensual utopia.

This is quite different from the image that some have seen in my work: the specter of a chaotic multiunion system like that of France or England. The problem with both those systems is that there is no unifying mechanism: the multiple unions often compete ferociously with each other for members within single workplaces, and they seek to outdo each other in bargaining. I have tried to draw on learnings from the practice of multilateral negotiation to suggest that one can have a system of interest representation with multiple parties that is nevertheless coherent, building consensus from variety. The strength of codetermination is as an *ordered* process of consensus-building rather than a catch-as-catch-can process of competition among interests.

I see, however, several serious weaknesses with the codetermination model that prevented me from putting it forward as a model in the original text. The principal one is tactical: I saw, and still see, absolutely no chance of passing a legislative framework for codetermination in this country. The continued extension of employment rights is legislatively plausible, but the creation of codetermination is not. So I suggested a way to use rights as the power base for a constructive form of interest representation. In this sense my proposal aims to get something like a codetermination model by building on American trends.

In some key respects, however, what I am proposing is fundamentally different from codetermination.

1. It aims to involve multiple groups directly. A basic premise is that a system that tries to force all employee interests through a single channel, as exclusive representation does, is insufficient; you need to allow a direct voice for different views.

Codetermination does not generally do this. It is either individualistic, based on a pure voting model; or it is controlled by unions, which makes it simply a variant on exclusive representation – an extension of bargaining into new realms. The German system is at least as much trouble as ours in accommodating, and mobilizing the energy of, “new” interests such as women and minorities.

The other side of the coin of involvement is how to avoid chaos. This is where techniques of multilateral negotiation fit in. I believe, as I argue herein, that methods now exist for reliably creating agreement from at least a moderate number of divergent interests; these methods are *different* from those of traditional bilateral bargaining. This aspect is not usually seen as part of the codetermination model.

2. It aims to avoid bureaucracy. Codetermination in practice tends to create a new hierarchy of decision-making, a new and cumbersome set of procedures. The legal framework is generally highly detailed, specifying very closely what issues can be dealt with at what levels, and what powers are held by what parties in what circumstances.¹⁴

A principle I followed in envisioning a different system is that it should show substantial local flexibility; it should particularly avoid too heavy a legislative scaffolding. Thus I base it on interest groups that are not fixed by law, and use recently-developed knowledge of dispute resolution

methods to avoid setting unnecessary constraints on the scope of issues or the role of the parties.

Some structure is of course essential. The judgment of whether I successfully walk this line has to be based on the details I discuss especially in Chapter 11. The devil, as always, is in these details: where there are conflicting principles, the problem is a concrete one of suggesting institutions that can balance them.

The picture I propose for the inside of a firm, then, is of a set of committees dealing with several aspects of management: personnel issues, but also aspects of business strategy. The powers of these committees would be determined not by law, but by the effective use of employees' group power grounded in rights and publicity (combined with management's interest in mobilizing a committed workforce). They would include representatives of any groups that could effectively mobilize such power. They would normally operate through multilateral negotiation to build agreement from multiple viewpoints.

This image would not work without a number of key conditions.

1. It would not work to penetrate low-skilled occupations where many workers are available to quickly replace any "troublemakers": the power to "force" this kind of representation depends on an increasingly skilled and knowledge-based workforce. But there is no reason why traditional union structures and tactics should be ruled out in low-skilled occupations. Existing unions, in other words, would be essential for a long time to come to anchor a major part of the system. Over time, if the legal structure is right, even these sectors would be "pulled" in the direction of multilateral negotiation.
2. It would require a restructuring of the government role. Government has to serve at least two functions for this to work: first to provide facilitation and information, and second to enforce agreements that are reached by legitimate negotiation processes. Without this context the system would be too vulnerable to manipulation and distortion.

It is worth emphasizing once more, however, that a key aspect of associational unionism is that it would be less centered on this "inside-the-firm" role, and more involved in services that extend throughout employees' careers. Viewing it purely as a negotiating structure cuts out more than half its power. It can be effective only if it pulls together the ability to support members broadly with the ability to "deal" with specific companies.

The role of rights

In proposing to ground representation on a developed system of employment rights, I stumbled into a controversy that has since become subject to intense political debate. Most people, including myself, feel that something has gone seriously wrong with the application of rights: too many plaintiffs are winning multi-million-dollar settlements by blaming someone else for something stupid they did. The end result is often an intrusive level of bureaucracy in which everyone is prevented from walking on the grass because someone once stepped on broken glass there. This kind of thing

energizes much of the current reaction against government. So even liberals are more reluctant to press new rights, and conservatives are calling for rollbacks.

This tension has in turn provided much of the impetus for the “communitarian” branch of social theory, which is seeking a balance between rights and “responsibilities” by emphasizing the importance of communities, as opposed to individual entitlements.¹⁵

My view is that the problem is in defining the proper *kind* of rights: ones grounded in a public sense of a just relationship. Specific rights attached to specific groups will inevitably lead to fragmentation. Most of the growth of workplace rights in the past thirty years has been precisely of this kind, rather than an attempt to define what workplaces should be like in general. As a result it has (as I emphasized) produced an irrational system that leads only accidentally to justice.

My proposal is to recast these rights as a general social definition of the employment relation – the mutual obligations of employer and employee – at an inclusive level. Underlying the separate claims of women, African-Americans, and so on is a picture of an employment relationship that breaks radically with the tradition of “employment at will”: it rejects the notion that employers should be able to do whatever they want, and seeks some mutual obligation. It is this latent picture that I was seeking to bring to the surface, and which I argued needs to be codified in an “Employment Bill of Rights.”

I would make some changes now in how I present this, in the light of the difficulties that I just mentioned. In addition to the four rights that are proposed in the text (association, speech, information, and due process), I would try to work out more carefully the obligations on employees, and the way in which these form a mutual system. For example, right of due process cannot, I think, be designed to create permanent job security (as it often has in Europe); that would create a burden on individual companies that they are not capable of carrying. It *can* be designed to make sure that people are not fired without good reasons, and that they are given fair warning and support in dealing with changes that are not their “fault.” Most people would support the idea of due process, but not of job guarantees.¹⁶

A key flaw of the Wagner Act, which defined our current labor relations system, is that it largely avoided stating its goals. Though there was an industrial order implicit within it, it simply set up a procedure to balance power and hoped something good would come of it. It has turned out that the government can’t even *define* a balance of power without agreement on what the goal is: some people now feel management has too much power, some feel unions do, some that both do – depending on the commentator’s point of view of which party (or none) would move things in a “better” direction. The legislative role is to define the direction, and we cannot avoid fragmentation until they do.

Rights, powers, and cooperation

Most readers of this book whose thinking centers on organized labor have simply ignored the chapter on employment rights. It seems to be very difficult to

think about unions and the employee rights movements in the same picture. The latter have not depended on labor, and labor has been ambivalent about them.

When rights are left out of the picture, the proposal in this book collapses into a vague call for good will and cooperation. While I do believe that there is a growing management interest in involving employees actively in decisions – using their intelligence rather than just their effort – I am far from believing that that is enough to transform the system. There will certainly be conflict; a good system of representation is simply one in which the conflicts are voiced, taken seriously, and resolved. When power is radically uneven, that cannot happen.

There are still many avenues of power open to workers and employees, some of which have been used effectively and some of which have not. Publicity, as in corporate campaigns, is one that is still in its infancy. Coordinated organizing has unexplored potential. At the limits there can be violence, which played an important role in leading to the Wagner Act. There are advocates for all of these and other forms of power.

The point I would make is that rights offer a crucial form of power for employee advocates, one that has not been exploited in a systematic way. Though there have been many suits, there has been little attempt to coordinate them so that the system gets better rather than a few individuals getting rich. The corollary is that *only* this kind of pressure – based on a social agreement on what is a fair relationship – can lead to a good outcome for the society as a whole. Other kinds of power clashes, including the use of rights as special-interest-weapons, will lead to distorted and irrational results.

There can be effective cooperation when there is a real agreement among different interests about the framework of cooperation, but not before. There can be participation when there is agreement on the goals of participation, but not before. I do not suggest participation in the fond hope that management will shift its ground; I suggest ways to create pressure for a system in which participation is meaningful.

Where will change come from?

Systems of representation need to be driven by movements, ones that are hot and alive rather than cold. The center of energy today is not, as it clearly was fifty years ago, in the mass actions of the worker strike; where picketing auto workers once aroused intense social passions, today they rarely arouse enthusiasm even among fellow auto workers. *Life* is to be found in movements of a wide range of social-identity groups that are only loosely coordinated at best. Many of these have been cast as “liberal,” but they are not fundamentally different from “conservative” groups focused on Christian religion or established white ethnicities. The core of all is an attempt to assert a consciously chosen community as a basis for political and social action. And these groups, pulling back and forth, have done far more to transform workplace relations in the past thirty years than has organized labor. Perhaps they will act on unions, and perhaps they will act independently; but in any case most of the action seems to come from them.

In my original text I suggested various courses of action – organizing around rights, legislative changes, etc. – but was not clear about who could drive them. I am

increasingly convinced that these innovations will not emerge from organized labor, at least not without a major split in the AFL-CIO. Instead, success now seems more likely from loose coalitions of “new movements,” organized not as large hierarchies but as decentralized networks. Currently these movements are active but uncoordinated; a few cases where they have been coordinated demonstrate their potential effectiveness.

The problem for unions

I said earlier that I have grown more pessimistic about the capacity of existing unions to adopt new strategies. In 1988 I was encouraged by a growing trend for unions to conduct intensive internal examinations under the rubric of “strategic planning.” Since then, I have been disappointed by the results of those processes; and in reflecting on that, I have become more aware of the high structural barriers to this kind of change.

There are at least three fundamental issues. The first is that unions are centered on collective bargaining, with the strike as their primary weapon. Though some have begun to develop other forms of power, such as corporate campaigns, they remain *essentially* strike-based. That, in turn, means that their structure must be built to maximize internal cohesion and solidarity rather than opening out to others.

Union leaders generally respond that it is unfair to criticize them for isolationism, that they have been very active in larger coalitions such as the Civil Rights movement. This is true only on a very superficial level. Union legislative departments have certainly contributed to larger causes, but unions have rarely shown an ability to cooperate in coalitions. This point has recently been underlined by the absence of labor from the most important employment-rights victory of the last twenty years: the Americans With Disabilities Act.

But in a sense it is unfair to expect unions to do more. They are what they are, organizations of workers in collective bargaining relationships with employers; they have to stick to their task. Submerging themselves in coalitions with divergent aims would threaten the solidarity on which they are based. And so they *must* focus inward, and outward relations must come second.

A second crucial obstacle to change is that unions do not have the resources to develop new strategies. The bulk of union time, especially in locals, is spent in activities paid for by employers that must be directly tied to grievances and collective bargaining. At the national level there is only a bit more room to choose courses of action. National unions representing hundreds of thousands or millions of members typically have only a few hundred national staff, which gives them very little leeway for luxuries like research departments or strategic planning meetings. And the law has increasingly pushed them to restrict activities even at this level to pure collective bargaining.¹⁷

The third major obstacle to the transformation of unions is local jurisdiction. National organizations are built around locals geographically defined; power comes from votes of local members. Issues that cross-cut locals cannot be managed unless there is almost no internal conflict. Almost no issue that requires a major shift in

structure can overcome the resistances of locals protecting their own interests and territories.

The inward focus, thin structure, and geographic base are so fundamental to industrial unions that any attempt to overcome them by strategic planning seems almost hopeless. A few unions have made some modest progress, but all to my knowledge are brought to a halt sooner or later by these forces: they don't have the time and resources to plan, and they can't overcome the political fragmentation of the base.

The Sweeney strategy

I write this during one of the most interesting moments of potential labor innovation in many years: the victory of John Sweeney in the first contested election for the leadership of the AFL-CIO. This challenge to tradition seems to have infused labor with hope and energy. But though I would like to be wrong, I am doubtful whether any outcome can overcome the obstacles I have just sketched.

First, the AFL-CIO faces the problem of local jurisdiction in spades. Individual unions have always been extremely protective of their autonomy; efforts to create a new strategic vision at the Federation level, which were one of my thin reeds of hope seven years ago, seem to have penetrated very little. There is no great reason to expect that to change now.

More important, Sweeney has created a sense of excitement within the labor movement by calling on traditions that energize the core but alienate many potential allies. His appeal to "block bridges" in support of the poorest and most oppressed workers is fundamentally consistent with the most honorable traditions of the labor movement. It is a challenge to those who have become complacent and insular: it calls on labor to reach beyond protecting those already in the tent, the operatives and skilled workers seeking to hold on to past gains. It seeks to revive the sense of mission to the most downtrodden workers, and to bring in minorities who have largely been excluded from the white male leadership of the AFL-CIO. It is radical in the sense of returning to the roots.

But the strategy, in its revivalist fervor, misses the growth of the "middle ranks" which makes the current picture so different from that of the '30s. Technical and professional employees are a far larger and more vulnerable group than they were then, and also far more activist: social-identity movements draw their energy not primarily from the poorest sectors of society but from multi-class alliances. Any strategy that ignores these middle ranks will immediately place itself in a minority, "special interest" position. The language of "blocking bridges," while energizing the traditional base, tends to turn away the middle; they do not see where they fit, or how this deals with their needs.

The problem for labor is to find a unifying strategy – one that mobilizes the traditional base of blue-collar and clearly oppressed workers; yet at the same time draws on the energy of the now-dominant semi-professionals and of social-identity movements. The class-based energy of opposition to management accomplishes the first at the expense of the second.

The power of dispersed coalitions

My crystal ball turns back to alliances of “new movements” and employee associations. Labor is no longer a self-sufficient mass movement; progress must come from links among movements with quite varied aims. The direction can be shown by two concrete cases: an innovative set of local actions, mostly in the South, under the rubric of “Jobs With Justice”; and the passage of the Americans With Disabilities Act of 1990 (“ADA”).

The ADA was a huge incursion on employment-at-will, at a time when management seemed ascendant. It was passed with almost no involvement of organized labor, nor was the campaign managed by any large organization. The mystery is how it could have happened: the answer is that it followed the logic of dispersed alliance rather than that of united and powerful organization.

Success came after many years of activism by disabilities groups. In its earlier phase, during the 1970s, the movement for the ADA was primarily an alliance of large, traditional lobbies like the Easter Seal or the American Federation for the Blind, organized as a classic legislative pressure group. As the Reagan cutbacks progressed, however, this structure faded and something quite different moved to the foreground. It involved a vary large and diverse coalition, with many small local groups operating on a shoestring. It included a wide range of tactics, with some groups engaged in sit-ins and demonstrations, others working more mainstream routes. It eventually pulled in some major businesses, including IBM, Dupont, and Sears, and conservative politicians like Bob Dole.

All of this activity was coordinated only loosely, and that by a tiny Washington research group (DREDF) which came to play a key linking role among the parts of the coalition. There was, in other words, no pot of resources whose control gave cohesion to the movement. The power to pull together came from knowledge and contacts, which resided in a very small and ad-hoc group.

The history of Jobs With Justice provides further evidence of the power of this coalitional form. This is an effort, loosely coordinated by several unions, to link labor issues to the wider community. Where it has taken the form of traditional labor-led marching and picketing around employment issues it has largely failed. But it has been remarkably successful, especially in the South, where it has taken the form of a decentralized alliance of many groups, with labor as only one player. In a number of instances it has been able to challenge existing political and business establishments in unexpected places. In Miami, for example, a Jobs With Justice coalition came together around issues of transit in poor neighborhoods, uniting Black churches, local community groups, and certain real-estate interests with transit unions; they succeeded in defeating the City Council and replacing it with one pledged to be responsive to the coalition.¹⁸

Unions’ skills are focused on the inside, in building the capacity to strike. The skills of associations like those involved in these coalitional movements are focused on the outside, in building the knowledge and relationships to work together with others. It is this second type of action, and set of skills, which is increasingly important to creating a new order.

Current tactics

Associational unionism is intended to provide a long-term vision of a system that would work. The immediate payoff, however, is whether it suggests some short-term tactics. In addition to the continuation of experiments suggested in Chapter 12, I would stress a few ideas that are not very familiar yet, but which flow from the logic.

Any of these could be carried out by the kind of coalitional movement I have described. They do not need massive amounts of money or powerful organizational backing. They require only a clear vision and a commitment to building networks of alliances.

1. Create associations that support employees not in their particular jobs with a particular employer, but throughout careers; providing the services which people need to manage rapid change. These should include portable insurance, access to training, information on job opportunities, support networks, and so on. These should be highly valuable both to the “high end” – middle managers, consultants, professionals – and to the “low end” of relatively unskilled temporary workers.
2. Build links among the scattered employee caucuses growing up in many corporations: pull together, for example, Black caucuses into a national network that can help them learn from each other and support each other. Their current isolation means that only a few, such as the one at Xerox, manage to break through to real effectiveness.
3. Pressure companies to live up to their own slogans of “empowerment.” The concept of increased participation is an exciting one for employees at every level, but it rapidly leads to frustration when, as in the majority of cases, top management fails to “walk the talk.” There is a great opportunity, without the apparatus of the strike or collective bargaining, to mobilize large groups around the principles espoused by leadership by publicizing those principles and the ways in which real action falls short.
4. Use employment rights suits strategically. An association could, for example, gather a few potential claims of sexual harassment or discrimination and offer to fund their pursuit in court. But instead of going straight to litigation, it could approach the employer and offer to negotiate remedies that would get at the basic problem.

This is roughly what the highly successful Black Caucus at Xerox did in building its position: the fear of legal action led the company into a highly constructive negotiation with the caucus. The Service Employees’ union and a few others have begun to use class-action suits in a similar way. But it is still a vastly under-used tactic.

5. Bring together many types of groups in a political movement centered on an Employment Bill of Rights, seeking to break down employment-at-will once and for all, and to build a system of mutual obligations.

Union support would be crucial to the success of these coalitions, but therein lies a major problem. My guess is that most unions would hate these proposals, seeing them as undermining collective bargaining; they would also resent being left out of the

leadership role in a coalition around workplace change. I believe, however, that unless unions learn to work more effectively as *part* of wider movements that they do not lead, and to support issues that go beyond their traditional ones, they will be unable to break out of the marginal position in which they find themselves.

Movements of social identity have a great deal of vitality, but on the whole they have been uncertain of their objectives; they have therefore been unable to withstand a conservative political movement with a clear image drawn from the past. The passage of the ADA provided enough focus to pull together a major coalition for a time; but a wider vision is still needed to transform the employment relation. My suggestion is that the focus on the employment relationship as a whole, especially through the vehicle of an Employment Bill of Rights, could soon serve as one focus for a successful coalition.

Conclusion

A danger in forecasting is that even if one gets the main direction right, one can be very wrong about the time line: the inaccuracy of weather forecasts frequently reminds us of this point. When I was first writing this book I was convinced that the decline of the old system was so marked, and the pressures for change so strong, that it would all be over before I could get into print. I have since learned more wisdom: I doubt very much that it will all happen this year.

Nevertheless, the central points are still valid. An effective system of representation must reflect the political, economic, and social forces around it. Today it must be able to cover new sectors of the workforce, mobilize the energy in social-identity movements, accommodate various forms of employee involvement and decentralized decision-making, deal with the increased mobility of capital, and fit with a changed view of government's role. At this level, below passing electoral storms, the forces for change flow the same way now as they did a decade ago. I cannot see that they will be channeled without a great deal of turmoil and innovation.

FOOTNOTES

¹ Drawn from U.S. Department of Commerce. *Statistical Abstract of the United States 1993*. Table 644 (pp. 405ff).

² See chapter 7. I should note that the plant has recently been sold to an Italian company as part of a realignment at Shell. This does not, however, appear to have affected its structure or employment practices.

³ On Saturn, see especially Rubinstein, Saul; Bennett, Michael; and Kochan, Thomas. "The Saturn partnership: co-management and the reinvention of the local union." in Kaufman, B and Kleiner, M (eds), *Employee Representation: alternatives and future directions*. Industrial Relations Research Association, 1993.

⁴ There is controversy among economists about whether occupational mobility has increased, but there is little doubt that "contingent work" has increased over the past decade as a proportion of the work force. Latest estimates put the figure at about 29% for contract and temporary employees, which does not count part-timers and other categories of "non-traditional" work (Sue Cobble, personal communication, based on research by Heidi Hartman.)

⁵ See *Parsons, Talcott. "Social strains in America." in Parsons, Talcott. *Politics and Social Structure*. NY: The Free Press, 1969: ch. 7; also in Parsons, Talcott. *Structure and Process in Modern Society*. NY: the Free Press, 1960: ch. 7

⁶ See, eg, Levine, David and Kruse, Douglas. "Employee involvement efforts: incidence, correlates, and effects." School of Business Administration, University of California, Berkeley: draft, March 1991; Osterman, Paul. "How common is workplace transformation and how can we explain who adopts it? results from a national survey." Paper presented at the meetings of the Allied Social Science Association, Anaheim, CA., Jan. 1993.

⁷ For a summary of research on participation and productivity, see U.S. Department of Labor. "High performance work practices and firm performance." Background material for the Conference on the Future of the American Workplace, July 1993. See also Huselid, Mark A. "The impact of human resource management practices on turnover, productivity, and corporate financial performance." *Academy of Management Journal* 38,3 (1995); Denison, Daniel R. "Bringing Corporate Culture to the Bottom Line." *Organizational Dynamics* 13, 2 (1984): 4-22.

⁸ For a review of arguments about "post-bureaucratic organization," see Heckscher, Charles and Donnellon, Anne (eds.). *The Post-Bureaucratic Organization: new perspectives on organizational change*. Thousand Oaks, CA: Sage Publications, 1994.

⁹ A series of reports from Kepner-Tregoe in New Jersey has documented the limitations of re-engineering and Total Quality Management (see, for example, "People and Their Jobs: what's real, what's rhetoric," Kepner-Tregoe, 1995). Mike Hammer, the major apostle of re-engineering has recently admitted that 70% or more of efforts under that banner have failed to reach their targets. Total Quality Management has also come under skeptical attack in the business press: recent surveys indicate that 2/3 of U.S. managers think TQM has failed in their companies (Jacob, Rahul. "TQM : More than a dying fad?" *Fortune*, Oct 18, }1993, v128 n9, pp. 66-72; see also Boyett, Joseph H. "What's Wrong with Total Quality Management?" *Tapping the Network Journal* Spring }1992, v3 n1, p. 10-14.

¹⁰ The craft union model is proposed especially by Cobble (*Cobble, Dorothy Sue. "Making postindustrial unionism possible." in Friedman, Sheldon; Hurd, Richard W.; Oswald, Rudolph A.; and Seeber, Ronald L. *Restoring the promise of American labor law*. Ithaca, NY: HR Press, }1994: ch. 20; and Cobble, Dorothy Sue. *Dishing It Out: waitresses and their unions in the twentieth century*. Urbana, Ill: University of Illinois Press, }1991) and Piore ("Thinking strategically for industry: a new role for workers." mimeo: MIT, 1985; and Piore, M.J. "Computer technologies, market structure, & strategic union choices." in Kochan, T ed. *Challenges and Choices Facing American Labor*. Cambridge, MA: MIT Press,

1985: ch. 9. The codetermination model has been put forward most clearly by Wever KS, and Allen CS. "Is Germany a Model for Managers?." *Harvard Business Review*, Sept-Oct 1992 and also informs Kochan, Katz, and McKersie, *The Transformation of American Industrial Relations*. NY: Basic Books, 1987) and Weiler, Paul C. *Governing the workplace: the future of labor and employment law*. Cambridge, MA: Harvard University Press, }1990

¹¹ Piore (1985) – a principal proponent of the craft model – admits that we would need to overcome this tradition of exclusiveness; but he doesn't suggest how to do it.

¹² On employee "caucuses," see Friedman, Ray and Carter, Donna. "African-American network groups: their impact and effectiveness." Boston: Harvard Business School working paper 93-069, May }1993; Friedman, Ray and Carter, Donna. "The history and future of caucus groups." mimeo draft: }1992; Deinard, Caitlin and Friedman, Raymond. "Black caucus groups at Xerox Corporation (A) and (B)." Boston: Harvard Business School, }1990; Bishop, Elizabeth L. and Levine, David I. "Computer-mediated communication as employee voice: a case study." Berkeley, CA: Haas School of Business Administration: mimeo draft, }1993

Such organizations are not always seen as "open": insofar as they focus on building separate rights for themselves, they contribute to the widespread feeling of cynicism about employee demands. The move for a *general* employment bill of rights, elaborated below, would push them further towards openness.

¹³ See Bob Herbert, "Strength in Numbers." *The New York Times*, Nov. 3, 1995; David Warsh, "Needed: a lobby for labor like the AARP." *The Boston Sunday Globe*, September 3, 1995.

¹⁴ For a discussion of the bureaucratic aspects of codetermination, see Mintzberg, Henry. "Why America needs, but cannot have, corporate democracy"." *Organizational Dynamics*, Spring 1983: 5-20

¹⁵ Amitai Etzioni is the self-appointed leader of the Communitarians: see, for example, Etzioni, Amitai. *A Responsive Society: collected essays on guiding deliberate social change* -. San Francisco: Jossey-Bass, 1991

¹⁶ I have taken a small step further in defining the obligations of the employment relationship in my book *White-Collar Blues* (NY: Basic Books, 1995), esp. chapter 8.

¹⁷ The law creates pressure against broadened union activity in two major ways: 1) it bans secondary boycotts and other activities which build alliances rather than concentrating on single interests; 2) it restricts the uses of agency fees to collective bargaining, ruling out most political and public relations activity.

¹⁸ This argument, and the Miami story, are developed in detail in Heckscher, Charles and Palmer, David. "Associational movements and employment rights: an emerging paradigm?" *Research in the Sociology of Organizations* 12 (1993): 279-