

Now is an important time for reflection on the role of organized labor in our society. Many in the “progressive” community have been asking: Do unions really matter anymore? Does the fate of the labor movement and workers’ rights in the workplace concern more than the ranks of organized labor?

Right to participate versus benevolent dictatorship

The workplace is a place where workers learn that they actually have few rights to participate in decisions about events of great consequences to their lives. But is the workplace really so autocratic? Consider some illustrations of the unique environment, in which normal rules of our legal system simply do not apply. Employees leave some of their “rights” at the door.



Los Angeles Police Protective League POLICE OFFICER'S RIGHTS

In any investigation, if you are advised of your Miranda rights, you should refuse to waive them and immediately contact the League. When a decision is made to submit to an internal administrative interview, you should, **PRIOR TO BEING INTERVIEWED**, have a representative present and ask the following question. "If I refuse to answer your questions, will I be subject to discipline that could be as much as discharge or removal from office? The answer to this question should be "yes". **THEN STATE:** For those reasons and those reasons alone, I will give you a statement. I am not waiving **ANY** of my constitutional rights and I am asserting **ALL** of my rights under the Public Safety Officers Procedural Bill of Rights Act, however, I will cooperate with any criminal investigation arising out of this incident because case law and the LAPD Manual require me to do so upon pain of being charged with insubordination resulting in possible termination. I also demand that prior to the interrogation I be allowed to view any audio or video recordings pertaining to this incident that you do not deem to be confidential."

Take, for example, a fundamental assumption in our legal system—the presumption of innocence. In the workplace, this presumption is turned on its head. The rule of the workplace is that management dictates and workers obey. If a worker is accused of a transgression by management, there is no presumption of innocence. This is especially true within law enforcement. Even in organized workplaces, the rule remains: work first, grieve later. Organized workers protected by a collective agreement with a contractual grievance procedure, such as the LAPPL has with the City of Los Angeles, can at least grieve an unjust practice (or more specifically, one that violates the rights won through collective bargaining). Unorganized workers, on the other hand, are left with appealing to their supervisors' benevolence or entering the unemployment line.

Without union protections, there is not even protection in our system against arbitrary and capricious actions by management. There is no right to employment security and no prohibition against unjust dismissal. The law of the U.S. workplace is governed by the doctrine of “employment at will.” There are some protections to ensure that an employee may not be dismissed for clearly discriminatory reasons of race, gender, disability or age. But that same employee can be African American, female, older and all or none of the above, and as long as the employer dismisses her for “no reason,” the dismissal is legal. Most Americans believe there is a law that protects them from being fired for “no cause.” But that’s simply not the case when you’re not protected by a union.

Constitutional guarantee of free speech for bosses but not for workers

The asymmetric application for the First Amendment provides one last illustration of the perverse nature of the workplace dichotomy. Often celebrated as one of the most cherished rights of citizens, freedom of speech does not extend to the workplace, at least not to workers. Consider the ramifications of free speech commentary on social media. A careful reading of the Bill of Rights reveals that First Amendment freedom applies only to the encroachment by government on citizens' speech. It does not protect workers' speech, nor does it forbid the “private” denial of freedom of speech.

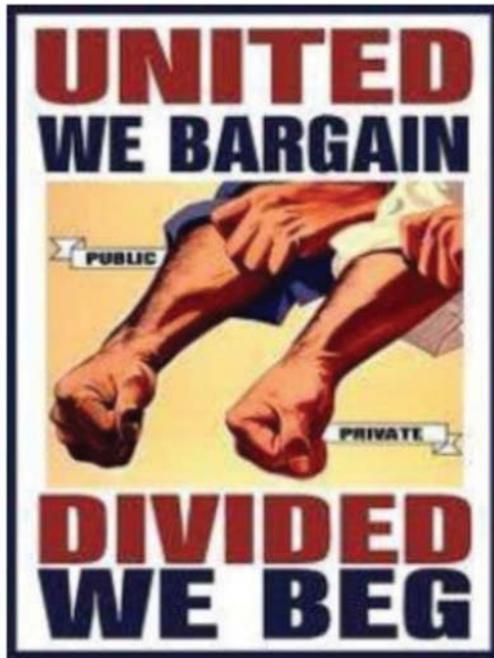
What's old is new again...or maybe it should be

Few people today remember that when the National Labor Relations Act, the cornerstone of U.S. labor law, was adopted by Congress in 1935, its purpose was not simply to provide a procedural mechanism to end industrial strife in the workplace. Rather, this monumental piece of New Deal legislation had a far more ambitious mission: Unions were to be encouraged, as it was understood that workers could not engage in meaningful collective bargaining without collective representation.

Needless to say, it has been a long time since we've heard any president or administration, much less Congress, talk about any of this.

Something worth noting: With organized labor down to only 15 percent of the total workforce, and a dismal 11 percent in the private sector, the vast majority of today's workers have no direct experience with unions.

Organized labor continuously seeks to restore balance to law, which is currently so stacked against workers that unionization is very difficult everywhere and almost impossible in some sectors of our economy. Supreme Court decisions rolling back union and worker rights, as well as management-inspired amendments to labor law, have tied the hands of union organizers while freeing management to penalize workers who attempt to exercise their rights.



In a truly democratic society, all workers would have rights, and collective decision-making would be the norm. Yet most of our laws operate in a completely opposite manner. Labor law is largely a series of barriers over which workers must climb to gain elementary rights. And each year these barriers are getting higher and higher. Management can, of course, voluntarily recognize unions or permit workers to participate in decision-making, but this is nothing more than a form of benevolence, the granting of privileges that can be retracted at any time—not to be confused with rights that cannot be arbitrarily taken away.

Seen in this light, even the much touted right to collective bargaining is a very limited right. Like a hunting license, it does not guarantee anything but an opportunity that may or may not yield results. It should not be confused with actually conferring rights on workers, though it does help workers create a power that can win them rights. With the winning of bargaining rights, workers, through their union, have the right to bargain collectively with their employer, who has a duty to bargain in good faith; however, the employer is under no obligation to come to a settlement.

Unions have many roles to play. One crucial function has always been to achieve decent wages, benefits and working conditions for their members. With the U.S. reporting the highest levels of inequality in the advanced industrial world, and the majority of U.S. workers experiencing declining real “net” wages for 20 years, we might be tempted to think that the problem in the workplace should be put on the back burner for more settled times and that the

labor movement should focus only on the growing economic inequality. Workers' rights in the workplace are crucial, and without greater levels of involvement, inequality is unlikely to decline.

Unions and politics

Most unions recognize that politics are important to the labor movement and that there is nothing that labor can win at the bargaining table that cannot be taken away by regulation, legislation or political decision-making. *Who* you vote for matters, and yet misinformed apathy abounds. Politics has always been fundamentally a contest of ideas. Political scientist Robert Dahl defined politics as “the art of the possible,” but for the working person today, it might be more useful to see politics as the process of constructing the possible.

In closing, *growing* unions is more important now than ever, continued *substantive* engagement is crucial.

Plug in and know your union's hard-won Peace Officers Bill of Rights (POBAR)!
<http://porac.org/resources/peace-officers-bill-of-rights/>.

Not all sworn across the country have the same protections afforded to Los Angeles police officers.

Individual and collective involvement and knowledge equals power.

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