

Running head: STATE AND EMPLOYMENT RELATIONS

To What Extent Should the State Leave Employment Relations to
Employers and Their Employees?

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Modern moral philosophers have often cited the individual's thoughts and beliefs, and, meanwhile, they rarely refer to moral issues that develop where people spend an important part of their lives - in the workplace. Though, appeals to moral values often take place during debates over workplace policy. In this paper, appeals to three basic values are revealed: freedom, fairness, and the general good. Starting with the first value, freedom, it's worth mentioning that it is endorsed both 'parties' - those who criticize and those who defend the capitalist organizational structure of the workplace. For example, a critic Kurt Nutting states that the employer's right to determine working conditions (which in the United States includes the right to discipline or discharge employees even for discussing their political views) is inherently coercive. By contrast, for libertarian philosophers such as Tibor Machan, the establishment of working conditions by management is the result of a free exchange in the marketplace between employers and employees. Therefore, according to libertarians, state regulations, such as laws that require safe and healthful working conditions, interfere with the freedom of both - employers and workers. Thus, Machan suggests that one should not "be morally concerned with working conditions which are fully" accepted by workers in a "free agreement" (Rudman 2003, p. 56). This paper, by referring to a number of scholarly articles and

sources, argues that the state should leave employment relations to employers and their employees, provided adequate legal base is implemented regulating numerous issues arising between these parties

A critic of this view Norman Daniels stresses that a worker's agreement to do a hazardous job as it is his or her only alternative to unemployment is not a free act. He names this employee's acceptance as not fully forced. That is why. Compare the hazardous job or unemployment case with a typical compulsion case: A mugger claims, "Your money or your life." In mugger case, the choices before the victim have been strongly reduced in a direct way. In the hazardous job or unemployment case, the employee's choices have also been reduced, but in an indirect way: by unfair social practices, for example, an educational system that is unable to provide sufficient job training opportunities for workers lacking marketable skills. Given such training opportunities, a lot of workers would have alternatives other than destitution or a life-threatening job.

When the choices of a worker have been indirectly reduced due to unfair social practices, then, according to Daniels, his or her acceptance of a hazardous job is not free, but only partially compelled (Covey 2000).

The value of freedom is also invoked in the controversy over compulsory union membership. Some analysts state that

workers should not be forced to join a union even if compulsory membership brings them economic benefits by increasing the union's bargaining power.

However, Burton Hall argues that compulsory membership is required by the obligation of the union to represent all unit workers, members and non-members, at the bargaining table. Only as union members can workers democratically influence union bargaining policy. Outside the union they have no real power to affect their working conditions. Hence, the important freedom requiring protection is freedom of workers within the union to advocate dissident views on union policies.

The second value, fairness, is invoked in the controversy over affirmative action. After the 1965 Civil Rights Act, affirmative action measures taken by employers contributed in the progress toward a fair share of employment benefits for minority persons and women (Dilts and Rassuli 1992). However, during the recession beginning in the 1970s, many of the jobs filled by affirmative action were wiped out by seniority-based layoffs. Hence, progress toward fairness for minorities and women has been reduced by the operation of seniority systems that tend to privilege the more senior, white males hired before affirmative action efforts began. Thus, a conflict in moral values exists between today's claims to fairness made by minorities and women and the claims of white males for recognition of their seniority positions.

Note that, here, fairness for minorities and women is in conflict not with the immoral workings of prejudice, but with union-instituted seniority systems that have brought significant moral benefits to the workplace. Seniority systems protect workers against arbitrary dismissal occasioned by the whim, malice, or prejudice of the employer. Strengthened by such security, American workers have gained in dignity. They can visibly expect to be treated with a measure of respect. Moreover, in many union-organized workplaces, seniority has become a standard for advancement (Dundon and Rollinson 2004). As a consequence of advancement by seniority, a workplace can become more humanized; harmony, cooperation and solidarity among employees replace an ugly scramble to win over one's co-workers.

Given the value of seniority systems, their conflict with affirmative action requirements is not easy to resolve. There are three types of remedies for this conflict. First, in *Firefighters v. Stotts*, the Supreme Court ruled, in effect, that affirmative action cannot take precedence over existing seniority systems. Second, in *Vulcan Pioneers v. New Jersey Department of Civil Service* (Flynn 2006), the court gave priority to affirmative action. According to that policy, some white males may be laid off in order to retain less senior minority persons and women. But the court was sensitive to the situation of the white males who would, in effect, be singled

out to pay for past discrimination. Such singling out - while others more responsible for past hiring discrimination, such as employers, pay nothing - seems manifestly unfair. Hence, the court stated that these more senior white males are entitled to compensation for their loss. Howard Glickstein offers a historical precedent for such compensation: Several years ago the federal government compensated New York waterfront workers whose jobs were wiped out by an automation program.

The third remedy, advocated by the former U.S. Commission on Civil Rights in 1977 (Piatt 1993), is work-sharing. Suppose, for example that a one-fifth work force layoff is mandated by a decline in business. A work-sharing remedy would place all employees on a four day workweek. (They could collect unemployment compensation for the fifth day.) This remedy distributes the layoff burden over the entire work force, instead of singling out some persons (white males) to bear the whole burden. Hence, the work sharing remedy makes a strong claim to fairness.

The third value brought up here is the general good. Utilitarian philosophers believe that usefulness in promoting that general good should be the only moral standard for adopting a policy in the workplace.

In "A Kantian Utilitarian Approach," R.M. Hare construes the general good as the greatest satisfaction of everyone's

preferences, impartially calculated. Hare suggests that the nineteenth century laws that benefited trade unions passed this preference-satisfaction test by improving working conditions and creating greater equality of wealth, power and status. According to Hare, present disputes about rights in the workplace, for example, the right to not join a union, should be tested in the same way: by impartially estimating the preferences of all individuals involved -workers, employers and the general public.

However, some critics of utilitarianism would fault Hare's preference test. They might argue that, in at least some cases, the greatest general satisfaction, impartially calculated, should be sacrificed in order to respect the rights of particular individuals.

Suppose, for instance, that a small group of older women work as underpaid and exploited housecleaners. They earn barely enough to live on, have no medical benefits, receive no sick pay, and so forth. Each woman works one day a week for a different employer. In this case their employers constitute the majority of the community. This majority wants to continue paying the cleaning women the same miserable wages. Thus, in an impartial calculation of everyone's preferences, the policy that favours the exploitation of these women wins out. Yet the women surely have a moral right to decent pay and working conditions (Rubinstein and Kochan 2001).

Some philosophers might put the matter this way: there are good and bad preferences. Exploitation of these women is bad, no matter how many people prefer it (Siegel 1992).

Often it is claimed that being subordinate in a work scheme adversely affects self-esteem in accordance with a social-psychological law or fundamental generalization such as the following: a long period of being frequently ordered about and under the authority of others, unselected by you, lowers your self-esteem and makes you feel inferior; whereas this is avoided if you play some role in democratically selecting these authorities and in a constant process of advising them, voting on their decisions, and so on (Rubinstein and Kochan 2001).

But members of a symphony orchestra constantly are ordered about by their conductor (often capriciously and arbitrarily and with temper flare-ups) and are not consulted about the overall interpretation of their works. Yet they retain high self-esteem and do not feel that they are inferior beings. Draftees in armies are constantly ordered about, told how to dress, what to keep in their lockers, and so on, yet they do not come to feel they are inferior beings. Socialist organizers in factories received the same orders and were subject to the same authority as others, yet they did not lose their self-esteem. Persons on the way up organizational ladders spend much time taking orders without coming to feel

inferior. In view of the many exceptions to the generalization that "order following in a subordinate position produces low self-esteem" we must consider the possibility that subordinates with low self-esteem begin that way or are forced by their position to face the facts of their existence and to consider upon what their estimate of their own worth and value as a unique person is based, with no easy answers forthcoming. They will be especially hard pressed for an answer if they believe that others who give them orders have a right to do so that can be based only upon some personal superiority (Covey 2000).

To understand what makes work meaningful, it is necessary to ask what makes life worthwhile. But the latter question seems to have almost as many answers as there are people (Covey 2000). For one person, it's becoming an astronaut; for another, it's caring for a child; for another, it's helping to alleviate world hunger; for still another, it's composing a popular song. Since this list could go on indefinitely, it might seem futile to seek a single, comprehensive account of what makes life worthwhile. But the concept of self-respect provides a unifying theme.

Despite the remarkable diversity of their pursuits, people agree that self-respect helps to give life value. As John Rawls puts it, "Without it (self-respect), nothing may seem worth doing, or if some things have value for us, we lack the

will to strive for them." Self-respect protects people from despair while it enhances their resolve to carry out their plans and intensifies their satisfaction in fulfilling these plans. In view of this multiple function, the prevailing consensus that self-respect is desirable comes as no surprise. Still it is not at all obvious how self-respect is related to the myriad occupations that people engage in (Covey 2000).

A person who has self-respect is able to lead a more rewarding life than a person who is burdened by self-contempt. But how do people gain self-respect? Part of the explanation lies in our upbringing. Attentive, supportive parenting fosters self-respect. Yet since we have no control over this childhood experience, it is important to consider how as adults we can build upon this early care or, if necessary, overcome the lack of it. In this essay, I shall argue that personal integrity is necessary for self-respect and that rights can promote self-respect by allowing for personal integrity (Rubinstein and Kochan 2001). Applying these results to the work world, it becomes obvious that employers ought to recognize certain work-related rights. For the right to employment, the right to equal opportunity, and the right to participate in job-related decisions encourage personal integrity. In so doing, these rights give persons the chance to make their work meaningful.

As everyone familiar with American and British labour history knows, the late nineteenth century saw waves of short-lived producer cooperatives in Britain and in the United States (Logue and Yates 2001). Their quick demise convinced trade union leaders that in a capitalist economy unionism and collective bargaining held out a much more realistic promise of gains for workers than producer cooperatives. In both countries, and in Europe as well, labour and socialist movements largely abandoned producer cooperatives as a major short-run objective. Most academic observers, including labour economists and social historians, concluded that the labour-managed firm was a rejected and forlorn utopian idea irrelevant to a modern economy (Covey 2000).

In recent years, however, a number of factors have brought about a reassessment of the relevance of the older experience. These include the highly unsatisfactory performance of both corporate capitalism and bureaucratic socialism, whose failings have stimulated a search for a third alternative; some stunning successes, such as the U.S. plywood cooperatives and the Mondragon group; formal economic analysis showing how a labour-managed market economy would theoretically satisfy efficiency criteria (Corby and White 1999); growing awareness of the need to reduce the hierarchical structure of the workplace and increase participation by workers in order to increase productivity; and the seeming success of many new

arrangements for worker participation, control, or ownership in Europe and the United States.

Although rigorous comparisons of the relative efficiencies of labour-managed and conventional corporations are difficult and still fairly uncommon, the best analysis (Rubinstein and Kochan 2001) of a broad range of experiences in a number of different countries appears to support these conclusions: participation by workers in decision-making rarely leads to a decline of productivity; far more often it either has no effect or results in an increase in productivity.

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