

WHAT DO WORKERS WANT: REFLECTIONS ON THE IMPLICATIONS OF THE FREEMAN AND ROGERS STUDY

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Despite talk in the media and academia concerning worker attitudes about unions and workplace participation, there is precious little data to inform any of these discussions. Thus, research of the scope and scale of the Workplace Representation and Participation Study is of enormous value to the field of industrial relations because it provides important insights into worker attitudes about their jobs, rights, power, and future opportunities.

Yet, because there is so little other data available to put Freeman and Rogers's research into context, it becomes all the more essential that we bring great care to our analysis of their findings. This is especially true when we examine the question of whether workers do want more participation and, if so, what form it should take. At the center of the Freeman and Rogers study are several key words: power and cooperation, employee association and union, independent and collective voice, and discussions and negotiations. These words are most likely interpreted very differently by each worker surveyed and each reader of the analysis.

The problem with Freeman and Rogers's research is captured best in questions 49b and 49c in the survey. Question 49b asks "Do you think employee organizations can be effective *even if* management does not cooperate with them, or do you think they can *only* be effective if management cooperates?"¹ Not surprisingly, seventy-three percent answered that employee organizations can only be effective if management cooperates with them.² Question 49c asks, "Which *one* of these employee organizations would you prefer? ... [1] One that management cooperated with in discussing issues, but had no power to make decisions [or 2] One that had more power, but management opposed."³ Sixty-three percent of those surveyed by Freeman and Rogers said they preferred an organization

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1. RICHARD B. FREEMAN & JOEL ROGERS, WHAT WORKERS WANT 176 (1999).

2. *Id.* at 57.

3. *Id.* at 176.

without decision making power that management cooperated with, while only twenty-two percent reported that they would prefer a powerful organization that management did not cooperate with.⁴

What do these answers tell us? Some would argue that the responses seem quite obvious. As Joel Rogers said in a December, 1994 editorial in *The Nation*, shortly after the study came out, "[o]f course workers want 'cooperative' dealings with management. If someone had a lot more power than you, wouldn't you want them to be in a cooperative mood?"⁵

Yet, I would argue that there is something much more subtle at play here that comes back to why employers cooperate with workers. Why, under our current labor laws, does an employer ever agree to recognize a union or bargain an agreement? In a non-union workplace, why does an employer ever agree to meet with workers and address their concerns? Certainly employers do not cooperate because the workers or the union convince them that the best way to be competitive and flexible in the global economy is to do what the union wants. American workers and their unions will never win that global race to the bottom because there will always be some worker, somewhere, who will agree to work harder and faster for less money. Nor do employers cooperate because our labor laws have the level of enforcement and penalties that can induce employers to respect workers' rights to organize and collectively bargain.

Instead, what we know is that employers cooperate with workers, address their concerns, and/or give them a voice only when the cost of not doing so—to company profits, flexibility, and public relations—is greater than the cost of cooperation. That is to say, employers cooperate with workers when workers have the power in both the workplace and the broader community to convince employers that cooperation is in their, the employers', interest.

It is clear that the workers in Freeman and Rogers's study understood this, as well. They knew that absent employer cooperation, they had nothing. If employers refuse to listen, respond, or concede—in other words, refuse to cooperate—then power is meaningless. Naturally workers would choose an organization that the employer would cooperate with over one that the employer would not cooperate with because the former must have had some power, while any power the latter had must not have been real.

The problem is that question 49b in the survey never mentioned the third and fourth options—a powerful organization with which the employer cooperated, or a weak organization with which the employer did not cooperate. If the survey had listed those options, the overwhelming

4. A/, at 57.

5. Joel Rogers, *Talking Union*, 259 NATION 784,785 (Dec. 26,1994).

majority of those surveyed would have chosen a powerful organization that the employer cooperated with. Workers understand that the true measure of the power of worker organization is the level of cooperation it receives from the employer. In reality, workers are most likely to choose unions and power when management is not willing to address their concerns, and is unwilling to cooperate.

So what does this tell us about what kind of participation, voice, and power workers want in the workplace? Unfortunately, Freeman and Rogers's findings may tell us more about workers' pragmatic perceptions of what is possible than their hopes, wants, and dreams. As the study shows, workers know only too well the risks inherent in demanding an independent voice in the private sector workplace. As I have found in more than a decade of research on employer behavior in union organizing campaigns, the overwhelming majority of employers do everything possible, both inside and outside of the law, to keep their workplaces union free. One in four workplaces discharge workers for union activity, more than half threaten to close down all or part of their facility if workers succeed in organizing, and under the cover of employer free speech, more than ninety percent use captive audience meetings, supervisor one-on-ones, and a steady stream of letters and leaflets to aggressively put out their anti-union message.⁶ In combination, these legal and illegal employer tactics create a climate so fraught with fear and conflict, that it seems as if workers must jump through successive hoops of fire just to exercise their legal right to choose a union in their workplace.⁷

Employer opposition to unionization does not stop once the election is won. The majority of employers continue the meetings, threats, stalling, and intimidation throughout the first contract campaign, so that only two-thirds of the units where the union won the election, and fewer than a third of the 400,000 private sector workers who attempt to organize each year, end up being covered by a collective bargaining agreement.⁸ As Freeman and Rogers found, even those that do not attempt to organize are well aware of the potential for employer opposition.⁹

Faced with these odds, it is little wonder that so many workers do not see unions as a viable alternative, but instead hope against hope for another form of employee organization that would get the employer to cooperate with them without the terrible risks and costs involved in a union

6. See Kate Bronfenbrenner, *Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages, and Union Organizing*, A Report Submitted to The United States Trade Deficit Review Commission, at 43-48 (Sept. 6, 2000) (discussing anti-union tactics of employers and their effects).

7. *Id.*

8. *Id.* at 54.

9. FREEMAN & ROGERS, *supra* note 1, at 60.

organizing campaign. As Tom Juravich and I argued in a *Newsday* op-ed piece shortly after the Freeman and Rogers's study was released:

[I]t is a leap of faith to assume that this increased interest in cooperation is of the same order that trade unionism was for workers a generation ago—and a genuine replacement for it.

What Freeman and Rogers have identified is not a new social movement about to burst forth on the scene. Instead, they have captured the quiet mass resignation of American workers to a system that robs them of any hope for real power on the job

If one had polled workers in the 1920s, the findings would have been very similar. Workers' organizations had been rendered powerless by the law. With few other options, many participated in the company unions that were the equivalent of today's employee-involvement programs.

Yet, just as today, these employee-representation plans did not embody the hopes and dreams of workers and their families. And as soon as the social and political climate changed in the 1930s, the Congress of Industrial Organizations burst forth with a level of mass organization unheard of among American workers.¹⁰

What Freeman and Rogers have captured is the same phenomenon that explains why, despite the longest economic expansion in recent history, real wages for American workers have remained relatively flat.¹¹ Yes, many Americans are doing better than in the recent past.¹² In the context of corporate mergers, leveraged buyouts, contracting out, and capital flight, however, there is a greater sense of economic insecurity today than there was in the depths of recession of the 1980s.¹³ As Federal Reserve Chairman Alan Greenspan explained in his testimony before the Senate Banking Committee in February 1997, it is this "[a]typical restraint on compensation increases [which]... appears to be mainly the consequence of greater worker insecurity" which has driven our "sustainable economic expansion."¹⁴

10. Tom Juravich & Kate Bronfenbrenner, *Obits for Unions are Premature*, *NEWSDAY*, Jan. 12, 1995, at A37.

11. Bronfenbrenner, *supra* note 6, at 1-8.

12. *Id.*

13. *Id.*

14. Statement of Alan Greenspan, *Prepared Statement of Board of Governors of the Federal Reserve System Before the House Banking and Financial Services Committee, Domestic and International Monetary Policy*, FEDERAL NEWS SERVICE, Mar. 5, 1997, available at NEXIS, News Library, FEDNEW FILE.

To learn more about what workers want, we must look at the public sector. This does not mean that we should focus our attention on unorganized workers in states without collective bargaining, like those Freeman and Rogers surveyed in their public sector study. Unfortunately, those workers have even less hope of being able to organize than workers covered under our private sector labor laws. Instead, we should look at the tens of thousands of state and local workers in public sector jurisdictions covered by collective bargaining laws who are enthusiastically choosing unions with win rates, victory margins, and election turnouts all above eighty-five percent.¹⁵

These public sector workers operate in a climate largely free from the kind of brutal opposition routinely faced by workers organizing in the private sector. Yet, these workers—teachers, clerical workers, snow plow drivers, fire fighters, computer programmers, and city managers—are not inherently different from their counterparts organizing in the private sector. What is different is the extent and nature of employer opposition in the public sector, namely that one quarter of all public sector employers do not offer any opposition, and only eight percent run the kind of aggressive anti-union campaigns that are the norm in the private sector.¹⁶

What the data from the public sector tells us is that workers want unions and readily choose unions if they can achieve them without jumping through those hoops of fire. What Freeman and Rogers's findings reveal is that even with those hoops of fire, forty percent of private sector workers state that they would choose a union if an election were held in their workplace today.

What of those workers in the Freeman and Rogers study, however, who said they wanted something else; some kind of less adversarial alternative to unions? A clear majority expressed a desire for an employee organization where they could elect their own leaders, resolve grievances through independent third party arbitration, and gain access to company information. More than eighty percent reported that they believed that they enjoyed just cause protection under current employment laws.

What if the workers being surveyed had been told that the only workers and workers' organizations who enjoy these rights and powers were organized and covered by union collective bargaining agreements? What if they knew and understood that ninety percent of their unionized counterparts reported on the survey that being union and staying union is worth it?¹⁷ Then, perhaps, the responses of the unorganized workers Freeman and Rogers surveyed would have been quite different.

15. KATE BRONFENBRENNER & TOM JURAVICH, UNION ORGANIZING IN THE PUBLIC SECTOR 5-10 (1995).

16. *Id.*

17. FREEMAN & ROGERS, *supra* note 1, at 60.

We must also wonder what the responses would have been if the survey had been conducted today, rather than at labor's toughest moment in the early 1990s, when Leo Troy's projection of union density dropping to seven percent by the year 2000 seemed all too real.¹⁸ Today, we would most likely find a very different set of responses when workers are seeing unions win strikes at large companies such as UPS, Boeing, Verizon, and Bridgestone/Firestone. Unions are winning major organizing campaigns with janitors, hotel workers, textile workers, airline ticket agents, nurses, and home care workers, focusing on issues that resonate with organized and unorganized workers alike. Unions are changing the face of the labor movement. Union leaders and activists in the news today are young and old, male and female, white collar or blue collar, immigrant or native born. We do not know, and will not, know the answer to that question until there is more research of the scope and scale of the Freeman and Rogers's study—research that frames the questions in a manner that better captures the reality of the power dynamic in today's workplace. It is a challenge for industrial relations research that must be met if we are to speak accurately and knowledgeably about what workers want in the twenty-first century workplace.

18. Leo Troy, *Big Labor's Big Problems*, Bus. & Soc'Y REV., 49 n.87 (Fall 1993).