

## The Expansion and Implications of Various Forms of Collective

### Representation in the United States

By Harry Katz, Cornell University

(The following article is an excerpt from Professor Katz's farewell address as president of the Labor Employment Relations Association)

#### The Growth of Collective Representation

I have been student of collective bargaining my entire career as much of my scholarship and teaching has focused on understanding why and how U.S. collective bargaining evolved over the post- World War II period. What I am now struck by is the fact that various new organizations are being used by employees to pursue group action do as to improve those employees' terms and conditions of work. Let me first describe how I came to see this emerging trend as the origins of my thinking leads me to a related point about this development, namely, that the U.S. labor relations system is becoming increasingly similar to the labor relations systems that exist in emerging countries.

With Tom Kochan and Alex Colvin three years ago I published a textbook, "Labor Relations in a Globalizing World" (2015). In that book we trace how core principles about bargaining power and negotiations can be used and, in some cases appropriately modified, to describe labor relations in emerging countries. We focus in particular on recent developments in China, India, Brazil and South Africa as case illustrations and also focus on those countries because they are major players in the global economy. As we describe, in emerging countries

the activities of non-governmental organizations (NGO's) has become a more significant influence on employees' terms and conditions of employment than trade unions. This past year Tom, Alex and I published the 5<sup>th</sup> edition of our U.S. collective bargaining textbook (Katz, Kochan, and Colvin, 2018). In that book we spend a significant amount of space describing how NGO's have become a significant force within U.S. labor relations. Perhaps it was the fact that we had been alerted to the role that NGO's are playing in emerging countries that led us to recognize the influence of NGO's in the U.S. as well as the fact that the growing influence of NGO's was becoming the subject of labor relations research and current events.

These NGO's include worker rights groups such as the Immokolee Coalition (Marquis 2017, Brudney 2016). They also include the worker and immigrant rights centers organizations that Janice Fine has brought to all of our attention (Fine 2006). The affinity groups that have emerged within many non-union companies represent another type of NGO focused on improving work conditions, where the inadequacy of existing complaint procedures at Uber and other companies has become a key issue. (Maffei, 2018a and 2018b) The recent grassroots protests of teachers in West Virginia, Oklahoma, and Arizona can be viewed as another type of collective representation both because they involve mass action, focus on improving teacher pay and work conditions, and don't involve formal collective bargaining.

The various collective representation campaigns mentioned above do not involve unions, yet it is interesting to note that even where unions are present within normal collective bargaining, including cases where those unions have a significant amount of bargaining power, those unions have become involved in issues that had not been addressed in collective bargaining agreements and were not part of standard union demands. Union involvement in work restructuring including joint steering committees, team work systems, and other forms of joint

governance, which began in the early 1980s should be recognized as an example of this type of collective representation, which broadens the nature of collective action. I have been studying several collective bargaining relationships where unions recently have become extensively involved in the determination and administration of employee health benefits. These are the VEBA's set up to run the UAW-represented retired workers at the Big Three auto companies and the systems providing health benefits to New York City's 340,000 unionized public employees. In both of these cases union involvement in the determination and administration of health benefits goes far beyond the traditional influence unions exerted in past bargaining. I see this involvement as an illustration of how collective representation can supplement and broaden collective bargaining. I find it particularly interesting that these latter examples of growing collective representation are taking place where unions are strong and are not leading to a diminished role for those unions.

#### Criteria That Can Help Inform the Assessment of Collective Representation

To help ascertain the influence and staying power of these various forms of increasing collective representation the following criteria should be assessed:

1. The degree to which employees exert an independent influence and voice via this representation. In other words, the degree to which a given representation process is free of managerial dominance.
2. The breadth and depth of the issues addressed by a representation process. Efforts that focus on a single issue such as the "Fight for \$15" should be seen as advocacy rather than representation. (Note, this is not to diminish the potential importance of this and other advocacy campaigns.)

3. The extent to which leaders of a representation effort are democratically elected. This relates closely to the first criteria listed above.
4. Perhaps most influential on the staying power of any representation process is whether that process is being institutionalized through agreements or procedures that not only clarify the channels of employee voice, but also provide a sustainable financial basis for a representation process.

In addition to the above, a central question for any and all collective representation processes is the degree to which they serve as a complement or substitute for traditional collective bargaining. The labor movement is rightly worried that many of the current representation initiatives might one way or another dissuade employees from seeking or supporting union representation. Where management dominates a given employee representation process it is reasonable to suspect that a key motivation for management in those settings is to reduce employee interest in unionization. While this is a legitimate worry it is instructive to remember research which shows that historically many employee associations that initially shunned collective bargaining did provide meaningful collective representation, such as the National Educational Association and police and firefighter benevolent associations, helped stimulate and lay the groundwork for the eventual wave of public sector collective bargaining that emerged in the early 1960s (Freeman and Ichniowski 1988). The lesson from the public sector is that collective representation can serve as a stimulant to collective bargaining and not necessarily be a substitute for such bargaining.

#### The Diversity in Employee Representation and Voice Desires

There is new evidence that when asked what issues they want to express through enhanced voice mechanisms employees have diverse interests. (Kochan, Kelly, Yang and Kimball, 2018). What

is not clear is whether the diversity of wants expressed by employees now is really more diverse than what employees would have said if they had been similarly surveyed in the 1920s before unionism became more common in the U.S. Maybe due to changes in the nature of work or the diverse demographic composition of the workforce employee interests truly have become more diverse. But perhaps a lack of experience with voice mechanisms among current employees contributes to diverse wants and if current collective representation forms were to become regularized and more familiar to employees, greater convergence in employee wants might emerge.

#### Similarities in the Labor Relations Systems in the U.S. and Emerging Countries

As mentioned earlier, my recognition of the importance of collective presentation in the U.S. was in large part stimulated by my awareness of the central role that NGO's play in emerging countries. (For evidence on the latter see Eaton, Schurman, and Chen, 2017) On the one hand, recognition of the growing influence of, and variety of, collective representation organizations and processes in the U.S, can be viewed as a positive development in that these new forms of representation provide a potential vehicle by which the "representation gap" that exists in the U.S. can be closed. (Freeman and Rogers, 2006) Yet, there is a more worrisome aspect to this development, namely, that it is one among several ways by which the labor relations system in the U.S. is becoming more similar to the labor relations systems that exist in emerging countries. Other similarities the U.S. has with emerging countries are the very low level of union membership in the private sector and consequently collective bargaining where exists at all is found in the public or non-for-profit sectors, and the fact that labor relations mostly involves political rather than private action. While I, and I suspect many of you, earlier had hoped that the U.S. labor relations system would become more similar to the systems found in Europe

through the expansion of labor-management partnerships and statutory due process protections at the workplace, instead the U.S. in its labor relations is becoming more similar to a “third world” country.

### The Future

I am reluctant to forecast whether the growing collective representation processes will reverse this trend and stimulate collective bargaining or become so institutionalized as to provide a widespread means of employee voice. When making predictions about the evolution of labor relations I keep in mind that no academic in our field in the 1920s forecast the explosive growth in unionism that took place in the 1930s. While our ability to forecast may be limited, I do think it is imperative that we recognize the serious nature of this change in the form through which employees are trying to influence the terms and conditions of work and we should shift our research and teaching accordingly.

## References

- Brudney, James J. “Decent Labour Standards in Corporate Supply Chains: The Immokalee Workers Model, in *Temporary Labour Migration in the Global era*, Owens & Howe eds., Hart Publishing, London, 2016.
- Eaton, Adrienne E. Susan J. Schurman and Martha A. Chen eds. *Informal Workers and Collective Action: A Global Perspective*, ILR Press: Ithaca, 2017.
- Fine, Janice. *Worker Centers: Organizing Communities at the Edge of the Dream*, ILR Press, Ithaca, 2006.
- Freeman, Richard and Casey Ichniowski eds., *When Public Sector Workers Unionize*, NBER Conference Volume, University of Chicago Press, Chicago, 1988.
- Freeman, Richard and Joel Rogers, *What Workers Want*, ILR Press, 2006.
- Katz, Harry C. Thomas A. Kochan and Alexander J.S. Colvin, *Labor Relations in a Globalizing World*, ILR Press: Ithaca, NY, 2015.
- Katz, Harry C. Thomas A. Kochan and Alexander J.S. Colvin, *An Introduction to U.S. Collective Bargaining and Labor Relations*, fifth edition, ILR Press: Ithaca, NY, 2017.
- Kochan, Thomas A, Erin L. Kelly, Duanyi Yang and William Kimball, “Worker Voice in America: A Current Assessment and Exploration of Options,” MIT working paper, presented at the LERA National Meeting, Baltimore, June 2018.
- Maffei, Michael. “Logging Out: Conflict & Behavioral Responses in the Rideshare Industry,” presented at the LERA National Meeting, Baltimore, June 14, 2018a.
- ..... “Three Essays on Employment Relations in the Rideshare Industry,” unpublished PhD thesis, ILR School, Cornell University, Ithaca, NY 2018b.
- Marquis, Susan L. *I Am Not a Tractor: How Florida Farmworkers Took On the Fast Food Giants and Won*, ILR Press, Ithaca, 2017.