

Workers, the World of Work & Labor Law: A Basic Bibliography

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The emergence of the market in labour power required the dissolution of the reference groups [that are the primary source of our conceptions of 'the Good,' of our most important moral values and principles], so that one subject came to face another no longer within the web of norms presented by the sharing of various reference groups. Instead, one subject came to face another solely as competitor in the market to supply Capital with labour power necessary for the maximisation of profit. Capital needs labour power to be freed from the normative bonds of our actual traditions, or else its supply will be economically inefficient. And of course, for Capital, the only measure of the adequacy of its supply is the economic efficiency in terms of profit maximisation. [...] Capitalism cannot abide the construction of relationships other than those economic ones in which it places one labourer in relation with another. [...] For capitalism to flourish, moral agency must be replaced by economic agency and therefore it is no good trying to put a 'human' face upon capitalism. As long as the underlying economic arrangement is a capitalist one, there is no room for the construction of the reference groups required to make that face more than a shallow mask. —Michael Luntley in *The Meaning of Socialism* (1990)

Apologia

This bibliography contains a number of titles dealing with "workers," the "world of work" generally, and "labor law" in particular, so as to account for some of the more compelling reasons we should assiduously attend to the complex economic and moral questions (the former often including some of the latter) regarding the labor, working conditions, and leisure time of working people. I suspect much of the general public in this country is woefully ignorant of the history of workers organizing to better represent and defend their interests, some of which coincide with basic human rights. Moreover, workers themselves are increasingly misled or confused as to what is in their best (or true) interest(s), as when they are seduced by the siren songs of conspicuous consumption, upper class incomes, or so bewitched by capitalist ideologies they cannot conceive, let alone believe in, the possibility of an alternative economic system to the one that today so ruthlessly rules their lives. There are several more than plausible reasons that might account for the fact that many workers fail to appreciate what is in their own best interests. As Jon Elster has argued,

"Marx's most original contribution to the theory of belief formation was...his idea that economic agents tend to generalize locally valid views into invalid global statements, because of a failure to perceive that causal relations that obtain *ceteris paribus* may not hold unrestrictedly. For instance, although *any* worker may be seen as the marginal worker, not *all* workers can be at the margin. This is a local-global fallacy that leads to cognitive failures, different from yet related to the local-global confusions that lead to

failures of action. This is perhaps the most powerful part of the Marxist methodology: the demonstration that in a decentralized economy there spontaneously arises a *fallacy of composition* with consequences for theory as well as for practice. [...]

“Outside the factory gate, no one can tell the worker what to do. He can purchase the goods he wants to, within the limits of his wage. He can change employer, within the limits of alternative employment. He may even try to become self-employed or an employer himself, and sometimes succeed. That freedom, while ultimately a danger to capitalism, has useful short-term ideological consequences, since it creates an appearance of independence not only from any particular capitalist, but from capital itself. [...]

Both the freedom to change employer and the freedom to become an employer oneself give rise to ideological illusions that embody the fallacy of composition. The first is the inference from the fact that a given worker is independent of any specific employer to the conclusion that he is free from *all* employers, that is, independent of capital as such, to the conclusion that *all* workers can achieve such independence. It might look as if the conclusion of the first inference follows validly from the premise of the second, but this is due merely to the word ‘can’ being employed in two different senses. The freedom of the worker to change employer depends, for its realization, mainly on his decision to do so. He ‘can’ do it, having the real ability to do so should he want to. The freedom to move into the capitalist class, by contrast, only can be realized by the worker who is [to quote Marx] an ‘exceedingly clever and shrewd fellow.’ Any worker ‘can’ do it, in the sense of having the formal freedom to do so, but only a few are really able to. Hence the worker possesses the least important of the two freedoms – namely the freedom to change employer – in the strongest sense of these two senses of freedom. He can actually use it should he decide to. Conversely, the more important freedom to move into the capitalist class obtains only in the weaker, more conditional sense: ‘every workman, if he is an exceedingly clever fellow...can possibly be converted into an *exploiteur du travail d’autrui*.’ Correlatively, the ideological implications of the two freedoms differ. With respect to the first, the ideologically attractive aspect is that the worker is free in the strong sense, while the second has the attraction of making him free with respect to an important freedom. If the two are confused, as they might easily be, the idea could emerge that the worker remains in the working class by choice rather than necessity.” From Jon Elster’s *Making Sense of Marx* (Cambridge, UK: Cambridge University Press, 1985): 208 and 211 respectively.

In addition, as Joshua Cohen and Joel Rogers explain, the nature of “capitalist democracy” places structural constraints on both the articulation and satisfaction of interests within the system. With regard to the latter, for instance, and owing to their control of investment, “the satisfaction of the interests of capitalists is a necessary condition for the satisfaction of all other interests in the system,” which means “the welfare of workers remains structurally secondary to the welfare of capitalists,” a fact we conveniently forget in times of economic abundance and low unemployment but is resurrected in the wake of the cycles, crashes, and panics endemic to capitalism. The decisions of capitalists are directly responsible for the well-being of workers, and thus we see the “interests of capitalists appear as general interests of the society as a whole,

[with] the interests of everyone else appear as merely particular, or 'special.'" As for the articulation of those interests inextricably tied to basic human and political rights:

"In a capitalist democracy the exercise of political rights is constrained in two important ways. In the first place, the political rights granted to all citizens, workers among others, are formal or procedural, and not substantive. That is, they do not take into account in their own form and application the inequalities in the distribution of resources, characteristic of capitalism, which decisively affect the exercise of political rights and importantly limit their power of expression. [...] Capitalist democracy also tends to direct the exercise of political rights toward the satisfaction of certain interests. The structuring of political demand, or what we call the 'demand constraint,' is crucial to the process of consent. [...] [C]apitalist democracy is in some measure capable of satisfying the interests encouraged by capitalist democracy itself, namely, interests in short-term material gain.

This "demand constraint" canalizes the articulation of the interests of working people into the exclusive pursuit of economic advantage, in part owing to the ubiquitous conditions of "material uncertainty" for all but the wealthy classes: "There is a characteristic economic rationality to the actions of workers encouraged by capitalism. In the face of material uncertainties arising from continual dependence on the labor market under conditions of the private control of investment, it makes sense for workers to struggle to increase their wages."

This point is reiterated in a different way with regard to prevailing Left-leaning Liberal ideology in the following observation by the political scientist, Ian Shapiro:

"The ambiguous moral status of Keynesianism and welfare economics has always inhered in the fact that they appeal to the short-term interests of the disadvantaged (such as unemployed workers and firms on the verge of bankruptcy during recessions) by ensuring subsistence, creating employment, and expanding credit, yet these policies are geared in the medium term to sustaining the system which generates those very disadvantages—hence the ironic force of Joan Robinson's quip that the one thing worse than being exploited is not being exploited at all." (Ian Shapiro, *The Evolution of Rights in Liberal Theory*, 1986: 152-153)

This dramatically lessens the likelihood that workers will spontaneously awaken the requisite energy and craft the collective tools necessary for critiquing and transcending the system as such, hence the role of activists, organizers, intellectuals, social movements, trade unions, and so on that serve—ideally—to selflessly lead workers in their own efforts at collective self-emancipation. As Rudolf Bahro reminds us,

"[I]n no known historical case did the first creative impulse in ideas and organization proceed from the masses; the trade unions do not anticipate any new civilization. The political workers' movement was itself founded by declassed bourgeois intellectuals, which in no way means that the most active proletarian elements did not soon come to play a role of their own in the socialist parties and tend themselves to become intellectuals" (Rudolf Bahro, *The Alternative in Eastern Europe*, 1978).

As for the “ignorance” and inattention of all too many academics and intellectuals on these topics, in particular those not intimately acquainted with the Marxist tradition, one can’t help but suspect ideological and socio-psychological mechanisms (e.g., states of denial, self-deception, wishful thinking; ideological delusions and illusions generally) are responsible for their conspicuous failure to actively commit themselves to any one or several of the myriad means available for ameliorating and transforming the conditions of the world of work. Precious few lawyers, for instance and comparatively speaking, are devoted to assisting workers in such tasks as collective self-organization, collective bargaining, and defending the rights of both organized and unorganized workers. Such task-specific “cause lawyering” (see Sarat and Scheingold: 1998; cause lawyering is arguably most conspicuous among criminal defense lawyers) is but part of a general emancipation consisting in “the liberation of individuals from all socially determined limitations on their development,” and is accomplished to the degree “that men [and women] are positively placed in a position to appropriate the social totality – or to put it another way, to make subjectively their own the quintessence of the overall cultural achievement that mankind has so far produced or reproduce (i.e., handed down)” (Bahro: 255). The conditions for general emancipation, as Bahro reminds us, “go far beyond the provision of material means in the narrower sense,” and hence transcend the primary interests engendered by capitalist democracy, “namely, interests in short-term material gain.”

Progressive cause lawyering on behalf of labor organizations and movements, as well as social justice and democratic struggles intrinsic to the world of work more generally, can be understood as acting in response to the Sartrean “plea for intellectuals” in so far as it

1. struggle[s] against the perpetual rebirth of ideology amongst the popular classes. In other words, [it] should attack externally and internally every ideological representation that they entertain of themselves or their power (the ‘positive hero,’ the ‘personality cult,’ the ‘glorification of the proletariat’...).
2. make[s] use of the capital of knowledge [the intellectual] has acquired from the dominant class in order to help raise popular culture – that is to say, the foundations of a popular culture.
3. help[s] to form technicians of practical knowledge within the underprivileged classes...in the hope that they will become the organic intellectuals of the working class....
4. [endeavors to] radicalize actions under way, by demonstrating the ultimate objectives beyond immediate aims – in other words, universalization as a historical goal of the working class. (Jean-Paul Sartre, ‘A Plea for Intellectuals,’ a series of lectures delivered in Tokyo and Kyoto in 1965 and published in Sartre’s *Between Existentialism and Marxism*. New York: Morrow Quill, 1979: 228-285.

The basic assumption here is that such intellectuals will be committed to what Sartre called – and Gandhi embodied in the practice of the *satyāgrahi* – “a concrete and unconditioned alignment with the actions of the underprivileged classes.”

We need to ask ourselves if neo-Keynesian and welfare economics is capable of accomplishing what the New Deal and World War II did in the last century, namely, saving capitalism from itself. The manias, crashes, and panics endemic to capitalist cycles (Meghnad Desai) have heretofore been subject to (i.e., tempered or tamed by) Keynesian and conventional or neo-classical economic discipline, but one wonders if the combined effects of global economic consolidation and environmental degradation are creating conditions that render obsolete calcified models of neo-classical economic growth and capital accumulation. To be sure, in several important yet under-appreciated ways, the World Trade Organization (WTO), as an institution of global economic governance, represents economic and political progress (as Desai points out, its 'structure is the most egalitarian of any of the international institutions – one country one vote'). Are the IMF and the World Bank amenable to truly social democratic-like economic reform? Can existing global institutions become susceptible to democratic transformation while a significant number of member states in the world system remain internally authoritarian? In short, is it possible to achieve a *globally* egalitarian (neo-) Keynesian Golden Age?

Poverty remains recalcitrant in several regions of the world alongside increasing regional and global inequality, while extremely high levels of unemployment around the globe appear disturbingly obdurate, economic facts we might grant without in any way diminishing the historic significance of capitalism for unprecedented wealth creation (and thus betterment of standards of living if not quality of life indices). Are we, at last, reaching the structural limits of capitalist economic logic? Have we exhausted the economic and bourgeois virtues of the neo-classical economic worldview? Or, are we merely at the lowest ebb of an economic cycle that will be cured by some fortuitous combination of conventional and creative politico-economic policies crafted by prudent democratic leaders of countries North and South? Is this a propitious time for contemplation of the imminent dissolution of the "aristocracy of capital" and the "economization of social relations?" Is our time ripe for (re)articulation of the authority of the Good by way of abandoning purely neoliberal capitalist criteria for market success? Are we prepared to break, once and for all, the structural socio-economic and political constraints of "*capitalist* democracy?" Must the welfare of the many and their generalizable interests remain subordinate to the welfare of capitalists and their particular or special interests? Are the interests of working people fated to be canalized into the exclusive pursuit of economic advantage? Must labor markets remain plagued by the material uncertainties and insecurities intrinsic to the private control of investment within the terms of finance capitalism?

The distorted and artificial needs and the individually and socially harmful desires generated by hyper-industrialized casino capitalism finds the masses in a state in which they feel an overwhelming need to be psychologically indemnified by the possession and consumption of as many goods and services as possible, in a socio-economic world in which conspicuous consumption exists side-by-side with absolute and relative poverty. Capitalist democracy remains committed to the aristocracy of Capital, meaning that, in the end, the special interests of capitalists trump generalizable interests tied to a common good committed in the first place to individual self-realization, while economic insecurity compels workers to canalize their interests in the struggle for higher wages or

short-term material gain. The aristocracy of Capital and the commodification of labor finds workers dehumanized insofar as they're indemnified by the false promises of conspicuous consumption and irresponsible affluence. This serves to utterly distort the pursuit of happiness or human flourishing and blocks generalization of the opportunity for individuals alone and in concert to instantiate the myriad virtues and uniquely realize the complementary motley values that make for human fulfillment and flourishing.

Can we, instead, accord socio-economic primacy to creating the necessary (and thus not necessarily sufficient) conditions for generalizing psychological and moral individuation or self-realization? Assuming the capacity to meet basic material human needs, can we resort to criteria associated with the recognition and fulfillment of our moral and spiritual needs by way of the regulation of economic life and therefore subordinate economic life to establishing the conditions necessary for generalizing the pursuit of self-actualization or self-realization in a psychological, moral and spiritual sense, for generalizing the innate incentive toward worthy living, for generalizing, within the constraints of dignity and self-respect (as Dworkin says), the capacity for realization of what it means to live worthy lives? As John Dewey said, "Democracy has many meanings, but if it has a moral meaning, it is found in resolving that the supreme test of all political institutions and industrial arrangements shall be the contribution they make to the all-around growth of every member of society."

1. [Workers' Rights, Collective Bargaining & Labor Law](#)
2. [The World of Work: Economics, Technology & Industrial Relations](#)
3. [The World of Work & Organized Labor: History, Politics...](#)

Please note: Some of the titles may fall into more than one of the above rubrics but a decision was made to place them in just one category. I welcome suggestions for new titles.

1. [Workers' Rights, Collective Bargaining & Labor Law \(some of the case books listed below may be available in later editions\)](#)

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See too these sites:

AFL-CIO: <http://www.aflcio.org/>

American Rights at Work: <http://www.americanrightsatwork.org/>

Center for Labor Research and Education, University of California, Los Angeles:
<http://www.labor.ucla.edu/>

Center for the Study of Work, Labor, and Democracy (University of California, Santa Barbara): <http://www.history.ucsb.edu/projects/labor/index.html>

Coalition of Labor Union Women: <http://www.cluw.org/>

Dollars and Sense: <http://www.dollarsandsense.org/>

Dolores Huerta Labor Institute: <http://www.dhli.org/>

Harry Bridges Center for Labor Studies, University of Washington:
<http://depts.washington.edu/pcls/>

International Labour Organization: <http://www.ilo.org/>

Jobs With Justice: <http://www.jwj.org/>

Justice for Janitors: <http://www.seiu.org/property/janitors/>

Labor History Links (with annotated bibliography organized by chronology and topic):
http://www.niu.edu/~rfeurer/labor/reference_%20websites.html

Labor Net: <http://www.labor.net.org/>

Labor Notes: <http://labornotes.org/index.shtml> (the links are indispensable)

Labor Party: <http://www.thelaborparty.org/>

Labor and Working Class History Association (LAWCHA): <http://www.lawcha.org/>

LabourStart: <http://www.labourstart.org/>

Left Business Observer: <http://www.leftbusinessobserver.com/>

National Employment Law Project (NELP): <http://www.nelp.org/>

New Labor Forum: <http://qcpages.qc.cuny.edu/newlaborforum/index.html>

School of Industrial and Labor Relations, Cornell University (ILR School):
<http://www.ilr.cornell.edu/>

United Professionals (UP): <http://www.unitedprofessionals.org/>

Working-Class Perspectives: <http://workingclassstudies.wordpress.com/>

Workplace Prof Blog: http://lawprofessors.typepad.com/laborprof_blog/