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# “Collective Representation”

## A Conservative Defence



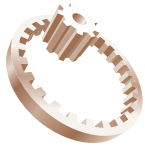
BY

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**R**eading my title on this conference program and knowing this audience of prominent conservative thinkers and policy makers, someone quipped that there might be hope in uniting the conservative family. “After all,” he said, “Whatever divides the paleos from the neos, the traditionalists from the libertarians, or the fusionists from the new conservatives, igniting conservative passions against trade unionists and their policies will certainly provide enough heat to melt all of the differences away.”

Uniting the conservative family is a noble cause, but my objective is neither to stoke the flames against a common enemy nor to single-handedly overcome the antipathy that conservatives generally express for union policies and practices. You will notice that I use the term collective representation rather than unionism in my title. This is to highlight that I am not seeking to defend the status quo of either our industrial relations system or the organizations that are identified with it.

Those familiar with my work will know that I advocate fundamental change in our industrial relations system. The adversarial premises of the North American Wagner model are flawed. There ought to be meaningful choices available to workers, not only as to whether they want to be represented by a union, but also regarding the type of union that they wish to join. Labour organizations need to provide different types of services to meet the needs of a changing workforce. As well, different philosophies drive union representation, and, for all of the diversity and pluralism that one can find in Canada, **only a relatively narrow range of opinion is represented in our labour organizations.**

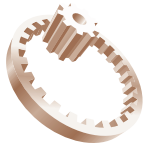
However, while advocating significant changes, I do remain convinced that having independent organizations dedicated to representing workers’ concerns is an important good worth promoting, and this reflects a probable point of departure with the thinking of many in this room. A decline in union density numbers is not, in my view, something that should be celebrated. I do understand, given the historical development and general ideological direction of the North American labour movement, why many disagree and would find my position surprising. Nonetheless, I am convinced that a compelling case can be made at both a philosophical and practical level as to why conservatives can promote policies that encourage workers to join and participate in the activities of institutions formed for the purpose of representing workers.

**B**efore making this case, it is probably helpful to provide a sense of what I mean by the term *conservative*. Rather than attempt a comprehensive definition, let me simply affirm three characteristics of conservatism that are particularly relevant for this discussion.

1. *Conservatives believe that the task of government is limited.* On this subject, my framework is borrowed from Abraham Kuyper, the turn-of-the century Dutch thinker and prime minister, who defined three tasks

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for government: 1) to create the space and provide for an efficient interaction for the institutions that makeup a civil society; 2) to defend weak individuals and institutions against those who would use coercive power against them, but always in a manner that does not *prescribe* outcomes that properly are the decision of other institutions; and 3) to take care of a limited number of matters that society has in common which fall in the proper sphere of the state. Other conservatives use different frameworks, but what we have in common is a view of limited government.

2. *Conservatives affirm that the market should be a primary organizing principle for economic life.* The interaction of supply and demand, the spark to creative discovery which it ignites, and the dignity afforded the human person in providing freedom and choice seem, in spirit, consistent with the purposes for mankind and a basic starting point with which most conservatives would agree. By this I do not mean that conservatives slavishly believe in the right of markets to run roughshod over every aspect of life. I know many conservatives share my concern about what markets do to people, feeding their materialist addictions by offering a consumerist cafeteria from which few seem able to resist the temptation to overindulge. But the misuse of something does not invalidate its proper use. Both markets and profits are positives whose proper use should be celebrated, not denigrated.

3. *Conservatives find an objective reference point for political action beyond personal preference.* Some conservatives appeal to history, others to religious truth claims or tradition. And from this stems the belief and emphasis on the freedom and dignity of the human person. For me, that freedom begins with an understanding of the human person

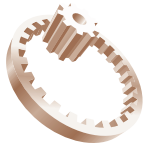
as an image-bearer of the Creator; I recognize that other conservatives find different points of departure. However, it is important to highlight that for all conservatives, freedom is an *a priori* principle that finds an authority outside of individual preference and is not merely an expression of a preference.

**L**imited government, free markets, and freedom based on some external point of reference—hardly an adequate definition to satisfy political theorists but probably a common enough starting point from which we can frame our discussion. In making my case, I will outline three basic arguments of a more philosophic nature and conclude with a fourth argument that is of a more pragmatic and practical nature.

**My first argument is that *the nature of working in a modern economy creates a natural demand for worker-representative institutions.*** I am thinking of workplaces that are of a significant enough size where formal structures are necessary and recognize that this argument does not apply equally to small workplaces, which are less reliant on formal structures. I am also limiting the case to the contemporary North American economy; the extent to which the argument holds true in other economies or in different historical circumstance goes beyond my purpose here.

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What is it about the nature of the modern workplace that creates this natural demand?



It is not a class struggle argument which pretends the workplace is one battleground in which a larger warfare for equality is being fought. My argument stems from the positive nature of work and the satisfaction it can give to workers. I won't take the time to review all of the literature but whether one references Maslow's hierarchy of needs or Herzberg's two-factor theory of motivation, few would argue with the premise that human beings need more than economic reward in order to be satisfied by their work, but, at the same time, meeting foundational economic rewards

is a prerequisite for achieving satisfaction. In more straightforward terms, money cannot motivate or be a means for real worker satisfaction, but lack of money can prevent worker satisfaction from being achieved.

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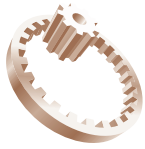
This starting point about the nature of work is important and needs to be emphasized. It may seem obvious and self-evident, but real-life experience reminds us all how easy it is to forget that if we reduce the workplace or a business enterprise to the making of money or define our success with only economic measurements, **those measurements will not be what we like them to be** in the long run. Ideas, relationships, and the workforce skills are every bit as much a part of economic growth as is the availability of physical capital. In fact, it is when our intellectual, human, and social capital are developed in proportion to the investment of physical capital that conditions we describe as economically prosperous are created.

So what does this mean for workers who come to work for a corporation today in this era of shareholder capitalism, where management is under pressure to show favourable returns on the next quarterly statement? In order to get the most out of those workers, we need to create a working environment where they are recognized, achieve the self-actualization that Maslow talks about, and are inspired to apply their creative energies and efforts to improving the product or service that they are being paid to provide. Providing a voice to these workers is not only necessary to ensure informed management decisions, but also because the process of being given a voice and being listened to is essential to worker motivation.

"No argument," the anti-union human resources executive responds. "But why does this require a third-party organization such as a union? Can't progressive-minded management practices ensure this voice is heard?"

Certainly it is possible, and I recognize that some do. At the heart of any responsible system of industrial relations must be the choice of workers.

But I will also hasten to remind these same executives that much of the energy expended towards these progressive programs is motivated by a desire to keep unions, and the negative baggage associated with them, out of the workplace. In our society, remaining non-union is perceived as a mark of success and the existence of a union a reflection of management failure. While I understand why this has developed, I want to make the case that we need to create an environment where the value added by worker organizations and the benefits they provide will challenge this assumption.



The principles of democratic choice and diversity that underpin my argument make it clear that I am not an advocate for a one-size-fits-all solution. I do need to emphasize that an independent institution provides certain benefits that an employer-created structure cannot. I would suggest that the independence of the institution could create trust and provide a condition for more honest answers. Bruce Kaufman, a professor of economics at Georgia State University specializing in labour economics and industrial relations, states the case well:

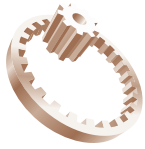
Although many non-union firms say they have an open-door policy, and many managers express a desire for feedback from subordinates, workers worry that speaking up will brand them as trouble makers or people who aren't team players, resulting in a bad image with the boss, lower performance evaluations and pay increases, and perhaps discriminatory treatment or even termination. A union can thus enhance efficiency because it replaces an ineffective individual voice with a stronger collective voice, leading to an increase in the supply of workplace public goods closer to the social optimum.

I would add one other aspect to the argument. The modern economic time is one in which the development of worker skills and staying current is vital for ongoing employability. An independent institution formed by workers which is driven by the mandate of looking after the workers' interests can play a valuable role in ensuring that skills are upgraded and developed in a manner that **enhances** employability and **maximizes** the portability of those skills.

**T**he second argument I need to address in making a conservative case for collective representation is an **economic** case. If support for markets is a hallmark characteristic of conservatism, then advocating for collective representation protections, often portrayed as interference in the free labour markets, needs to confront the argument head on. It's not surprising, therefore, that the economic argument in the conservative case for collective representation is a defensive one. However, I do hold that ***the argument against collective representation based on its negative economic effects is not in itself a compelling reason to oppose it.***

There are two viewpoints that are usually raised in this connection. First, union representation tends to drag down economic performance, and, therefore, less of it is economically preferable. Those in this camp do not question the basic premises of collective representation as practiced in North America and generally argue that these protections are necessary to protect workers from bad-apple employers who otherwise would take advantage of them. However, since they believe that unionization brings with it negative effects on economic performance, at both a company and macro level, they advocate policies whose effects are designed to lower unionization rates, with the expectation of corresponding improvements in economic measures.

The economic effects of unionism have been hotly debated since Freeman and Medoff's 1984 work *What Do Unions Do?* In it, they argued that "unionism on net probably raised social efficiency," and "recent trends have brought the level of union density below the optimal level."



Since that study, reams of competing studies and claims have been cited on opposite sides of the question. The World Bank's 2002 study is probably the most comprehensive in trying to adjust for factors such as labour standards, the system of organizing union and employer groups, dispute resolution processes, the prominence of sector groups, as well as short-term and long-term effects in different countries. After a comprehensive review of the data, the study states that

no general conclusions about the net costs or benefits of unions can be reached. Depending on the economic, institutional and political environment in which unions and employers interact, collective bargaining as opposed to individual contracting can contribute to the economic performance of firms and to the well being of workers. The macroeconomic impact of collective bargaining is hard to disentangle from the other determinants of economic performance.

A recent paper by Bruce Kaufman of Georgia State University outlines several additional economic arguments worth considering. He notes that union involvement can reduce turnover costs. A pure market model of employment must assume worker mobility. This in turn results in significant transaction costs associated with the recruiting, hiring, and orientation and training process (as well as the grievance and firing process for those who don't work out.) As well, he cites evidence that the presence of a union focuses the company on profit levels and provides a counter-balance to the natural management drift towards organizational slack and empire building. The negotiation process can provide a "credible commitment" process and overcomes the inherent prisoner dilemma conflict between worker commitment and

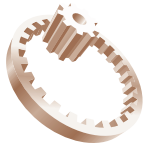
company profits that emerges in individual bargaining. Other arguments raised include the voice argument I already mentioned; the agency function provided by unions to firms, referring to the economy of scale savings that can be achieved through multi-employer arrangements for benefits and training; as well as labour market information.

Understanding that my argument is a conceptual one and not a defence of the status quo, sorting through the competing claims of economic data hardly helps.

I would point out, however, that much of the economic analysis supporting the claims that a labour market unfettered of collective representation would be more competitive and economically efficient is flawed in that it doesn't account for the monopoly power that would accumulate to employers. While these analyses try to measure the costs of union monopoly representation on the supply side of the labour market, the absence of unions would provide employers with a similar uncompetitive advantage on the demand side. Workers assume costs in moving from one firm to another because some of their knowledge and experience is firm specific and therefore is not readily transferable. Furthermore, the transaction costs with negotiating an individual contract with every worker would add significant costs when cumulated.

There are some conservatives who go much farther than simply arguing economic consequences. **They suggest that the**

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**right of exclusive representation in our industrial relations system is flawed** and that it is a matter of individual choice as to whether one should be bound to terms and conditions negotiated by the group. Each

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individual worker, they suggest, is a free agent. Those in this camp advocate policies that are often labelled right-to-work, which have been implemented in many U.S. states, New Zealand, and Australia. This argument is usually buttressed with flattering economic statistics, but it must be recognized that **the core of this**

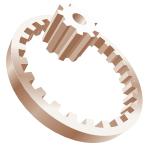
**argument is not about economics but rather the nature and scope of economic institutions.**

I agree that prevalent Canadian labour practices regarding closed shop and providing protection to individuals who do not wish to be involved with the union at a workplace are in need of reform. But there are plenty of ways to fix that problem without going to the right-to-work model. The right-to-work solution has an inherent fundamental problem—it organizes the workplace as if it were a series of individual relationships between workers and the employer, without giving the relationships of workers with each other their due. It drives choices about work to be determined primarily by their economic component, forcing the reduction of complex questions to resolution through rational choice theory. And, while this may even work in theory, in practice over time it cannot but commodify work and plant the seeds for a social division whose costs and consequences far exceed whatever ills it intended to solve.

**M**y third argument in building the conservative case for collective representation is that *collective representation institutions are a preferred and more effective alternative to government in enforcing minimum employment standards.* I acknowledge that there are wide divergences as to the extent and level of employment regulation that ought to be present in a society, but for the sake of argument, let us accept that everyone acknowledges that there are some lines that need to be drawn and employment practices against which employees require some protection.

One of the few areas of agreement between government critics on the far-left and the far right is the ineffectiveness of government agencies in the enforcement of employment standards. For most businesses that are well meaning and intent on obeying the law, enforcement requirements tend to be bureaucratic and create red tape that often interferes with the efficient operation of the business. Sometimes it is more irksome than real, but government statutes by their nature tend to treat everyone equally and require compliance processes and audits in workplaces where the issues being addressed would otherwise hardly come up or be an issue.

On the other hand, for the minority of real bad-apple employers who are engaged in the sort of practices that the government regulation was intended to limit, such enforcement procedures are rarely effective. It is only a matter of time before the loopholes of wide-ranging regulations that apply to diverse business practices are found. Enforcement by government agencies is usually slow and inadequate to find the real problem cases and often quite ineffective and slow to reach a solution.



I would readily argue that a system of employment enforcement that relies on employee representative institutions to apply employment standards with customized approaches that suit the particularities of the individual workplace will result in a system that is more efficient, both from the perspective of achieving the real social objectives of employment regulation as well as from an economic cost perspective.

It isn't too hard to make the case against the excesses of government intervention, with an agenda of not only enforcing standards but also prescribing certain social outcomes in economic life. Whatever the merits of their objectives, their means proved ineffective and economically inefficient. But a preference for market solutions doesn't mean a blind acquiescence to corporatism. The freedom and creativity prerequisite for prosperity, which includes but is not limited to economic prosperity, can be smothered as easily by corporatism as it was by statism. It is by the diffusion of rights and responsibilities through the various institutions of civil society, which includes worker representative institutions, that these excesses can best be avoided.

**T**he fourth consideration I wish to pose is a more pragmatic one. *If the conservative project of our day is to find a way to build a coalition that includes both fiscal conservatives—classical enlightenment liberals—with social conservatives—those who identify more with Burke's appeal for a social order—then conservatives need to find a way to develop economic policy that gets beyond identifying themselves only as a party of big business and investment capital.*

Compassionate conservatism may work as a slogan, but the term compassion needs to be imbued with meaning if it is to go anywhere.

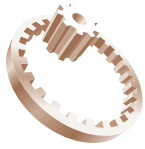
The North American labour relations world is in need of significant reform, and this is acknowledged across the spectrum. We have a system designed for an industrial economy with standard work arrangements. We have a system that was built on the premise that labour and capital are inherently adversaries, and it wasn't historically surprising that we built an adversarial model for industrial relations, especially considering that our established political and legal systems were constructed on adversarial premises.

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If we continue to view labour relations as a **battle** between labour and capital, and collective bargaining as just a **protective mechanism** available to workers to prevent the abuses of capital power, then all we can do is pick sides. However, I believe that view is flawed. We should take a broader view of industrial relations. Productive economic activity ought to be viewed as the interaction of physical, human, social, and intellectual capital, and our structures to support economic activity ought to recognize and promote the interdependence and common interests of them all.

Canada, together with the United States and Korea, share an industrial relations system that is quite unique from every other country. There are features of our system that commend themselves, but there is much that we can learn from other jurisdictions. However, before we are ready to credibly take on that task, we need to address the prior question as to whether institutions to represent workers in their employment relationships are a desirable feature of such a system.





I would make the case that Canadians must develop a renewed labour relations system that promotes the role of independent work institutions, provides for worker choice between various models of representative institutions that are flexible and provide services suited to the industry, and promotes a broad-based collaboration and partnership in support of shared economic and social goals. To be sure, such a system will also provide opportunity for adversarial-minded unions to represent workers when they are chosen, just as any free economy worthy of the name will have the space for less-than-ideal employers to form businesses and hire workers.

There is support in the public opinion marketplace for this. Since 1997, the Work Research Foundation has been conducting bi-annual public opinion surveys monitoring the views of Canadians towards trade unions. In the most recent survey, conducted by Environics at the end of 2001, the 64 per cent expression of approval for trade unions was at its highest known level since 1961. Still, as with the previous surveys, the questions surrounding union practices demonstrate very negative assessment of the options available to workers.

Workers approve of unions—they recognize that in our shareholder economy it is important that institutions are available to represent their interests. But when surveying the landscape of available union choices, they disapprove of most options. Canadians are looking for a different kind of unionism, but most of the current providers of labour representation,

for reasons of ideology, established practice, and systemic reinforcement, are not ready to provide it.

The organization of work, and the institutions required for this, will be a significant question in the upcoming decades. How we answer it will go a long way to shaping our economic and social performance. Are conservatives going to sit out this discussion, except to

wish there were less collective organization, or are they going to involve themselves and shape the debate? The case can be made that **worker organizations can promote freedom and choice, participation in institutions, and looking somewhere other than**

**government to solve social problems.**

Workers and management will both benefit when they work together for economic efficiency and work with the laws of economic nature and work rather than against them.

The values undergirding this argument are not just worker representation values; they are also values conservatives can identify with.

I understand for them to credibly make this argument requires an adjustment of mindset and a reframing of the questions that have to date dominated conservative consideration of the matter. There is a conservative case to be made for collective representation.

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