

## Catholic Social Thought on Unions

A Response to Baird *Brian Dijkema*

I am very grateful to Charles Baird for his generous engagement with the challenges to his framework for unionism in my first essay. It is always a pleasure to have a principled interlocutor on this topic and one who adopts a friendly tone. A review of Baird's engagement and his arguments has clarified where we are of one mind, and where, I think, there remain differences on what the two of us believe Catholic social thought is teaching on unions. I will argue below that these differences emerge from what we perceive to be the overall thrust of Catholic social teaching on issues related to the economy and the state and, more particularly, what we view to be the primary purpose of labor unions.

First, let me begin with what I think are areas of common agreement.

We agree that while "unions, per se, are neither necessary nor sufficient for human flourishing, voluntary unions are consistent with, and can even be conducive to, human flourishing." My agreement with the latter part of this will be unsurprising (as I have taken the pro-union side of this controversy) and so will my agreement that unions are not sufficient for human flourishing. No human institution—even the Church—is sufficient, by itself, for human flourishing.

However, it might surprise some to read that I do not consider trade unions necessary for human flourishing. In fact, the reasons behind this consideration are tied not only to another area of agreement but also to the crux of our disagreement.

The reason why trade unions are not necessary for human flourishing is that trade unions are institutions that were developed by workers in response to certain challenges to human flourishing that occurred in particular places and during a

particular time. Unlike families, the Church, the state (it might be more accurate to say polity), and trade unions, are not natural or enduring institutions. They are cultural artifacts that emerged within a particular context to meet enduring human needs. As such, one cannot argue that Church teaching demands that Christians teach adherence to “traditional” unions in the same way that one is obligated to do with, say, marriage. The very fact that Leo’s encyclical is sometimes referred to as an encyclical “on new things” is case in point.

One can, therefore, defend unions without being wed to a particular form of unionism. In fact, one can defend unionism—as I do—while still being open to the “many forms of labor-management relations and cooperation” that might emerge in a competitive environment. I endorse and support Hayek’s concept of “competition as a discovery procedure” when it comes to labor. In fact, much of my work at *Cardus* (admittedly within a different, Canadian, context) has been an effort to make space for legislation that promotes just that type of competitive environment among various models of labor relations in Canada.<sup>1</sup>

The recognition that trade unions are historically developed artifacts also leads to the point where the disagreement between Baird and me remains.

Baird says that the sections of the encyclicals that speak to the rationale and purpose of trade unions are not “controversial; in any case, they were not interesting to me.” He reads the encyclicals through the lens of “the ways in which trade unions, empowered by governments as they are today, violate freedom of association through coercion.”

Furthermore, it is this choice—to ignore the history and the purpose of the development of unions in favor of a sole focus on voluntarism—that leads to Baird’s skewed picture of the Catholic Church’s teachings on trade unions.

Baird notes that the “force of law should be limited to enforcing the rules of voluntary exchange within those interactions in which individuals choose to engage.” However I am not sure that this fits as neatly with St. John Paul’s description of the role of the state as he might think. Thus writes John Paul,

The State, however, has the task of determining the juridical framework within which economic affairs are to be conducted, and thus of safeguarding the prerequisites of a free economy, which presumes a certain equality between the parties, such that one party would not be so powerful as practically to reduce the other to subservience.

Now, obviously the state cannot run roughshod over basic rights, but St. John Paul’s description of the role of the state allows—maybe even requires—limits to be placed on human autonomy for the greater good. This is especially true if you widen the scope of Christian social thought to include Calvinist voices that

understand the state as being necessary to restrain the licentiousness of man. Recognizing this theme in Christian social thought—which is present all the way from Aquinas to Francis—does not necessitate an expansive or totalitarian state. However, it does recognize that some institutions require protections that allow their internal purposes to be fulfilled to ensure human flourishing and restrain sin.<sup>2</sup> Baird says that “in the private sphere of human action, binding parties to deal with each other by force of law is morally reprehensible.” I do not think that statement is as self-evident as Baird would like it to be. There are countless ways in which the state places limits on the autonomy of private action. Marriage laws—at least before no-fault divorce became commonplace—placed the state firmly in a place that bound parties to deal with each other. The loss of these has been to the public detriment. While certainly economic life is different than marriage, many limits are in place there as well. Many of them are bad but not all are coercive; some even lead to good.

Being able to discern which of these limits is good or bad requires our paying attention to the when and where and why of their creation, the how and why of the institutions on which they are placed, and the critical judgment about whether or not they are conducive to human flourishing at present. At this time, it might be that the NLRA has more bad than good limits, but it is not enough to say that the history behind it, or the development of union writ large is “uninteresting.”

Baird notes that I think “that if unions lose their powers to coerce, no intermediary organizations would emerge to facilitate the interactions between employers and employees” and that I “assume implicitly that employers have the upper hand because workers have narrowly constrained employment alternatives.”

Let me begin with the latter. It is not just I who assumes that employers have the upper hand. I am simply translating Leo XIII in *Rerum Novarum*, who says that “the laboring man is, as a rule, weak and unprotected.”<sup>3</sup> While I recognize that working conditions and the employment conditions in the West today are worlds apart from Europe in 1891, it remains true that the individual worker, when compared to almost any employer, is the weaker and less protected of the parties. If you do not believe me, do the math on the costs and expertise of fighting a termination without cause. In most cases, the employer has far more time, money, and expertise than does the individual employee. Additionally, if the employer is free to choose what regime she wishes to have in her workplace, there is little reason to believe that she will voluntarily choose to balance that differential. A note from libertarian thinker Jacob Levy is in order here:

The fact that workers have so often and in so many places sought to organize, and the fact that firms have so often and in so many places resorted to illiberal restrictions on freedom of association if not outright violence to prevent them

from doing so, itself looks like prima facie evidence from the world in unions' favor. Whatever one's complaints against the regime of employment relations created by positive legislation such as the Wagner Act, unionization comes first, before the state action and initially in spite of state action.... There is widespread revealed-preference demand for associations of something like this form, and as a libertarian I should pay attention to that, not sweep it under the carpet.<sup>4</sup>

We remain in a world that, while improved greatly, still contains firms that prefer to have a free hand to do what they will and to minimize costs, which are often associated with treating their workers justly. We might not be in the industrial revolution, but there are plenty of employers for whom force, fraud, usurious dealing, and other sorts of unbecoming economic behavior is commonplace.

Many will point to the development of labor laws that protect and might even potentially give the upper hand to the individual worker as a rebuttal to this. I argue that that labor environment, proposed by Baird, is more likely to lead to an expansive state than is allowing a subsidiary organization to deal first hand with injustices that occur in the local workplace.

Baird's "answer to the perceived problem of poor worker alternatives is not for government to give unions the power to coerce employers to deal with them. It is, rather, for government to cease and desist from trying to cripple the processes of competition and entrepreneurship."

I would like nothing more than to see government end crippling competition and entrepreneurship. In fact, this is another area that I spend a good deal of my working life addressing,<sup>5</sup> but this response misses the mark. Trade unions are not, as this response suggests, primarily economic institutions. As I have argued before, the North American labor movement's insistence on making wages their primary focus of action has weakened, not strengthened it.<sup>6</sup> While there can be no doubt that they are integrally involved in economic issues, trade unions serve an amalgam of social, juridical, and economic functions. In order for them to achieve those social and juridical ends, they require some sort of protection that moves beyond the profit-driven motive that Baird implies is the market solution to the enduring needs of labor. Organizations that "facilitate interactions between employers and employees" already exist in plenty: Human resource firms and consultants, labor providers, and temp agencies all do much of this work. In addition, many of them—most of them—do great work. The profit motive means that such organizations are directed toward primary ends that are different from the primary end of trade unions that is, as St. John Paul describes it, as "'places' where workers can express themselves. They serve the development of an

authentic culture of work and help workers to share in a fully human way in the life of their place of employment.”<sup>7</sup>

It is here, I think, that Catholic social teaching is more in line with my Calvinist reading than with Baird’s Hayekian reading. Catholic social teaching has consistently said that

The State must contribute to the achievement of these goals both directly and indirectly. Indirectly and according to the principle of subsidiarity, by creating favourable conditions for the free exercise of economic activity, which will lead to abundant opportunities for employment and sources of wealth. Directly and according to the principle of solidarity, by defending the weakest, by placing certain limits on the autonomy of the parties who determine working conditions.<sup>8</sup>

To quote Levy again, who writes in full knowledge that labor relations laws have developed in ways that limit the autonomy that Baird prefers, “there is widespread revealed-preference demand for associations of something like this form [the trade union], and as a libertarian I should pay attention to that, not sweep it under the carpet.”<sup>9</sup> Baird should do the same and pay attention to the parts of Catholic social teaching that not only overlap with Hayek but also stand apart from—and maybe in opposition to—him.

## Notes

1. See, for example, Ray Pennings, Brian Dijkema, and John Sikkema, “Competition or Regulation? Reforming Labour Relations in Canada,” *Cardus Policy in Public* (June 22, 2012), <http://www.cardus.ca/policy/archives/3295/>. See also Brian Dijkema, “Competition and Cooperation: Small Steps Towards Reforming Canadian Labour Relations,” Cardus Research Publication, <https://www.cardus.ca/store/4116/>.
2. Again, Donati is instructive in this regard. See Pierpaolo Donati, “What Does Subsidiarity Mean? The Relational Perspective,” *Journal of Markets & Morality* 12, no. 2 (Fall 2009): 211–43.
3. Leo XIII, encyclical letter *Rerum Novarum* (May 15, 1891), 20.
4. Jacob Levy, “Thoughts on Unions,” *Bleeding Heart Libertarians*, June 6, 2012, <http://www.bleedingheartlibertarians.com/2012/06/3087/>.
5. See, for example, Brian Dijkema, “Cardus Construction Competitiveness Monitor: Ontario Municipal Construction Markets,” Cardus Research Publication, <https://www.cardus.ca/store/3647/>.

## Controversy

6. Brian Dijkema, “Less Power, More Flourishing.” *The Cardus Daily*, March 22, 2013, <http://www.cardus.ca/blog/2013/03/1893>.
7. John Paul II, encyclical letter *Centesimus Annus* (May 1, 1991), 15.
8. John Paul II, *Centesimus Annus*, 15.
9. Levy, “Thoughts on Unions.”