

Our Remaining Differences

A Surreponse to Dijkema

Charles W. Baird

I agree with Brian Dijkema that he and I have found some common ground in our perception of unionism. Our two main essays have clarified some of the issues. But, as he says, “there remain differences on what [we] believe Catholic social thought [teaches] on unions.” Here, I focus on those remaining differences.

All Unions Are Not Equal

The principal difference, as I see it, is that Dijkema seeks to justify at least some continuing, and substantial state intervention on behalf of unions to “protect” them from ongoing predations by employers. I, on the other hand, see current state intervention on behalf of unions as crony unionism, which deserves the same opprobrium many people attach to crony capitalism.¹

Dijkema fails consistently to differentiate government-dependent from government-independent unions in his discussion. He and I agree that where they emerge, government-independent unions are not only legitimate but can be conducive to human flourishing. He is pessimistic, and I am optimistic, about the chances of government-independent unions to emerge and succeed.

Cultural Artifacts

Dijkema says unions are “a cultural artifact.” To a certain extent, most human institutions are, but there are two distinct kinds of cultural artifacts. There are those that are imposed from the top down by political authorities who have the

conceit to think they know what is best for the common folk. Furthermore, there are those that emerge spontaneously from the countless actions of countless people as they seek, by trial and error, to do the best they can for themselves in the context of imperfect knowledge and radical uncertainty. NLRA-approved unions are examples of the former. Voluntary unions, as well as other types of voluntary worker-management cooperation, are examples of the latter. Dijkema ignores this distinction.

Catholic social teaching (CST), he acknowledges, demands less fealty to artifacts such as “traditional” unions than to the institution of marriage. (Traditional unions seem to be those that are historically imposed by political authorities.) Nevertheless, he suggests that CST imposes some obligations² on Catholics to support such unions because they were formed “to meet enduring human needs.” Moreover, they “require protections that allow their internal purposes to be fulfilled to ensure human flourishing and restrain sin.”

Notwithstanding what Leo XIII and his successors in the Chair of Peter clearly wished unions would do, real-world unions have never been about human flourishing and restraining sin. Much less do they concern enduring human needs. The “primary purpose of labor unions,” as explicated by Leo, is altogether different from the primary purpose of actual unions. Real-world unions are so contrary to Leo’s vision that they ought to be condemned by CST. They are the antithesis of Leo’s ideal unions.

Real versus Romantic History

It is true that I ignored “the history and the purpose of the development of unions in favor of a sole focus on voluntarism” in *Liberating Labor*. For the purposes of that monograph such considerations were, to me, irrelevant and uninteresting. (I never claimed that they were inherently irrelevant and uninteresting). Nevertheless, to clarify our remaining differences, such considerations are germane.

Dijkema claims that “trade unions . . . were developed by workers in response to certain challenges to human flourishing that occurred in particular places and during a particular time.” I think this is a romantic and naïve view of the history of unions. Real-world unions are indeed “primarily economic institutions.” At least in America, unions were formed by entrepreneurs (would-be union bosses) who saw the possibility of collecting rents³ by cartelizing the supply of labor. Such rents were available to be expropriated because of the network of crony capitalism constructed by politicians. Politicians came to see that their voting coalitions could be strengthened by including union bosses in the division of the loot.

A cartel is an agreement among sellers⁴ of a good or service that otherwise would compete with each other not to compete. Instead, the sellers agree to act together as a monopolist seller. Buyers confronted with a monopolistic seller have no competitive bids to consider. In the labor market, the sellers of labor services are workers, and the buyers of labor services are employers. It may seem callous to apply the same economic analysis to labor unions as we apply to, say, the OPEC oil cartel; but the economic facts are identical. Unions have always asserted that their primary goal is, in the formulation of the National Labor Relations Act, “to take wages out of competition.” Cartelization of labor is their means to that end.

As Morgan Reynolds has thoroughly documented, the history of American unions has always been a battle between the labor cartelizers and those workers who wished to remain union free.⁵

Labor Unions and Marriage

Dijkema brings up marriage twice in his response. First, he asserts that a labor union is, unlike marriage, a cultural artifact. Marriage is a “natural or enduring” institution. I have no quarrel here. Catholics agree that there is a difference between the institution of marriage (a sacrament) and traditional labor unions. Among Catholics, the former surely does claim more adherence than the latter.

Second, Dijkema uses marriage as an example to refute my assertion that “in the private sphere of human action, binding parties to deal with each other by force of law is morally reprehensible.” He writes that “there are countless ways which the state places limits on the autonomy of private action. Marriage laws ... placed the state firmly in a place that bound parties to deal with each other.” This example is inapt. The state does not bind any two parties to enter into a marriage. It simply binds those who choose to get married to deal with each other in order to get out of the marriage. The state’s binding in marriage is postcontractual. The state’s binding in labor unions is precontractual. It governs the getting in as well as the getting out.

Centesimus Annus, §15

Dijkema quotes three passages from §15 of Pope John Paul II’s *Centesimus Annus* to suggest shortcomings in my understanding of CST with respect to labor unions. First,

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.

Today, the appropriate juridical framework for the state to establish a free labor-market is simply freedom of contract in the absence of force and fraud. This does, indeed, presume “a certain equality” between the parties—equality before the law. Everybody must play by the same rules without special privileges for anyone or any group. In otherwise competitive labor markets, one party can only become powerful so as to reduce others to subservience by securing economic privileges from political authorities. Even at the dawn of the twentieth century, state-prescribed compulsory unionism was not the remedy sought by Leo XIII. Rather, he sought to clear the way for workers to form their own associations to counteract the privileges enjoyed by employers at the expense of employees.

In the second paragraph of §15 (not quoted by Dijkema), John Paul wrote that “the role of trade unions in negotiating minimum salaries and working conditions is decisive” in blocking exploitation of marginalized workers. He did not thereby endorse state-imposed compulsory unions. Voluntary worker associations can negotiate minimum salaries and working conditions with employers who do not enjoy government favors.

Similarly, when John Paul wrote, in the fourth paragraph of §15 (quoted by Dijkema), that trade unions, in addition to negotiating contracts, should also be “‘places’ where workers can express themselves” and thus “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,” he did not thereby endorse state-imposed compulsory unions. Voluntary worker associations can do this.

Finally, in the fifth paragraph of §15 (quoted by Dijkema), John Paul writes

The State must contribute to [to the welfare of workers] both directly and indirectly. Indirectly and according to the principle of subsidiarity, by creating favourable conditions for the 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.

The second sentence is precisely what happens in free markets. The third sentence is, to me, more problematic. It asserts the necessity of setting boundaries to freedom of contract in labor markets to help workers. I respectfully disagree

with John Paul on this point, especially under modern circumstances. As I see it, the preferred remedy is to remove barriers to competition, not to circumscribe freedom of contract. Nevertheless, in neither sentence does John Paul make a case for state-imposed compulsory unions.

To Conclude

Dijkema says that we may better comprehend his view on the proper limits imposed by CST on human autonomy if we “widen the scope of Christian social thought to include Calvinist voices that understand the state as being necessary to restrain the licentiousness of man.” Later he says that CST is more in line with his Calvinist reading than is my Hayekian reading. I fully agree. If Calvin’s view of the inherent depravity of man is correct, workers may need the state to intervene on their behalf. In contrast, Hayek is optimistic about the salutary effects of competition and entrepreneurship on workers’ welfare. I stand with Hayek.

Notes

1. See my “Crony Unionism: Private Sector,” *The Freeman*, May 25, 2011, 47–48, <http://www.thefreemanonline.org/columns/pursuit-of-happiness/crony-unionism-private-sector/>. See also “Crony Unionism: Government Sector,” *The Freeman* (September 21, 2011), 47–48, http://www.fee.org/the_freeman/detail/crony-unionism-government-sector/.
2. The extent to which papal teaching in encyclicals imposes obligations on Catholics is very different from the binding force of papal *ex cathedra* proclamations concerning faith and doctrine (such as Pope Pius XII’s 1950 proclamation of the dogma of the Assumption of Mary). Encyclicals bind Catholics to prayerful consideration of their teachings, but dissent therefrom does not impair a dissenter’s standing in the Church.
3. “Rent” is a return captured by a party that exceeds the return that party could earn in a competitive market. It results from politicians’ protecting the party from such competition.
4. There can be buyer cartels as well as seller cartels, but unions are clearly seller cartels.
5. Morgan O. Reynolds, *Power and Privilege: Labor Unions in America* (New York: Universe Books and the Manhattan Institute for Policy Research, 1984).