

Volunteers and the Unionized Workplace: Problems and Prospects*

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I. Introduction

The issue of volunteers in the unionized workplace is of obvious importance both to trade unionists and to those involved in the voluntary sector. It is also a subject of such magnitude that at times I feel that to deal with it adequately I would have to discuss my views of the entire world. Perhaps more to the point, there are many, many facets to the question of the relationship between unions and volunteers and I find it difficult to cover all the points that really ought to be made in one article.

II. Summary

This article will deal specifically with the role of volunteers in the workplace. Even more specifically, it will consider the role of volunteers in unionized workplaces in the public sector or in related private sector service activities, such as nursing homes. I am *not* going to be writing about voluntary organizations. Nor do I intend to refer to any of the wide range of voluntary activities within our society.

In fact, most of us—including most union members—are volunteers in some organization or activity. Such involvements are a constructive and important component of the kind of society in which we live.

III. Organization of Work

The logical place to begin a discussion of volunteers in the workplace is with a consideration of the organization of the workplace. The first point which needs to be made is that the organization of work is the prerogative of the employer. It is the employer who defines the nature of the work to be done and controls hiring, firing, work assignments, job classifications, working conditions and virtually all the other activities which are carried out in the workplace. Workers have little or no say in these basic decisions. In fact, the only aspect of the organization of work in which unions—and the members they represent—*do* have a voice is in determining the terms and conditions of employment. Even in this restricted area, what occurs is a sharing of power rather than the unilateral exercise of power by the union.

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A clear understanding of the scope of the employer's prerogatives over the organization of work and the control of the workplace is necessary before we can study how volunteers fit into this situation. The following example of a management rights clause is drawn from a collective agreement between the Canadian Union of Public Employees (CUPE) and the University of Western Ontario:

Article 2
RESERVATION AND CONTINUATION
OF MANAGEMENT FUNCTIONS

.01. The Union recognizes that the management and direction of the working forces are fixed exclusively in the Employer and shall remain solely with the Employer except as specifically limited by the express provisions of this Agreement, and without restricting the generality of the foregoing, the Union acknowledges that it is the exclusive function of the Employer to:

- (a) maintain order, discipline and efficiency;
- (b) hire, assign, retire, discharge, direct, promote, demote, classify, transfer, layoff, recall and suspend or otherwise discipline employees, provided that if an employee claims he has been discharged or disciplined without cause, or improperly laid off or recalled, a grievance may be filed and dealt with in accordance with the Grievance Procedure;
- (c) determine the machinery and equipment to be used, the methods and techniques of work, the standards of performance, the schedules of work and number of personnel to be employed;
- (d) establish, enforce and alter from time to time rules and regulations to be observed by the employees. Employees will not be disciplined unless they have either been informed orally or in writing of these rules and regulations or ought reasonably to know these rules and regulations.

.02 The employer's right to exercise the management function of this Article is subject to the provisions of this Agreement. The management functions shall not be used to direct the work force in violation of the Ontario Human Rights Code.

As the preceding example clearly shows, control over all major decisions in the workplace remains firmly in the hands of management. This overriding control is justified by various theories, such as the theory of residual management rights or the theory of managerial prerogatives or, more fundamentally, by the statutes and case law associated with the rights of ownership. Whatever the theory, ultimately, the point is the same: unions have only a marginal influence over the decision-making process.

What makes the issue of management control significant is that the employer often has interests which differ from those of the employees. It is these differing interests which are the source of conflict (and bargaining) between unions and employers. The pattern of structured antagonism in the workplace, combined

with the overriding control exercised by the employer on decisions about issues other than labour relations, provides the framework within which the role of volunteers in the organized workplace must be discussed.

IV. The Employer and Volunteers

The employer not only determines the organization of work for paid employees; the employer also defines the role of volunteers in the workplace. Decisions about such matters as whether there will be any volunteers at all, how many there will be, what they will do, and so forth, are the prerogative of the employer. Volunteers themselves have no control over the organization of their work or the organization of the workplace. In most cases, unions have little or no say about the role of volunteers in the workplace either. Thus we see that the way in which volunteers are used in the workplace is determined according to priorities established by the employer. In some cases, those priorities conflict with the interest of the paid workforce and hence become a source of conflict among employers, unions and volunteers.

V. Volunteers Unorganized

I would like to return, for a moment, to the control the employer has over the organization of work and over the workplace. One of the characteristics of most voluntary work is that the volunteers are recruited by the employer and their function is defined by the employer. Volunteers in this situation are normally not organized. Rather they are recruited on an individual basis by the employer through recruiting arrangements the employer has set up to provide the number of volunteers deemed necessary.

Where volunteer co-ordinators have been hired by the employer to oversee volunteer programs, they are *not* representatives of the volunteers but employees of the employer. Of course many volunteer co-ordinators are very concerned about the interests of volunteers and about the way in which volunteers are used in the workplace. However, volunteer co-ordinators are, themselves, subject to all the normal constraints of the employment relationship. Pressure can be brought to bear on them by their employer so that they may use volunteers in ways which they, personally, may not feel are appropriate.

VI. The Dilemma Facing Unions

The fact that volunteers are normally not organized in the workplace creates a number of problems for unions. First, there is no one to speak for volunteers in an organized way. There is no organization to make an agreement with or even to talk with about problems. Thus if the union has problems related to the use of volunteers or, if there are misunderstandings about the function of volunteers, there is no organized body to whom the union can go in an effort to have those matters resolved. It must therefore raise the issues with the employer.

For example, if the union feels that volunteers are performing work which should be done by members of the bargaining unit it has little recourse except to attempt to negotiate a better arrangement with the employer.

Looking at the matter from the viewpoint of volunteers, if the employer chooses to exploit them or asks them to do work normally done by members of the bargaining unit they cannot, in any collective or organized sense, refuse such assignments. Obviously, an individual may choose not to do such work. But the employer is quite free to replace any volunteer with another volunteer who does not share these reservations.

This situation obviously creates a feeling on the part of many volunteers in a unionized workplace that the union is by-passing them or that the union is not concerned with their interests. From the union's perspective the problem is more complex. With whom does it negotiate? Who represents the volunteers? And, given that the volunteers are not represented by any organization, unions have no choice, really, except to deal directly with the employer, even though the interests of volunteers may be affected.

VII. The Problem of Job Description

Aside from the structural problems unions confront in dealing with volunteers in the unionized workplace, there are a number of very specific concerns which arise repeatedly. For example, the job descriptions of employees in most workplaces tend to be quite broadly defined. In many workplaces there are no job descriptions at all. Even workplaces which have reasonably clear job descriptions often have a catch-all "any other related duties" provision which leaves the door wide open to misinterpretation by the employer—deliberate or otherwise.

The lack of clear definitions outlining the responsibilities of employees makes it very difficult to draw the line between the duties that regular employees perform and the tasks that employers may wish to have volunteers perform. Because there are many grey areas in the definition of the work of paid employees, the door is left open for the employer to substitute volunteers for regular employees. This is precisely what has been happening in many of the workplaces CUPE represents.

VIII. The Impact of Public Sector Restraint Policies

The reason why employers want to use volunteers instead of paid employees is not hard to discern: employers have an interest in cutting labour costs. In the public sector, there have been major and systematic reductions in the inflation-adjusted level of funding in recent years. Most public services are suffering from a decade of cutbacks and staff reductions. Restraint policies have cut a wide swath in the resources available to our hospitals, nursing homes, educational institutions, social services and other public programs.

It is not surprising that many public sector employers are attempting to find a way out of this situation by substituting volunteers for regular paid employees. Where this does happen, it clearly has an impact on the job security and working conditions of paid staff. And this is where we begin to run into potential conflicts.

To protect the quite legitimate interest of regular employees, unions must attempt to negotiate appropriate arrangements governing the use of volunteers. Specifically, they must ensure that the employer is not permitted to abuse volunteer labour by having volunteers do work normally performed by the bargaining unit. Similarly, unions have an obligation to ensure that volunteers are not used by employers to undermine the working conditions and job security of the regular workforce. Accordingly, unions have been attempting to negotiate contract clauses defining—and in some cases restricting—the use of volunteers in the workplace.

Regrettably, when unions attempt to negotiate such clauses, their position is often misinterpreted as being anti-volunteer. In fact, unions are concerned primarily with ensuring that employers are not permitted to slash employment and services by substituting volunteers for regular employees.

IX. Discrimination Against Women

There is another issue which unions also have had to address. It is that most of those areas of the public sector where employers have been attempting to exploit volunteer labour are precisely those areas where women are overwhelmingly employed. The fight to establish decent terms and conditions of employment for employees working in hospitals, nursing homes, homes for the aged, day care centres, schools, etc., has involved demands for equal pay for work of equal value, paid maternity leave and a number of other improvements to rectify long-standing injustices to women workers. The fight has also involved attempting to redress many abuses in the terms of employment and working conditions of part-time workers, the majority of whom are also women.

It is notable that employers who readily attempt to displace teachers' aides, nursing assistants, cooks and cleaners with volunteers make no similar attempts to supplant workers in occupations where men predominate. Logically, there is no difference between attempting to use volunteers to carry out patient care in a private, profit-making nursing home and attempting to use volunteers to operate a steel mill. Yet it is the former area, not the latter, where the problem arises.

X. Volunteers and Public Policy

While unions have a legitimate right to attempt to protect the interests of their members at the workplace, opposition to the substitution of volunteers for regular public employees reflects wider concerns as well. CUPE, for example, strongly believes that our public services are socially necessary and ought to be defended. While some may interpret this cynically as mere self interest, the fact is that the union has been engaged in a number of campaigns—such as those for improved day care, nursing homes, and “medicare”—in which it has allied itself with community groups and users of these services.

Maintaining pressure on the employer and, indirectly, the government, to provide adequate funding is a key objective of union policy. For this reason, the union opposes attempts by public employers to lay off staff and replace them

with volunteers. Such an objective is not incompatible with the continuation—and indeed the expansion—of volunteer activity in our society. Rather, it merely attempts to ensure that volunteers do not end up becoming pawns used by employers in a struggle over the preservation of public services.

XI. Avoiding Conflict

Given this situation, what can be done by volunteer groups and associations to minimize the extent to which problems between unions and volunteer groups develop? One of the key things voluntary organizations which assist employers in the recruitment and training of volunteers should do is to consult with the union(s) at the workplace before placing volunteers in that workplace. This will ensure that those in the voluntary organizations do not unwittingly step into the midst of labour relations conflicts which really have nothing to do with them. It will also minimize misunderstandings among all concerned and, in most cases, may make the process of running volunteer programs much easier.

Voluntary organizations should obtain the job descriptions of paid workers and ensure that these job descriptions are fully respected. Where the job descriptions are vague they should work with the union to ensure that appropriate lines of demarcation are established between paid staff and volunteers.

XII. Monitor the Employer's Activities

Another objective should be to exercise some control over the potential abuse of volunteers by the employer. For example, if the employer repeatedly asks volunteers to do the work of the paid staff, those in the voluntary organization assisting the employer ought to be prepared to withdraw all volunteers from that service. In practical terms this means the voluntary organizations must establish a process of *monitoring* what is happening in the workplace.

Integral to that process is regular consultation with the unions involved. It is not enough, given the employer's interests, simply to rely on the employer's good will. The regular employees and their union are the people who do see exactly what is happening. They must be part of the monitoring process. Another concern is that employers should not be permitted to substitute volunteers for workers on lay-off. By demonstrating a willingness to get tough with employers, voluntary agencies can go a long way towards building bridges with the unionized workforce.

It is also important that those involved in recruiting and training volunteers respect the concerns of the paid workers for job security and decent incomes. Certainly one of the key difficulties that unions have faced in recent years is how to establish equal pay and working conditions for women workers who perform jobs which, in the past, were wrongly thought of as being of less value because they were primarily done by women.

Finally, where disputes occur, volunteers should not allow themselves to become unwittingly involved as strikebreakers. Crossing a picket line is a sure way to generate permanent hostility between employees and any voluntary program.

XIII. Co-operation Desirable

In a broader context, outside the workplace there are also areas of potential co-operation. Voluntary organizations should consider supporting the efforts of unions to lobby for better funding for social and public services. Indeed, such alliances have always been an integral part of the history of the voluntary sector. By demonstrating the need for certain services, voluntary agencies and organizations have frequently laid the foundation for subsequent public programs.

XIV. Conclusion

As I said at the start of this article, all of the problems—and possibilities—arising from the use of volunteers in the unionized workplace cannot be explored in one article. I hope, however, that this article has contributed to a frank and open exchange of information and views and that readers will be encouraged to see the union position in a new light.

There is room for both the unionized public service sector and the voluntary sector in our society. After all it is not as though all the social needs of Canadians are so well provided for that we have to squabble about who should do the providing.