

Teachers, Their Unions and the American Education Reform Agenda

Marc Tucker, President
National Center on Education and the Economy

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This paper was written on the eve of what could be an historic meeting in New York City in March 2011 of education ministers and the leading representatives of the teachers unions in the countries from which the ministers are coming. The meeting was called by US Education Secretary Arne Duncan.

In the weeks leading up to the meeting, the United States news media were announcing actions by state legislators in a growing number of states to sharply restrict the issues that could be bargained by teachers unions. From one end of the country to the other, conservative politicians are being joined by liberal politicians in embracing the view that the teachers unions are the single most important source of resistance to badly needed education reforms, and the unions are increasingly the target of measures, authored by friends and foes alike, intended to limit the power of—or even eviscerate—the unions.

Looking at this scene, one would never guess that the countries that are among the top ten in student performance have some of the strongest teachers unions in the world. Which makes one wonder. Are those unions in some way different from American teachers unions? Were they treated differently by government leaders? Did their unions behave differently from American teachers unions when challenged to do what was necessary to improve student performance?

These are the questions I will address in this paper. I will concentrate on a comparison between the teachers and their unions in Ontario, Canada and northern Europe, on the one hand, and the United States on the other. The similarities among these countries are greater than between the United States and the countries of East Asia and among the East Asian countries as a group, and therefore more instructive for United States policy makers.

Modern labor unions developed quite differently in northern Europe than in the United States. In the United States, the modern labor union grew out of a history of bitter strife between workers and owners in the early years of the 20th century. There were many actions like the Homestead Strike which involved considerable loss of life, mainly on the labor side. For a long time, the state took the side of the owners. Then the 1935 Wagner Act was passed, guaranteeing workers the right to organize and strike. Modern labor relations dates from the 1947 Taft-Hartley Act, which mainly modified the Wagner Act by defining the rights of employers in the framework provided by the Wagner Act. These laws applied to workers in the private sector and did not apply to civil servants employed by government.

The Wagner and Taft-Hartley Acts were framed against the background of the Taylorism. Taylorism was the name given to the way work was organized in the mass production systems that the United States pioneered and embraced more fully than any other industrial nation. In the Tayloristic system, skilled craftsmanship was minimized. The “skill” was in the machine, not the person operating it. Management figured out the one best way to do a job and then made myriad rules to make sure the work was done just that way by every worker. The workers were regarded as interchangeable. Because the work was largely unskilled, management could employ them very cheaply.

The Wagner and Taft-Hartley Acts gave workers the right to organize to bargain wages and working conditions with their employers. They also obligated the unions to defend members of the union against management when management took action against those members. The assumption throughout was that the relationship between the union and management would be adversarial and the laws provided the rules under which that adversarial relationship would be conducted. As recently as the 1970s, the courts actually ruled that the legislation prohibited unions and management from collaborating with each other.

In northern Europe, the mass production system was not so widely embraced, the era of the craftsman did not abate, and work was less routinized and rule-bound than in the United States.

It is also true that American labor law was frozen in place in the 1930s, but modern labor law in northern Europe was largely fashioned in the 1950s, and much better adapted to modern requirements.

After World War II, management and owners of all kinds of enterprises were not interested in allowing Communism to gain any ground outside the countries of eastern Europe. The idea of class structure and of class interests had deep roots in northern Europe and it came naturally to think in these terms. It was assumed by all concerned that each class had a right to be represented in the affairs of the country. These ideas and concerns came together to persuade management that they needed to embrace a social structure that would include labor as well as themselves and government, all around the table as the future of both the firm and the nation was determined. By bringing labor to the table in this way, they hoped to avoid the kind of class struggle that the Communists were promoting.

Thus while trade unionism in the United States was the end result of an uneasy truce between management and labor, in northern Europe, employers welcomed the involvement of trade unions. What this led to in northern Europe was the idea of the “social partners.” The Social Partners were Government, Labor and Management. The idea was that the social partners would together, as equals, frame social policy in key areas.

The arena of occupational skills standards is a good example. Government typically runs a process in which both trade unions and representatives of business associations come to agreement on the desired set of skills standards. Once they have agreed, government promulgates the standards and then

enforces them. The same spirit applies to national legislation defining the rules for the governance of industrial firms. Most of the northern European countries passed legislation requiring that something between one-third and one-half of the members of the firms boards of directors come from the ranks of the workers and be elected by the workers.

These same countries typically had and still have parliamentary forms of government and most have a labor party, which, from time to time, forms governments. In this role, labor is responsible to the electorate for the functioning of the whole economy.

It is also the case that, in most of these countries, because more than half of the labor force is unionized, many unions represent professional, in addition to blue collar, workers.

In countries with labor parties, it is not unusual for the labor party, when in power, to put a brake on wage growth in order to forestall inflation, or to resist calls for more benefits when productivity growth does not justify increased benefits. Doing otherwise is likely to produce inflation and unemployment and therefore to run the risk of losing the next election.

In many European countries, unions typically bargain wages and working conditions at the national or state level with employers, industry by industry. One of the effects of this is that the conflicts that arise from this bargaining have relatively little effect at the level of the firm, where there is more likely to be cooperation between management and labor. In many European countries, the law also provides for work councils made up of workers elected by workers at the firm level to adjust the national agreement to local conditions and to enable the workers to assume some responsibility for various aspects of the firm's operation.

In many of these countries, by law, workers sit on the boards of directors of major firms. When that happens, it is not unusual for the workers to offer to hold wages steady or even reduce them if management would agree to invest the savings in increased capital investment or research and development, because the workers understand that if the firm can not make the investments required to be more competitive, it may have to lay off workers.

The social partners approach to trade unionism tends to produce a certain tension for the unions with respect to their role. At times, they are expected to collaborate with management and at others they are expected to come into conflict with management. One author has aptly characterized this situation as calling for unions to sometimes box with management and at others to dance with management. Some on the left are uneasy about this dual role, thinking that it dilutes the proper role of the union, but others say that combining boxing and dancing is simply a way of doing what is right for workers in multiple ways. Whatever internal conflict these dual roles might cause for labor unions, they appear to have handled it well and have managed to do well for their workers while at the same time earning broad support among the electorate.

Just as in the United States, most European unions are weaker than they were a quarter century ago and, as a consequence, are smaller. But that similarity masks an important difference. It is not unusual for senior northern European executives to be very puzzled when talking with their American counterparts, when the Americans talk about their desire to greatly weaken or even eliminate trade unions. From the American's perspective, this would provide greatly needed flexibility in setting compensation and working conditions that would make it much easier to compete in global commerce. But the northern Europeans, while often eager to acquire more power vis-a-vis their unions, do not generally talk about eliminating them, because they see the unions, in their role of representing labor, as giving voice and representation to a key sector of the society, and they generally believe that, if that voice was not provided through the union, it would eventually be heard in a way that might become a direct threat to democratic capitalism. This is probably why the broad outlines of the workers role in the social partners arrangement was agreed to by the nations participating in the Maastricht Treaty.

Trade unionism in the United States in the field of teaching is relatively recent. Prior to the 1960's the National Education Association (NEA) was just that, a professional association, and included school administrators and people playing many other roles, in and out of management, in American schools. The American Federation of Teachers (AFT) had always been a union, but it was much smaller, and not particularly militant. But, during the sixties, teachers' compensation declined significantly relative to the compensation of other occupations requiring a similar amount of education, and, in the racial battles of the 60's, teachers sometimes were made the target of public anger in a way that seemed to the teachers to be unprecedented and very threatening. The AFT became appealing to many teachers to whom it had not been appealing before and the NEA shed all of its members who were not classroom teachers and traded its identity as a professional organization for a new identity as a trade union.

But the frame for this transformation was provided by national labor law, with its assumption of adversarial relations and all that goes with it.

National labor law, as noted, did not require that school boards negotiate with teachers' unions, but, in many states, the newly energized teachers' unions appealed to the AFL-CIO for help in getting state legislatures to pass legislation that put teachers on much the same footing as unions representing workers in the private sector. The AFL-CIO was stronger then than it is now and the teachers could put more feet on the ground in legislative political campaigns than any other single constituency. This was particularly true in the northern part of the country, where organized labor was strongest at the state level.

In the beginning, the lawyers that management hired were happy to negotiate contracts that closely followed common practice in the industrial sector. Some of these provisions simply made the teachers' life a little easier, like duty-free lunch. But others had major consequences for instruction and the quality of teachers,

teaching and instruction. Among the most important of these were defining the hours of work and using seniority to determine who could transfer to jobs within the system as they opened up and the order in which people would be laid off as staff size was reduced.

Many now think of these rules based on seniority as imposed on the schools by the teachers unions through collective bargaining. But the use of seniority to govern things like compensation, the assignment of workers to jobs and the order in which workers would be laid off and rehired had begun in other industries in the 1920s—before there was any national legislation mandating collective bargaining—and was part and parcel of the management regime of the Tayloristic mass-production workplace. Management in such workplaces wanted rules that were easy to administer, and, in a world in which all workers were treated as interchangeable, such a system worked well for managers in most industries.

In the case of the schools, management's attorneys, like management's attorneys everywhere, saw these demands as easy to meet, because they were easy to administer and cost the district no money. But the organizational costs were substantial. The unions knew this, but school boards' attorneys apparently did not.

In this way, school boards and management gave away control over who could be hired in a school, who could fill leadership positions in the school, how much time was available for professional development and much, much more. Both school boards and the unions greatly feared teachers strikes, knowing that there were few things that could anger parents as much as not being able to put their children in school when they themselves had to go off to work in the morning. Even if the unions won what they wanted in negotiations, they quickly discovered that they would lose it when the school board sought the authority to pay for the raises by floating new bonds. So both the unions and the boards often settled their differences by negotiating changes in 'working conditions' designed so that strikes were avoided. Few citizens were aware of the significance of the concessions that school boards made to unions over the years.

In the same way, it was also the case that, when times were tough, it was often easier for both management and labor to negotiate increased benefits, particularly retirement benefits, than increased cash compensation, because, again, the public focused more on cash compensation than on benefits that would not have to be paid for many years. The unions typically negotiated benefits that would be most attractive to their longest-serving members. Thus, over time, the compensation package got more and more expensive, but became less and less attractive to talented young people making decisions about which occupation to pursue.

Thus, over time, teacher unions in the United States acquired more and more control over matters that arguably progressively constrained management's ability to select staff, promote staff, deploy staff, discipline staff, train staff, and let staff go when they were not doing the job. And compensation became more

and more expensive without enabling districts to recruit better candidates into teaching positions.

In the context of American-style labor relations, and the politics of American schooling, this was probably inevitable. The adversarial model of labor relations embodied in the national labor law applied only to the private sector, but state legislatures adopted that model when they created the framework for public sector bargaining. The unions were told by their attorneys that they could be sued by their members if they did not defend them in court against school district managements seeking to deprive them of their jobs, so they routinely made it as difficult as possible to fire teachers widely regarded as incompetent. Given the adversarial nature of the relationship, there was never any real possibility of teachers accepting joint responsibility for the outcome for student performance, as was the case in northern Europe. That was the responsibility of management, not labor.

Many commentators on the teacher union scene in the United States have noted the disjunction between the teachers' image of themselves as professionals, on the one hand, and their membership in labor unions, on the other. In northern Europe, this would have struck no one as an issue. Because unions in northern Europe often represented professionals, and, more important, because the northern European unions were seen as social partners with government and management who accepted equal responsibility for the outcome, in this case, for the performance of the students, they could be expected to moderate their bread and butter demands when necessary to advance the welfare of the students.

Polls of teachers show that they feel the conflict between their membership in a labor union, on the one hand, and their image of themselves as professionals on the other. While they might prefer the professional image, their experience tells them they need their membership in the union, and the clout that they have in the state legislature even in states that do not allow them to organize, because they would otherwise find themselves losing ground economically and be at the mercy of managements that often do not treat them as professionals. They do not look to the union for the kind of professional support that many professionals get from their associations, but they rely heavily on the unions for the help that unions are designed to provide in the terms of American-style labor relations.

American school boards are made up of volunteers who typically have other jobs and accept a lot of guidance from school administrations. They have had no stomach for the strikes that would have come if they had stoutly resisted the steady encroachment of the teachers on what can now reasonably be seen as management's prerogatives to manage the system.

These dynamics set the stage for the current confrontation in the United States between the unions and the teachers on one side, and, increasingly, school district managements, legislatures, governors and the public on the other.

Critics note that the costs of public education have risen year after year with no perceptible improvement in student performance. The efforts of prominent school reformers to change that trajectory have increasingly run up against the union contract provisions that the unions have won that have the effect of restricting the right of management to manage the schools. The unions are perceived as standing in the way of badly needed reforms, protecting incompetent teachers, and putting up barricades to prevent the erosion of pension benefits the public can no longer afford.

As the traditional rights of the union members come under ever-greater assault, teachers see themselves blamed for system failures that can and should be attributed to many others as well, including school boards who were quick to grant them the privileges they won in good-faith bargaining years ago, parents who are not doing what they need to do to support the learning of their children, and politicians who are presiding over a society that is sending them ever-greater numbers of students in poverty who do not come to school ready to learn. It is hardly surprising in these circumstances that the teachers and their unions are circling the wagons to salvage as much as possible of what they gained since the 1960s.

But it does not have to be this way.

Decades ago, in Toledo, Ohio, a teacher named Dal Lawrence was elected head of the local American Federation of Teachers affiliate. Dal and his wife, who was also a union member and who was Dal's partner in this story, had an unusual view of their responsibilities. Like union members elsewhere, they were very uncomfortable with the idea that it was their responsibility under the Taft-Hartley Act to defend patently incompetent teachers. It offended their sense of what it means to be a professional. They managed to persuade their initially skeptical colleagues in the union that they should take the initiative in creating a process in which the teachers themselves, not management, would assume responsibility for the quality of teachers in the Toledo Public Schools.

The Toledo union designed a system in which new teachers were mentored by experienced teachers before they were granted tenure and the new teachers could counsel them out of the profession (or at least a job in that district) before tenure was granted if, in the judgment of the senior teacher, that person did not meet the union and district standards. Furthermore, both management and the union had the right to identify serving teachers who, in their judgment, were not doing the job as well as they needed to do it. Those teachers were given counseling by teachers selected by the union in an attempt to improve their performance. If, in the judgment of the union, that teacher's performance did not improve sufficiently to meet standards, that teacher was informed that the union would not defend them in the event of an adverse proceeding by management.

Over the ensuing years, the rate at which candidates did not get tenure and serving teachers were dismissed from service because of inadequate performance soared over the rates prior to the introduction of the system just described.

National labor law does not in fact require the union to defend all teachers against management. It requires due process. The system that the Lawrences created provides due process, but it also protects students against incompetent teachers, and transforms the adversarial relationship that had governed union-management relations on this point for years.

Later, Al Shanker brought Dal Lawrence to Washington to describe his approach to the leadership of the American Federation of Teachers. Their initial reaction was deeply negative. It seemed to them to amount to a betrayal of the duty of the union to its members. But that is not how it appeared to Shanker, who pointed out to his colleagues that the union would be on shaky ground with the public if it was seen to be doggedly defending the patently incompetent, and, furthermore, could never defend itself as representing real professionals if it did not enforce high standards for professional work in teaching. As so often happened in these situations, Shanker carried the day and, in time, a number of other locals adopted the Toledo approach.

Toledo was not an isolated incident. Not only has the Toledo idea spread to other districts organized by both the AFT and the NEA, but other experiments dealing with merit pay, career ladders and teacher-run schools, to name only a few such innovations, have grown in many places. And the development of the National Board for Professional Teaching Standards is an important instance of organized labor (with senior representatives from both political parties) coming together with governors, legislators and leading management representatives to agree on teacher standards.

But the difference between the northern European approach to labor-management relations and the American approach is paralleled by a crucial difference in the politics of education reform.

When the Germans discovered after the release of the first PISA results in 2001 that the performance of German students relative to other industrialized countries was far below what they had so confidently expected, they did not blame their teachers. They brought the teachers to the table as important social partners who needed to be equal participants in the search for solutions. The teachers union quickly got out in front of the debate, offered important concessions and became strong advocates for important initiatives that are widely credited with greatly improving German students' performance on PISA in subsequent years.

Finland is famously a world leader in student performance. It also has some of the strongest unions in the world, and that includes its teacher unions. More than any other advanced industrial nation, Finland's education strategy rests on doing whatever is necessary to make teaching the highest-status, most desirable job in the country. The winning combination in Finland is top quality recruits, first rate training for their teachers and giving the teachers produced by this system the kind of autonomy—read trust—typically accorded to other professionals but rarely to teachers. There are none of the top-down accountability systems in Finland, with all of their implied distrust of teachers,

that now dominate the discussion in the United States. It is hard to say which came first, the trust in the teachers or their quality, but it is clear that they go hand in hand. It is no surprise that, in this situation, teachers and their unions have not been engaged in confrontational politics and the unions have been at the reform table for years in their role as essential social partners.

In Ontario, Canada, one of the great PISA success stories, just north of the American border, the current administration took over from an administration that had instituted a province-wide curriculum, a matching assessment system and a tough accountability system based on both. But the conservative government that put these policies in place had gone to war with the teachers and their unions, cutting funding, reducing professional development by half and taking out TV ads demonizing teachers. The result was very like what can currently be seen in the United States, a highly polarized environment, with teachers resorting to strikes and lockouts to defend what they could of their prerogatives, and no improvement in student performance.

The new administration reversed course. Premier McGuinty took the view that he was not going to get the kind of improvement he was looking for from the students if he did not have the trust and confidence of the teachers, and he would never gain their trust by continuing the war with them that the previous administration had begun. He and his top aides spent a lot of time talking with ordinary teachers in classrooms and school lunchrooms. They brought the teachers and their unions to the table in the discussions of education reform strategy, won their trust by listening hard to what they had to say and providing support for teachers to do what needed to be done wherever possible. The reform strategy that they decided on was based on the assumption that teachers wanted to do the right thing, but lacked the capacity to do it. So the McGuinty government focused on building that capacity. By trading trust for manifest distrust, the McGuinty government laid the base for the kind of collaborative relationship with teachers and their unions that they saw as the prerequisite for improving the performance of students.

What can one reasonably conclude from this comparative description of the development of unions in the United States and northern Europe and the approaches taken to reform in Canada, Finland and Germany?

My own conclusion is that the current impulse to seek legislation to curtail the power of the unions may succeed in returning some important powers to management that over the years have gravitated to the teachers and their unions through the process just described. But that victory is likely to come at the price of deeply alienating many teachers from the larger cause of reform.

Teachers have already gotten the message that the public and policy makers do not trust them. The only talk now about increasing teachers' pay is to raise the pay of superior teachers, and that is in the context of firing poor-performing teachers. There is no talk of raising teachers' pay across the board. Indeed, it is clear to teachers that, if they lose their unions in this hour of state and municipal fiscal crises, they will have no protection at all in the face of enormous pressure

on state and local officials to make massive cuts in teachers jobs, compensation and benefits.

Teachers know that now is when they need their unions more than ever. A determined, widespread effort to weaken or destroy the only institution most teachers are counting on to protect them economically will confirm that message and force them into retirement or into the bunker where they will hunker down, and wait in brooding resentment for a change in the political weather.

This is precisely what happened, as we have just seen when they came under a similar attack in Ontario, Canada. That is hardly a formula for successful education reform.

Even if one has concluded that the current crop of teachers is generally of poor quality and must go—a conclusion I have heard no one utter—one would still have to ask where, exactly, a new crop of superior teachers is supposed to come from. The nation is doing nothing to recruit and train teachers on the needed scale who could lay any claim to be superior in any way to those already teaching. So if the current policy consists in the main of forcing the unions to the wall, that is a policy that is almost certain to lead to no improvement in the qualifications of teachers as well as a broad decline in the morale of the teachers we already have. In fact, further eroding the morale of our current teaching workforce will prove a very effective deterrent to recruiting capable young people to teach in our schools.

The alternative is the one taken by Ontario's Premier McGuinty: to take whatever steps are necessary to convince the teachers that they have the trust of government and to enlist their unions in the search for solutions to the challenge of improving student performance. As the Ontario case shows, this does not mean that government has to give the teachers and their union whatever they want. McGuinty certainly did not do that. He made it clear where his bottom lines were. He insisted on a strong curriculum, competitive standards, and the new assessments that matched them. And he was not about to break the bank. But he invited the teachers and their unions to the table. He listened to them with respect. Where they told him that they needed support to improve the outcomes for students, he supplied that support whenever and wherever he could. The key elements were respect and trust. It was the mutual trust that grew out of this relationship that persuaded the teachers and unions to crawl out of their bunkers and make concessions that they would never have willingly made when under savage attack.

It is no doubt the case that management in the United States will have to revisit the provisions of the contracts school boards have negotiated over the years. Concessions will be necessary on unfunded retirement plans the public can no longer afford. And on the use of seniority to govern many aspects of school district operations. Perhaps most important, there is a real need to reexamine the state laws applying to public sector bargaining. The more or less unexamined move to apply the structures of the Wagner Act and the Taft-Hartley Act to the public sector need now to be reassessed. There is nothing in federal law that

requires the states to have labor legislation that mimics national labor law in its insistence on a confrontational stance between management and labor and nothing that forces the states to treat teachers as if they are blue-collar employees in a mass-production factory.

But getting to a place where these issues can be productively addressed requires first a relationship of trust between government and labor. Building that trust ought to be the first order of business.

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