

Employee Benefit Plan Review

In Leonardo's Footsteps: Technical Workers, Collective Bargaining and Multiemployer Benefit Plans

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In recent months it seems as though nearly every day another round of technical worker layoffs makes headlines, forcing workers and the industry at large to question the stability of what had previously been considered a professional occupation immune from involuntary job loss. At the same time, employers in a wide variety of other situations are finding it close to impossible to hire technical workers with the necessary skills. The solution to this dilemma can be found in the most unexpected of places – by traveling to Paris and visiting the Louvre. Prominently displayed there is the portrait of Lisa del Giocondo, painted in oil on a white poplar panel. This portrait, of course, is known to the world as the Mona Lisa.

Leonardo da Vinci's seminal painting is the result of an upbringing steeped in his trade. Da Vinci was the illegitimate son of a successful lawyer. Instead of enrolling his son in formal education leading to a university degree, da Vinci's father arranged for his gifted child to be apprenticed to Andrea Del Veraccio, a skilled craftsman and a member of the guild of St. Luke. During his apprenticeship, da Vinci was taught drafting, chemistry, metallurgy, metal-working, plaster casting, leatherworking, and of

course painting and sculpture. Da Vinci was not a university graduate. Rather, he was a proud guild member and an artisan and craftsman, who was a pioneer in many fields. In other words, da Vinci was a sixteenth century tech worker. His genius had its foundation in the training he received under Veraccio's watchful eye. Da Vinci was a product of the guild system.

GUILDS

Arising in the Middle Ages, guilds were the prototypes of labor unions, where associations of craftsmen formed union-like organizations to promote their members economic and social interests. Guilds instituted systems of apprenticeship to protect their trade and induct new members. Members advanced through the states of apprenticeship, journeyman and master. The guild system operated through the 18th century for all skilled trades.

The 18th century industrialists were opposed to the guild system since, as they saw it, the guild movement promoted the economic interests of workers, and limited the power of the new industrial class to control their workers and maximize profits.

In the 19th century, a series of worker revolutions rocked Europe. The Catholic Church,

through Pope Leo XIII, intervened with the writing of a *Rerum Novarum* on Capital and Labor on May 15, 1891, which gave a religious imprimatur to the labor movement; decrying the oppression of the working class. The *Rerum Novarum* is still considered a foundational text of modern Catholicism.

INDUSTRIALIZATION

Guilds began their decline with the rise of industrialization. Faced with the wide-spread nature of industrialization, guilds struggled to maintain control of their membership. However, many labor unions today incorporate elements of traditional guilds, such as the apprenticeship, journeyman, master trajectory and their utilization of collective power to improve members' economic status. Guilds, to be sure, share major similarities to the modern union. The difference, however, was that for the most part, owners did not participate in modern unions except through collective bargaining.

Across the ocean, another pro-worker movement was amassing strength. The American Federation of Labor (the A.F. of L.) was formed in 1886 by an alliance of craft unions, particularly the building trades. The A.F. of L was the first to emulate the guild system and set about organizing people in trades and enforcing a system of apprenticeship.

The early years of the A.F. of L culminated in triumph during the presidency of Franklin Delano Roosevelt, who passed the National Labor Relations Act of 1933 (NLRA), formally ensuring the right of private sector employees to organize into trade unions; engage in collection bargaining and take collective action, such as striking.

In 1935, the Congress of Industrial Organizations (CIO) was founded amid an internal dispute within the A.F. of L. In 1955 the A.F. of L. and the C.I.O. merged, becoming the A.F.L.-C.I.O. In the 1950s,

approximately 35% of America's labor force was unionized.¹

The American labor movement reached its peak in the early 1950s. By 1955, the labor unions in the United States had begun to decline. By 2020, only about 11% of the American workforce was unionized.² A significant reason for the decline of labor unions were accusations of corruption and racketeering occurring within leaderships' ranks. Additionally, McCarthyism and accusations of communism in the Soviet and post-Soviet era helped drive down public support for unions.

TAFT-HARTLEY

Amid the above environment, in 1947, the Taft-Hartley Act restricted the power of labor unions. Taft-Hartley amended the NLRA by prohibiting unions from engaging in unfair labor practices such as wildcat strikes or solidarity strikes. President Truman initially vetoed the Taft-Hartley Act, but Congress overrode President Truman's veto. While significantly weakening the power of labor unions, Taft-Hartley did present a path forward for a specific type of collective bargaining benefit plan, known as multiemployer benefit plans. These plans are required to be jointly administered by an equal number of trustees from both the employer and employees. We believe that the multiemployer benefit plan structure imagined by Taft Hartley is the keystone to the future of tech workers in the United States.

The rise of the now ubiquitously known "tech worker" began in the late-20th century with the Third Industrial Revolution, also known as the Digital Revolution. The Third Industrial Revolution marked a shift from manufacturing and agriculture to information technology.

A new generation of artisans and highly skilled workers emerged, some of whom had achieved expertise through advanced degrees and

others who had received equivalent skill sets through industry certification. Until recently, these artisans of the post-industrial era showed little interest in participating in the labor movement. Newer artisans that mark the Third Industrial Revolution such as programmers, software engineers and information technology specialists have largely remained non-unionized.

To be sure, the traditional labor movement of the 20th century remained alive in major part due to membership in public sector unions, such as teachers unions and police unions. In 2020, public sector union membership was still above 30%.³ Furthermore, certain private-sector skilled craft unions were able to thrive such as carpenters, communications workers, masons, iron workers, and of course, electrical workers.

Tech workers may not have believed that collective bargaining was necessary to achieve a middle-class lifestyle since their skill sets were unique and jobs were plentiful, particularly with the advent of Silicon Valley and start-up culture. However, it recently has become increasingly clear that despite these unique abilities, the protections these modern artisans previously enjoyed were not as secure as they once believed. Just like the robber barons of the 18th and 19th centuries, today's tech lords have not hesitated to treat their employees as faceless statistics, as replaceable as the moving parts of the electric vehicles they proudly travel in.

MULTIEMPLOYER BENEFIT PLANS

As a result, many of these highly skilled workers are facing layoffs, long periods of unemployment and increasing economic insecurity. This continuing pattern of instability cries out for a more equitable, humane and logical system, which serves the needs of both employers and tech workers. The multiemployer

benefit plans provide a collaborative approach which benefits both labor and management.

A multiemployer benefit plan is a type of employee benefit plan maintained under a collective bargaining agreement to which more than one employer contributes. They typically involve one or more local unions that are part of the larger national or international umbrella union. The plan sponsor is a joint board of trustees consisting of equal numbers of representatives of Labor and Management.

Multiemployer benefit plans are beneficial to both management and employees. These plans provide benefit security through distributing the risk for employees covered by the plan. In addition, employees are not tied to one workplace and can transport their benefits with them through different employers who participate in the plan.

A primary benefit for employers is that workers will be attracted to participating employers, especially if they have already established benefit plan eligibility through a previous employer. In addition, the administrative costs are cut substantially by having one plan for numerous employers and there are numerous other financial benefits, including tax breaks.

There are currently over 2,500 multiemployer plans in the U.S. covering the construction industry, retail and service industries, manufacturing, mining, transportation and entertainment industries. However,

nearly all industries could benefit from expanding multiemployer plans.

When some employers and employees think of a union, the image is often of an acrimonious relationship between the union and the employers involving contentious contract negotiations every few years with each side trying to extract concessions from the other side.

However, there is another way to think about the labor-management relationship. The Labor Management Cooperative Committee, which is common in the multiemployer setting, involves both labor and management working in partnership to improve productivity, increase worker well-being and produce collaborative relationships between management and workers.

There have been multiple studies showing that this form of union partnership is beneficial to employers and employees alike.⁴ Benefits for employees include increased worker happiness, higher wages and better benefits and improved job security. Benefits for employers include increased productivity, higher profits, and a better-trained workforce. This approach has proven fruitful in the current labor environment, and we believe that tech workers could take a similarly collaborative approach to bring employees and employers together.

The 21st century and the 16th century obviously imposed different challenges to different generations. Nevertheless, the age of

enlightenment and the postindustrial age in which we live share many common challenges. Worker training, harmony between management and labor, the joy of creativity and the challenges posed by new technologies are common to both eras. Leonardo's path, we submit, provides us with a realistic way forward.

CONCLUSION

The guild system and its modern successor, the multiemployer benefit plans, are both successful templates to harmonize employers and the tech workers essential to the success of the society we live in and they lived in so many years ago. Tech workers and the companies which employ them: You have your work cut out for you so, organize, unionize, fraternize and harmonize. Mona Lisa's smile across the centuries is really not that difficult to understand. 🌟

NOTES

1. <https://sgp.fas.org/crs/misc/RL32553.pdf>.
2. <https://www.bls.gov/opub/ted/2021/a-look-at-union-membership-rates-across-industries-in-2020.htm>.
3. <https://www.bls.gov/news.release/pdf/union2.pdf>.
4. www.labormanagementinitiatives.org/wp-content/uploads/2014/11/Benefits-of-LM-Partnership-Cross-Industry-Lit-Review.pdf.

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