

# “Catholic Social Justice Teaching and Catholic School Teacher’s Unions: Failing to Practice What You Preach”

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## Introduction

The social justice teaching of the Catholic Church, especially as it concerns labor and the rights of workers and unions, is considered the most extensive among all of the Christian churches. Starting with *Rerum Novarum* (*On the Condition of Labor*) written by Pope Leo XIII (1891) and leading up to *Caritas in Veritate* (*Charity in Truth*) written by our current Pope Benedict XVI (2009) the social teachings of the Church continue to address issues of labor, the rights of workers, and unions to exist without fear of reprisals. Even today, with unions under attack in the states of Wisconsin, Ohio, and other states the Catholic bishops in those states have quoted from the previous mentioned documents to uphold the rights of workers and unions.

On February 16, 2011, Milwaukee Archbishop Jerome E. ListECKI, President of the Wisconsin Catholic Conference, issued a statement to members of the state Legislature’s Joint Committee on Finance outlining Catholic Church teaching on the rights of workers (*The Compass* 2/16/11). In it he quotes the papal encyclicals written by Pope Benedict XVI (2009) and Pope Leo XIII (1891).

He wrote, “As Pope Benedict wrote in his 2009 encyclical, *Caritas in veritate*:

*Governments, for reasons of economic reality, often limit the freedom or the negotiating capacity of labor unions. Hence traditional networks of solidarity have more and more obstacles to overcome. The repeated calls issued within the Church’s social doctrine beginning with Rerum Novarum (80), for the promotion of workers’ associations that can defend their rights must therefore be honored today even more than in the past, as a prompt and far-sighted response to the urgent need for new forms of cooperation at the international level, as well as the local level.” (#25)*

The Most Reverend Stephen E. Blaire, Chairman of the United States Bishops Committee on Domestic Justice and Human Development, added his support in a letter written to Archbishop ListECKI (2/23/2011). He quotes Blessed Pope John Paul II (1981) in his encyclical *Laborem Exercens* (*On Human Work*). Pope John Paul II called labor associations “an indispensable element of social life, especially in modern industrialized societies,” but also reminded unions “to secure the just rights of workers within the framework of the common good of the whole of society.” (#20)

He highlights a statement made by Archbishop ListECKI that includes an additional quote from Pope John Paul II (1981):

*It does not follow from this that every claim made by workers or their representatives is valid. Every union, like every other economic actor, is called to work for the common good, to make sacrifices when required, and to adjust to new economic realities. However, it is equally a mistake to marginalize or dismiss unions as impediments to economic growth. As Pope John Paul II wrote in 1981, ‘a union remains a constructive factor of social order and solidarity, and it is impossible to ignore it.’” (#20)*

On February 26, 2011, eleven communities of women religious in Wisconsin issued a statement in support of the rights of workers. In it they express concern about Republican Governor Scott Walker’s plan to strip the workers of basic human rights, including the right to collective bargaining. They quote from the United States Bishops pastoral letter *Economic Justice for All* (1986). “No one may deny the rights to organize without attacking human dignity itself. Therefore, we firmly oppose organized efforts, such as those regrettably seen in this country, to break existing unions or prevent workers from organizing.”

In response to Republican Governor John R. Kasich’s successful attempt to strip public-employee unions of collective bargaining rights the Ohio Catholic Conference of Bishops issued a statement in support of the right to collective bargaining. “The Catholic bishops of Ohio encourage leaders in government to pursue changes that promote the common good without the elimination of collective bargaining (Hershey 2011).”

From the above examples, it would appear to be very clear that the long history of Catholic social justice teaching on the rights of workers and unions continues to be reclaimed and reapplied to our present situation with unions under attack. The Code of Canon Law of the Catholic Church calls for the following of Church teaching on labor and the need to pay a just wage in Canon 1286: “Administrators of

goods: 1) are to observe meticulously the civil laws pertaining to labor and social policy according to Church principles in the employment of workers; 2) are to pay employees a just and decent wage so that they may provide appropriately for their needs and those of their family."

The *Catechism of the Catholic Church* (1994) upholds social justice teaching regarding Article 7, "The Seventh Commandment" in the subsection "Economic Activity and Social Justice" in paragraphs 2426-2436. Included in this section are paragraphs that call for a just wage (2434), recourse to strike (2435), failure to pay social security contributions and harm brought about by unemployment on the individual and his/her family (2436).

While this paper will highlight the gift that Catholic social justice teaching brings to worker justice the second part of the paper will reveal a failure to uphold this social justice teaching as it applies to Catholic school teachers' unions—a failure of the Catholic hierarchy to practice what the Church preaches. For example, in the state of Wisconsin, there are no Catholic elementary or high schools that are unionized. In the state of Ohio, three out of the six dioceses do not have Catholic elementary or high schools that are unionized. In 1973, 25 out of 145 responding dioceses reported the existence of unions (James 2004; Russo and Gregory 1999). The decline of secular union membership is cause for greater concern, within the Church and Society, given today's current economic climate. Sadly, there have been Catholic school teachers' unions that have been decertified or simply shut down under the new policies of dioceses undergoing organizational restructuring. One of these unions was the Boston Archdiocesan Teachers Association (BATA) in the Archdiocese of Boston representing 8 Catholic high schools (Massey 2004) and another was the Scranton Diocese Association of Catholic Teachers (SDACT), which was decertified in 2006. Another Catholic school teachers' union, the Lay Faculty Association LIUNA Local 255 representing ten Catholic high schools, is currently fighting for its right to exist, with future court cases pending, in one of the largest and wealthiest Archdioceses in the country, the Archdiocese of New York.

Before examining the specifics of these three unions it will be helpful to understand the history of Catholic school teachers' unions and the historic court cases that allowed them to exist as a union against the wishes of local and national bishops.

The paper will conclude with some signs for a hopeful future.

## Rerum Novarum: The Magna Carta of Catholic Social Justice Teaching

Nearly fifty years prior to Pope Leo XIII's papal encyclical, written in 1891, some people believed that the Christian Churches in Britain should not be involved in political matters. This was challenged by the Christian Chartists movement (1838-1848) that took the position that Christianity could not be divorced from political matters. A couple of examples at the time reveal the shift from a passive Christianity to a radical Christianity that would influence the encyclical of Pope Leo XIII.

*Rev. William Hill wrote in the Northern Star "We are commanded...to love our neighbors as ourselves...this command is universal in its application, whether as friend, Christian or citizen. A man may be devout as a Christian...but if as a citizen he claims rights for himself he refuses to confer upon others, he fails to fulfill the precept of Christ.*

*Rev. Joseph Barker saw Britain's churches as pointless. "I have no faith in church organizations. I believe it my duty to be a man; to live and move in the world at large; to battle evil wherever I see it, and to aim at the annihilation of all corrupt institutions and at the establishment of all good, and generous, and useful institutions in their places (Faulkner 1916).*

In #3, Pope Leo describes the "misery and wretchedness pressing so unjustly on the majority of the working class" due to the vacuum left after the "ancient workingmen's guilds were abolished in the last century, and no other protective organization took their place." As if describing the current economic situation he describes how "by degrees it has come to pass that working men have been surrendered, "isolated, and helpless, to the hardheartedness of employers and the greed of unchecked competition." He addresses "rapacious usury...more than once condemned by the Church...still practiced by covetous and grasping men." "To this must be added that the hiring of labor and the conduct of trade are concentrated in the hands of comparatively few; so that a small number of very rich men have been able to lay upon the teeming masses of the laboring poor a yoke little better than that of slavery itself."

An example of the greed of unchecked competition, at the time of this paper, is the profit made by the five major oil companies for the first three months of the year: 34.2 billion dollars; up 42% from last year, or 379 million dollars a day (ABC News, 4/29/11). While the oil companies make so much profit gas prices continue to soar impacting the budget of the poor and middle class.

#4 rejects the ideologies of socialists and upholds the right to private property. Tensions would

continue to exist between unions with socialist and communist ideologies and those set up as separate Catholic unions in Europe. Communist concerns and influences would follow unions in the United States.

#20 addresses the millions of jobs today that pay minimum wage, poverty level wages without benefits and that constitute wage theft whether it be Wal-Mart, McDonalds, sweatshops or the salaries of Catholic school teachers which are far below the prevailing wage of their public and some Catholic school counterparts. The underlined statement below was used by the teachers of the LFA in the Archdiocese of New York during their prolonged fight for a just contract.

In statistics that have surely gotten worse, Msgr. Higgins, noted Labor Priest, in *Organized Labor and the Church*, quoted from an article written by Barry Bluestone and Bennett Harrison, "A Low Wage Explosion: The Grim Truth About the Job 'Miracle:'" between 1979 and 1985, 44% of the net new jobs created paid poverty-level wages. "Since the early 1970's average wage and salary incomes adjusted for inflation had declined for nearly all groups within the population and in most industries (1993, 71)." In light of the declining number of union members today, an even more prophetic statement is taken from the article: "in the absence of a new wave of labor organizing in services and of government policies to expand high-value added production, wage standards for a substantial fraction of American working people will likely continue to erode (Ibid., 72)." Higgins addresses the labor problem, "In the mid-1960's, nearly a third of American workers were organized into unions. By 1992 that figure had shrunk to approximately seventeen percent—the lowest in any of the industrialized countries. (Union representation in the private sector stands at around twelve percent) (Ibid., 71)." Some estimate the private sector union membership today at 7%.

*Wealthy owners and all masters of labor should be mindful of this - that to exercise pressure upon the indigent and the destitute for the sake of gain, and to gather one's profit out of the need of another, is condemned by all laws, human and divine. To defraud any one of wages that are his due is a great crime which cries to the avenging anger of Heaven. "Behold, the hire of the laborers... which by fraud has been kept back by you, crieth; and the cry of them hath entered into the ears of the Lord of Sabaoth."(6) Lastly, the rich must religiously refrain from cutting down the workmen's earnings, whether by force, by fraud, or by usurious dealing; and with all the greater reason because the laboring man is, as a rule, weak and unprotected, and because his slender means should in*

*proportion to their scantiness be accounted sacred. Were these precepts carefully obeyed and followed out, would they not be sufficient of themselves to keep under all strife and all its causes?*

The following percentage of workers experience wage theft today: 60% of nursing home workers; 89% of nonmonitored garment factory workers in Los Angel of onion producers, and 62% of garlic producers; 78% of restaurant workers in New Orleans; almost half of day laborers involved in construction work; and 100% of poultry plants steal workers' wages (Bobo 2009, 7).

#32 encourages the government's role in passing laws to benefits the working classes. "And the more that is done for the benefit of the working classes by the general laws of the country, the less need will there be to seek for special means to relieve them."

#37 and 50 repeat the important role and necessity of assistance provided by the state to protect and care for the worker that is being reversed today by the state in taking away protections from the worker like collective bargaining rights.

*The richer class have many ways of shielding themselves, and stand less in need of help from the State; whereas the mass of the poor have no resources of their own to fall back upon, and must chiefly depend upon the assistance of the State. And it is for this reason that wage-earners, since they mostly belong in the mass of the needy, should be specially cared for and protected by the government.*

*The State should watch over these societies of citizens banded together in accordance with their rights, but it should not thrust itself into their peculiar concerns and their organization, for things move and live by the spirit inspiring them, and may be killed by the rough grasp of a hand from without.*

#42 The role of women has changed dramatically in the workplace since the time of the encyclical. Sexism, sexual harassment, and discrimination continue to victimize women in the workplace. In 1963, women earned 59% of the wages earned by men and by 2005 the wage gap had narrowed to 81% with older women experiencing the largest disparity of wages (Ibid., 49).

*Women, again, are not suited for certain occupations; a woman is by nature fitted for home-work, and it is that which is best adapted at once to preserve her modesty and to promote the good bringing up of children and the well-being of the family.*

*Pacem in Terris (Peace on Earth) (1963) written by Pope John XXIII would repeat the idea that women*

find work "consistent with their needs and responsibilities as wives and mother (#19)." But, later in the document, adds a new development recognizing women becoming more aware and active in the realms of politics and work.

*The part that women are now playing in political life is everywhere evident. This is a development that is perhaps of swifter growth among Christian nations, but it is also happening extensively, if more slowly, among nations that are heirs to different traditions and imbued with a different culture. Women are gaining an increasing awareness of their natural dignity. Far from being content with a purely passive role or allowing themselves to be regarded as a kind of instrument, they are demanding both in domestic and in public life the rights and duties which belong to them as human persons (#61).*

#49 authorizes the rights of unions to exist:

*The most important of all (workplace associations and organizations) are workingmen's unions, for these virtually include all the rest. History attests what excellent results were brought about by the artificers' guilds of olden times. Such unions should be suited to the requirements of this our age - an age of wider education, of different habits, and of far more numerous requirements in daily life. It is gratifying to know that there are actually in existence not a few associations of this nature, consisting either of workmen alone, or of workmen and employers together, but it were greatly to be desired that they should become more numerous and more efficient*

#50 gives one of the best passages on solidarity. It is restated in a different way in a later document by the U.S. bishops "Economic Justice for All," (1986): "The dignity of the human person, realized in community with others, is the criterion against which all aspects of economic life must be measured" (Heine and Brooke 2010, 80).

*We read in the pages of holy Writ: "It is better that two should be together than one; for they have the advantage of their society. If one fall he shall be supported by the other. Woe to him that is alone, for when he falleth he hath none to lift him up (Ecclesiastes 4:9-10)."(34) And further: "A brother that is helped by his brother is like a strong city (Proverbs 18:19)."(35) It is this natural impulse which binds men together in civil society; and it is likewise this which leads them to join together in associations which are, it is true, lesser and not independent societies, but, nevertheless, real societies.*

#58 describes the purposes of societies and associations to "try to arrange for a continuous supply of work at all times and seasons; as well as to create a fund out of which the members may be effectually helped in their needs, not only in the cases of accident, but also in sickness, old age, and distress." This paragraph addresses the importance of benefits like health insurance, medical benefits and retirement pensions currently being taken away from the rights of workers. This teaching is further affirmed by Pope John XXIII in his encyclical *Pacem in Terris (Peace on Earth)* (1963). Any denial of these rights harms persons and wounds the human community (Ibid., 88). "Thus any government which refused to recognize human rights or acted in violation of them, would not only fail in its duty; its decrees would be wholly lacking in binding force (61).

From the above passages it should be clear why *Rerum Novarum* is considered the Magna Carta of Catholic social justice teaching and why it still supports the common good of the worker, unions, and society.

### **Laborem Exercens (On Human Work) and the Role of Unions and Political Parties**

Blessed Pope John Paul II addressed caution against unions having too close a relationship with political parties. Recent budget decisions and bills being passed in many states stripping away the collective bargaining rights of unions, affecting benefits, pensions, and issues impacting the wages a worker earns have made it a necessity for unions to be directly involved in the political process. The words of Pope John Paul II in *Laborem Exercens (On Human Work)* (1981) would have to be reexamined in today's political world especially when political action lobby organizations like the American Legislative Exchange Council (ALEC) work tirelessly with corporations and politicians to pass anti-union legislation that harms the rights of workers.

*The role of unions is not to "play politics" in the sense that the expression is commonly understood today. Unions do not have the character of political parties struggling for power; they should not be subjected to the decision of political parties or have too close links with them. In fact, in such a situation they easily lose contact with their specific role, which is to secure the just rights of workers within the framework of the common good of the whole of society; instead they become an instrument used for other purposes (20).*

### **Centesimus Annus (The Hundreth Year) and a Just Wage**

One hundred years after *Rerum Novarum*, and ten years after the above mentioned encyclical, Blessed

Pope John Paul II emphasized the need for a just wage and the role of unions in negotiating these wages and work conditions.

*Furthermore, society and the State must ensure wage levels adequate for the maintenance of the worker and his family, including a certain amount for savings. This requires a continuous effort to improve workers' training and capability so that their work will be more skilled and productive, as well as careful controls and adequate legislative measures to block shameful forms of exploitation, especially to the disadvantage of the most vulnerable workers, of immigrants and of those on the margins of society. The role of trade unions in negotiating minimum salaries and working conditions is decisive in this area (15).*

**Forming Consciences for Faithful Citizenship, United States Catholic Bishops**

**"A New 'Social Contract' for Today's 'New Things'", USCCB Labor Day Statement**

**Our Cherished Right, Our Solemn Duty, Catholic Bishops of New York State**

The following social justice documents and statements continue the tradition of *Rerum Novarum*. In *Forming Consciences for Faithful Citizenship (2007)* the U.S. bishops state:

*"Catholic social teaching supports the rights of workers to choose whether to organize, join a union, and bargain collectively, and to exercise these rights without reprisal...Workers, owners, employers, and unions should work together to create decent jobs, build a more just economy, and advance the common good (76).*

What isn't mentioned by the U.S. bishops is what happens when workers "choose" to organize or join a union.

*"91% of employers require employees to attend a one-on-one meeting with their supervisors where they are told why unions are bad and why they should vote against the union. 51% of employers illegally coerce union opposition through bribes and favors. 30% of employers illegally fire pro-union employees. 49% of employers illegally threaten to eliminate all workers' jobs if they join a union (Bobo 2009, 86)."*

Sadly, some of these anti-union tactics have taken place in Catholic hospitals and Catholic schools as examples of Catholic institutions and administrations failing to uphold Catholic social justice teaching.

For this year's Labor Day Statement, Bishop William F. Murphy of Rockville Centre, New York, chairman of the U.S. bishops' Committee on Domestic Justice and Human Development made a reference to Pope Leo XIII's encyclical *Rerum Novarum*, which means "Of New Things" by making it a part of this year's statement, "A New Social Contract for Today's

*'New Things (2010).'*" In his statement Bishop Murphy mentioned many of the difficulties facing workers today including: the 29 West Virginia coal miners who died when the earth collapsed around them; the 11 oil riggers who died in the Gulf of Mexico oil derrick explosion; the 15 million unemployed and the 11 million who can only find part-time work; and, the influence of globalization on the world's economy. He concludes the document calling for: the protection of the life and dignity of each worker, and how workers need to have a real voice and effective protections in economic life. He speaks of the need for: "private action and public policies that strengthen families and reduce poverty; new jobs with just wages and benefits so that all workers can express their dignity through the dignity of work and are able to fulfill God's call to us all to be co-creators; and, a new social contract, which begins by honoring work and workers, ...that ultimately focuses on the common good of the entire family."

The Catholic Bishops of New York State issued their statement on the upcoming elections "*Our Cherished Right, Our Solemn Duty (2010)*." Among the important questions for Political Candidates are questions regarding: The Right to Life; Parental Rights in Education; Protecting Marriage; Immigration Reform; Access to Health Care; and, protecting the poor by the support of the Farm workers Fair Labor Practices Act that would grant farm workers certain rights available to all other New York workers, such as the right to overtime pay, collective bargaining and a day of rest. For Catholic school teachers' union it is puzzling how the Catholic Bishops of New York could advocate on behalf of farm workers while engaging in union busting tactics with its own Catholic school teachers.

There are other examples of Catholic social justice teaching that uphold the rights of the worker and unions that can be read and mentioned here, but it is now time to focus on Catholic school teachers' unions and how they came to be born out of the Catholic social justice teaching tradition with resistance. Recommended websites to access the social justice documents and papal encyclicals would be the Catholic Labor Network at [CatholicLabor.org](http://CatholicLabor.org), and the Compendium of the Social on the Vatican website:

[www.vatican.va/.../rc\\_pc\\_justpeace\\_doc\\_20060526\\_compendio-dott-soc\\_en.html](http://www.vatican.va/.../rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html) -

The implementation of Catholic social justice teaching regarding the right to organize began to take place in Catholic schools in the late 1950's and early 1960's due to the popularity found in public schools (James 2004; Russo and Gregory 1999). It was only

with the help of court decisions that Catholic school teachers' unions were able to exist

### **Lemon v. Kurtzman (1971)**

While not directly related to issues of collective bargaining this case is "frequently cited in most of the state and federal court decisions involving collective bargaining in Catholic schools (James 2004)." This case involved additional state payments of salaries to teachers of secular subjects in non-public schools in Rhode Island and Pennsylvania. Religion teachers teaching religion courses were not entitled to the state reimbursements. The U.S. Supreme Court ruled that the cumulative effect of the laws was to foster excessive entanglement between government and religion, and was ruled unconstitutional (Ibid., 2004).

The court established three tests for a law to survive the Establishment Clause prohibition of the Constitution: "First the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; finally the statute must not foster an excessive government entanglement with religion (Lemon v. Kurtzman, 1971, p. 635; Ibid., 2004)."

### **Catholic Bishop v. National Labor Relations Board (NLRB) (1977)**

This case involved two Catholic high schools in the Archdiocese of Chicago, and five diocesan Catholic high schools in the FortWayne/South Bend diocese who sought to be certified as collective bargaining units by the National Labor Relations Board (NLRB) with unions in Illinois and Indiana representing lay teachers employed in Catholic schools. The NLRB certified the unions but the employers contended that the NLRB should decline jurisdiction based on its own rules and based on First Amendment prohibitions against government entanglement established in the Lemon v. Kurtzman case. This case can be used as the first example of the Catholic hierarchy and administrations of these seven Catholic schools failing to uphold the Catholic social justice teachings of the Church that support the rights of workers to unionize.

The issue of jurisdiction was rejected since the NLRB accepted jurisdiction over schools where instruction was not limited to religious subjects in earlier court cases. But, the Seventh Circuit Court of Appeals and the United States Supreme Court ruled in favor of the Catholic Bishops of Chicago by ruling the NLRB had no authority over religious schools (Ibid.) The significance of this "decision ended federal involvement in the involvement in the oversight of labor relations within Catholic schools by the NLRB (Ibid.)." The outcome of this case could be seen as a victory for the Catholic hierarchy but a loss of credibility regarding the failure to uphold Catholic

social justice teaching regarding the rights of workers to organize into unions without fear of reprisals.

### **Catholic High School Association (CHSA) v. Culvert (1985)**

This case pertains to the union that is currently fighting for its right to exist in the Archdiocese of New York and to which this author belongs: The Lay Faculty Association (LFA). In 1968, the State of New York enacted legislation in 1937 similar to the Wagner Act/NLRB (1935) and amended the legislation in 1968 to include charitable, educational, and religious organizations. Shortly after this, the LFA petitioned the State Board for certification to represent 11 archdiocesan high school teachers as the exclusive bargaining agent. The petition was certified and from 1969 until 1980 the LFA and CHSA representing the Archdiocesan schools engaged in collective bargaining agreements governing the "secular terms and conditions of lay teachers' employment" (Catholic High School Association v. Culvert 1985, 1163; Ibid.).

A rider to the agreement included the following statement: "certain areas of Canon Law, ecclesiastical decrees and religious obligations that cannot be subject of negotiations" and included this example giving reason for discharge "if a teacher were to teach that there was no God, the discharge would not be subject to the grievance procedures (Ibid., 1163; Ibid.)"

In 1980, the LFA filed unfair labor practices when the CHSA suspended 226 teachers who protested the schools' unilateral decision to implement a policy which would require teachers to cover the classes of absent teachers (a policy that continues to this day, saving the schools thousands of dollars from having to pay substitute teachers).

The LFA also alleged that the CHSA sent letters to teachers urging them to pressure individual teachers urging them to pressure the LFA into accepting the CHSA offer and added other unilateral decisions. (This tactic would continue up to the present with the LFA having filed 22 Unfair Labor Practice charges (ULP's) waiting to be heard in the New York State Employment Relations Board court (SERB against the Archdiocese of New York and CHSA).

While the District Court followed the decision of Catholic Bishop v. NLRB regarding the issues of entanglement, the United States Second Circuit Court of Appeals reversed and remanded the District Court ruling. The Second Circuit Court of Appeals ruled "It is a fundamental tenet of the regulation of collective bargaining that government brings private parties to the bargaining table and then leave them alone" and furthermore, the court rejected the "likelihood of entanglement" in favor of one where the Church must

show “the coercive effect of the enactment as it operates” in the practice of religion (Catholic High School Association v. Culvert 1985, 1168; *Ibid.*). As a result of this decision the LFA and other Catholic school teachers’ unions in the state of New York would have access to State Labor Boards. The problem is that not every state has State Labor boards, nor does every state recognize non-public schools under the Labor boards or legislation. This absence of protection from the state leaves Catholic school teachers especially vulnerable to union busting and other bullying tactics.

Future court cases in Minnesota, New York and New Jersey would result in court decisions giving Catholic lay teachers’ unions the right to collective bargaining “regarding secular conditions of the contract such as salary, benefits, and quite possibly a narrow definition of work conditions that do not encroach upon the religious freedom of the school (James 2004).”

Given the strong and unequivocal social justice teaching of the Catholic Church, regarding the rights of workers and unions to organize without fear of reprisals, the question has to be asked why the hierarchy of the Catholic Church, in the United States, fails to uphold these teachings and fails to practice what they preach as it applies to the children of the Church as represented by Catholic school teachers and the unions that represent them? Perhaps the easiest answer is simply to say that if the Church can get away with doing it, without being told otherwise by the courts, it will. Another reason for this contradiction and scandal within the Church is the hierarchy following the 11<sup>th</sup> Commandment “Thou Shall Not Get Caught.”

The following examples will further reveal the scandal within the Church regarding Catholic school teachers and the unions that represent them. This scandal is of a magnitude that far surpasses the child sex abuse scandal in the Church because of the failure to call it a scandal. A scandal that goes unidentified as a scandal is allowed to continue and thrive.

#### **The Boston Archdiocesan Teachers Association (BATA) in the Archdiocese of Boston**

In 2004, the Archdiocese of Boston announced that eight regional Catholic high schools would become new, independent entities that would be run by independent boards of trustees. At the expiration of the teachers’ August 31, 2004 contract each of the eight boards decided not to negotiate, thus ending a collective bargaining process that had lasted 38 years. In June, 2004, BATA filed a lawsuit claiming that the boards of trustees served as an “alter ego” of Archdiocesan Central High Schools Inc, which is the

branch of the archdiocese that handled the negotiations with the teachers for the past 38 years. The loss of the rights of the previous contract left the teachers without any standards for working conditions such as class load and preparation time, sick and personal leave days, salary scale, health insurance and job security. All of these were rights of workers previously mentioned in Catholic social justice teaching beginning with *Rerum Novarum* and continuing up to the present day as shown in this paper and the documents themselves.

One of the main reasons the Archdiocese was able to get away with this reversal of Catholic social justice teaching was because it did not correspond with state law. A bill was introduced by a group of Massachusetts state legislators that would give employees at nonprofit institutions, including Catholic school teachers, the right to unionize (Massey 2004). The status of this bill is not known at this time. It did not matter that Catholic social justice teaching since 1891 already recognized this right. When Catholic social justice teaching is not upheld and the Catholic hierarchy does not practice what the Church teaches it is up to the courts to decide the fate of the Catholic school teachers and unions. Unfortunately, the previous court decisions giving Catholic school teachers the right to organize as a union, free of reprisals, did not apply to the Catholic school teachers and union in Boston.

#### **Scranton Diocese Association of Catholic Teachers (SDACT) in Diocese of Scranton**

On January 24, 2008, the diocese of Scranton, Pennsylvania, announced it would no longer recognize SDACT as a collective bargaining unit. The decision to restructure the schools led to the bargaining relationship coming to an end in 2006. Between 1978-2007, the union negotiated contracts with diocesan schools. Teachers in 9 of the 10 high schools and all large elementary schools in the diocese were represented (Hall 2/3/2008). Michael Milz, the union President, was terminated from his position after more than 30 years of service in the diocese. The diocese justified his termination by stating he did not have enough seniority at his school Holy Redemer in Wilkes-Barre despite his work in the diocese for 34 years (Hall 6/11/08).

In a similar political move as the legislators in Boston, Pennsylvania state legislators introduced Bill 26 that would amend the Pennsylvania Labor Relations Act which would allow lay teachers and other lay employees of religiously-affiliated schools to organize and bargain collectively with their employers. It did not matter that Catholic social justice teaching already called for the teachers to have this right.

As if rubbing salt in the wounds of the teachers, the diocese refused to pay the teachers almost 1 million dollars in arbitration awards for accumulated sick leave and severance pay. The union was forced to take the diocese to court to make them pay. After six years of legal actions, delay and frustration, the diocese will start to pay the teachers nearly 1 million dollars that was owed to them. The uproar over the labor injustice would lead to the eventual resignation of Bishop Joseph Martino that was accepted in August, 2009. His successor Bishop Joseph C. Bambera has not restored the union. The Vatican upheld the decision made by the Diocese of Scranton (Fraga 2011). While the diocese of Scranton may consider this a victory that endorses the union busting actions made by this decision, it only serves as a greater example of a loss of credibility and failure to uphold Catholic social justice teaching.

### **Lay Faculty Association LIUNA Local 25 in Archdiocese of New York**

Following the script or precedence to reverse Catholic social justice teaching, the Archdiocese of New York announced January, 2009, that the ten Catholic high schools of the LFA would become independent entities and cease to be run by the Catholic High School Association (CHSA). By September, 2009, all of the rights the teachers had over the last 40 years were unilaterally stripped away. Terms and Conditions were unilaterally imposed upon the teachers without any negotiation with the LFA. At the end of the 2009 school year, LFA President, John Fedor, was terminated from his Hall of Fame teaching career at John S. Burke Catholic High School after 41 years. Similar to the termination of Michael Milz in Scranton, the reason given was due to enrollment. Among the 22 ULP's filed in the New York State Employment Relations Board is one contesting the firing of John Fedor. John was one year away from retirement and he and his wife have had to dip into retirement savings to make up for his lost paycheck. There is no more egregious union busting action that can be taken then when a Union President is fired. The fear of reprisals is felt by the rest of the union members and it is no surprise that John S. Burke Catholic is in a state of suspension. The fear of reprisals does not affect only the teachers. In today's union busting climate, so-called labor priests have remained silent and unable to stand with the teachers of the LFA because of fears regarding reprisals taken against their schools by the Archdiocese. While the 11 communities of religious sisters supported worker's rights in Wisconsin, a group of religious sisters failed to support the teachers of the LFA because of the fear of reprisals due to the Vatican investigation of

women's religious communities. Real or imagined, reprisals impose a psychological violence upon the victims of the reprisals and violate the sanctity of their conscience.

As result of the teachers not having a contract affective September, 2009, all union dues deductions were stopped. This seems to be another tactic in today's union busting environment to weaken the financial strength of unions. It is part of the legislation proposed in some "Right to Work" states. In addition to the failure to deduct union dues, teachers with a voluntary pension plan with the parent union have been unable to have pension deductions which will also need to be made retroactively. A supplemental pension plan was also frozen, which will negatively impact the financial support teachers will receive in their retirement, which also violates the right to have a pension or be cared for in one's senior years. The administrations and new Board of Directors chose to retain the same Archdiocesan Attorney that represented the schools as the CHSA. Only after two of the Principals were sued did they change attorneys. As a result of the change two of the ten schools have negotiated successful contracts.

Similar to the unsuccessful Boston situation, the key case among all of the ULP's, is the case set to determine whether the 10 independent schools are alter egos of the Archdiocese. The LFA is charging they are alter ego schools and not independent of the Archdiocese. Court dates have been set for the summer.

### **Signs of Hope for Catholic Social Justice Teaching**

The future of Catholic schools and Catholic school teachers' unions can look bleak in light of this paper. Catholic social justice teaching should be enough but it does not appear to apply to Catholic school teachers. The following are signs of hope for the future.

The contract negotiated by Maria Regina High School, one of the schools of the LFA, shows that through good faith negotiating a contract can be possible. If the terms and conditions of the collective bargaining agreement were offered to the other 9 schools they would be accepted immediately. Unfortunately, another tactic is being used to encourage decertification and union busting and that is the delay of justice and the failure to accept binding arbitration. An interesting observation is that there are no Archdiocesan priests involved in the Maria Regina administration. Not only is there concern about the education of the hierarchy, regarding Catholic social justice teaching, especially if the future leaders of the Church are being educated in Rome, at the Pontifical North American College, but it also raises questions

about the social justice education of seminarians as the future priests in the Archdiocese of New York.

The document *"Respecting the Just Rights of Workers: Guidance and Options for Catholic Health Care and Unions."* Catholic Health Care institutions like Catholic schools can be another Catholic institution that has historically experienced terrible examples of union busting. The significance of this document is the collaborative effort that went into the writing of the document. Representative included: Cardinal Theodore McCarrick, at the time Chairman of the Domestic Policy Committee of the USCCB; Sr. Carol Keehan DC, President and Chief Executive Officer of the Catholic Health Association of the U.S.; John Sweeney, then President of the AFL-CIO; and, Dennis Rivera, the then Chair of SEIU Healthcare. It also received pro bono assistance from the Feerick Center for Social Justice at Fordham University School of Law to convene, mediate and participate in the process of learning, discussion and reflection.

While recognizing past conflicts and controversies the document affirms the commitment to creating a more positive and productive work environment that promotes dignity, mutual respect and harmony (Part II, Article E 2009).

A similar document and process needs to be entitled *"Respecting the Just Rights of Workers: Guidance and Options for Catholic School Teachers and Unions,"* or, *"A Charter for the Protection of Catholic School Teachers and Unions,"* similar to the charter addressing the sexual abuse scandal in the Church. Perhaps John Sweeney, a graduate of Cardinal Hayes High School, one of the schools of the LFA, could facilitate this process. John advocated on behalf of the teachers of Cardinal Hayes and the LFA when the school honored him and entered him into the school's Hall of Fame.

Another sign of hope involves the various labor organizations like Interfaith Worker Justice ([www.iwj.org](http://www.iwj.org)), the Catholic Labor Project ([www.catholiclabor.org](http://www.catholiclabor.org)) and Catholic Scholars for Worker Justice. The LFA was extremely grateful for a letter of support written by Catholic Scholars for Worker Justice, under the leadership of Joe Fahey as Chairman. The organization can be accessed via the following website:

[www.catholicsscholarsforworkerjustice.org](http://www.catholicsscholarsforworkerjustice.org). It is recommended to read their article "Union busting is a mortal sin." Catholic Scholars for Worker Justice is one of the few labor organizations to publicly stand with the Catholic high school teachers of the LFA. More support and strong condemnation of the union busting tactics of the Archdiocese of New York and other dioceses in the Catholic Church of the United

States, and other denominations, by these other labor organizations can serve as a great means of solidarity. The interreligious social justice teachings of various religions and Christian denominations offer further hope for solidarity. The Living Wage Campaign in New York City is an example of this interreligious support for a living wage for projects receiving state subsidies.

Finally, the "Employee Free Choice Act," or better named "Employee Fair Contract Act" needs to be resurrected or similar legislation proposed (Fahey 2010). The importance of this act would have increased the financial penalties and fines against employers that violate the rights of workers. As long as remedies amount to a slap on the wrist, or a posting of an Unfair Labor Practice charge, the Church and the most unscrupulous of employers will continue to fail to uphold Catholic social justice teaching and thus fail to practice what the Church preaches.

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