LABOUR RELATIONS PRACTICES OF NONPROFITS ACTING AS FOR-PROFITS: AN EXPLAINABLE DISSONANCE

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INTRODUCTION

This article seeks to connect two seemingly distinct phenomena. In recent years, nonprofits organizations are encouraged to become more efficient and to adopt corporate models of operation. Simultaneously, managements of nonprofits are taking extreme measures to circumvent strikes and collective bargaining in nonprofits in which workers are unionized or wish to unionize. A comparison can easily be drawn between the treatment of employees by nonprofit social services organizations and private corporations. Instances of prolonged lockouts and threats of closing down departments resemble the treatment of employees by notorious mega corporations such as Wal-Mart whose threats of closing stores became somewhat of a company trademark (Wal-Mart Watch). A question thus surfaces: Why do humanitarian organizations whose goal is to help people in need, and often are their clients' last resort, mistreat their employees? The dissonance between the dedication towards clients and disregard for employees' welfare is the main concern of this article.

Since nonprofits include a multitude of different organizations ranging from small, neighborhood hockey clubs to hospitals, analysts and social scientists have developed many different ways of characterizing them; by size, goals, sectors, funding etc. (Hall and Banting, 7-9). In this article, while I generally discuss nonprofits, I chose examples from shelters that provide services to the homeless or the domestically abused, out of a vast number of nonprofit social service organizations because, in essence, they seem to me, morally wise, the furthest removed from for-profit businesses such as Wal-Mart. Subjectively, I feel that the nonprofit provision of shelter to the homeless or abused (and sadly often both) is as far from a for-profit chase for revenue as possible. It is for this reason that I am curious as to why these two remote social beings – a private mega corporation and a relatively small nonprofit social service organization – so different in goals – often treat their employees in a similar manner.

While literature on nonprofits typically presents a dichotomy between nonprofit and for-profit, there is no evidence indicating the existence of distinct and mutually exclusive modes of organizing (Dart and Zimmerman, 145). Thus, since nonprofits have such a central role in the Canadian economy, and are largely funded by Canadian governments and municipalities, it is imperative, in my view, to pay more attention to the similarities and dissimilarities between for-profit businesses and nonprofit organizations.

The lack of a primary profit motive strengthens the sense that nonprofit organizations are more trustworthy than for-profits businesses in the delivery of sensitive public services (Hall and Banting, 3). While we shake our heads in dismay at the practices of corporations against their employees we do not expect nonprofits to act similarly. We consider hard line tactics against unionized and non-unionized workers as something one would find in hardcore private corporations such as Wal-Mart. Wal-Mart is notoriously known for its mistreatment of its employees. Wal-Mart underpays its employees, forces them to work overtime without pay and denies decent health care and pensions. Similarly, attempts to unionize by employees were countered with bullying tactics. Wal-Mart uses its power, sometimes illegally, to block organizing efforts. In the entire U.S. only ten butchers from Jacksonville, Texas, voted successfully to unionize. Two weeks later, in March 2000, Wal-Mart announced that it is eliminating butchers from 180 stores in the region and ultimately from all its stores across the U.S. (Associated Press, 3/3/00). Similarly, in 2005, less than a year after Canadian workers at a Wal-Mart in Jonquiere, Quebec chose to unionize, the company claimed that the store was unprofitable and shut it down (Associated Press, 11/09/05). The message to employees is clear, says Wal-Mart Watch: "exercise your legal right to unionize and you'll end up in the unemployment line" (Wal-Mart Watch, 18). As I will develop in this article, the situation in non-profits is far from different.

It turns out that nonprofits often employ similar tactics against their employees, often in a way, which resembles that of the toughest corporation. As Pablo Eisenberg explains: "The 'anything goes' school of operation appears to be gaining ground within the nonprofit sector. Compared to its corporate counterpart, its twilight zone of ethics has received little attention from the media" (Eisenberg, 42).

THE PRIVATIZATION OF THE SOCIAL SERVICES SECTOR

We know why for-profit corporations such as Wal-Mart mistreat their employees. The math is fairly easy. Any reduction or stay in the income of a corporation's employees means less costs and thus more revenue. However, since nonprofits by definition are not concerned with profits we should ask ourselves then: What is their motive for this behavior? While thinking of this question we must remind our selves that homeless shelters are humanitarian organizations.

The gradual process of privatization that the social service sector in Ontario has undergone in the last twenty years is deeply connected to the mistreatment of employees by nonprofit social services providers. Governments see nonprofit agencies as an alternative mechanism for delivering public services to citizens (Banting, ix). The nonprofit sector appears to be emerging as a chosen instrument of collective action in a new century. Government retrenchment in the 1990s has led to a reduction in many community and social services and a renewed interest in the potential role of nonprofit organizations in filling the resulting gaps in our social safety net (Hall and Banting, 2).

Privatization is the process of transferring property, or the provision of public services, from public to private ownership or control. In theory, privatization helps to establish a "free market"", as well as to foster capitalist notions of competition in order to give the public greater choice at a competitive price. Conversely, socialists view privatization negatively, arguing that entrusting private businesses with control of essential services reduces the public's control over them and leads to excessive cost-cutting in order to achieve profit and results in poor quality of service.

Usually, when we picture privatization, we think of the government selling a big government service or company to private hands (Hydro 1 for example). However, in the social services sector we can identify two distinctive types of privatization: (1) Direct: a direct out-sourcing of services, arguably, *but not empirically*, in order to achieve the same standard of services at a lower cost. One example is the closing of welfare offices in Ontario and outsourcing customer service to a private company to open a telephone "hotline" instead.[2] (2) Indirect: private owned nonprofit organizations emerge in order to, initially supplement and later, replace government action.

Seemingly the two types of privatization of social services, I mentioned above, are different. While the first is a deliberate, planned, transfer of control to the private sector, the second is somewhat of an accident, so to speak. However, both are the result of a neo-liberal ideology and represent an attempt to reduce the interference of the government in the economic markets. Neo-liberal ideology propelled changes in Canadian social and economic politics in the 1990s. Canadian governments began to retreat from the social democratic stance they had developed in the mid-20th century. The involvement of the state in certain economic markets was increasingly perceived as problematic. The market, rather than the state, was perceived as the better medium for the development of society and the economy. Those services that were left under state control were constantly eroded through budget cutbacks. Subsequently, two groups of citizens have emerged: Citizens who successfully harnessed the market in order to produce wealth through personal capabilities; and those who ended up located on the margins of the market.

In 1996, welfare rates were cutback 20 percent, and a rent price maximum was removed (Masse, para 19,20, 33-43). From 1993 to 1998 the number of tenants paying more than 50 percent of income toward rent has increased by 43 percent (UNCESCR). Additionally, over 90 percent of single mothers under the age of twenty-five lived in poverty. The decrease of welfare on one hand and the increase in rent on the other was devastating to growing numbers of people who were often forced by circumstance to live on the streets. Homelessness, especially among families, continued to rise. Statistics show a rise of 130 percent in children residing in shelters (from 2,700 in 1988 to 6,200 in 1999) and a rise of 40 percent in the general use of shelters. The calls for assistance in finding shelter rose from 65,000 in 1997 to 91,000 in 2001. People are staying in emergency shelters for longer periods of time, because of a critical shortage of affordable housing, and more people are being forced to use shelters as housing. Additionally, there is an alarming rise in women and couples living on the streets, contrary to the traditional single males over age thirty that were the overwhelming majority of homeless people in the past.

In this social and economic political context it is easier to grasp the process of indirect privatization as it occurred in Ontario. The government simultaneously deepened poverty by cutting back programs and assistance and removing rent caps, and reduced its assistance to the poor. Nonprofits that have always supplemented government assistance were now forced to step up to the challenge and to expand their activity to answer the growing simultaneous demand for, and shrinking supply of, social services. Next, I will discuss some of the side effects of privatizing social services, and some of the measures social services nonprofit organizations took to overcome this side effect – introducing corporate models of operation and a discourse of efficiency.

EFFICIENCY AND EXTERNALITIES

In 1997 there were 10,317 social services charities in Canada (Hall and Banting, 12) which accounted for 14 percent of charities in Canada (Hall and Banting, 11); 60 percent of their income came from government grants and payments, while donations only accounted for 14 percent (Hall and Banting, 13). The effects of privatizing the social services sector become clearer; nonprofits are now responsible for more services but receive less funding. The change in the face of social services in Ontario has slowly forced nonprofits to adopt a corporate discourse of efficiency. The results are of mixed nature, good and bad; successful and questionable.

In the mid 1980s, nonprofits were beginning to consider for-profit tactics to increase efficiency and further their goals. While some nonprofits resisted the change initially, eventually a business-like operation style became the norm in nonprofits.[3] Shelter managers are encouraged to systematically develop and implement strategic planning systems and processes that ensure the best possible efficiency and effectiveness outcomes for stakeholders. There were many factors that contributed to the adoption of business models of operating, by nonprofits. One of those was an ever-declining pool of resources.

In particular, the politics of fiscal constraint and a severe funding decline (Dart and Zimmerman, 107), has had a major impact on those nonprofits that receive a high proportion of their revenues from the government (Hall and Banting, 18). The impacts from this recourse-shock have often been exacerbated by significant increases in demand for the programs or services of many of the same organizations that have had their governmental funding cut (Dart and

Zimmerman, 107). As social services have gone through a constant process of privatization, social gaps have become wider as funding shrank.

As a result, nonprofits had to look elsewhere for funding. Among other possibilities, nonprofits were seeking to increase their income from donations. The drive to substantiate government funding with private donations led to increased competition among nonprofits and increased fundraising costs (Hall and Banting, 19). Nonprofit organizations now compete with one another for donations. An ever-growing number of nonprofits, challenged with a growing demand for social services, are competing over a shrinking pool of resources. As these organizations have come under more intense financial and competitive pressures, there have been increasing calls to adopt management and governance practices of the private, for-profit sector (Alexander and Weiner).

Furthermore, in Ontario, nonprofits have found themselves competing with for-profits for contracts to deliver social services (Hall and Banting, 19). This is another constraint on funding and once again pushes nonprofits to be efficient. Finally, governments, who despite cutbacks remain a central source of income for nonprofits, have begun to explore the potential for nonprofits to deliver public services more cost effectively (Hall and Bunting, 2).

The pressure to become more efficient is internal as much as it is external. In some cases, the regulation surrounding the work of nonprofits requires shelters to be more efficient. For example, the Toronto shelter standards specifically requires shelters to prove economic viability (Toronto Shelter Standards, 1.4), and requires governance changes including a foundation of volunteer boards of directors that are required to oversee a systemic planning effort (Toronto Shelter Standards, 3.1, 3.2). Those same boards of directors that control the strategic planning of these shelters are often run by businessmen, lawyers and accountants that are used to the business model of operation that is typical in the for-profit world. These board members are putting further pressure on shelter managements to become more efficient (Williams and Finley, 5).

Traditions of helping the poor (for example community run soup kitchens and missions) have evolved into numerous homeless shelters as the demand for shelters expanded exponentially over the last two decades (Griggs, 198). Subsequently, the new environment of scarce resources has meant that the management function in the social service sector had become a much more complex and multidimensional one, requiring managers to balance the social and commercial realities of the marketplace (Griggs, 198). Supporters of adopting corporate models of operation argue that the survival of nonprofits depends on their becoming more businesslike in form, structure, practice, and philosophy (Griggs, 198).

While the adoption of corporate models of operation by nonprofit organizations is inevitable, as well as often a good thing[4], it may however be dangerous. Nonprofits may fail to distinguish between sound and unsound corporate policies, and between fulfilling a mission and surviving at any cost (Eisenberg, 41). The adoption of a corporate discourse into the work of nonprofit organizations, such as homeless shelters, raises the risk of a tendency to try to externalize costs.

The problematic side effects of the discourse of efficiency are referred to by economists as externalities. Joel Bakan explains the concept of externalities. The corporation, he explains (Bakan, 60, 61):

> Can neither recognize nor act upon moral reasons to refrain from harming others. Nothing in its legal makeup limits what it can do to others in pursuit of selfish ends, and it is compelled to cause harm when the benefits of doing so outweigh the costs. Only pragmatic concerns for its interests and the laws of the land constrain the corporation.

The routine harms caused to workers, consumers, communities, and the environment, by corporations tend to be viewed as inevitable and acceptable consequences of corporate activity – "externalities". An externality, Bakan explains, is the effect of a business transaction on parties who have not played any role or consented to the effects of that transaction. "All the bad things that happen to people and the environment as a result of corporations' relentless and legally compelled pursuit of self-interest are thus neatly categorized by economists as externalities-literally, other people's problems". For example, imagine your shirt getting dirty from industrial pollution. The factory gain's the money that it did not spend on filters. You, on the other hand, had to pay a price for cleaning the shirt. This is a small and simple example of how the corporation is compelled to externalize its costs. The factory shifts the cost of keeping your shirt clean to you; it externalizes that cost (Bakan, 60, 61).

At first, it is hard to see the connection between Bakan's words and the image we have of nonprofits. Nonetheless, careful observation will reveal the emergence of such standards in the nonprofit sector. The discussion to come indicates examples that alarmingly resemble the actions taken by corporations such as Wal-Mart. How can that be explained? Indeed, it is easy to see the confusion. While for-profit corporations are motivated to maximize revenue, nonprofits, namely homeless shelters, were founded to aid the poor and the homeless.

However, since nonprofits have adopted a corporate model of operation, the difference between for-profits and nonprofits is no longer that clear. Arguably, in very broad terms, the difference is really only in the goal these two types of organizations follow. In essence, as a result of privatization and the adoption of a for-profit standard of operation and planning, nonprofits are forced to externalize, or avoid costs which exceed their set purpose or goal. Plainly put, improving the working conditions of employees, increasing wages, expanding benefit packages, even if the existing conditions are arguably unfair, make no efficient economic sense; the more costs that do not coincide with the goals of the organization, the less utility to further the goals of the organizations – it is simply not in their agenda. Employees thus, rather than society in large, are paying the economic price of providing better service to increasing numbers of clients, while the shelters are saving costs (or shifting the cost elsewhere). In other words, since some nonprofits are pursuing their goals at any cost, they choose to mistreat their employees in order to further their goals. Nonprofits are willing to take extreme measures to avoid paying extra costs that do not further their goals. A dissonance emerges; nonprofits are willing to take questionable actions to further noble goals.

CONTEXT: PRESSURE, UNIONIZATION AND COLLECTIVE BARGAINING

Because of an increased demand for services, over the course of over a decade, typically, nonprofits have doubled, or even tripled their caseloads, with little or no increase in staff (Reed and Howe). At the same time, while managers had to undertake new functions and responsibilities, agencies expanded their activities beyond strict services, to include anything from fundraising to computerizing client records (Dow, 8). To address these changes nonprofits have had to change and become, in one word, more efficient. As a result, nonprofits have imitated the structure and strategy of for-profit businesses (Williams and Finley, 5).

Increasingly, management had less time to provide needed guidance to over-burdened staff especially in larger agencies, which cut middle management positions (Ibid.); even unionized workers were doing much more, and in some cases working a longer day for the same pay (Ibid.). At the same time, salaries throughout the sector are strikingly low (when compared to parallel positions and expertise in other sectors), and were not changed for years. Additionally, roughly 50 percent of all agencies hire contract and part time staff rather than regular employees, most probably to avoid payroll taxes (Ibid.).

Similarly, benefits in Canadian non-profit organizations are also limited, as "[…] 24 percent offer no benefits to their employees; and only 7 percent pay clerical and support staff more than the average industrial wage […]" Looking just at literacy agencies in Ontario, only "[…] 46 percent […] provide paid short-term sick leave; 44 percent provide some health and dental benefits; 39 percent provide long-term disability benefits; 12 percent provide employer RRSPs; and 28 percent provide no benefits […] (Dow, 28).

It is not surprising then, that employees in nonprofits, as well as the unions have taken interest in, and steps to, increasing the involvement of unions in the nonprofit sector. Currently, it is estimated that only 8 percent of paid employees in the voluntary sector in Canada are union members when compared to a Canadian average of 30 percent (Dow, 34). Correspondingly, as much as 86 percent of Canada's non-profits are not unionized.[5]

Unions are likely to increase their efforts in the nonprofit sector in Canada in order to combat the effect of indirect privatization, and as part of the unions' general social democratic agenda (Dow, 36). While there is no Canadian data on nonprofits' response to unionization attempts, an interesting 2000 study from the United States discusses the response of nonprofit managements to union drives (Peters and Mosaoka). One reason for the increased interest of unions in nonprofits is the rapid growth of the nonprofit sector, and the opportunity it presents to open another front against the privatization of public service. Unions, traditionally the protectors of public service, systematically reject attempts to cut back government services by closing departments in order to cut costs. Unions oppose the process I refer to as indirect privatization, as it generally means that the same workers who were government employees now work for nonprofits for lower wages and often with no benefits (Peters and Mosaoka, 305). Unionization of nonprofits is not initiated by unions alone. Given the low salaries in the sector, together with high qualifications and challenging work experiences, there is continued pressure for unionization from employees within the sector (Reed and Howe, 21).

Management, on the other hand, have responded to attempts to unionize nonprofits in varying levels of adversity. Some executive directors felt that unionization meant a loss of accountability for workers. Others reported an increase in discipline, as stewards help enforce discipline. Some nonprofit managers expressed concerns about the unionized staff's refusal to do more than their job characterization, and their refusal to work "a minute after five" (Peters and Mosaoka, 311).

Another major concern managers and board members have relates to the fiscal constraint unionization will probably have on the organization. They fear having to cut staff and programs (Peters and Mosaoka, 312) because of the difficulties unionization may place on competitiveness and effectiveness (Reed and Howe, 21). In essence, the effect of indirect privatization is a blame shift. The disassociated or indirect affect cutting back government services had on nonprofits is blamed on employees rather than on the political establishment that initiated them. The employees' refusal to play along with the nonprofits' management's increasing demands is vilified. This effect is even more apparent where the nonprofit is a humanitarian enterprise assisting homeless clients, for example. The employees, not the government, are perceived as the responsible party to the closing down of programs. Management is thus morally justified in its deplorable treatment of its employees. In other words, shifting the costs of services from the nonprofit organization to the employees is justified. The moral dissonance nonprofits are experiencing, where on one hand they further humanitarian causes for no profit, and on the other hand they mistreat their own employees, is now bridged.

Accordingly, in the scarce circumstances where non-profits are unionized, their managements are likely to react adversely to collective bargaining, which represent for managements a very concentrated effort to further burden their ever-shrinking budgets.

Indeed, collective bargaining represents potential problems in the industrial environment. Modern collective bargaining is concerned with pluralism or countervailing power. The main notion of organized labour is that individuals have less bargaining power than a collective of employees negotiating with management (Rayner, 10-3), and thus, it wishes to rectify an inherent power imbalance between employers and individual employees. All members of a collective unit, whether or not they are union members, enjoy the fruits of collective bargaining (Mac Neil, 2-1). At the same time, Unions are under a constant pressure to pursue both collective and individual members' interests (Mac Neil, para 7.10). Unions represent employees in bargaining; in fact, they retain the exclusive right to negotiate a collective agreement (Rayner, 10-3). To balance the union's exclusive bargaining power, the law in Canada imposes a duty of fair representation on unions (Mac Neil, para 7.40).[6] The law requires the union to represent all members of the bargaining unit (regardless of whether or not they are union members) (Mac Neil, para 7.50). Accordingly, the duty of unions extends to both collective bargaining of employment conditions but also to the enforcement of the collective agreement. (Mac Neil, para 7.60).

Employers, on their part, have a duty to bargain with the union (Rayner, 16-1). The law, however, requires bargaining, but not necessarily agreement. Employers and unions are required, however, to bargain in good faith (Rayner, 16-2). In the absence of agreement, the bargaining process proceeds to a stage, sometimes referred to as "economic warfare" (Rayner, 20-1) or "industrial conflict" (Adell, Etherington, Lync and Rittich, 445). The collective can withhold labour from the employer, by striking it; the employer can withhold labour from the employees through a lockout (Rayner, 20-2)(Adell, Etherington, Lync and Rittich, 465, 477).

The purpose of this article, however, is not to determine whether a specific strike or lockout in the nonprofit context is lawful or not but rather to indicate the effect of recent indirect privatization on labour relations in Canada. The extreme pressure nonprofits have been under in the last decade or two have brought to light unethical behaviour that may or may not be considered unlawful, but certainly brings to mind questions about the internal dichotomy between nonprofits' often noble goals and principles, and the manner in which they operate and negotiate with their employees.

DISCUSSION: ATTEMPTS TO AVOID COLLECTIVE BARGAINING[7]

No research has been done so far on the responses of non-profit managements and boards to collective bargaining. However, an inspection of actions taken by managements and boards of nonprofits, in response to collective bargaining, as it is told by unions, reveals a grim story. It is probably safe to assume that just as much as some private businesses react reasonably and with good faith to collective bargaining, there are nonprofits that are equally reasonable in response to bargaining. However, quite surprisingly, it slowly becomes apparent that some nonprofits' managements act in ways that resemble the worst kind of unethical behaviour we have learned to expect from Wal-Mart and its likes.

A recent example of the tactics employed by a shelter management against its employees was that of the Yellow Brick House, a women's shelter in Aurora, Ontario. On 24 January 2004, the hard-line management locked out the 38 shelter and outreach counsellors who are union members. The workers were protesting against a reorganization plan that included the laying off of nine veteran employees, who were union members, and included job qualifications that required a graduate degree and multi-lingual skills which many did not already have (CUPE 2). Only on 2 April 2004 the Yellow Brick House shelter management and the outreach counsellors signed a new collective agreement, effectively ending a 69-day lockout (WSWS 3). In another example, the management of the Toronto based Yorktown Shelter, has prematurely, during negotiations, probably as a pre-emptive measure in preparation for a possible strike, ordered the employees not to accept any new clients. Additionally, one supervisor was laid off and other employees have been given unofficial notices that their hours will be cut. The management has eliminated one-half of the nine full-time positions (CUPE 2). At times, managements even resort to legally questionable measures in order to intimidate striking employees. The 130 workers of the London Ontario based Salvation Army shelters, who went on strike on 14 December 1999 over wages, benefits and training issues had to appeal for court intervention, and received an injunction when the Salvation Army hired a security firm to "monitor" striking workers at picket lines (OPSEU 1). The security firm, working for the Salvation Army, conducted audio and video surveillance of the picketers, intercepted private communications between employees on the picket line, intimidated and verbally harassed picketers.

At times, managements chose professionally unethical tactics to combat striking employees. For example, in July 2003, 150 community service workers struck their employer, the Toronto based Central Neighbourhood House. The workers have seen no wage increase in a decade prior to the strike and 80 percent of the workers had no benefits (WSWS 2). During the strike, management paid clients of the agency – homeless people - to cross picket lines and perform the duties of the striking workers (WSWS 1).

These accounts of nonprofits' managements' tactics are hardly isolated incidents. In a recent unrelated report about the importance of nonprofit boards, CUPE gave only examples of the abundance of incidents of bad management in nonprofits:

> Tayside Community Residential & Support Options in Perth Ontario, a hostile employer and "absent" board of directors resulted in the lockout of 60 members of CUPE Local 4474 […] The closure of Victoria Daycare in Toronto, the oldest childcare centre in Canada, came about because the board of directors failed to operate in an accountable and ethical manner. The workers, members of CUPE Local 2563, went on strike because the board took money allocated for the workers' pension plan to fund the day-to-day operations of the agency […] (CUPE 3, 1).

RECOMMENDATIONS AND POSSIBLE FURTHER RESEARCH

While there is no Canadian empirical research on the adverse effect of, what I refer to as, indirect privatization on the tactics of nonprofit managements during collective bargaining, the writing is clearly on the wall. Often, nonprofits will resort to unethical tactics for-profit organizations such as Wal-Mart undertake in order to avoid unionization or to influence the result of bargaining.

Unions have responded to the, now quite recognizable, changes in nonprofit governance and management, in more than one way: they either expand their unionization efforts (Peters and Mosaoka), or increase attempts to create better governance by educating volunteer boards of directors (CUPE 3).

Indeed, unions do not operate in a political or social vacuum. The economic, social and political atmosphere of a specific regime influences the kinds of power unions possess (Mac Neil, para 3.30), as well as, their goals. The new political economics of the last decade or two in Canada, with its strong neo-classic economic ideology, for example, has shifted the concerns of unions towards the effort to privatize public services (Mac Neil, para 3.30).

Similarly, it is imperative that unions in Canada recognize a distinct change in Canada's economy and react accordingly. This article discusses a new trend in the expanding nonprofit sector – nonprofits acting as for profit businesses. The article developed this duality; a combination of the privatization of social services and the adoption of for-profit modes of operation in order to adapt to shrinking funds and growing workloads, which might explain nonprofits' compulsion to externalizing costs that exceed their principal goal. Nonprofits attempt to externalize any costs, including costs related to the welfare of employees that do not immediately correlate with the welfare of clients. Nonprofits are now under pressure to operate efficiently, from both the economic environment that surrounds them, as well as, the specific legislation that regulates their operation and funding. It is high time to question the side effects of the pressure to become efficient and corporate-like, as well as consider suitable responses.

I suggest that just as unions have focused their efforts in the past on fighting direct privatization (CUPE 4), they should now pull some of their resources and energy towards addressing the antics of nonprofits acting as for-profit businesses. Unions have been struggling for decades to prevent direct privatization. For example, 50 – 70 percent of collective agreements in Canada are protected against out sourcing initiatives by managements (CUPE 4, 1). I suggest that the same kind of energy should be directed at exploring the effects of indirect privatization on the governance of the ever-expending nonprofit sector in Canada. Accordingly, I hope that future empirical research projects explore the effects indirect privatization has on Canadian nonprofits, especially in the context of collective bargaining.

NOTES

[1] Eyal Kimel, Ph.D Candidate, Osgoode Hall Law School. My kind thanks to David Mangen for his help and thoughtful comments. I wish also to thank the anonymous reader for his helpful remarks on an earlier draft of this article.

2 See the report by ACCENTURE (the consulting firm hired by the Ontario Government to transform the welfare system in Ontario): Ministry of Community and Social Services, online at: <http://www.accenture.com/xd/xd.asp?it=caweb&xd=locations\canada\industries\government\case\community_social.xml> (last visited: 32 June 2005).

3 See for example: New York Times, "For-Profit Tactics Take Hold Despite Deep Resistance", New York Times 29 October 1989, F13.

4 See for example, Alexander and Weiner, and Griggs.

5 Research indicates, that nonprofits are more likely to unionize when they have at least 6-10 staff or more, and if their budget exceeds $200,000 (Dow, 35). Please note that the situation is different with Organizations that can be characterized as MUSH organizations (for Municipalities, Universities, School divisions, and Health facilities, and other transfer agencies, which are heavily dependent on public funding) (Dow 2) almost half of which, in general the larger ones, have union members on staff (Reed and Howe, 21).

6 See generally; L.P. Carr, "The Development of the Duty of Fair Representation in Ontario" (1968), 6 Osgoode Hall L. J. 281.

7 All the examples in this article are taken from official OPSEU and CUPE publications and news releases that can be found on the OPSEU (http://www.opseu.org) and CUPE (http://cupe.ca) websites.

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