

TRACK TEN: UP WITH THE UNIONS!

Human rights thrive when the workers are united

Trade unionists are the lost heroes of the human rights movement.

Hidden history

In the 19th century, industrialisation required that men and women be mobilised in their millions to do the sort of work that this new kind of explosive capitalism required. Cities grew, factories proliferated, people of all ages were harnessed to the delivery of profit.

Slavery apart, never was the instrumentalisation of human beings so evident or so damaging: the vast majority of people, young and old, existed for the profit of the few. It was as true in the countries, among agricultural workers, as it was in the cities.

In the language of today all of their human rights were being violated.

Not only could most not vote or enjoy their civil liberties in any kind of meaningful way. They did not have even the basics of a decent life: the sort of social rights that are to be found in the [Universal Declaration of Human Rights](#) and are assumed to be fundamental in the [Economic, Social and Cultural Rights Covenant](#), the sort of things we discussed last week on [track nine on social rights](#).

It wasn't human rights activists that changed this situation but organised labour. Take Britain as an example of the sort of things that happened over time in all industrialised countries

- [Friendly societies](#) emerged to provide support and services for workers caught up in this alienating new world
- [Combination laws](#) passed by William Pitt's government at the end of the 18th century to control industrial agitation were repealed, and from about 1825 trade unions in the UK were allowed to argue on behalf of workers on work-place issues related to wages and conditions (but not anything bigger or more political!)
- Right through the middle of the 19th century, extraordinarily brave people joined together to resist the assumption that their lives were merely the fodder of capital, [The Yorkshire Woolcombers' and Weavers' Union](#) and the ['Tolpuddle Martyrs'](#) being among the most famous
- In 1871 trade unions were [legalised](#) in Britain, albeit [picketing](#) was criminalised in legislation passed at the same time, that law being removed in [The Conspiracy and Protection of Property Act 1875](#)
- The franchise was extended so that more and more men (and later women) had the right to vote, especially as a result of laws passed in [1867, 1884 and 1918](#)

As I say the story I am telling here is a British one, but it stands for a universal truth:

Through the 19th century, the industrialised world gradually saw working people come together to fight back against their employers and to use their power as (almost literally) the tools of capital to do so.

This led directly to better working conditions, in other words to more successful lives in all these countries: hours at work reduced; children given the chance of education; health duties imposed on employers, and much else besides.

With the emergence of political parties linked to labour, [the British Labour Party](#) for example, the capitalist classes had further incentives to concede a little so as to protect as much as they could. The classic example of this was [Otto von Bismarck](#) who was both a hater of unions and (at the same time!) the promoter of a golden age of German social democratic laws, pensions, health-care and so on.

Where were human rights?

Not so much sleeping, but on the side of capital, more or less, sad to say.

The subject in the 19th century was in thrall to the revolutions in France and the US at the end of the century before: I talked about this a little at the start of [Taking to the streets](#). But these were not labour or workers' revolutions in any kind of meaningful way. Though they used the language of human rights they were about the assertion of the political power of elites rather than the masses underneath.

Two points prove this:

- Property is thought of as a human right in both
- No consideration is given to the fairness of who has and who has not got property in the first place

I looked at the damage property has done to human rights in a [track](#) a couple of weeks ago. Through the 19th century and right up until the Second World War human rights was identified with this thread to human history: the one that emphasised individual liberty and personal freedom.

But it never asked how this individual or that person came to be able to exercise their freedoms in this particular way, or indeed how it was that some people through poverty were never able to exercise them at all.

And thus came about the great divide between liberal and socialist progressives, with human rights on the side of the liberals in applauding freedom but ignoring context. They celebrated rights while ignoring inequality in their exercise. (By the way are their echoes here of the 'liberalism' of the liberal democrats in today's [UK Coalition Government](#)?)

And so

- The language of human rights became a way of *resisting* rather than *promoting* collective change for the good of all – my [track on property](#) again

- When that battle was lost, after the Second World War, human rights regrouped within nation states as a narrowly *legalistic* subject focusing only on civil and political rights. The effect of this was to *surrender* social rights to the political sphere, ie the Labour movement with its rhetoric of socialism, solidarity and struggle. (This is the narrow approach to our subject that I am trying to change in this project: see my [first common track](#) and also [track one](#)).
- Armed with these civil and political rights, judges then began to use these rights to *weaken* the capacity of trade unions to deliver for their members: the best example of this is the way judges all around the world interpreted the right to *belong* to an association as including the right *not to belong*, thereby making impossible the kind of guaranteed membership among a work force that a union really needs if it is to bargain effectively on behalf of all: the European Court case of [Young James and Webster](#) is the best known of these though there are many others
- While doing this the courts have been consistently hostile to efforts by the unions and their membership to exercise their civil and political rights themselves. So many examples come to mind of pickets that have needed to be controlled, of labour protests that have fallen within exceptions to the rights rather than being part of them: see the old [code of practice on picketing](#) rooted in these antagonistic cases, especially *Piddington v Bates* from 1961:

labour lawyers know better than most how dangerous human rights can be in the hands of hostile judges.

And today?

Judges are certainly better than they were in terms of their interest in human rights. For sure they view that term more broadly. We got a sense of this in the comments by Virginia and others to my [track on social rights](#).

But:

- The hostility to union action remains, in the UK at least. This is not just a matter of judicial antagonism. It follows from the enactment of more and more legislation which has made it harder and harder to strike on behalf of even one's one workers, much less society at large.
- A good example of this general point is the way the [courts](#) were used to stop BA strikes last Summer.
- Potential strikers these days need to be bureaucratically spot on if their actions are to survive the scrutiny of the judges – no human right to freedom of association gives them any benefit of the doubt.

Should not the days of strikes be over?

You'd have thought so – but in this world of global capital attacks on living standards have been severe. The gap between rich and poor has greatly increased. A means to this end has been the rapid de-unionisation that has occurred in so many industrialised countries. What is going on here?

Why are unions so often the first targets in a country (whether democratic or not) that is intent upon realigning wealth in favour of the rich:

First make solidarity history, then make poverty real.

The point we have reached in many countries now – Britain is a good example – is one where some workers are still organised to defend themselves and some are not. The first give us [tube strikes](#) and the like – great inconvenience for sure but understandable from the workers’ point of view. They do not want to join the second group, union-less and therefore undefended and vulnerable, forced to take whatever the latest profit-increasing manoeuvre is that management has happened to come up with.

In a country with rising levels of inequality, on whose side should human rights be? The question needs only to be asked for the answer to be obvious.

- Membership of a [trade union](#) is a key way of defending your human rights against the actions of an aggressive state, whether it is a democratically elected one or not.
- Sure, some people are not members and others are. Is this fair? No! But the answer to this lies in *more* members not *fewer*, in a greater not a shrinking cohort of unionised labour
- Unions are vital to protect the interests of all kinds of workers – they should protect across class and into the private as well as the public sector. We all labour whatever [the colour of our collar](#)

AND THAT OLD COMPLAINT?

It is true that unions are sectional, concerned only with the interests of their members. This makes them hardly universalist in their approach to human rights.

True – but universalising human rights is the task of government, and as I argued in my [first track](#) the best way to achieve this is by having a democratic administration committed to social democratic values, in other words *exactly* the kind of government that, historically, unions have supported.

Unions want a progressive government to work with them in generalising benefit to the advantage of all.

Ok so you can’t get to work, you are stuck in traffic, your flight does not take off, your exams are not marked, frustrating I know – but try to keep the bigger picture in mind. Here are human rights fighters doing the best they can with the tools they happen to have.

The alternative may be faster movement but also it means deader lives.

Up with the Unions!