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## The History of Collective Bargaining in Higher Education: The Case of HBCUs

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## **42<sup>nd</sup> Annual National Conference: Thinking about Tomorrow: Collective Bargaining and Labor Relations in Higher Education**

**Hunter College, April 19, 2015**

**PANEL: The History of Collective Bargaining in Higher Education: The Case of HBCUs.**

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Historically Black Colleges and Universities would appear antithetical to collective bargaining. All but a handful of black colleges are located in the South, a region with a well-established aversion to organized labor. The South's history of plantation slavery, coupled with feudal peonage labor and Big Mule politics, are incompatible with notions of fair wages, reasonable benefits and work hours, and safe working environments. White paternalism replaced white philanthropy, and white male presidents and white male boards of supervisors lorded over many HBCUs until the mid- Twentieth Century. But, as G. David Houston argued in a 1920 *Crisis* article, "Neither the prestige nor the income of any Negro college has ever been appreciably augmented by the administration of a white president." Houston further wrote:

Whenever a question of increase in salary arises, preferment is given to white professors, although the colored professors do the work and give the college the prestige it enjoys. Giving poorly equipped white men positions which ought to be filled by colored men is another overlooked tendency.

I work in the Cradle of the Confederacy. In February 1861, the Confederate States of America came into fruition. The Confederate Constitution protected the expansion of "Negro slavery into the western territories." Nearly one hundred years after the Lost Cause, Mrs. Rosa Parks triggered the thirteen-month Montgomery Bus Boycott. Dr. Martin Luther King, Jr. understood that the first inequity enslaved black folk faced in the Americas, and elsewhere, was the inequities of labor. Despite Alabama's early labor organizing success with coal miners, steel workers, dock workers, just to name a few, historian Wayne Flynt editorialized that when Democratic Redeemers took over the state in 1875, the party fixed its attention on low taxes, banishing labor unions, and bolstering cheap labor including the nefarious convict lease system (*Montgomery Advertiser*, 2 February 2014). Their work was completed in 1953 when the Democratically-controlled Alabama Legislature passed the state's Right to Work Law and, earlier in 1921 when the Anti-boycott bill (anti-strike) became law. Alabama became the fourteenth state to codify Right to Work laws.

By definition, Historically Black Colleges and Universities, hereafter “HBCUs,” were created in the wake of the Civil War to educate newly freed enslaved African Americans. Most began as normal schools and teacher training institutions. Currently, of the 105 HBCUs, all but four are located in the South, which maintained them as segregated schools. Seven of the 105 HBCUs reside in Alabama; two are public and five are private. The privates include Tuskegee University, Stillman College, Oakwood College, Miles College, and Talladega College. The latter was the “first American college for Negroes authorized to confer the baccalaureate degree.” The two publics are Alabama A & M University and Alabama State University, ASU. Once known as The State Teachers College at Montgomery, ASU “was the largest and oldest teacher training institute for Negroes” (*The Education Bulletin*, 1943). Alabama had the dubious distinction as one of two states in the nation that did not have a state accredited black high school in 1920. The former Laboratory High School on the campus of the State Normal School for Colored Students, now ASU, was the only four-year black public high school in the City of Montgomery through 1937. The state subsequently renamed the school the Alabama State College for Negroes, dropping the racial moniker in June 1954 one month after the U.S. Supreme Court ruled racially segregated schools violated the Fourteenth Amendment’s Equal Protection Clause of the U. S. Constitution.

HBCUs are not an anachronism. Black colleges and universities represent 3 percent of all colleges and universities, yet graduate 20 percent of all African Americans who receive Bachelor degrees. They also produce the majority of Black women in STEM fields and turn out the majority of Black K-12 teachers. Howard University alone has produced more African American Ph. D’s, lawyers, and architects than any other institution (*New York Times*, 4 February 2013). As one interlocutor opined, “Public four-year HBCUs are the only sector in which blacks consistently approach or achieve parity in enrollment and degree completion across the 19 states” that formerly and formally maintained racially segregated colleges and universities... HBCUs do the lion’s share...of educating blacks and only receive a fraction of the state funding...” (Gasman, *Comprehensive Funding Approaches for Historically Black Colleges and Universities*).

The history of *de jure* segregation and white racism enveloped HBCUs through much of their existence. By every measurement, the curricula, infrastructure, and endowments at most HBCUs pale in comparison to their Historically White Colleges and Universities counterparts. Eleven years after its founder’s death, Tuskegee Institute in Macon County, Alabama was the nation’s wealthiest HBCU with an endowment of \$5,549,398. Three of the wealthiest industrial tycoons sat on Tuskegee’s board; namely, Andrew Carnegie, Julius Rosenwald and William H. Baldwin, Jr.

The lesson of “forty acres and a mule” is the lesson of economic viability and sustainability. The 1954 landmark *Brown v. Board of Education* decision ended legally segregated school houses; *Brown* did not create financially viable Black colleges and universities. In the former Confederate South, plaintiffs of HBCUs in Tennessee in 1968 and in Mississippi in 1975 sought redress and economic parity with their white counterparts in the federal courts. These cases extended the reach of *Brown* onto college campuses. Autherine Lucy’s admission to the University of Alabama as its first African American student in 1956 became the first test of *Brown* for higher education. The school expelled Lucy for her own *protection* but seven years later, Vivian Malone, became the first African American to graduate from the University of Alabama. Collectively, the federal decisions in *Geier*, *Ayers*, *Fordice* sought to eradicate *de jure* and *de facto* segregation “root and branch.”

One of the last higher education desegregation lawsuits is *Knight v. Alabama*, decided in 1995. It argued, in part, that Alabama had given disproportionately more monies to its two White state flagship public universities -- namely, the University of Alabama and Auburn University -- than to its two Black flagship public universities-- namely, Alabama A & M and Alabama State University. The *Knight* federal decree ended in 2006, but not before ASU created its first-ever doctoral programs, added a College of Health Sciences as well as undergraduate and graduate degrees in Forensic Sciences. As Reverend Jesse L. Jackson used to opine, “A rising tide lifts all boats;” however, A & M and ASU did not reach financial parity with UA and Auburn.

Today, Howard University, Spelman College and Hampton University are the three wealthiest HBCUs, respectively (<http://hbcumoney.com/2014/02/03/2013-hbcu-endowments/>). Alumni giving is pivotal; it averages 13 percent nationally, but for HBCUs only 8 percent give back on a regular basis. Too many HBCUs wait until students graduate before they ask for money. Howard, Spelman and Hampton inculcate philanthropy in their students in their first year. HBCUs entering the twentieth-first century will have successful fundraising to thank. Too many Black schools “depend upon the kindness of strangers.” Cutbacks in state appropriations, more stringent borrowing requirements for federal and federally-backed student loans means HBCUs will have to look elsewhere for funding streams.

In his oft-cited article, “Shared Governance on Black College Campuses,” Ivory Paul Phillips points out the nine most common issues undermining share governance: Lack of faculty representation on policy and decision making bodies; academic personnel searches and hiring; faculty governance; promotion and tenure procedures; peer and administration evaluations; salary determinations; program development, review and revision; faculty handbook evaluation and review; administrative transparency; respect of faculty senate and other faculty constitutive bodies (*Academe*, July-August 2002).

The efficacy of shared governance, meaning shared government among faculty, staff and administration, remains a perennial issue for many HBCUs. In fact, the lack of shared governance gave birth to The Faculty-Staff Alliance at Alabama State University in 1994, the only higher education affiliate of the American Federation of Teachers, AFT, in Alabama. Inadequate state funding at HBCUs often materializes in underpaid employees, deferred maintenance, and overwrought workers. Black campuses should be fertile ground for union organizing but the converse is true.

Howard University became AFT's first higher education affiliate forming the Howard University Teachers' Union, Local 33, in November 1918. Among its members were Mary Church Terrell, noted clubwoman and the first president of the National Association of Colored Women. Local 33 disbanded in 1921. Few documents remain attributing the work of Local 33 and its officers; however, at the January 2, 1920 annual meeting of AFT in Chicago, delegates of the Howard University Teachers' Union read the following resolution from the floor:

Whereas, the trustees of Howard University of Washington, D.C. have asked the Congress of the United States to appropriate for the institution, instead of the \$101,000 customary in recent years, the sum of \$1,580,000 to enable the university to carry out a constructive educational program of vast importance to the colored people of America... Resolved. [sic] That the American Federation of Teachers, in convention assembled, express approval of the proposed appropriation... (*Washington Bee*, 31 January 1920, p. 6).

Dr. Emmett Scott, for 18 years personal secretary to Tuskegee Institute Principal Booker T. Washington and former Special Assistant to Secretary of War Newton Baker during WWI, served as a delegate of the Howard University Teachers' Union at the same Chicago meeting (*Washington Bee*, 17 January 1920, p. 2).

Howard formed a chapter of the American Association of University Professors, AAUP, in May 1933. Dr. Alain L. Locke, the father of the New Negro Movement, was its president. In January 1936, the second rendition of the Howard University Teachers' Union affiliated with the American Federation of Teachers. It became Local 440 and counted folklorist Dr. Sterling Brown and the first black Nobel laureate Dr. Ralph Bunch among its members. Local 440 dissolved in 1944. In 2014, the *Washington Post's* Lydia DePillis reported a situation of loggerheads between Howard's administration and unionized Howard physical plant employees ("Howard University gives it Janitors a Crack at the Middle Class...," 30 October 2014).

Currently, AAUP or the American Association of University Professors represents faculty at five HBCUs: Delaware State University, Edward Waters College in Florida, Central State University in Ohio, Wilberforce University in Ohio and Lincoln University in Pennsylvania. AFT and NEA, National Education Association, jointly represent Florida A & M University. More

than half of all HBCUs are publicly-supported, allowing for organizing campaigns on their campuses. Georgia, North Carolina, South Carolina, Texas and Virginia do not allow collective bargaining for teachers. The 1980 U.S. Supreme Court ruling *NLRB v. Yeshiva* precludes faculty at private HBCUs from forming a union.

When the NLRB approved in 2002 the right of LeMoyne-Owen College, a Church of Christ HBC in Tennessee to organize, the faculty and staff did so thinking “a union would give them more of a voice in decisions at the college” after the college laid off twenty-four staff members “without consulting the faculty” (*Chronicle of Higher Education*, 2002). A federal court ruled against the NLRB’s decision in 2004 effectively thwarting the chances of LeMoyne-Owen faculty to unionize.

In his 1993 Rutgers University dissertation, Gregory Michael Scott ponders unionization at a fictive HBC, Eastern State College. His thesis, “Faculty Unionization at a Black Public College: A Case Study in the Evolution of Academic Governance,” realistically depicts conditions found on many HBCU campuses. Faculty at Eastern State College believed unionizing was their best chance to influence important decisions on campus. On Scott’s make-believe campus, the faculty worried about “a legislative decision to use a newly constructed predominantly white college to take over the older black colleges” (p. 2).

Tennessee State University faced those real circumstances when the state constructed the University of Tennessee at Nashville (UT Nashville) to, according to TSU, siphoned white students from the Black campus, spurring [Rita] Geier the named plaintiff in a desegregation lawsuit that tried to enjoin UT Nashville from usurping TSU. *Geier v. University of Tennessee* became “a benchmark for higher education reforms across the south” (*Vanderbilt Lawyer*, Vol. 40, No. 2). Scott argues “the study of unionization requires that attention be focused directly upon the processes associated with the emergence, development and evolution of the faculty’s role in governance” (p. 13).

HBCU administrators and trustees sometimes accuse the faculty senate or faculty assembly of rabble rousing or perfidy. These same administrators emphasize the importance of protocol and decorum. Because department chairs and college deans are often chosen by the administration and not by the departmental or college faculty, some faculty believe the administration selects chairs and deans based on fealty to the administration and not based on their advocacy for the faculty. Bargaining is one way to mitigate such impasses. Aside from working conditions, pay disparities remain a perennial conundrum.

HBCUs find themselves at a crossroad today; only about 8 percent of Black high school graduates apply for admission at HBCUs leaving these schools in some cases to seek international as well as minority students. Racial stigmas abound. The fact that most HBCUs

remain mostly Black is not by design or deceit. Dr. Martin Luther King, Jr. often remarked that legislatures cannot change a man's or woman's heart. Laws cannot make people like each other. In *Plessy v Ferguson*, Chief Justice Henry Billings Brown opined "If the two races [Whites and Negroes] are to meet upon terms of social equality, it must be the result of natural affinities..." Justice Brown's notion begs the question, how does one foster natural affinities?

In 1995, ASU implemented a Minority Scholarship as part of the *Knight* racial desegregation lawsuit. The federal court envisaged the scholarship as an inducement to minority students, white students in the context of Alabama State University demographics. The court mandated the allocation of scholarship funds "in a manner which will assist in, and lead toward, the integrating of the races within the student body of each respective University [ASU and A&M]." ASU's cultural, racial and ethnic diversity did not happen by serendipity. I imagine A & M can make a similar claim. The federal district court of the Northern District of Alabama ordered all white public universities in Alabama to either reveal or create a plan to diversify their faculty. The efforts have been half-hearted and the results are token atbest. Benign neglect is never benign.

Outside of the Black Church, the second most significant entity controlled by African-Americans is the Historically Black College and University. It is impossible to imagine Black progress and achievement without these schools. They have produced our most important teachers, scholars, musicians, artists, writers, politicians, ministers, scientists, physicians, athletes, and the list goes on. Gregory Scott argues, "Faculty unionization at a historically Black public college suggest the need to understand the extent to which it was caused by forces associated with desegregation." Public and private HBCUs have never racially-discriminated in their admissions. Moreover, public HBCUs, like public primary and secondary schools in the South, as W. E. B. Du Bois reminds us, were largely "a Negro idea" (*Black Reconstruction*, p. 638).

Provocateur Henry Louis Gates Jr. surely raised the pique of HBCU graduates when he opined, "It would have been impossible for Barack Obama to go from a historic black school to become president, a broad swath of America had to be able to identify with him" (*New York Times*, 26 July 2009). One could question whether Columbia and Harvard Universities removed any and all taint of inferiority historically associated with HBCUs. The fact that only 8 percent of Black high school graduates choose to attend selective HBCUs such as Howard, Hampton, Spelman, and Morehouse is not because of mediocrity. It seems, reminiscent of Dr. King's Dream, HBCUs are judged by "the color of their [students'] skin and not the content of their [students'] character." The late poet Audre Lorde noted at the Second Sex Conference held at New York University in 1979, "The Master's Tools will never dismantle the Master's House... What does it say when the tools of a racist patriarchy are used to examine the fruits of that

patriarchy? It means that only the narrowest parameters of change are possible and allowable.” HBCUs provide black folk with a toolbox for self-critique and critique of a society yet to achieve equal justice, equal protection, and equal opportunity for all of its citizens.

Social Darwinism will likely determine which of the current 105 HBCUs survive this millennium. Schools under visionary, energetic, and courageous leaders and boards of trustees or supervisors will thrive and flourish. Staff and student demographics at HBCUs are more diverse; these campuses are less insular and schools are more accountable to state taxpayers or church hierarchies. HBCU campuses that promote staff growth, value difference and different opinions, treat all with dignity and respect, are frugal with funding and spending, are magnanimous when criticized, and have zero tolerance for misfeasance and malfeasance, will be trend setters for millennia to come. Maintaining the public’s trust is *sine qua non* and HBCU presidents and boards should practice the highest level of ethics, fiduciary responsibility, and good stewardship.

HBCU leaders should not try to finesse wrongheaded decisions or obfuscate inappropriate actions. The public is less empathetic to *ad hominem* charges of vendettas. The corporatization of HBCUs like historically white colleges and universities will likely increase HBCU employees’ interests in collective bargaining as administrators endeavor to pare down and eliminate waste. How administrators choose then becomes a point of contention. The unions’ interests are that these decisions are done fairly. And given the racial history of HBCUs, it might seem ironic that the fight has moved from a struggle between Black folk and White folk over equitable treatment to a struggle where Black folk fight with Black folk over equitable treatment. Racism is supplanted by classism and class interests. Frederick Douglass reminded us of this long ago: “Power concedes nothing without a demand.”