

# Austerity, Struggle, and Union Democracy: Bill 115 and the Ontario Secondary School Teachers' Federation, an Insider View

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[journals.sagepub.com/home/ljsj](https://journals.sagepub.com/home/ljsj)**Chantal Mancini<sup>1</sup>****Abstract**

In 2012, unions representing teachers and education workers in Ontario, Canada, were faced with Bill 115, legislation used by the provincial government to impose a collective agreement upon education workers and remove their right to strike. With a specific focus on the Ontario Secondary School Teachers' Federation, this paper is an insider view of how Bill 115 and the external political contexts of the time affected Ontario Secondary School Teachers' Federation's internal democratic practices at the height of the struggle. It employs theories of union democracy in order to consider how external forces can shape teacher unions' internal democracy, and how the competing pressures faced by union leaders can impact their actions and decisions. This paper takes the view that internal union democracy is an important consideration in teacher unions' resistance to government austerity agendas.

**Keywords**

teacher unions, unions, union democracy, education workers, public education, austerity

**Introduction**

After a decade of relative labor peace in Ontario's education sector, in 2012, teachers and education support staff found themselves on the front line of a major struggle over the right to free collective bargaining in Canada and the ability of public sector

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workers to engage in strikes. In September 2012, the Ontario Liberal government passed Bill 115, formally known as the *Putting Students First Act*. It followed a period of contentious provincial bargaining during which all four unions representing teachers initially resisted negotiating within the government's austerity framework. The Ontario English Catholic Teachers' Association (OECTA)<sup>1</sup> was the first to reach an agreement with the government on July 5, 2012. Bill 115 mandated that the Memorandum of Understanding (MOU) OECTA signed with the government would be imposed upon all of the other teacher unions if they did not reach "substantially identical" agreements prior to December 31, 2012 (Bocking 2017). This MOU included wage cuts via mandatory unpaid days, frozen salary grids, and the end of retirement gratuities.<sup>2</sup> In response, members of the Elementary Teachers' Federation of Ontario (ETFO)<sup>3</sup> and the Ontario Secondary School Teachers' Federation (OSSTF)<sup>4</sup> engaged in a variety of actions. This included public rallies, the picketing of offices of local Liberal government representatives, and selective job actions such as refusing to do administrative duties or supervise extracurricular activities. In addition, ETFO and OSSTF, along with other education worker unions,<sup>5</sup> launched a Charter challenge against the government in October of 2012 (Hewitt-White 2015). Bargaining continued unsuccessfully, and neither ETFO nor OSSTF met the government's deadline of December 31. In January 2013, the government invoked the provisions of the act that forced the OECTA MOU upon ETFO and OSSTF members and removed their right to strike.

This paper is broadly about Ontario education workers' struggle with Bill 115, but its focus is on the internal dynamics of the OSSTF in response to this government-imposed, anti-democratic legislation. Specifically, it considers the actions of the union's leadership from an inside perspective, using the work of Hyman (1971, 1975, 1989). According to Hyman, how leaders within a union practice and facilitate democracy at any particular moment can change within specific contexts and can be influenced by a combination of internal and external forces. A union that at one moment appears to be democratic can engage in anti-democratic practice in response to a specific external threat, and vice-versa. This is because, as Hyman (1975, 73) explains, unions are distinct organizations in that they "explicitly incorporate a *two-way system of control*" (emphasis in original). While union leaders, Hyman (1975, 73) contends, are afforded powers of leadership within their organization that entitle them to legitimately exert control over union members at particular moments, they are also "employees and servants of the members, who are thus in appropriate situations entitled to exert control over *them*" (emphasis in original). Hyman further notes that the idea of "appropriate situations" is often a point of debate between a union's leaders and its members and can be a source of conflict. The aim of this paper is not to determine whether Bill 115 was the "appropriate situation" or justification for the actions that provincial and local leaders took. Rather, it seeks to examine how both internal and external social and political contexts, as well as internal ones, impacted internal democracy within OSSTF.

Hyman's ideas of the two-way system of control within unions, and his argument that union democracy cannot be considered without the consideration of internal and

external factors, will serve as the key theoretical framework for this paper as I analyze the events of Bill 115. Faced with coercive legislation, the pressure and authority exerted by provincial OSSTF leaders, organizational union structures and processes, and the expectations of local members, I argue that local OSSTF leaders became subject to the two-way control of provincial leaders and local members. Moreover, this two-way control manifested both in local leaders' acquiescence and their resistance, and this impacted internal union democracy within the OSSTF, against the backdrop of Bill 115. The analysis concludes with an exploration of what role different conceptions of union democracy play in fostering teacher militancy in response to austerity.

## **Method**

As explicitly stated in the title of this paper, what is presented here is an insider view and is the result of insider research, with recollections of events supported by media reports, other academic research, or documents produced by OSSTF. The author is a secondary school teacher in Ontario, has been a member of OSSTF since 2000, and was the President of OSSTF District<sup>6</sup> 21 Teachers' bargaining unit, Hamilton-Wentworth, for a decade. This tenure was inclusive of the period of the Bill 115 struggle.

This insider status comes with many important considerations. As Wiser (2018, 215) asserts, "a researcher's multiple group and professional affiliations, whether consciously employed or tacitly assumed, impact the knowledge that is shared and produced." In other words, my own beliefs and knowledge, which have been influenced by many years as an OSSTF local leader and secondary school teacher, will inform the work presented here and potentially leave me open to criticisms of bias. However, I make the case that despite this risk, I am in a position to offer a valuable and unique perspective because of my deep understanding of and experience with the complexities of Ontario teacher union structures, organization, practices, policies, processes, and even terminologies. In addition, I hold a firsthand understanding of what it was like to navigate the difficult bargaining landscape as a local OSSTF leader faced with Bill 115. These lived experiences of both the events described and of the internal tensions within the union allow for a more nuanced critical analysis, and one that has not been theorized: the ways in which local union leaders navigated the conflicting pressures they faced from provincial leaders and local members during bargaining under Bill 115, and how their resulting actions impacted union democratic practice at the time.

## **The Context of Centralized Education Bargaining in Ontario**

Bill 115 followed a relatively recent shift to central bargaining in Ontario's education sector, a process that began in the late 1990s under a previous Progressive Conservative provincial government. In accounting for this centralization, Rose (2013) notes the ongoing desire of governments to contain the costs of public education, particularly wages and benefits. He writes, "a common theme is present in the evolution of teacher bargaining . . . the central issue has been the struggle over decision-making control of

education policy and workload within education funding constraints” (Rose 2013, 215). Shilton (2013) echoes this sentiment, detailing how this struggle became not so much about the collective bargaining framework in education itself, but the shift of power from the local to the provincial level. She details the legislative changes made by the Harris Progressive Conservative government in 1997, which shifted education funding to the provincial government and away from local school boards. Shilton contends that, for the province, these changes meant a new level of control over monetary and non-monetary issues at local school board bargaining tables. For teacher unions, these changes meant trying to find ways to have meaningful input into the conditions set out by their local contracts.

Sweeney, McWilliams, and Hickey (2012) note how the Liberals’ centralization of bargaining in 2004 further shifted decision-making power and authority away from local actors to provincial ones. Central bargaining has made it difficult, they argue, to balance the needs of all stakeholders, and has increased the instances of provincial-level officials on both union and employer sides “imposing their agendas on local bargaining teams, or even assuming total control of bargaining in the event of an impasse” (Sweeney, McWilliams, and Hickey 2012, 259). This has become particularly common in the case of teacher unions,<sup>7</sup> Sweeney, McWilliams, and Hickey assert, and it has led to the greater prominence of provincial union staff and a reduced role for elected local union leaders and staff in the bargaining process. In unions with both a long history of local bargaining and constitutional rules that support and legitimize such activity, provincial bargaining has exacerbated internal struggles surrounding local union autonomy and control.

Despite these transformations and the tensions they have created, Sweeney (2013) contends that education workers have managed to find ways to resist the government’s agenda within this new centralized environment. He argues that teachers, like other public sector workers, can use both the interruption of the school system and collective political action to exert pressure on their employers. The territorial fixedness of education is an advantage to teachers, as their employers can’t uproot the system and move it elsewhere to counter labor unrest. However, Sweeney also contends that workers’ exercise of agency within a context of centralized bargaining is problematic, as the government has the power to unilaterally impose its will upon education workers via legislation. This is precisely what happened with Bill 115 on September 11, 2012.

## **Bill 115: A Timeline of Events**

With education sector contracts set to expire on August 31, 2012, Ontario Liberal Premier Dalton McGuinty began to drop hints of what was to come early in the year. Reportedly facing a CAD17 billion provincial deficit in the aftermath of the 2007-2008 global financial crisis, his government had commissioned a report from former TD Bank chief economist Don Drummond. Drummond’s report was released on February 15, 2012 (The Canadian Press 2012) and called for “strong fiscal action” in order to reduce the province’s deficit, claiming that “Ontario faces more severe economic and fiscal challenges than most Ontarians realize” (Drummond 2012, 1).

Although Drummond's report advised against wage freezes (MacNeil 2014), representatives of the McGuinty government presented a two-year wage freeze and strips to sick leave and retirement gratuities to provincial education union representatives at a voluntary provincial discussion table<sup>8</sup> (PDT) in late February, before any formal bargaining took place. The largest of these unions, ETFO, immediately retreated from the PDT and announced its intention to instead bargain with local school boards under the *Ontario Labour Relations Act* (MacNeil 2014). Little progress was made with the remaining unions, and on March 27, Liberal Finance Minister Dwight Duncan released the Ontario budget. He asked all public sector workers to accept wage freezes, and openly threatened legislation if they did not comply (Blackwell 2012).

Unbeknown to union members until an April 23 bargaining bulletin, OSSTF President Ken Coran offered the government a deal that included zero percent wage increases on April 18, two days after he announced that OSSTF's legal team had drafted a constitutional challenge that would be launched if the government tabled legislation (Hewitt-White 2015). As Hewitt-White (2015, 181) asserts, "the union signaled to the government that it was willing to start from a weak, concessionary position; it accepted the neoliberal narrative of there being no alternative but to find savings by cutting 'costs.'" Despite this submission, the government was not convinced. By the middle of May, all the unions except OECTA had left the PDT. OECTA's choice to stay at the table caused significant worry for the provincial and local leaders of the other unions. Normally union operations slow down as the school year comes to an end in June, and many local offices close for the summer. As the summer break approached, local union leaders had the sense that things would be ramping up rather than slowing down.

In early July, the news came that OECTA had signed a central MOU with the government (MacNeil 2014). The deal included the two-year wage freeze that the government was after, changes to the sick leave plan, and a wage cut of 1.5 percent via three mandatory unpaid days for teachers. It also froze salary grid movement for teachers not yet at the top of the wage scale by ninety-seven days, or roughly half of the school year (MacNeil 2014), essentially creating a two-tiered contract that divided veteran teachers from younger ones. As MacNeil writes, the response from OECTA members was not unanimous. They were not given the opportunity to vote on the new central agreement (Bush 2013). Several members, including local OECTA leaders, filed an unsuccessful complaint with the Ontario Labour Relations Board (OLRB) against their union claiming unfair duty of representation (MacNeil 2014, 83). The OECTA deal soon spread, and on August 2, the Association des enseignantes et des enseignants franco-ontariens (AEFO)<sup>9</sup> signed a deal like the OECTA MOU. By August 31, the day that teacher and support staff contracts expired, OSSTF and ETFO had still not signed central agreements with the government.

The Liberals enacted their threat of legislation on September 11, 2012. Bill 115 gave the remaining unions until December 31 to bargain local deals that the Minister of Education could deem to be "substantively identical" to the provisions of the OECTA agreement, or else have them imposed in January 2013 (Bocking 2017). In response to the government's actions, OSSTF directed their districts to take local

strike votes (Hewitt-White 2015). Teachers across the province voted strongly in favor of job action, and OSSTF President Ken Coran, quoted in the *Globe and Mail*, claimed that “the vote shows the level of discontent with the undemocratic principles contained in Bill 115” (Hammer 2012b). On October 11, OSSTF, ETFO, the Canadian Union of Public Employees (CUPE), and the Ontario Public Service Employees’ Union (OPSEU) filed a Charter challenge against the McGuinty government (OSSTF/FEESO 2012d), claiming that Bill 115 violated education workers’ rights to free collective bargaining.

Despite publicly alleging that Bill 115 was unconstitutional, central office still directed OSSTF districts to engage in bargaining under its parameters, with bargaining teams headed up by members of the provincial executive and provincial negotiators. By November, there was little progress. OSSTF announced that work-to-rule campaigns would begin in several districts on November 7, which would include cutting administrative duties such as attending meetings and administering standardized tests (Hammer 2012a). On November 17 and 18, OSSTF districts in York Region and Upper Grand reached tentative agreements with their boards—agreements that contained the wage freezes and unpaid days of the OECTA MOU. This put pressure on other school boards and OSSTF districts to settle similar agreements. In Hamilton, while bargaining with the school board on Sunday, November 18, word came in that Thames Valley and Niagara had also reached agreements. It became increasingly apparent that OSSTF was going to take deals that eroded teacher wages and working conditions. In the early morning hours of November 19, the Hamilton bargaining team also signed a tentative agreement and called off the job action scheduled for the next day (Leitner 2012). Like the deals already signed in other districts, the agreement included the wage freezes and unpaid days mandated by Bill 115.

Local OSSTF constitutions provide guidelines for each bargaining unit’s ratification process. The tentative deals still had to be ratified by members, and then approved by the Minister of Education, as per Bill 115. Upper Grand teachers ratified their deal on November 27, but three members of their local executive quit in protest, claiming that the union’s constitutional provisions governing the ratification vote were not followed (Shuttleworth 2012). York and Niagara teachers rejected their deals on the same date (Pecoskie 2012). By November 28, OSSTF called off all further bargaining and ratification votes, with the exception of Hamilton-Wentworth (OSSTF/FEESO 2012c). Hamilton-Wentworth rejected the deal on November 30 (Pecoskie 2012). Ratification vote percentages were not released to the media by OSSTF for Upper Grand, York, Niagara, or Hamilton-Wentworth.

On December 3, all local OSSTF leaders were called to a special meeting in Toronto. Topics of discussion included the continuation of the withdrawal of extracurriculars, and OSSTF’s potential participation in ETFO’s one-day walkouts. Following that meeting, the work-to-rule campaign remained focused on extracurriculars, which as Hewitt-White (2015) points out, angered parents and students more than ETFO’s one-day rotating strikes. In a Forum Research poll released in November 2012, 62 percent of Ontarians disapproved of OSSTF’s withdrawal of extracurricular activities (Benzie 2012). In another poll released by Ipsos (2013) in January 2013, 62 percent of

Ontarians agreed that extracurricular activities should be made part of the regular work day for teachers. With no local agreements settled, the government took full advantage of the public's opinion on teacher job action. On January 3, 2013, Minister of Education Laurel Broten invoked the provisions of Bill 115 that forced the OECTA MOU onto ETFO and OSSTF and removed their right to strike. This was quickly followed by an OLRB decision that ruled against ETFO, as a result of a complaint by the government. The OLRB deemed a walkout ETFO had planned for January 11 to be illegal. ETFO called it off, and OSSTF, who had planned their own walkout for January 16, also canceled their plans (Babbage 2013) and issued a bargaining bulletin on January 7 informing members that strike actions could not continue and that they "must fulfill all imposed contractual obligations as well as obligations under the Education Act" (OSSTF/FEESO 2013). By January 23, with the OECTA agreement now in place, the Liberal government repealed Bill 115.

The Bill 115 "story" doesn't stop here, as OSSTF and ETFO went on to bargain their own provincial MOUs in the spring of 2013 and reach local deals with slight improvements to the original provisions mandated by the government (Bocking 2017). OECTA's agreement contained a "me too" clause that provided their members with the improvements as well, entitling their members to the improved provisions bargained by OSSTF and ETFO, something that became a point of contention with the other unions (MacKay 2018). The resignation of Premier Dalton McGuinty on February 11, 2013, with Kathleen Wynne chosen by the Liberals as his replacement, introduced new and interesting political dynamics, as did OSSTF President Ken Coran's retirement in June 2013 and subsequent announcement that he intended to run for the Liberals in a by-election for the riding of London West (Hewitt-White 2015). On July 1, 2013, teacher Paul Elliott assumed the presidency of OSSTF. He was left to deal with the lingering aftermath of Bill 115. This included school boards who refused to abide by the OSSTF MOU (Elliott 2013), which in Elliott's view was to the detriment of members. During Elliott's tenure, the Charter challenge to Bill 115 was successful (Morrow and Alphonso 2016). This set off another round of provincial negotiations in 2016, resulting in two-year contract extensions and monetary payouts to impacted union members (OSSTF/FEESO 2017). In short, the story of Bill 115 is long in duration and extremely complex. For the purpose of this paper, I will limit my analysis to the events that unfolded in 2012 and early 2013, particularly as they relate to my union, the OSSTF.

## **The Political Context of Bill 115: OSSTF and the Liberal Government**

The dynamics between OSSTF and the Ontario Liberal party is an important factor in how the events around Bill 115 played out. OSSTF and other Ontario teacher unions have had an influential role in the changing landscape of union-party relations since the late 1990s, which included the building of a close relationship with the Ontario Liberals (Savage and Ruhloff-Queiruga 2017; Walchuk 2010). As Walchuk (2010) documents, OSSTF and other unions, including OECTA, were key funders of an

influential third-party advertiser, the Working Families' Coalition, which was active in every provincial election between 2003 and 2014. While the Working Families' Coalition did not explicitly use advertising campaigns that named the Liberals as their preferred party, their advertisements attacked the Progressive Conservatives and their party leaders. In addition to financial contributions to the Working Families' Coalition, OSSTF and other teacher unions funneled hundreds of thousands of dollars directly to Liberal party coffers as part of a strategic voting plan that they hoped would keep the Progressive Conservatives from gaining power. This continued even post-Bill 115, up until campaign finance rules were changed in 2016 to significantly limit third-party advertising and prevent both union and corporate donations (Savage and Ruhloff-Queiruga 2017).

In light of OSSTF's seemingly cozy relationship with the Liberals, Hewitt-White (2015) questioned the sincerity of OSSTF's commitment to fight Bill 115. She contends that "the union's commitment to respectability and electoral politics overshadowed its commitment to resisting the government's attack" (Hewitt-White 2015, 185). Hewitt-White's research documents similar sentiments by members but does not include the considerable frustration expressed by some local leaders in union meetings at the time. Evidence of this is apparent in two motions that are recorded in the minutes of an OSSTF Provincial Council<sup>10</sup> meeting on October 12, 2012, four weeks after the passage of Bill 115. One motion directed the provincial executive to "incorporate into their strategic plan a province-wide political protest following the first post-Christmas imposed collective agreement" (OSSTF/FEESO 2012f, 15). The second directed them to "develop a plan similar to the days of Action Protest during the Harris era" (OSSTF/FEESO 2012f, 16). Both motions were defeated, and as there were no further Provincial Council meetings held until 2013, no more formal opportunities<sup>11</sup> existed for local leaders to direct OSSTF's strategy until after the provisions of Bill 115 were enacted in January.

## **OSSTF's Strategy and Member Dissent**

Hewitt-White (2015), an OSSTF member herself, argues that the provincial union strategy was a top-down, concessionary approach that sacrificed the social-movement unionism within their organization and the potential mobilization of members and the public. Hewitt-White defines social-movement unionism using the work of Camfield (2007) and Ross (2012). Social-movement unionism, she argues, consists of a vision of unionism that is non-economistic, one that is informed by the shared interests of both union members and nonunion members. Social-movement unionism extends beyond the workplace into the general public good. In contrast to this is business unionism, which Hewitt-White (2015, 176) defines as a traditional approach that focuses on service to members, is geared solely toward workplace issues, and is more concerned with being a responsible "partner of industry and the state" than it is with larger social relations. Through various examples, Hewitt-White reveals evidence of both social-movement unionism and business unionism within the OSSTF. However, when it came to negotiations in 2012, she argues that OSSTF took a

business-unionism approach, one that was based upon the general acceptance of a neoliberal austerity narrative.

Hewitt-White forms her analysis largely through the examination of internal union communications and policies. She also examines the dissent of OSSTF members as expressed in social media and online petitions, in addition to their rejection of the majority of the local agreements bargained under the parameters of Bill 115. She concludes that OSSTF leaders' resistance to Bill 115 was informed by the notion that members were "passive recipients of knowledge and strategy crafted by the leadership. The internal democratic structure of OSSTF theoretically allows for member engagement from the bottom up, but in practice, leaders have low expectations of members' willingness to mobilize" (Hewitt-White 2015, 171). Hewitt-White argues that these expectations blinded OSSTF to a potential opportunity for organized resistance, pointing to various examples of members who expressed their desire to take a militant approach to the imposition of Bill 115, as well as to the openings of social-movement unionism that already existed within the union. According to Hewitt-White, OSSTF chose to act within the parameters imposed upon them by the legislation and channeled their resources into the Charter challenge instead of collective action.

Hewitt-White is critical of OSSTF's democratic structures at both the provincial and local levels of OSSTF, asserting these structures contributed to the frustration and disengagement of members during Bill 115, as well as the union's capitulation to the austerity demands of a government with which they had political ties. Her criticisms of these democratic structures follow Michels' (1962) pessimistic analysis of democracy in political organizations, and his belief that these organizations, including trade unions, would eventually succumb to the "iron law of oligarchy." They would become large and bureaucratic, with leaders who retained all of the expertise at the top, and an apathetic mass of members at the bottom. In Hewitt-White's (2015) view, OSSTF members were far from apathetic. However, in keeping with Michels' iron law, Hewitt-White argues that OSSTF members' militancy was suppressed by the lack of opportunity within the union to be consulted on strategy and bargaining demands, or to democratically exercise their agency. Her arguments for more democratic input by members are convincing, but call for more analysis of the external and internal pressures faced by provincial and local leaders, and the ways in which these pressures manifested themselves into OSSTF's democratic practices at the time.

## **Negotiating under an "Environment of Hostile Forces"**

Richard Hyman (1989) argues that the central paradox of trade unions is that they must not only serve members but also maintain structures that serve employers. Unlike theorists like Michels (1962), who was concerned with the internal growth of oligarchy in political organizations, and Lipset (1960), who focused on specific internal union structures that would foster and sustain union democracy, Hyman places emphasis on the external pressures that impact the internal processes and decisions of unions. According to Hyman (1975, 69), any study of unions must be posited within their social context, "the environing institutions of power with which trade unions

constantly interact.” The democratic or oligarchic practices of unions, then, must be considered against the backdrop of the external pressures they face. It is too easy, Hyman (1989) writes, to blame the democratic failures of unions on the individual traits of their leaders. “Trade unions,” he contends, “operate within an environment of hostile forces which condition and distort their character and dynamics” (Hyman 1989, 250). These hostile forces can be overwhelming and can lead to bureaucracy rather than democracy. However, Hyman (1989, 251) also argues that “the contradictions inherent in trade unionism—as in the experiences and consciousness of workers within capitalist society—create space for socialists.” In his view, these contradictions create openings within the union for members to demand more democracy, to formulate more creative forms of resistance, and to build more solidarity.

While Hyman crafted his arguments with private sector unions in mind, they are also applicable to those in the public sector. OSSTF, and other teacher unions, were indeed facing an “environment of hostile forces” at the time of Bill 115, and it impacted the decisions they made. These pressures included the legal landscape of Bill 115, teachers’ positioning as public sector workers, and the lack of solidarity that the four teacher unions in Ontario demonstrated as they faced the government’s austerity agenda. These forces created a context in which the options for resistance appeared limited, at least to those in leadership.

Teacher unions, like all public sector unions, face a paradox in that their employer not only buys their labor but also has the power to legislate their will upon workers (Evans 2013). From this perspective, MacNeil (2014) views the case of Bill 115 as a study in Charter politics and offers a detailed discussion of the legal context that faced teacher unions as they navigated trying to protect members in the face of coercion. MacNeil (2014, 123) acknowledges that “the unions representing Ontario teachers are imbricated within a complex socio-political-legal system that highly structures and confines their responses.” He notes, “the increasing hostility of the state towards collective bargaining, especially in the public sector, has left unions searching for a means of challenging a range of government actions such as the imposition of wage freezes” (MacNeil 2014, 145), illustrating his point through recent examples of other Canadian legislation that have been used by governments to restrict public sector workers’ wages, working conditions, and collective bargaining rights. Through his analysis of the legal decisions that came out of union challenges to coercive legislation, MacNeil takes the view that the constitutional approach taken by teacher unions in response to Bill 115 was limited in value, deeming it short-term with few far-reaching positive outcomes. This is similar to the position of Savage and Smith (2017), who argue that Charter challenges do not replace the long-term gains that organized labor can make through membership mobilization and direct action. MacNeil (2014) was not optimistic for a positive legal outcome and must have been surprised at the announcement in April 2016 that the court had ruled in the teacher unions’ favor (Lum 2016). Still, his discussion is illustrative of the uncertain legal backdrop facing public sector unions in 2012—a context characterized by Panitch and Swartz (2003) as coercive.

In addition to having to centrally bargain with an employer who can enact legislation, Ontario teachers serve the public and are employees of the state. Any analysis of

their unions, including their internal debates and processes, must broadly consider their position within the public sector. As Johnston (1994, 4) asserts, “public workers’ movements are shaped by—and in turn shape—the distinctive context within and against they operate: public organization.” Due to their social reproductive roles, teachers’ labor is often characterized as caring work. This can work in their favor when their contract demands are framed as the learning conditions of students. However, it can also work against them if this link is unclear and teacher job action is viewed by the public as uncaring. Ross and Savage (2013, 12) explain this as an inevitable part of public sector unionism: “when public sector unionists collectively withdraw their labor, they are not striking a capitalist business but rather the state, and arguably, by extension, the public.” This requires unions who represent public sector workers to “frame their demands and political activities around defining, protecting, and expanding the public good” (Ross and Savage 2013, 12).

In the case of Bill 115, there was little discursive room for teacher unions to use the frame of defending the public good. The government announced it would leave issues like class sizes and full-day kindergarten alone, because these were in the best interests of students. They took this position despite the Drummond Report’s assertion that full-day kindergarten was financially unsustainable (Bradshaw 2012). Instead, the government focused on wage freezes and cuts to teacher retirement gratuities, and, as the name of Bill 115 suggested, framed it as “putting students first.” In response, OSSTF framed its struggle as defending collective bargaining rights and compelled members to shut down extracurricular activities. As Hewitt-White (2015) argues, neither the rationale nor the tactics of resistance went over well with the public or with teachers themselves. The government took full advantage of the weakness in support for such an approach and repeatedly admonished teachers for their job action. In the press, McGuinty cited the inconvenience of teachers’ job actions for students and parents, adding that “teaching is a very high calling . . . don’t withhold goodwill from your students” (Ferguson 2013). In addition, the government took the issue to the OLRB, who declared the withdrawal of extracurriculars to be an illegal strike (MacNeil 2014).

The struggles of teachers in Ontario during Bill 115 were also deeply impacted by the lack of solidarity among their four unions. MacNeil (2014, 125) refers to this as the “fragmentation of bargaining” inherent in teacher negotiations in Ontario, a fragmentation that is rooted in the four different school systems (English public, English Catholic, French public, and French Catholic), and the resulting four separate unions that are mandated as bargaining agents for teachers in provincial legislation. Each of these unions has their own interests, values, and ideas about the bargaining process, allowing the government to pit them against each other and fully exploit their tendency to pursue their own interests. MacNeil (2014, 136) notes that

the willingness of OECTA to continue with the talks, and eventually come to an agreement, was an important key to the government’s ability to impose terms on the recalcitrant unions substantially similar to those in the agreement it reached with OECTA.

As Hyman (1989) has argued, the sectionalism historically practiced by trade unions inhibits the building of a collective consciousness. In the case of teacher unions in Ontario, this sectionalism hinders a unified and coordinated approach in bargaining and political strategy, even among organizations that represent members of the same occupational community. Hewitt-White's (2015) study notes OSSTF members' frustration with the lack of solidarity demonstrated by teacher unions as they struggled with Bill 115, a frustration that was also expressed by some local leaders at provincial meetings.

Provincial OSSTF leaders were clearly facing mounting external pressures as they navigated the government's austerity agenda and the resulting attack on education workers' democratic bargaining rights. Local leaders faced similar pressures, though arguably on a smaller, localized scale. Directly elected by members to be their local voice, local union leaders fielded the concerns and frustrations of teachers as they watched what was happening at the provincial level. Local leaders were also responsible for managing the job action in their districts, including the division among members caused by the withdrawal of extracurriculars. However, there was a layer of internal pressure that local leaders were forced to navigate, one that stemmed from the shift to centralization of bargaining.

## **Provincial Responsibility for Negotiations (PRN) in the Context of Bill 115**

As explained earlier in this paper, the table was set for centralized bargaining in Ontario education beginning in the late 1990s. However, while it has long been the legal right of provincial teacher unions to bargain for teachers in Ontario, these unions' formal rules and processes were largely set up to facilitate bargaining between local unions and school boards. At the time of Bill 115, OSSTF had yet to work out new formal rules and procedures that reflected the new reality. Bocking (2017, 383) notes how OSSTF leaders at both the local and provincial levels "struggled to adapt to the new [centralized bargaining] context, to the frustration of members." Indeed, decisions about process appeared to be being made by the provincial executive on an almost trial-and-error basis. The centralization of education funding, and the new reality that teacher unions had to bargain with the government in order to influence how that funding was allocated, had new implications for how OSSTF did business.

According to Lipset (1960, 217), the bureaucratic centralization within a union grows necessarily in response to "the extent of centralization in the outside groups with which they must deal," and this can have a negative effect on democracy within trade unions. In Lipset's (1960, 217) view, when a large, centralized industry bargains with a union, the union must have an "authority structure which parallels that of corporations" in order to balance the power that they are faced with at the negotiations table. Within the centralized structure must be the ability to manage any member discontent, which is an expectation of employers in exchange for the union's ability to collectively bargain the conditions of work. This same idea applies when unions are

expected to bargain with the state. Rules, regulations, processes, and strategies become centrally determined and controlled, allowing for little autonomy at the local level. The case of Bill 115 is an illustration of Lipset's arguments, as it highlights the centralization of internal power in OSSTF as it undertook an extremely difficult bargaining round with the government.

As noted at the outset of this section, it is the provincial teacher unions who formally hold the bargaining rights for their members. OSSTF districts have traditionally been able to engage in local bargaining because OSSTF bylaws and constitutions allow this to occur (MacNeil 2014). However, OSSTF bylaws also outline provisions for "Provincial Responsibility for Negotiations" (PRN). These bylaws, which existed prior to the centralization of financial control of education, state that "the Provincial Executive may maintain the responsibility for negotiations or may resume responsibility for negotiations for any Bargaining Unit" (OSSTF Bylaws, 15.5.1). The OSSTF PRN Manual (OSSTF/FEESO 2014) outlines the conditions that allow bargaining units in difficulty to request provincial takeover of bargaining. The provincial executive can resume<sup>12</sup> this responsibility via a motion at a Provincial Council meeting. Neither the PRN Manual nor OSSTF bylaws detail under what conditions this can occur if a bargaining unit does not specifically request it. According to the OSSTF PRN Manual, once PRN is established, provincial executive members and staff become the overseers, spokespersons, and bargainers for local negotiations, with the ability to displace the decision-making power of local actors. PRN rules trump those outlined by local bargaining unit bylaws and constitutions, and all internal and external communications, including social media messaging, must be approved by the provincial executive. Strikes can only be called with the approval of the provincial executive, and no agreement is valid without the signature of the provincial executive member assigned to the bargaining team.

Despite that being placed into PRN results in less decision-making power for local leaders, there are important financial reasons why they would agree to it. The motion that was passed to place bargaining units into PRN on April 27, 2012, speaks to these reasons, as it comments on the use of provincial funds but does not allude to the actual rules of PRN, the implications of which were not part of discussion.<sup>13</sup> Once a bargaining unit is in provincial takeover, all bargaining expenses are paid by provincial office. This is an especially big advantage for bargaining units that are small and have limited resources. Moreover, members can access strike funds and the bargaining unit has more access to provincial office's expertise, personnel, and support. The long-time existence of PRN bylaws speaks to a historical, centralized coordination of pattern bargaining set up to try and achieve equitable outcomes for members across the province as their locals bargained with individual school boards within the same school system. They are also reflective of a time, pre-2003, when bargaining units' contracts across the province did not all expire at once (MacNeil 2014). When an individual bargaining unit was having difficulty with their employer, they could request assistance from provincial office to see them through the negotiations process. PRN allowed provincial officials to apply more pressure to employers than individual bargaining unit leaders alone. Faced with a government hell-bent on an austerity agenda

in 2012, it was crucial to have a well-resourced bargaining strategy, and to have staff at the table with expertise and training on provincial education funding. Yet, in the context of centralized negotiations, PRN also became a mechanism for undemocratic control, and a way to try and manage local leaders' dissent.

OSSTF provincial councilors voted to place their bargaining units into PRN (OSSTF/FEESO 2012e) five months before contracts expired, and just days after President Ken Coran had offered the government a deal with a zero wage increase. This effectively prevented bargaining units from engaging in bargaining with school boards without the close monitoring of provincial office personnel. In the fall, OSSTF directed districts to move ahead with trying to settle local deals that were "substantially similar" to the OECTA MOU. But from the outset, there were members and local leaders who had reservations about bargaining austerity contracts, particularly in light of the ongoing Charter challenge.<sup>14</sup> To have contracts forced upon teachers via legislation was one thing; to sit down at a table and agree to them was quite another. This "bargaining" was frequently described as a "salvage operation" by provincial executive and staff. No one in OSSTF had had input into the terms that were being forced upon the union, as they had been agreed to by another union. Now OSSTF appeared to be forcing them upon their own members as well, with no real input from local leaders, the supposed democratic voices of each district. The terms "bargaining" and "negotiations" suggest a give-and-take. However, the very characterization of the discussions between OSSTF districts and school boards in the wake of Bill 115 as "bargaining" was patently false. As Toronto OSSTF member Jason Kunin (2013) notes, "being asked to vote with a hammer over your head is not collective bargaining. It is not democracy either."

In essence, local leaders faced the suppression of democracy both externally at the hands of the government, and internally as well, because of the internal union structures that were in place. While not necessarily originally designed to do so, these structures, in the context of Bill 115, prevented local leaders from expressing their dissent. As per the PRN manual, local bargaining unit presidents were required to sign an agreement that shifted all decision-making power to provincial union officials. These rules left local leaders in a contradictory position. On one hand, the rules prevented local leaders from registering their dissent publicly to members, to the media, and to their local school boards. On the other, they gave local leaders a mechanism to manage their members' dissent, by informing them that the rules prevented them from speaking out on their behalf. This contradictory position served the overall goal of the organization, which was to suppress all levels of resistance as the union moved forward with bargaining austerity contracts. Hyman (1989) has noted that the suppression of internal dissent by trade unions assists employers in meeting their goals. In the case of Bill 115, it served the provincial government well.

Despite what the PRN rules said on paper, they did not succeed in entirely suppressing the dissent of local leaders. As previously noted in OSSTF District 18, Upper Grand, three executive members resigned in protest of the voting process used to ratify their contract. In an article in the *Guelph Mercury Tribune* on November 30, 2012, District 18 second Vice President Diane Ballantyne spoke to the press, claiming that

four constitutional rules had been broken during the ratification process. She claimed that the process was rushed and that members did not have the opportunity to properly assess what they were voting for. She also claimed that “we were told the majority voted in favour, but there are no numbers to back that up” (Shuttleworth 2012), indicating that the local executive had not been informed of the actual percentage of members who voted in favor or how many had voted at all. Hewitt-White (2015, 182) characterizes the District 18 resignations as a response to “provincial office interference in the local democratic process,” an implicit reference to the rules of PRN that allow provincial office to bypass a local district’s constitution. While Ballantyne and her colleagues’ protest did not prevent provincial office from declaring that the deal was ratified, their dissent, and the fact that they went to the press in order to inform their members and others of their protest, placed political pressure on provincial leaders. It also demonstrated to local leaders and members of other locals that resistance was possible.

A second example of dissent by local leaders occurred in District 21, Hamilton-Wentworth. As indicated earlier in this paper, faced with the pressure of other local tentative agreements coming in, the bargaining team for District 21 teachers reached a tentative deal with the Hamilton-Wentworth District School Board on November 19. However, by November 27, members in York and Niagara had voted their agreements down. Against the instructions of provincial office, the bargaining team scheduled a ratification vote to bring the tentative agreement to members. The confusion around this was noted by a local reporter (Pecoskie 2012). The local executive felt strongly about maintaining a shred of democracy within an overall undemocratic process, and school union representatives and other members indicated that they wanted a say. District 21 teachers in Hamilton, like those in York and Niagara, sent a collective message to both their local and provincial leadership that they were not prepared to ratify a contract that had been bargained via government coercion. 73 percent of permanent teachers and 79 percent of occasional teachers voted to reject the tentative agreement (personal notes, November 30, 2012). OSSTF released a short media statement that the tentative agreement had been voted down (with no numbers provided), and that there would be no further comment. Notably, the contact person listed in the media release was the Associate General Secretary in charge of communications (OSSTF/FEESO 2012b), rather than the provincial executive member assigned to Hamilton-Wentworth at the time or the local President. Provincial office clearly did not want to risk further public dissent.

The resistance demonstrated by leaders in Upper Grand and Hamilton-Wentworth, as well as the resistance ultimately exercised by teachers who voted down tentative contracts, are illustrative of the theories of those who reject Michels’ (1962) assertion that the development of oligarchy within trade unions is an iron law. Edelstein and Warner (1979), for example, argue that all unions have an element of democracy, but that some are just more democratic than others depending on the peculiarities of their internal structures. The key, they contend, is to have formal organizational processes that protect democracy, which they define as “majority rules with minority rights” (Edelstein and Warner 1979, 29). In the case of OSSTF bargaining in November 2012,

it was the formal organizational rules surrounding ratification votes that ultimately allowed teachers to resist having tentative agreements imposed upon them. It is worth noting, however, that OSSTF's rules surrounding PRN are *also* formally written into their provincial constitution and bylaws and could have been fully employed to shut down dissent. This did not occur in Hamilton-Wentworth, which gives credence to Lipset et al.'s (1956) argument that written rules don't necessarily guarantee the behavior or practice of union leaders or members. The example of PRN rules is also a reminder of the distinction between the constitutional and the democratic. Democracy is not guaranteed solely by constitutional rules; it is dependent upon a collectively shared set of values and norms, which in the context of Bill 115, the rules of PRN did not appear to follow.

In order to explore the gap between written rules and actual practice in the context of the series of events of November 2012, I return here to a key point of the work of both Hyman (1971, 1975, 1989) and Hyman and Fryer (1978), who consider the democratic practices of unions in the context of the pressures placed upon union leaders. In their view, these pressures have implications for democracy and the prevention of oligarchy within unions, especially in particular moments of time and space. The bargaining that occurred between local unions and school boards in November 2012 is a particular moment to consider. It occurred within a recent shift to centralized negotiations in the education sector. There was immense pressure placed upon provincial leaders, who were faced with coercive legislation, a lack of solidarity among teacher unions, public criticism, and growing dissent from members. There is little doubt that these pressures resulted in the application of internal pressures upon local leaders to settle contracts with school boards, which intensified as the first tentative agreement was signed. But once the first two deals were voted down by members, the possibility that members might resist the anti-democratic agenda of both the government and the union presented an important crack in the plan. It was at this point that the two-way system of control within the union (Hyman 1975) became apparent, presenting contradictions that opened a space for resistance. Union leaders could no longer ignore member dissent, and some local leaders began to dissent themselves. The overall result was that the provincial executive called off local bargaining. As Edelstein and Warner (1979, 20) assert, "national officials . . . when pressed, bend in order to retain control." Indeed, the union was losing control of the process it had attempted to put in place, and it could not risk the possibility of more public exposure of the divisions within OSSTF. Instead, the union chose to let the government impose deals rather than validate them through more local bargaining, moving away from a process that legitimized Bill 115 to one of resistance via non-participation.

## **Union Democracy in the Face of Bill 115**

The case of Bill 115 is an example of members retaining some influence over their leadership, even if they did not determine the outcomes entirely. It also highlights that democracy within a union can be fluid, even within a fixed context of centralized bargaining. According to Hyman (1989), the centralization of a trade union does not

necessarily result in less internal democracy; in times of crisis, the exertion of internal pressures upon leaders can result in *more* democracy. What happened during Bill 115 is an illustrative example of this complexity. It was a highly coercive piece of legislation and can be characterized as a crisis for Ontario teacher unions. While the provincial responsibility for bargaining rules were used as a tool by provincial OSSTF to suppress dissent, the ratification processes at the local level countered their effect. Ultimately, members were able to decide if they would consent to the government's coercion by voting down the initial tentative deals.

It needs be noted, however, that teacher unions' resistance to Bill 115 did not actually stop the government from eventually settling austerity contracts with teachers once the legislation was repealed. OSSTF signed and ratified a central agreement that included wage freezes, unpaid days, and the end of retirement gratuities in the spring of 2013, following the repeal of Bill 115. This involved putting into place a process to have members vote on the central agreement and was followed by local ratification processes as local deals came in (*King Weekly Sentinel* 2013). Why would OSSTF leaders, and then their members, consent to these agreements? One reason is that the external contexts discussed in this paper, including OSSTF's unwillingness to part ways with the Liberals, ultimately influenced their decision. These contexts can be considered on their own, or in tandem with a further explanation, which lies with the details of the agreements themselves. The OSSTF agreement contained somewhat improved provisions over the OECTA MOU, including a reduction of mandatory unpaid days, funding for a new union-run benefits plan, and improvements to the sick leave plan (OSSTF/FEESO, n.d.).<sup>15</sup> Finally, OSSTF secured local bargaining for its bargaining units, something that OECTA did not initially achieve. This meant that local leaders could bargain directly with school boards, and members could use existing local procedures to have input into non-monetary issues that were important to them. For all of these reasons, both local and provincial OSSTF leaders recommended that members vote in favor of the new contracts.

Of course, despite the illusion of somewhat freer collective bargaining, the resulting OSSTF agreements still had their roots in government coercion. The hammer of Bill 115 was gone, but the austerity agenda and political contexts remained, as did the internal structural limits to democratic input within OSSTF. Members still did not have a way to formally have input into a central bargaining strategy. While local leaders had more chances for informal input at the special meetings to which they were summoned, there was often no time or way for them to consult their local executives or members before making a decision, or even to fully consider information that was presented to them. The issue of having time to digest and discuss information came up repeatedly at meetings of local leaders throughout the bargaining round of 2012-2013. With all of this in mind, then, the question arises as to whether having a vote constitutes democracy—or whether it is something more.

There is no question that voting is an essential part of the democratic process within a union. However, voting should ideally be the final culmination of debate, where participation is welcomed, and all factors are revealed and considered. Ultimately, democracy is about shared decision-making power and having access to the

information required to make those decisions. If structures for clear communication and input are not in place, or information is withheld or shared only with a few, voting can constitute a mere exercise in procedure, not actual democracy. In addition, if the supports and resources are not in place within a union's organization to actually carry out the results of a decision-making process—particularly when the union is faced with a powerful government, negative public perception, and the like—this will undoubtedly structure how individuals decide. In such an instance, the needs of the organization can take precedence over the needs of its members, which can prevent a union from taking bold action. This was the case with OSSTF in the face of Bill 115.

## **Conclusions and Future Implications**

No round of bargaining or teacher struggle is the same. This paper argues that we must reject simplistic narratives of why unions succeed or fail in their endeavors, or sometimes do both at the same time. To lay success or failure at the feet of individual actors or paint it as due to one or two specific factors does not acknowledge unions' inherent contradictions, and it denies the constantly changing internal and external contexts and complexity within which unions, their leaders, and their members exist. It is therefore not useful to systematically apply all of the lessons learned during one struggle to another. However, the case of Bill 115 adds to a broader discussion of union democracy's role in the cultivation of teachers' resistance to austerity and the further neoliberalization of education, specifically within Ontario's regime of centralized bargaining. It highlights the contradictions that are found within internal teacher union practices, the ways in which these contradictions can shape democracy within the union, and how this democracy can impact bargaining and political strategy.

Furthermore, the case of Bill 115 illustrates that a lack of internal democratic structures does not necessarily mean that dissent will be contained. When internal channels for dissent and resistance are shut off or non-existent, they can spill out in other very public ways and still influence a union's direction. In OSSTF's case, dissent was expressed by members online via blogs, petitions, and social media (Bush 2013; Hewitt-White 2015) and by local leaders using the press (Dean 2012; Shuttleworth 2012), eventually culminating in the rejection of local tentative agreements. It is possible that had OSSTF prepared democratic internal channels for this dissent, it may have translated into more collective solidarity and success in fending off the government's austerity agenda. Such channels, however, wouldn't necessarily have negated the effects of the immense external challenges that OSSTF faced.

Finally, union democracy is ultimately not a static state of affairs, and thus any consideration of it must be reflective of this fact. With the case of Bill 115 in mind, teacher unions might more carefully think about how they engage their local leaders and members in decision making within a centralized bargaining regime. This consideration needs to extend beyond formal rules and processes, which are important, but which also must be viewed using the lenses of the changing contexts unions face. Every bargaining strategy should include a plan of democratic engagement inclusive of members and local leaders that is based upon the shared norms of the organization.

It may not in the end be completely successful, but it can help build the collective solidarity and strength required not just for the protection of members' working conditions, but public education itself.

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### **Notes**

1. The Ontario English Catholic Teachers' Association (OECTA) represents approximately 45,000 teachers in publicly funded Roman Catholic schools in Ontario ([www.catholicteachers.ca](http://www.catholicteachers.ca)).
2. Retirement gratuities existed in many (but not all) teacher and education support staff collective agreements. Employees could "bank" unused sick days from their yearly allotment at the end of the school year, up to a specified maximum, to draw from later should they be required to use them due to illness. Upon retirement, any unused days were paid out to the employee at a specified percentage of their salary.
3. The Elementary Teachers' Federation of Ontario (ETFO) is the largest of the teacher federations and represents approximately 83,000 teachers, occasional teachers, and education professionals employed in public elementary schools in Ontario ([www.etfo.ca](http://www.etfo.ca)).
4. The Ontario Secondary School Teachers' Federation (OSSTF) represents approximately 60,000 members in Ontario and is the most diverse of the teacher federations. They represent secondary teachers and support staff employed at public schools, support staff employed at publicly funded Catholic schools, university support staff, and teachers and support staff at several private schools and consortia ([www.osstf.on.ca](http://www.osstf.on.ca)).
5. Education workers represented by CUPE (Canadian Union of Public Employees) and OPSEU (Ontario Public Service Employees Union) were also impacted by Bill 115.
6. OSSTF is unique among other teacher unions in that it refers to its locals as "districts."
7. While I have used the term "teacher unions" throughout this paper, it is important to remember that two of the unions that represent teachers in Ontario also represent education support staff. As this reality is not yet reflected in the names of these unions, and the term "teacher unions" is used throughout other literature, this paper continues the use of the term.

8. Prior to April 2014, central table negotiations fell outside formalized bargaining processes within the Ontario education sector. Instead, unions representing education workers were asked to meet voluntarily with the government at a “provincial discussion table” (PDT). While the main purpose was to discuss monetary items, other issues could be addressed as well. In April 2014, the Ontario Liberals enacted the *Ontario School Boards Collective Bargaining Act* which formalized a central provincial bargaining table, as well as maintained local discussion tables between union locals and local school board personnel (MacNeil 2014; Sherwood 2015).
9. The Association des enseignantes et des enseignants franco-ontariens (AEFO) represents approximately 11,950 members in publicly funded French-language elementary and secondary schools across Ontario ([www.aefo.on.ca](http://www.aefo.on.ca)).
10. OSSTF’s Provincial Council is a governing body consisting of bargaining unit representatives from all across the province. It has decision-making power between Annual Meetings of the Provincial Assembly.
11. “Formal opportunities” is used here to mean meetings of constitutionally entrenched, decision-making bodies of OSSTF.
12. The term “resume” is used deliberately here. Within OSSTF, “PRN,” or “provincial responsibility for negotiations,” is also referred to as “provincial resumption of bargaining”—a point at which the provincial union can resume its legal right to bargain on behalf of individual bargaining units.
13. The April 27, 2012, motion to approve the placement of bargaining units into PRN reads “that Provincial Council authorize the use of the member Protection Account for the support of negotiations on behalf of all Support Staff and Teacher/Occasional Teacher Bargaining Units whose contracts expire on August 31, 2012 from District 1 up to and including District 33.” (OSSTF/FEESO 2012e, 6).
14. In response, OSSTF addressed the issue in a bargaining bulletin issued November 27, 2012, where they assured members that the reaching of tentative agreements and ratification votes would not impact the legal challenge (OSSTF/FEESO 2012a).
15. In comparison to what many collective agreements had before 2012, the new sick leave plan potentially increased the number of sick days that OSSTF members could access on an annual basis. However, due to the new sick leave plan’s complexity, clear and accurate details were rarely illuminated by the media for public scrutiny, much to the political advantage of both teacher unions and the governing Liberals.

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