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NEW YORK OFFICE

THE STATE OF THE UNIONS IN THE UNITED STATES

By Sean Sweeney

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Published by the Rosa Luxemburg Stiftung, New York Office, October 2012

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The War on Unions

Ever since the election of Ronald Reagan to the U.S. presidency and the following launch of the neo-liberal period in the early 1980s, trade unions in the United States have suffered a steady decline. Today, barely one in ten workers carries a union card, compared to more than one in three in 1953.

At the bargaining table, unions have been on the defensive for a generation, and contract negotiations have normally resulted in unions giving concessions to employers—in health care coverage, in pension benefits, and in wage levels.

Moreover, the weakening of the trade union movement is a root cause for the redistribution from the bottom to the top. In the last three decades, workers' incomes have basically stagnated, and in many cases even decreased, while the incomes of the upper ten percent, and most notably those of the upper one percent, have skyrocketed.

With the recent financial and economic crisis, a shift to austerity politics has further increased the pressure unions face. Republican-led attacks on public sector unions—the last union stronghold in the U.S.—have increased. Right-wing state governors like Wisconsin's Scott Walker challenge the very existence of unions as effective organizations.

However, these attacks have at the same time generated a new sense of crisis amongst the trade unions. Within these unions, as well as within the U.S. left, the debate about the future of organized labor is well under way. One form of countering the right-wing attacks has been to commit more resources to political organizing and building alliances with other movements (for example, those around immigrant rights and, more recently, the Occupy movement). On the other hand, unions attract considerable criticism for being narrow and unprepared to develop a clear class-based politics and orientation that is independent of capital.

Sean Sweeney, Director of the Global Labor Institute at Cornell University, analyzes the recent historic development as well as the current state of U.S. trade unions. He discusses both the formidable challenges they face and the present possibilities for new alliances and organizing strategies. He argues that the future of organized labor in the United States will depend on the capacity of unions to develop a distinctly new message and politics to appeal to the ninety percent of workers who are not in a union.

*Stefanie Ehmsen and Albert Scharenberg
Co-Directors of New York Office, October 2012*

The State of the Unions in the United States

By Sean Sweeney

This paper will provide an overview of both the recent history and present state of the U.S. trade union movement. It will then summarize some of the main debates taking place both inside and around the trade unions and consider ways in which unions in the U.S. might recover some of their power and influence in the period ahead.

The paper will be divided into three sections. Section 1 will summarize some of the main economic trends and key political moments that have had a clear bearing on the present state of trade unionism in the U.S. since the dawn of the neoliberal period. In common with unions in

most of the developed world, unions in the U.S. have been negatively impacted by the changes in the political economy, but the decline in the size and strength of the trade unions has been perhaps more precipitous in the U.S. than in any of the other OECD countries.¹ This will be discussed in Section 2. Section 3 will assess how the U.S. labor movement has tried to come to terms with these challenges, organizationally, politically and programmatically. Section 3 will focus on the tumultuous events of 2011—the year of Wisconsin and the birth of the Occupy movement—and offer some perspectives on the future of unions and the potential for new strategies, ideas, and social alliances to emerge.

Section 1: Unions in the Neoliberal Period

It is widely accepted that the election of President Ronald Reagan in 1980 marked the beginning of a new historical period for unions. 1980 also marked the numerical peak of the U.S. labor movement—20,085,000 members.² The labor movement had hitherto grown more slowly than the U.S. labor force, but it was still growing in numerical terms until Reagan took office.³ The percentage of workers represented by a

union—often referred to as ‘union density’—fell from 35% in 1953 (the highest ever figure) to 20.1% of all workers in 1983. However, from the end of World War II until 1980, probably the labor movement’s biggest failure was its inability to make real gains in the Southern states. The last major effort to organize the South occurred with the Congress of Industrial Organization’s (CIO) “Operation Dixie” in the early postwar period (approximately 1947–54), but the effort ended in failure, coinciding with both the beginning of the Cold War and the passage by a Republican Congress of the Taft-Hartley Act in 1947 that banned the ‘closed shop.’ Twenty-two states (mostly in the South and West) passed

1 Organization for Economic Cooperation and Development (OECD) Statistics database, http://stats.oecd.org/Index.aspx?DatasetCode=UN_DEN.
2 For a discussion on the decline of union membership by sector, see Kim Moody, *US Labor in Trouble and Transition* (Verso: 2007).
3 *Ibid.* p. 100.

'right to work' legislation that restricted union organizing—and those laws have gone mostly unchallenged for six decades.⁴

Despite the failure to spread union membership in many states, the numerical growth of unions until 1980 was sufficient to allay any sense of a developing crisis. However, the demise of Keynesian approaches to economic management in the 1970s and the resurgence of economic liberalism both at the level of policy and in intellectual circles in the period following the mid-1970s 'stagflation' set the stage for a long period of steep trade union decline. These changes have been well documented both for the U.S. and globally and require no further attention here. However, for unions in the U.S. the first signs of a major policy shift towards the 'monetarist' policies fashioned by Milton Friedman and his followers occurred as early as 1975 when New York City faced bankruptcy and a federal government rescue package was made conditional on the city's unions giving up pension and other benefits.⁵ The public sector unions (sometimes called city or municipal workers) agreed to help 'save' the City with major concessions, which perhaps helped create the perception that unions had contributed to the city's financial problems to begin with—a perception enthusiastically cultivated by today's political right. Major pay and benefits concessions were also tied to the government bailout of Chrysler in 1979, and the United Auto Workers gave up more than \$500 million in pay and benefits (1970 dollars) in order to help save the company from bankruptcy.⁶ The Chrysler bailout not only triggered a wave of concessions, the logic of the concessions closely aligned the interests of the union (in this case the United Auto Workers-UAW)

with the company's business performance and financial health of the employer (in this case Chrysler).⁷ This, in turn, set the stage for the 'team concept' and 'jointness' that saw the rise of a less militant trade union culture in the automobile sector and across U.S. manufacturing.

The Closing Down of the Air Traffic Controller's Union (PATCO)

These events in the late 1970s were important precursors to a more generalized undermining of union militancy and organizing in the 1980s. In August 1981, the Professional Air Traffic Controllers Organization (PATCO) went on strike for better wages and reduced hours and were ordered back to work by the Reagan administration after the President had declared PATCO to be a threat to national security. (Ironically, PATCO had supported Reagan in his campaign for presidency).⁸ The 11,500 members of the union refused to comply with the order and were fired and banned from public service for life (although roughly 2,000 controllers disobeyed the strike order and reported to work and were exempted from the ban). Military flight controllers were brought in to work alongside the PATCO members who disobeyed their union and reported to work. The union itself was decertified by Presidential order. The firing of PATCO members threw the U.S. aviation system into turmoil for a number of years, but the signal to the labor movement was clear and the impact was immediate. The PATCO episode is still frequently referred to in trade union circles to this day as a watershed event in U.S. labor history.⁹ Many believe

4 Timothy Minchin, *Fighting Against the Odds: A History of Southern Labor Since World War II* (University Press of Florida: 2005).
5 Joshua Freeman, *Working Class New York: Life and Labor Since World War Two* (NY: The New Press, 2000).
6 See Kim Moody, *An Injury to All: The Decline of American Unionism* (Haymarket: 2007), Chapters 5–7.

7 Nelson Lichtenstein, *State of the Union: A Century of American Labor* (Princeton, Princeton University Press, 2002), p. 234.
8 See Chris Herman, "Winging it: the Battle Between Reagan and Patco," *The Nation*, March 21, 2012, www.thenation.com/article/166938/winging-it-battle-between-reagan-and-patco#.
9 See, for example: Art Shostak, "An Unhappy 25th Anniversary: The PATCO Strike in Retrospective", *New Labor Forum*, Fall 2006.

the entire labor movement should bear some responsibility for the destruction of the union for not anticipating what would happen and for not comprehending the historic significance for trade unionism in the U.S.¹⁰ Either way, after the decertification of PATCO and the firing of almost its entire membership, the roll-back of union pay and benefits was pursued with even greater enthusiasm by employers and politicians alike throughout the 1980s and beyond. The breadth of the attacks on unions dispelled any notions that concessions were merely episodic and would cease when the economy recovered. It would soon become clear that the moves against unions in the early 1980s were part of a more fundamental restructuring of political economy that would control wages, deregulate business practices, liberalize finance, privatize public services, cut taxes on the wealthy and restore the rate of profit.

Clinton Era Globalism

In the early 1990s, following the collapse of the Berlin Wall, the globalist project of the U.S. business elite gave further impetus to the weakening of New Deal institutions and processes, including labor market protections and employer neutrality in union elections. President Clinton's allies in organizations like the Business Roundtable extended the neoliberal policy priorities to the global institutions, principally the International Monetary Fund and the World Bank, both headquartered in Washington D.C. The era of the "Washington Consensus" had arrived.

The Business Roundtable was launched in 1972 and brought together 150 of the U.S.' largest industrial and financial corporations and right-wing think tanks like the Heritage

Foundation.¹¹ The Roundtable was influential in the "structural adjustment program" imposed on New York City which was to become something of a model for neoliberal restructuring in many parts of the Global South.¹² The early 1990s saw the Democratic Party elite fully embrace neoliberal policies and 'corporate globalization.' The New Deal/Civil Rights wing of the Democratic Party continued to decline in power and influence, therefore reducing the political influence of the labor movement on the Party's core priorities.

Unions nevertheless expected something tangible from the Clinton administration, but they were to be left disappointed. Health care reform—a campaign commitment—never materialized, and efforts to change labor laws to make union recognition elections free of punitive actions by employers were also brushed aside. In 1996 President Clinton also signed into law the Personal Responsibility and Work Opportunity Act that hailed the "end of welfare as we know it." The law effectively transformed the U.S. welfare system from an entitlement to a work-based one, instituting stringent time limits on welfare payments and tight restrictions on public assistance for legal immigrants. The legislation also introduced 'workfare' where those receiving unemployment benefits were required to work in order to receive those benefits. Most unions opposed the legislation, considering it to be an attack on poor families.¹³

The arrival of the North American Free Trade Agreement (NAFTA) in 1994¹⁴ was a particularly bitter pill for the U.S. labor movement to

10 Ibid. Twenty-five years after the strike, Shostak (in 2006) remembers that union branches (called locals in the U.S.) rallied to support PATCO members, but union leaders gave only "faint support."

11 Kim Moody, *From Welfare State to Real Estate: Regime Change in New York City, 1974 to the Present* (New Press: 2007).

12 Moody says the Roundtable's ideas "provided a backdrop to the city's policy options just as they did in Washington DC." (Ibid, p. 16).

13 Ellen Reese, *They Say Cut Back, We Say Fight Back! Welfare Activism in an Era of Retrenchment*. American Sociological Association, Rose Series in Sociology, November 2011.

14 President Clinton signed the NAFTA bill in December 1993.

swallow, although many bilateral trade agreements—absent any meaningful commitments to workers rights or minimum standards—have been negotiated since NAFTA came into effect. Among other things, NAFTA essentially gave U.S. manufacturing a green light to relocate to Mexico. According to Kate Bonfenbrenner, the threat of relocation would be integrated into employers' union avoidance strategies. Manufacturing companies quite regularly used threat to relocate to Mexico as a means of defeating union efforts to organize.¹⁵ For some observers, the consolidation of 'concessionary bargaining' was facilitated by actions of union leaders in the period before the 1980s attacks on unions. For Labor Notes founder Kim Moody, the foundation stones of the new bargaining paradigm were the defeats inflicted on rank and file movements by the established leadership in the 1970s. The suppression of grassroots militancy rendered the movement incapable of resisting the employers' attacks at the onset of the neoliberal period.¹⁶

September 11th and the Bush Administration

The 'stolen' presidential election of the year 2000, the onset of the recession following the burst 'dot.com' bubble in 2001, and the September 11 attacks and their aftermath changed the political landscape in the U.S. in ways that continued to make life extremely difficult for unions. No doubt affected by the shift in U.S. public opinion towards support for national security and the War on Terrorism, the trade union movement became less assertive and in some respects more divided. Antiwar sentiment in the unions, although visible, was not strong enough to move the AFL-CIO to formally oppose

15 Kate Bronfenbrenner, "Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages, and Union Organizing," Submitted to the U.S. Trade Deficit Review Commission (2007). See also: See Bronfenbrenner, Kate (1997) "The Role of Union Strategies in NLRB Certification Elections," *Industrial and Labor Relations Review*, 50:2, 195-212.

16 Kim Moody, *An Injury to All*, op. cit., Chapter 6, pp 98-12.

the invasions of Afghanistan and Iraq before the invasions took place, although the AFL-CIO's Executive Council did call for the withdrawal of U.S. troops from Iraq countries in 2007, and major affiliates have adopted similar resolutions.¹⁷

An alliance between unions and environmental organizations was on the verge of being formalized just prior to the September 11 attacks, but the plan was shelved and did not resurface until 2006 when the Steelworkers and the U.S. leading environmental organization, the Sierra Club, launched the Blue Green Alliance.

The first administration of George W Bush (2001-2005) resumed the war on labor unions at home as it pursued military campaigns overseas—often making connections between both. Bush on several occasions claimed that collective bargaining was incompatible with national security, going so far as to claim that workers who wanted to preserve their collective bargaining rights were opposed to national security and might be supporting terrorist efforts. Bush pressured Congress to dismantle collective bargaining rights for 170,000 government workers in the process of creating the Department of Homeland Security. Bush threatened to veto the law creating the department if his anti-union agenda was not adopted. He revoked union representation for Justice Department and other agency workers citing concerns for national security. Bush also repealed the Clinton administration's ergonomics standard. This ergonomics policy affects the health and safety of nearly 2 million workers injured on the job by carpal tunnel syndrome and other repetitive stress injuries.¹⁸

In a February 2001 article in *American Spectator*, leading right-wing commentator Grover Norquist described why the war on unions

17 General Executive Council, AFL-CIO, "End Our Military Involvement in Iraq" (March 7, 2007) <http://uslabor-againstwar.org/section.php?id=57>.

18 See AFL-CIO.org "Bushwatch" series for a chronological account of the Bush Administration's record in dealing with the labor movement.

should continue, but his reasons had hardly anything related to national security. Identifying labor unions as the first of “five pillars” of Democratic strength, he calculated that they

“raise \$8 billion a year from 16 million union members paying an average of \$500 dues.” Norquist offered proposals to defeat unions once and for all.¹⁹

Section 2: The Impact on Unions

The post-1980 neoliberal period has inflicted serious damage on the U.S. labor movement. Providing an accurate inventory of the damage would require more space than is available here, so what follows is a summary of the setbacks unions have suffered at the bargaining table; in their capacity to organize workers and to engage in industrial action; and in terms of declining memberships.

Concessionary Bargaining

Following the election of Ronald Reagan and the attack on PATCO, the U.S. entered a serious recession that lasted from July 1981 until the end of 1982. Unemployment reached 10.8%—higher than the 10% reached during the economic recession of 2008–09. The 1981–82 recession gave further impetus to employer efforts to extract concessions from unions at the bargaining table, leading to a situation where pay and benefit reductions were routinely demanded (and more often than not realized) by many companies, most of them quite profitable. This was the collective bargaining story of the decade, one that has continued with little prolonged respite into the 1990s and into the 21st Century. The significance of the defeats suffered by U.S. unions at the bargaining table during this period should not be underestimated. Since the late 19th Century, the U.S. labor movement had neither pioneered the development of its own political party, nor had it been particularly supportive of some of the

more important initiatives aimed at developing an independent working class political force in the U.S. Some unions had been involved in the building of the Socialist Party during the first two decades of the last century, as well as the Farmer-Labor Party in the mid-1920s, but most unions have continued to regard the Democratic Party as its natural ally since the New Deal period. Until the New Deal the American Federation of Labor (the CIO was not formed until the late 1930s) pursued a “friends of labor” political strategy, which involved supporting candidates from both the Republican and Democratic parties based on the candidate’s approach to unions and collective bargaining in particular. Therefore unions in the U.S. have traditionally relied heavily on collective bargaining and workplace-level strength to advance worker interests.

The 1980s and the 1990s also saw the rise of ‘two-tier bargaining’ in the U.S., where unions agreed that newly hired employees will start at different level of pay and benefit to those received by existing employees. This creates a situation whereby the existing union members vote to ratify the two-tier contract, but those initially paying the price are the newly hired workers who had no say in the agreement. However, by abandoning the principle ‘equal pay for equal work,’ unions run a serious risk of undermining solidarity, which then further

¹⁹ Norquist quoted by Jane McAlevey, “Labor’s Last Stand,” *The Nation*, February 16, 2011.

weakens their capacity to act on a day-to-day basis in the workplace.

It is today often the case that, if a union has been successful at beating back most of the concessions demanded by the employer, the proposed contract (still containing some concessions) has been presented to the membership for ratification as though it were something of a victory (which is, in a certain sense, accurate). Union negotiators have often been presented with the option of giving up pay increases in order to preserve health and pension packages. Sometimes a cash bonus (normally \$1,000 or some other relatively modest sum) has been offered as an alternative to an annual pay increase, in the hope that cash-starved union members would feel better about voting for a contract that delivered a pay settlement that failed to keep pace with inflation and therefore amounted to a real cut in wages. However, with personal health insurance often higher than \$1000 per month, a contract that protects employee health benefits is already something of a success, even if wage increases are forfeited in order to achieve such a goal.

The deregulation of airlines, telecommunications, and other sectors also undercut union contracts and hitherto stable and mostly centralized bargaining agreements and relationships. The trucking industry perhaps most graphically illustrates the impact of deregulation on unions. Deregulation led to the break-up of the National Master Freight Agreement, a collective agreement that covered 300,000 members of the Teamsters Union in 1970. The deregulation of trucking in 1980 began a process of steady de-unionization of the sector. By 2006, fewer than 170,000 truck drivers remained covered by the agreement that had once covered 500,000 drivers, and unionization of the U.S. trucking industry had fallen to just 16%.²⁰

²⁰ David Bensman, *Port Trucking Down the Low Road*,

Industrial Action and Organizing

The number of significant strikes taking place in the U.S. on an annual basis has fallen precipitously since the late 1970s. A big slump in the numbers occurred between the 1970s and the 1980s. In 1979 there were 235 major strikes, but in the 1980s the annual average fell to 83. However, in the 1990s the number fell to an annual average of 34. In 2009 there were less than 10 major strikes, and in 2011 just 11—the lowest levels since the U.S. government began compiling such data in 1947.²¹ Using such measures as the total number of work stoppages, the number of workers involved, or the working time lost through strikes, the strike rate decreased somewhere between 60% and 90% in the three decades to 2005.²² Once a country known for high levels of industrial militancy, the U.S. is today almost a strike-free zone.

The factors that explain this dramatic fall in the levels of industrial action are of course well known and do not need to be reviewed in detail here. The willingness and the capacity of employers to resist union demands have increased, aided by the political climate. The ‘threat effect’ of offshoring and global competition has been well documented, as has the growth in ‘jointness’ and collaboration in certain industries (like automobiles), where the union probably feels that it has little to gain from militancy and adversarialism and a lot to lose. The rise in contingent and precarious work also has made its own contribution. Another important factor is the poor success rate of the few major strikes that have been waged. Union leaders, activists and members can probably only recall a few outright victo-

Demos, July 2009.

²¹ During the 1950s, American workers went on strike an average of 350 times each year. Joe Burns, *Reviving the Strike: How Working People Can Regain Power and Transform America* (Ig Publishing: 2011).

²² Josiah Bartlett Lambert, “If the Workers Took the Notion”: *The Right to Strike and American Political Development* (Ithaca, NY: Cornell University Press, 2005), p. 2.

ries in recent decades (such as the Teamsters' 1997 strike against United Parcel Service, or the SEIU's Justice to Janitors campaign).²³ But the list of defeats is considerably longer. The use of replacement workers was almost unheard of before the 1970s. After PATCO, replacements were used in strikes by airline companies (Eastern, Continental, TransWorld), Greyhound, International Paper, Caterpillar, Bridgestone Firestone, and many others.²⁴ The capacity of business to continue operating, even if not at full capacity, has weakened the strike power of unions immensely.

Despite this mostly bleak picture, it is still the case that union members enjoy pay and benefits that are higher than non-union workers performing similar work. And the wage data show that union membership remains an important factor in preventing more workers falling into poverty.²⁵ The union-nonunion pay and benefits differential varies by sector and occupation, but the overall average is \$200 per week (\$917 per week for a union worker, \$717 for a non-union worker).²⁶ Nevertheless, the personal risks associated with organizing a union, along with the media headlines of failed strikes and rising unemployment, have taken their toll on new organizing efforts. According to the National Labor Relations Board (NLRB), just 1,036 workplaces voted on union representation in 2010. In 1990, 3,536 elections occurred. The annual number of union elections declined by about 80 percent from 1970 to 2010.

23 An excellent source of information on the lasting significance of the justice for Janitors struggle is the Justice for Janitors History Project, established by UCLA's Center for Labor Research and Education. See: <http://socialjusticehistory.org/projects/justiceforjanitors/items>.

24 Ibid, p. 153.

25 According to the Economic Policy Institute I, just 6 percent of the U.S. population earning below the official poverty level are union members. 94% of the poor are not represented by a union. <http://stateofworkingamerica.org/charts/the-characteristics-of-poverty-wage-workers-2009>.

26 For median weekly earnings, see: <http://www.bls.gov/news.release/union2.t02.htm>. See also: Center for American Progress, www.americanprogressaction.org/issues/2009/02/efca_factsheets.html.

These historically low levels of strikes and organizing efforts have been interpreted in different ways. Unions tend to explain the reduction in the number of elections as symptomatic of the many obstacles facing workers who wish to be represented by a union, while employers' organizations maintain that unions are becoming both less popular and less necessary.²⁷ Either way, unions are not organizing new workers in sufficient numbers to come even close to redressing the present levels of decline, which stands at 0.4% per year.

Denying Workers the Right to be Represented by a Union

Since the 1980s employers have committed considerable resources to 'union avoidance'—actively (and often illegally) contesting the right of workers to vote to be represented by a union according to the procedures established under the National Labor Relations Act of 1935, a process monitored and supervised by the National Labor Relations Board. Under these provisions, 30% of workers in a workplace would need to sign an authorization card stipulating that the signee wishes to be represented by the union. Once the cards have been determined valid and authentic, the NLRB will inform the employer and proceed to oversee an election.²⁸ The election must take place within 60 days of the petition being received, during which time it is illegal for an employer to intimidate, fire, or in any way threaten employees.

However, since the 1980s employers have increasingly hired lawyers to use all available means to prevent unions being established. One of the main messages of the union avoid-

27 NLRB: In 2010 unions won 1,036, or 66%, of 1,571 elections conducted by the NLRB, according to the agency. In 1990, unions called for 3,536 elections and won 1,773, or 50%.

28 In instances when more than 50% of the workers are in a potential bargaining unit, the employer has the option of recognizing a union without insisting on an election.

ance industry entailed pointing out to employers facing a unionization effort that firing union supporters during an organizing effort was a prudent business move. Although illegal, the fines are nominal and the benefits to the company in avoiding a collective bargaining agreement are invariably far greater in monetary terms. A landmark study authored by Cornell University's Lance Compa for Human Rights Watch concluded that "Many workers who still try to exercise the right to organize will suffer widespread harassment, threats, spying and dismissals for their efforts."²⁹ In 2002, the National Labor Relations Board issued reinstatement or back pay orders for 17,700 workers who had suffered discrimination for union activity as part of employers' union avoidance strategies.³⁰ According to Lafer, in 2005 one out of every seventeen eligible voters in workplace elections was illegally fired, suspended, or otherwise financially penalized for his or her political views.³¹ A 2005 American Rights at Work report estimated that "each year in the United States, more than 23,000 workers are fired or penalized for union activity."³² Bronfenbrenner's landmark study (2000) reports how "48 percent of employers used promises of improvements, 34 percent used bribes or special favors, and 51 percent used the threat of full or partial plant closings to convince workers to vote against unionization."³³ In the event of workers voting for a union, the law

asks the employer to bargain in good faith with the union and its workplace representatives. Union avoidance lawyers advised employers to file frivolous appeals in order to delay the bargaining process. According to a study conducted by Massachusetts Institute of Technology's John-Paul Ferguson, workers who vote for union representation only secure a first contract within one year about 56 percent of the time.³⁴

Excluded Workers

U.S. labor law also excludes sections of workers from even having the right to organize. In addition to the restrictions on union organizing in the 22 "Right to Work" states, there are relatively large numbers of workers (today they are increasingly self-described as "excluded workers") who are legally prohibited from organizing a union in the conventional sense.³⁵ Among the excluded workers are 1.5 million agricultural workers, 2 million domestic workers, and an estimated 3 million workers who rely on tips for wage income. Other categories of excluded workers include guest workers and day laborers, taxi drivers, and "workfare" workers (those required to work in order to receive unemployment benefits). Taxi drivers, for example, are classed as independent contractors, and not as employees, and most truck drivers in the U.S. are today also considered to be independent contractors.³⁶

29 Lance Compa, *Unfair Advantage: Workers' Freedom of Association in the United States Under International Human Rights Standards* (Cornell ILR Press) Digital Commons, p. 10.

30 Lance Compa, *Unfair Advantage*, op. cit. (original edition, 1999).

31 American Rights at Work, *Undermining the Right to Organize*, www.americanrightsatwork.org/publications/general/undermining-the-right-to-organize-employer-behavior-during-union-representation-campaigns.html.

32 Compa, op. cit., Executive summary.

33 Kate Bronfenbrenner, Kate (2000) "Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages, and Union Organizing," Submitted to the U.S. Trade Deficit Review Commission. See also: See Bronfenbrenner, Kate (1997) "The Role of Union Strategies in NLRB Certification Elections," *Industrial and Labor Relations Review*, 50:2, 195-212.

34 Cited by Kochan and Zack, "Negotiations, Mediation Key to First Contract Arbitration" June 2009. www.rollcall.com/news/-35842-1.html.

35 For an overview on how 'atypical workers' are protected (or not) under different employment laws in the United States of America, see Stone, K.V.W., "Legal Protections for Atypical Employees: Employment Law for Workers without Workplaces and Employees without Employers", *Berkeley Journal of Employment and Labour Law*, Vol. 27, 2006.

36 For a useful discussion on the impact of deregulation on port truckers, see David Bensman, "Port Trucking Down the Low Road", Demos, July 2009, www.demos.org/publication/port-trucking-down-low-road-sad-story-deregulation.

In a sense, all public sector workers are also “excluded workers” because the National Labor Relations Act only protects the right of private sector workers to unionize, leaving states to develop their own structures and procedures for collective bargaining. Most states have done that—but recent events have served as a reminder that public sector unions are excluded from the statutory protections and vulnerable to state-level attacks (see Section 4, Wisconsin and Beyond).

While there is no reliable data regarding the exact number of excluded workers in the U.S., it is estimated that several million workers can be categorized in this way. Moreover, as Goldberg and Jackson point out, “The majority of excluded workers are workers of color, including African-Americans and immigrants from Latin America, Asia, Africa, and the Caribbean. These workers are concentrated in three areas: the low-wage service industries of the ‘global cities’ across the United States (i.e., taxi drivers, restaurant workers, and domestic workers in New York, Los Angeles, and Chicago); urban communities with high rates of unemployment; and in regions and industries with historically weak labor protections (i.e., public sector workers in the Southern right-to-work states and farm workers in rural areas across the country).”³⁷ While the underground nature of their work makes it difficult to determine the proportion of excluded workers in the broader working class, it is widely recognized that low-wage service industries are growing at a faster rate than other sectors of the labor market, and the labor rights of workers in many other sectors are coming under attack.³⁸

37 Harmony Goldberg and Randy Jackson, “The Excluded Workers Congress: Reimagining the Right to Organize,” *New Labor Forum*, 20 (3): 54-59, Fall 2011.

38 A recent study by the ILO on precarious workers notes how gaining access to collective bargaining is “one of the biggest challenges” for precarious workers across the spectrum. See: ILO’s Bureau for Workers’ Activities (ACTRAV), *Policies and regulations to combat precarious employment*, 2011.

Membership Decline

The words ‘crisis’ and ‘unions’ are today almost inseparable in the U.S. and many other parts of the developed world. But in the U.S. the crisis facing the trade unions is almost certainly more severe than it is in perhaps any of the major economies of the Global North. Total union membership or sector-level density is not the only measure of union strength and influence, but few would deny that it is an extremely important indicator. During the 1980s and 1990s unions in the U.S. suffered a precipitous fall in total membership and an even steeper decline in the percentage of workers represented by a union—referred to as ‘union density.’ Membership fell from just over 20 million in 1980 to 14.7 million in 2011. The percentage of workers represented by a union fell from 35% in 1953 (the highest ever figure) to 20.1% of all workers in 1983. Today just 11.2 percent of U.S. workers are union members (2010 figures) and more than half of union members are in the public sector. In 2011, just 6.9% of private sector workers were represented by a union. Other countries have suffered declines in union density, but perhaps none have seen such a sharp decline as the U.S.

Among the largest unions in the U.S. suffering significant-to-large membership declines, unions in manufacturing (such as the UAW, Machinists) top the list. However, there are notable exceptions to the downward trend. A few large unions in health, education, and the service sector have managed to stabilize their membership numbers and even grow significantly, with the American Federation of Teachers, National Education Association and Communication Workers of America all being exceptions to the overall downward trend. The union that has grown the most in the last decade or more is SEIU, which topped 2.1 million members in 2010. In some instances, union growth is partially the consequence of mergers with smaller unions. The Steelworkers, today 800,000 members in

the United States and Canada, has over the last decade become the largest industrial union in

the U.S. as a result of other smaller unions bringing their memberships into the larger union.

Section 3: Unions Respond to the Challenge

The one area where unions had not (until recently) suffered any serious setbacks was in the public sector. Teachers and other public servants built their unions in the 1960s and their pay and conditions for many years generally lagged behind union members in the private sector. However, falling real wages in the private sector has brought public and private pay scales close to parity, and the job security and pensions enjoyed by a good portion of public servants has made them an easy target for those on the political right who wish to depict the public sector worker as a privileged and over-protected relic of the welfare state.

Section 3 will summarize how the U.S. labor movement has tried to come to terms with the challenges and setbacks described above. Throughout this period there have been many moments of courageous self-sacrifice and creative genius worthy of the best traditions of the U.S. labor movement. But there have also been more than a few episodes that bear all the markings of a labor movement that had completely lost its way, strategically, tactically and in terms of its core principles of solidarity. The PATCO strike revealed in graphic detail the flaws of modern 'business unionism,' in that the actions of the unions involved alienated the broader public and played into the hands of President Reagan and the enemies of organized labor. The fact that PATCO endorsed Reagan for president a year before he decertified the union is an ironic illustration of the lack of political sense, let alone vision, on the part of some unions. However, in contrast, the successful Pittston strike in 1989 saw the United Mineworkers wage a struggle

that was militant, membership-driven, mobilized local communities and was ultimately victorious. Countless books and articles (and even a full-length movie) have told the story of the Justice for Janitors organizing effort in Los Angeles (1988-90) and then in other major cities that saw an estimated 100,000 immigrant workers unionized by SEIU, and more could be said about this and other struggles of the period.

However, this section will mainly cover some of the issues and controversies that have played out at the leadership level, beginning with the mid-1990s when the first serious debate in decades on the future of the labor movement ensued. A decade later the labor movement split into two federations for the first time since before the merger of the AFL and the CIO in 1955. Union spirits were raised by the election of Barack Obama to the Presidency in 2008, but in 2010 these hopes turned to anger and despair as state-level politicians sought to severely circumscribe and in some instances essentially eradicate collective bargaining altogether.

1995: "New Voice" Takes Leadership of AFL-CIO

The labor movement's disappointment with the first Clinton administration (1993-1997) led to a serious internal debate inside the U.S. labor movement, a debate that became uncharacteristically public given the 'behind closed doors' culture of the U.S. union leadership. Following NAFTA and the failed attempt to introduce serious reform of the U.S. health care system (which

today consumes 17% of U.S. Gross Domestic Product and leaves approximately 50 million without health coverage), rumblings within the AFL-CIO culminated in a leadership election whereby John Sweeney, formerly the president of SEIU, became president of the Federation in a contested election. Lane Kirkland had led the Federation since 1979, but he became the target for a rising level of criticism as a result of the labor movement's continued decline.

Sweeney successfully lead a slate of candidates known as New Voice and took leadership of the AFL-CIO in 2005. The New Voice program called for a \$20 million annual budget for hiring and training thousands of new organizers and establishing a separate organizing department. Sweeney's slate also proposed creating a Center for Strategic Campaigns to coordinate all national contract campaigns. New Voice also proposed that the labor movement needed to train trade unionists to run for political office. The New Voice agenda was an ambitious attempt to address the crisis of trade unionism through better organizing, smarter political campaigns, and a comprehensive and militant approach to collective bargaining.³⁹ Unions increasingly turned towards efforts to organize workers by way of 'card check' recognition, whereby a majority of workers sign union-affiliation cards and insist that the employer to sign a contract and avoid the acrimony that normally comes with a formal NLRB-supervised recognition election. The union success rate for 'card check' organizing was, however, patchy and failed to offer a solution to the problems faced by union efforts to organize new workers.

While Sweeney's overall approach signaled some kind of break with the past, some of new leadership's statements also suggested continuity rather than change. Sweeney's description that unions and business were "natural allies, not natural enemies" appeared to indi-

³⁹ "Sweeney Unveils Blueprint for Building Labor Movement", Labor Relations Week, January 31, 1996.

cate that the change that the new leadership promised was not designed to take the U.S. labor movement into a class struggle.⁴⁰ Like most union leaders, Sweeney consciously cultivated dialogue and talked in terms of restoring liberal corporatist arrangements that had existed (in some fashion) in the U.S. following World War II. Echoing to some extent European union leaders' call for meaningful social partnership and social dialogue, Sweeney talked in terms of forging a 'new social contract' to rebuild America.⁴¹

Time for a Labor Party?

A few smaller unions (among them the Oil, Chemical and Atomic Workers, United Mineworkers, International Longshore and Warehouse Union, Farm Laborer's Organizing Committee) maintained that the record of the Clinton Administration had simply reinforced the case that unions should begin to develop plans to break with the Democratic Party altogether and form an independent Labor Party. Growing activism around the idea of an independent union-based party eventually led to the founding convention of the Labor Party in Cleveland during June 1996. Official trade union support for the Labor Party was significant, but most of the larger unions did not participate in the initiative. The Labor Party project lost ground in the late 1990s as the "Clinton boom" reduced unemployment and balanced public budgets. In 1999, union membership grew significantly (due mostly to falling unemployment and job growth as the economy ended the decade strongly). Anthony Mazzocchi, a former president of the Oil, Chemical and Atomic Workers, was the driving force behind the initiative. However, his belief that the Labor Party should be a non-electoral party until it was strong enough to run credible campaigns against

⁴⁰ Gregory Mantsios, "What Does Labor Stand For," in: Mantsios, Gregory (ed.), *A New Labor Movement for a New Century* (Monthly Review Press: 1998) pp. 49-51.

⁴¹ John Sweeney (with David Kusnet), *America Needs A Raise*, (Houghton Mifflin Company: 1996) Concluding chapter.

both Democrats and Republicans did not please most of the rank and file activists, many of them socialists of various stripes, and the base of the new party—never more than a few thousand activists to begin with—began to disintegrate. Most of the union leaders supporting the new party agreed with Mazzocchi that the party was a long way from being able to contest elections, which activists interpreted as indicative of a weak commitment to the idea of breaking with the Democratic Party.⁴²

New Initiatives

Meanwhile, the New Voice leadership of the AFL-CIO pioneered a number of important initiatives in the period 1995-2000, including setting up new departments and expanding the Executive Council in a way that allowed for women and non-white representation. Its organizing agenda moved forward with the launch of the Organizing Institute (which union federations in other countries applauded and sometimes attempted to emulate). Initiatives like Union Summer sought to recruit college students and other young people to work on union organizing and other union-building campaigns. The impressive labor presence on the streets of Seattle in late 1999 for the WTO's Ministerial Conference showed that unions were also capable of working with other social movements—although the AFL-CIO representatives were looking to gain recognition for a 'social clause' by the WTO and did not agree with efforts of other social forces that sought to undermine the WTO altogether. At this time efforts were taken to build closer links to the environmental movement. Unions and the environmental organizations had had a troubled relationship, and New Voice took the initiative to generate dialogue between the two movements—an effort that began the 'blue-green' conversation, first in the policy world, and later in U.S. politics.

⁴² Les Leopold, *The Man Who Hated Work and Loved Labor: The Life and Times of Tony Mazzocchi*, (Vermont, Chelsea Publishing: 2007), Chapter 16.

In 2004, unions participated in the launch of the Apollo Alliance, which attempted to draw strong connections between the need for decent jobs, industrial renewal, and the building of a green economy based on renewable energy, modern and efficient transport systems, and the rebuilding and repair of the nation's infrastructure.⁴³

Several unions also pushed hard for the labor movement to change its stance on immigrant workers. The traditionally conservative Building Trades union shifted its often defensive and exclusionary approach to immigrant workers and put in place programs to organize immigrant workers entering the industry either as low-paid laborers or as skilled workers trained in Latin America, the Caribbean or Eastern Europe. This in turn led to a policy shift on immigration reform that, while problematical in certain respects, was considered to be indicative of a new and more inclusive approach to immigrant workers on the part of the Building Trades. Later, in 2003, the AFL-CIO-sponsored Immigrant Workers Freedom Ride traveled 3,000 miles across the country to highlight the interests and the centrality of immigrant workers in the American economy.⁴⁴

Soon after his election, Sweeney also moved to close down the controversial American Institute for Free Labor Development, a government funded but quasi-union body set up to fight radical and socialist-orientated union and political entities in Latin America and the Caribbean during the Cold War. U.S. labor's interventionist foreign policy almost invariably sided with U.S. priorities and had been subject to growing scrutiny within the U.S. labor movement since the mid-1980s. In the early 1980s, the AFL-CIO had generally supported the Reagan-funded oppo-

⁴³ In 2011, the Apollo Alliance merged with the Blue Green Alliance, see: www.bluegreenalliance.org/blog/archive?c=initiative&t=apollo-alliance.

⁴⁴ Lowell Turner, "Mobilizing against Inequality: Unions, Immigrant Workers, and the Crisis of Capitalism." 35th Countess Markievicz Memorial Lecture, Irish Association for Industrial Relations, National College of Ireland, Dublin, November 22, 2011.

sition to the Sandinista government and backed the U.S. backed regimes in Central America, the most controversial being El Salvador where government supported death squads had killed hundreds of union leaders.

As noted above, the first administration of George W Bush (2001–2005) resumed the war on labor unions and collective bargaining.⁴⁵ The work of the New Voice leadership was in some respects impeded by the shift in the political atmosphere following the September 11 attacks. Unions had to deal with a President who, publicly at least, considered public sector collective bargaining to be a threat to national security. A large craft union—the 325,000-member International Brotherhood of Carpenters—left the AFL-CIO in March 2001 stating “The AFL-CIO continues to operate under the rules and procedures of an era that passed years ago, while the industries that employ our members change from day to day.”⁴⁶ A new sense of crisis engulfed the labor movement.

Fresh Internal Divisions and the Launch of “Change to Win”

Sweeney’s New Voice proposals around organizing and inclusiveness had gained wide support among the Federation’s staff and certain departments. However, the AFL-CIO is a voluntary association with no centralized discipline. Thus the president of the AFL-CIO cannot impose his or her will or that of the Federation on any of the (then 66) affiliated unions. For many unions, the changes at the level of the AFL-CIO had made little difference to the way unions operated on a day-to-day basis. Some unions had committed more resources to organizing, but for many others there was little or no break with the established ‘service model’ way of representing members.

⁴⁵ www.aflcio.org/bushwatch.

⁴⁶ Letter from Carpenter’s President Douglas J. McCarron to AFL-CIO President John Sweeney, March 30, 2001.

The sense of crisis deepened further after the re-election of George Bush to the presidency in November 2004. Despite an enormous investment of union resources, and with union members voting by more than 2–1 for the Democratic presidential candidate John Kerry, the result merely confirmed that the labor movement’s political strength had been undercut by its shrinking membership. In states like New York, Michigan, New Jersey and California, union density ranged from 18–25%—comparable to many European countries. But in roughly 20 states, including Florida, Texas and North and South Carolina, unionization had dipped below 10%. In those states the capacity of the labor movement to influence political outcomes had lessened to the point where unions had become almost marginal players.⁴⁷

A year or so prior to the 2004 election, and eight years into Sweeney’s tenure, a group of 5 union presidents presented proposals to radically reorganize the AFL-CIO. The proposals focused on the need for mergers and centralization. The proposals started from the premise that many of the 66 unions affiliated to the AFL-CIO were small and the effort to sustain so many national organizations (many with fewer than 100,000 members) amounted to a collective drain on energy and resources.⁴⁸ It was suggested that smaller unions should merge into 11 or so larger unions, and then devote the resources saved to organizing new members. The re-election of Bush merely heightened the significance of the reorganization proposals and intensified the discussions around them. If the labor movement’s political agenda had failed due in large part to a shrinking membership base, then the need for a huge redirection of resources towards new and more creative organizing was no longer in dispute.

⁴⁷ For a state-by-state look at union density (2010 figures), see John Schmitt, “The Unions and the States”, Center for Economic and Policy Research, www.cepr.net/index.php/publications/reports/the-unions-of-the-states.

⁴⁸ Memo authored by Steven Lerner (SEIU) on the need to restructure the U.S. labor movement. The unpublished memo became the signature document of the Change to Win approach.

The reorganization proposals triggered a storm of debate and considerable opposition. The opposition to the reorganization agenda was not confined to the smaller unions who might have been swallowed up by the larger unions should the proposals ever be implemented. AFSCME, the Steelworkers and CWA—all large unions—considered the reorganization proposals to be unworkable and ultimately damaging to the labor movement.

Seven unions that had supported the proposals soon left the AFL-CIO and formed a new body that operated under the name Change to Win (CTW).⁴⁹ CTW, representing roughly 5 million union members (the AFL-CIO's membership was cut to 10 million by the split), declared it would focus on organizing 750,000 new workers per year, and would try to cultivate a culture of collaboration and solidarity between unions around organizing campaigns. The launch of CTW opened up an intense debate about the future of the labor movement. Scholars and intellectuals around the labor movement (and probably the majority of active union members) pondered the significance of the first serious split in the U.S. labor movement since the merger of the AFL and the CIO in 1955. However, it was noted that there was little to distinguish the Sweeney agenda of 1995 and the Change to Win program. Some observers criticized how the split occurred, arguing that the lack of any input from union members meant that the whole affair was little more than a conflict between competing male egos, with SEIU president Andrew Stern singled out for criticism. Stern has perhaps been the most controversial union leader in recent U.S. history. Mixed in with the acclaim he has received for SEIU's organizing achievements at a time of general attrition, has been some severe criticism of Stern's use of corporate methods and Harvard Business School terminology, his leadership style, and his and SEIU's

competitive and sometimes predatory attitude towards other unions.⁵⁰ One union staff member observed, "Having personally observed the founding of the CTW Convention...it's clear that CTW leaders are determined to craft policy and pass constitutional amendments to distance themselves even further from their members."⁵¹ Others noted that this was a split at the leadership level. At the local level unions continued to collaborate with each other (and sometimes fight each other) in much the same way as they had done all along. Expressions of the leadership split were not visible at the local level.

Voices on the trade union left were particularly critical of the lack of membership involvement, but some went further. The Center for Labor Renewal stated that the debate among the top leadership did not address the "current business union culture" and the labor movement has missed an opportunity to provide "an inspiring challenge to capital's power at home or abroad." The movement "remains wedded to a form of unionism that accepts the existing vision and framework of collaboration with a ruling class that no longer intends to collaborate. Missing is a serious discussion of the deep and persistent problems of racism, sexism, homophobia, and xenophobia—or the willingness to degrade our environment for short-term gain. Social justice issues like health care and racist attacks on immigrants that speak to the entire working class, not only the 10% organized into unions, remain largely unaddressed at the national/federation level."⁵²

⁴⁹ The seven unions were: SEIU, the Carpenters, the Laborers, United Food and Commercial Workers, the Teamsters, the United Farm Workers, and UNITE-HERE.

⁵⁰ For example, see Center for Labor Renewal, www.centerforlaborrenewal.org/?P=A&Category_ID=1&Article=210.

⁵¹ Steve Early, (email to friends, unpublished) "Even the very limited democratic procedures and member involvement present in the September 2005 convention has been dramatically curtailed by amendments passed in 2007. Such concentration of power is neither "progressive" or "innovative," despite claims to the contrary by some Change to Win leaders." See also Steve Early, *The Civil Wars in U.S. Labor: Birth of a New Workers' Movement or Death Throes of the Old?* Haymarket Books, 2011.

⁵² Statement by Center for Labor Renewal, "The Crisis in

According to leading labor historian Joshua Freeman, the internal war inside labor was in many ways a distraction from a far deeper problem. The labor movement was, he said, not really responsible or its own demise. "John Sweeney and his allies did so many things right: embracing militancy and the cause of low-wage workers; preaching the gospel of organizing; beefing up labor's political operation; reaching out to students, clergy, and the left; and bringing greater diversity to the leadership of the AFL-CIO. Yet today, in many respects, labor is worse off than when Lane Kirkland held office."⁵³ Freeman pointed to the lack of a broader social movement: "Unions have rarely grown through steady accretion. Instead, they have swelled in spurts, at moments of economic crisis, when ruling elites have lost legitimacy, or in conjunction with broad democratic struggles. The Sweeney years saw none of this, as corporate power ballooned, and neoliberal politics flicked aside as hopelessly outdated ideas of social contract and collective action. International economic restructuring, along with political and cultural conditions, made advancing organized labor an impossible task."⁵⁴

Change to Win quite quickly became embroiled in its own internal disputes. The United Food and Commercial Workers (UFCW), representing 1.3 million members, expressed concern about the direction of CTW in March 2007. UFCW President Joseph Hansen wrote to CTW leaders "I am concerned that there is an increasing drift away from our growth partnership into one more bureaucratic and similar to the autocratic and less productive aspects of the AFL-CIO."⁵⁵

U.S. Labor is Not Being Addressed." www.centerfor-laborrenewal.org/?P=AU.

53 Joshua Freeman, "Split to Win? Assessing the State of the Labor Movement", *Dissent*, Winter 2006, www.dissent-magazine.org/article/?article=161.

54 *Ibid.*

55 Letter to Change to Win leaders, Joseph Hanson, President, United Food and Commercial Workers, *Los Angeles Times*, March 27, 2007, <http://articles.latimes.com/2007/mar/27/local/me-labor27>. Anna Burger, chairwoman of the Change to Win leadership, said the group was making progress but also acknowledged "serious

The 7 breakaway unions had struggled to agree on several key issues. A controversy broke out when SEIU announced that it would join with large U.S. corporations including Wal-Mart to develop a plan for universal health coverage by 2012, a move that angered UFCW in particular because it was engaged in an long-term effort to organize Wal Mart.⁵⁶ Stern was himself unhappy with Teamsters for trying to organize in industry jurisdictions occupied by other CTW unions. One of CTW's unions, UNITE-HERE, became embroiled in an internal war that had little to do with the issues being discussed during the split with the AFL-CIO, but had more to do with problems associated with the merger of UNITE and HERE some years earlier. The power shift that resulted in the union led to its return to the AFL-CIO in September 2009. The Carpenters left CTW in the summer of 2009 and the Laborer's (440,000 U.S.-based members) left in August 2010. The former remains independent; the latter rejoined the AFL-CIO.⁵⁷ Stern announced his resignation as president of SEIU in April 2010, and Anna Burger resigned as CTW's chairperson.⁵⁸

While the struggle among the union leaders unfolded, some new organizing initiatives were taking place that amounted to important victories. Modeled on Justice for Janitors, Hotel Workers Rising campaigns, led by the union UNITE HERE, organized and raised incomes for thousands of hotel housekeepers and other workers in different parts of the United States. But these successes merely drew attention to the lack of successful organizing overall, and the U.S. trade union movement's decline continued.

concern about the future and direction" and raised her own issues about CTW failure to implement its plans.

56 See United Food and Commercial Workers "Wake Up Wal Mart" campaign, www.ufcw.org/makingchange/index.cfm.

57 LiUNA, www.theatlantic.com/politics/archive/2010/08/another-union-rejoins-afl-cio/61538.

58 "After a Life in Labor, a Union Leader Retires, Frustrated by the Movement's Troubles", *New York Times*, Sept. 4, 2010, www.nytimes.com/2010/09/05/us/05labor.html?ref=changetowincoalition.

U.S. Trade Unions under Obama

The beginning of the troubles facing CTW coincided with the Democratic presidential primaries. CTW endorsed Barack Obama, as did some key AFL-CIO affiliates. However, other unions (such as the American Federation of Teachers) endorsed Hillary Clinton. When Barack Obama secured the nomination, all trade union support was dedicated to his presidential campaign. The labor movement also became very united around its key legislative goal—the passage of the Employee Free Choice Act (EFCA), a piece of legislation drafted by unions to remove some of the main obstructions erected by employers to prevent workers having their right to choose to be represented by a union or not in a workplace election free from threats, intimidation, bribery and other forms of employer interference.⁵⁹ The proposed law aimed to make it easier for workers to gain union recognition through ‘card check,’ create stiffer penalties for employers who violate labor laws, and help workers win difficult first contracts through binding arbitration.

It goes without saying that the election of Barack Obama in November 2008 raised trade union hopes and expectations. Unions had

played a major role in getting Obama elected and watched approvingly as pro-union figures were offered appointments in the administration. However, it became clear during Obama’s first year that EFCA was not an administration priority. The U.S. Chamber of Commerce and other business groups scaled up their attacks on EFCA, and there were too many Democrats in Congress who simply could not be relied upon to vote in favor of the bill.

The U.S. was in full recession in 2009 and as unemployment went up, Obama’s popularity began to slide—making passage of EFCA even more unlikely. In May 2011, AFL-CIO President Richard Trumka made a major speech that warned the Democratic Party that the labor movement’s support could no longer be taken for granted. Similar things had been said by previous AFL-CIO presidents, but the relationship with the Democratic Party prevails despite the disappointments.⁶⁰ However, the mid-term elections in November 2010 saw the Democrats suffer heavy losses in Congress, and a number of states moved from Democratic to Republican control. The new Republican governors made an immediate impact on U.S. politics, and their proposals were to add up to the biggest attack on the labor movement for decades.

Section Four: Wisconsin and Beyond

The target of the newly elected Republican state legislatures was the public sector unions. After the mid-term elections, Republican office holders in more than 12 states immediately developed “Right to Work” legislation. Wisconsin governor Scott Walker moved to end the right of state employees to unionize and bargain col-

lectively. Alabama passed legislation in January 2011 that banned public employee unions from collecting union dues unless the unions first prove that none of the money will be used for supporting election campaigns. Virginia decid-

⁵⁹ “Politics Has Dissidents Talking to A.F.L.-C.I.O”, New York Times, July 19, 2008, www.nytimes.com/2008/07/19/us/19labor.html?ref=changetowincoalition.

⁶⁰ Richard Trumka, President, AFL-CIO, “Working People Want a Strong, Independent, Labor Movement,” Speech to National Press Club, May 20, 2012, Washington, D.C. See: www.aflcio.org/Blog/Political-Action-Legislation/Trumka-Working-People-Want-a-Strong-Independent-Labor-Movement.

ed that the existing right-to-work law wasn't sufficient, and introduced a measure to embed the right-to-work provisions in the state Constitution. Montana and Ohio joined Wisconsin in introducing legislation to become "Right to Work" states.⁶¹ In 2011, more than 15 states stood ready to attack prevailing wage laws, which allow for wage protection and harmonization in the construction industry and are strongly supported by construction unions.

Teacher tenure was also under attack in five states, namely New Jersey, Nevada, Indiana, Idaho and Florida. Laws that would allow parents, by petition, to "trigger" an entire school district to move to charter schools or to voucher programs are expected in at least eleven states. At the present time, states that are considering either weakening or removing entirely the ability of public sector workers to bargain collectively includes not only Wisconsin but Ohio, South Dakota, Colorado, Michigan, Nebraska, New Hampshire and Oklahoma.

Attacks on Public Sector Unions in Context

A few states in the South of the United States had completely banned collective bargaining for state and local government workers decades ago, and other states had introduced strict limits on public sector unions. In some of the more liberal states (for example, New York) it is illegal for public sector workers to strike. But public sector unions had become established in many parts of the U.S. in the 1960s and 1970s.⁶² As noted above, the decline of union membership in the private sector unions, and the relative stability of public sector unionism, means that today 51% of the 14.7 million union members in the U.S. are public employees.⁶³

Public sector unions thus constitute a large target for the political right in the U.S., which understands that unions remain the only institution standing in the way of a full-blown conservative agenda based on dramatically reducing the role of government (at least in public services). Therefore unions have become vulnerable to a fresh wave of political attacks by municipal and state-level politicians (mostly Republicans, but some Democrats also—as in Massachusetts). Since August 2008, state and local governments have wiped out 407,000 jobs.⁶⁴

The arguments used against public sector unions generally fall under two categories. One concerns sovereignty; the other concerns economics. As Fraser and Freeman note, public sector unions were opposed in the U.S. for many decades because their presence would amount to interference in the affairs of government and thus the sovereignty of governmental jurisdictions. However, budgetary problems have also been central to the argument that the wages, benefits and bargaining rights of public sector unions need to be curtailed. Some states (like New Jersey under Republican Governor Chris Christie) have stressed the austerity arguments, whereas others (such as Wisconsin Governor Scott Walker) have mixed both the sovereignty and the economic arguments together.

The attack on public sector unions is probably motivated by the fact that public sector unions are major financial contributors to Democratic candidates. Since the year 2000, unions have given over \$700 million to Democrats.⁶⁵ Racism, too, probably plays a role. A disproportionate number of public employees are African Americans, and the federal government is the biggest employer of African-American men in the

61 Jane McAlevey, *The Nation*, op. cit.

62 Steve Fraser and Joshua B. Freeman, "A Brief History of Opposition to Public-Sector Unionism", *New Labor Forum*, Fall 2011, <http://hnn.us/articles/139820.html>.

63 Bureau of Labor Statistics, Annual report on the state of

the unions, January, 2012, www.bls.gov/news.release/union2.nr0.htm.

64 Data compiled by the Center on Budget and Policy Priorities, www.cbpp.org.

65 Center for Responsive Politics, Labor: Long Term Contribution Trends, www.opensecrets.org/industries/totals.php?cycle=2012&ind=P.

United States. Finally, according to Fraser and Freeman, “There is one more basis for the current push against public-sector unions, and that is that they are seen as representatives of the state itself, which is now cast in almost completely negative terms. Government workers’ power and pay, so the argument goes, should be chopped down to size because government should be chopped down to size. Government is bad because it impedes liberty and sucks resources from its citizenry.”⁶⁶

The empirical basis for the claim that public-sector workers are privileged and over-protected is, however, weak. A recent study showed that public sector workers earn less than their private sector counterparts when one counts both their wages and benefits such as pensions and health insurance. Benefits are typically more generous and secure for public employees than for most private sector workers, but factoring in the value of these benefits does not eliminate the gap between state and local employees and their counterparts in comparable private-sector jobs.⁶⁷

Wisconsin—Unions Fight Back, but Lose the Electoral Battle

Perhaps the most encouraging development for unions in recent years—or even recent decades—has been the level of willingness of unions to push back against the attacks in states like Wisconsin, where tens of thousands of union and non-union workers and ordinary citizens took to the streets and occupied the town center for several weeks.⁶⁸ Importantly, the response first came from the grassroots and involved thousands of non-union workers and young people. The idea that this resistance was to some extent inspired by the events in Tunisia and Egypt today is uncontested. The determined

and sustained character of the occupation of the town plaza in Wisconsin’s state capital of Madison took even veteran union organizers by surprise. Major mobilizations against Republican anti-union measures also occurred in other states, most notably Ohio and Indiana.

Unions and their allies took the decision to use the mobilizations as a springboard for a political strategy that, in the case of Wisconsin, revolved around an effort to ‘recall’ Governor Walker.

The strategy failed; Walker survived the June 2012 recall vote and remains the Governor—and one with a fresh mandate. Despite amassing a million signatures in Wisconsin for the recall vote—around 20% of the state’s voting-age population—Walker secured a comfortable 53–46 percent victory over his Democratic rival, Tom Barrett. Walker’s campaign also outspent Barrett by 8-to-1—a fact that, for many observers, largely explained why Walker prevailed. The union/worker message was drowned out by the spending power of the right wing.

The Wisconsin result opened up fresh discussions within the U.S. Left about the ‘recall’ strategy and the value of electoral politics to labor and its allies more generally.⁶⁹ Given the result, the ‘we-should-have-stayed-in-the-streets’ position carries with it considerable weight. At the height of the protests in the Wisconsin occupation during early 2011, when 100,000 protesters were occupying the capitol, polls showed Milwaukee Mayor Tom Barrett beating Governor Scott Walker by a 7% margin.⁷⁰ Long-term labor commentator Michael Yates put it this way:

Why was the man chosen by the Democrats to run against Walker a person who had himself been an enemy of labor unions and who distanced himself from organized labor every chance he got during

⁶⁶ Freeman and Fraser, op.cit.

⁶⁷ www.cbpp.org/cms/index.cfm?fa=view&id=3410.

⁶⁸ See John Nichols, *To Begin the World Over Again: A Politics of Wisconsin, Occupy and the Next Left*. Study for the Rosa Luxemburg Stiftung, www.rosalux-nyc.org.

⁶⁹ Ibid.

⁷⁰ Talking Points Memo, “Poll: Wisconsin Voters Wouldn’t Elect Gov. Walker In Do-Over,” February 28, 2011 <http://tpmdc.talkingpointsmemo.com/2011/02/poll-wisconsin-voters-wouldnt-elect-gov-walker-in-do-over.php?ref=fpa>.

*the recall campaign? Why didn't the unions build on the Uprising to reconstitute the state's labor movement on a more militant and class conscious basis?"*⁷¹

Other voices suggested that the crisis for the unions went deeper. As one commentator noted, "Despite a massive financial crisis and a

dismal job market, approval of unions is close to an all-time low."⁷² Moreover, at least 25% of union members voted for Walker, despite the massive effort by the unions to amplify the significance of the vote for the future of America's working people and workers' rights.

Conclusion

The Wisconsin vote is fresh in the minds of those who support the labor movement, and while there is no denying that the challenges facing U.S. unions are perhaps as formidable as anything witnessed since the early 1920s, the electoral defeat in Wisconsin should not be overestimated. However, trade unions in the U.S. clearly need to find some way of reaching the huge mass of working people for whom traditional union protections are little more than a fantasy. The evidence of recent history strongly suggests that many in existing union leadership positions will find it difficult to change—especially when it is far from obvious what kind of changes are needed and if they offer any genuine hope of success.

During its almost 200 years of existence, the U.S. trade union movement has, at important moments in history, shown levels of striking creativity and heroic ingenuity that have been able to turn desperate situations into hopeful ones. The attacks on the trade unions today are of such severity that it is hard to avoid the conclusion that union leaders, activists and members will need to draw on the legacy of struggle that produced leaders like—to name just a few—Albert Parsons, Mother Jones, Big Bill Haywood, Eugene Debs, Elizabeth Gurley Flynn, A. Philip Randolph and Cesar Chavez.

71 Michael Yates, Counterpunch, July 2, 2012 (commentary on Wisconsin), www.counterpunch.org/2012/07/02/are-you-now-or-have-you-ever-been-an-anti-labor-leftist/#.T_H79m720zg.facebook.

72 Doug Henwood, Left Business Observer, June 18, 2012. See also Gallup for falling levels of union popularity, www.gallup.com/poll/149279/Approval-Labor-Unions-Holds-Near-Low.aspx.

Related Resources

**To Begin the World Over Again:
A Politics of Wisconsin, Occupy, and the Next Left**
By John Nichols, October 2012

**Energy Emergency, Energy Transition:
Workshop on Climate Change and Trade Union Strategies - October 10-12, 2012**
Rosa Luxemburg Stiftung, New York Office
Global Labor Institute, Cornell University
Website: <http://energyemergencyenergytransition.org>.

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