

A stylized world map composed of a grid of grey dots, with several dots highlighted in red to represent specific countries or regions.

# Repairing the Crumbling System of Collective Bargaining?

## Trade Unions and Industrial Relations in the USA

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- U.S. unions are struggling to reverse a long-term decline in union density that has brought organization levels down to 11.3 percent overall and 6.7 percent in the private sector. More than half of union members live in just seven of the nation's 50 states.
- Increased political polarization between the two dominant U.S. parties, Republicans and Democrats, and the influx of massive amounts of campaign funding from business and conservative organizations has made it even harder in recent years for unions to advance their political agenda or to rely on the Democratic Party as an ally.
- To deal with their growing crisis, U.S. unions have become increasingly open to experimentation and to supporting new forms of organization, such as workers' centers.
- The ability of unions to reverse their decline is seemingly beyond their capacity to accomplish alone, and will likely necessitate the strong support of allies and new government policies. The increased role played by immigrants in the U.S. workforce is creating challenges for unions, but also providing a source of creative energy for the labor movement.



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## 1. Structure of the U.S. Union Movement

### 1.1 Organizational Development, Structure, and Dynamics

The U.S. labor movement includes two union federations, a number of independent unions that are unaffiliated with these federations, and a growing number of non-traditional worker organizations. The two federations are the AFL-CIO and Change to Win.

The AFL-CIO was formed when two forerunner federations, the American Federation of Labor (founded in 1886) and the Congress of Industrial Organizations (founded in 1938) merged in 1955. The American Federation of Labor (AFL) was a federation dominated by craft union organizations. The Congress of Industrial Organizations (CIO) was formed after a number of unions broke from the AFL to sponsor organizing drives of industrial unions in the auto, steel, textile, rubber, chemical, and electrical manufacturing industries, among others. After engaging in an often-bitter rivalry, the two federations merged into a single federation that included craft, industrial, service, and government workers' unions. Change to Win was created in 2005 by a group of unions that split from the AFL-CIO in an effort to promote a renewed emphasis on organizing unorganized workers. Within a few years, Change to Win lost momentum and several of its founding unions have now returned to the AFL-CIO. While relations between the two federations were tense in the first years after the 2005 schism, recent years have seen this tension diminish and cooperation grow.

Unquestionably, the AFL-CIO is the predominant federation. It includes 56 affiliated national unions whose combined membership is 11.6 million workers.<sup>1</sup> The AFL-CIO is governed by a quadrennial convention at which delegates from affiliated unions are empowered to amend its constitution and set broad policies for the federation. These conventions also elect the AFL-CIO officers, including a president (Richard Trumka has served since 2009), secretary-treasurer (Liz Shuler has served since 2009), executive vice president (Tefere Gebre has served since 2013) and vice presidents (there are currently 55, most of whom are presidents of affiliated unions). These

officers in turn make up the AFL-CIO Executive Council, which meets at least twice per year and guides the work of the federation between conventions.

Annual per capita dues from its affiliated unions fund the AFL-CIO, and in 2013 it collected 71,316,790 US dollars. These funds undergird a substantial organizational infrastructure. The AFL-CIO maintains six industrial departments (Building and Construction Trades, Maritime Trades, Metal Trades, Professional Employees, Transportation Trades, Union Label and Service Trades). It also maintains an organizing department, a strategic research department, political action and government lobbying operations.

By contrast, Change to Win is a much leaner federation. It has only four affiliates (including one organization, the United Food & Commercial Workers/UFCW, that has returned to the AFL-CIO but is keeping ties to Change to Win), and it claims 4.2 million members in all. Change to Win is governed by a Leadership Council. James Hoffa, president of the International Brotherhood of Teamsters, chairs the council; Mary Kay Henry, president of the Service Employees International Union (SEIU), is the secretary-treasurer. Like the AFL-CIO, Change to Win is funded by per capita dues from affiliated unions, but it taxes member unions at a lower rate than the AFL-CIO.

The AFL-CIO sponsors a number of organizations of constituency groups (the Coalition of Black Trade Unionists, Coalition of Labor Union Women, Asian Pacific American Labor Alliance, Labor Council for Latin American Advancement, and Pride At Work—an organization of Lesbian, Gay, Bisexual, and Transgendered union members). It supports national organizations that coordinate legal strategies (Lawyers Coordinating Committee), promote labor movement culture (Labor Heritage Foundation), and elevate labor's visibility in the media (International Labor Communications Association). It provides funding to semi-autonomous allied organizations such as Jobs with Justice (a union-community organization alliance), Working America (a grassroots political organizing operation), the American Center for International Labor Solidarity (Solidarity Center), and United Students Against Sweatshops. In addition, the AFL-CIO maintains memberships in or affiliations with the International Trade Union Confederation (ITUC), ITUC regional organizations in Africa, the Asian Pacific, and the Americas, the Trade Union Advisory Committee of the Organization for Economic Cooperation and Development (OECD), and the European Trade Union Confederation among others.

1. All union membership figures taken from the 2013 annual union financial reports filed with the U.S. Department of Labor, Office of Labor-Management Standards. <http://www.dol.gov/olms/>

Change to Win collected 10,824,016 US dollars from its affiliates according to its last annual report, amounting to 2.58 US dollars annually per member as compared to 6.15 US dollars per member collected by the AFL-CIO.

Although it is smaller than the AFL-CIO, Change to Win exerts greater influence than membership or dues numbers alone would suggest. It includes two powerful unions: SEIU, which claims 1.87 million members, and is perhaps the most dynamic union in the United States, and the Teamsters, which claims 1.26 million members. Moreover, Change to Win maintains a Strategic Organizing Center (SOC) that coordinates a number of national campaigns, including efforts to unionize truck drivers in the nation's ports and organize workers at Walmart, the nation's largest private sector employer. Several AFL-CIO unions, including the United Automobile Workers (UAW), and Communications Workers of America (CWA), have begun working with the SOC, and in 2013, in a step toward closer cooperation, the AFL-CIO also began formally participating in SOC meetings.

Not all unions are members of the AFL-CIO or Change to Win. The United Brotherhood of Carpenters and Joiners (400,000 members) has been a past member of each of these federations but currently belongs to neither. And the country's largest union, the National Education Association (NEA), which claims 3 million members, is also independent of either federation. The NEA was founded in 1857 and did not initially function as a union, but since the nation's school districts began bargaining collectively with workers (most in the 1960s and 70s), the NEA began acting much like the AFL-CIO-affiliated teachers' union, the American Federation of Teachers (AFT). Rivalries between the AFT and NEA have complicated efforts to merge these organizations or bring the NEA into the AFL-CIO.

## 1.2 Union's Internal Organization

Most U.S. unions, whether affiliated with the AFL-CIO, Change to Win, or independent, are organized along similar lines. The unions are generally governed by a national or international (if they have a presence in Canada) body, including a president and secretary-treasurer. The national or international union is in turn composed of local unions that are organized around the needs of individual workplaces, workforces, or geographical localities depending

upon the favored model of the union. Some unions have industrial, regional, or state structures that aggregate local unions. Most local unions – whether their parent organizations are affiliated with the AFL-CIO or Change to Win – are affiliated with state-level federations (such as the New York State federation of labor which includes 3,000 affiliated public sector, private sector, and building trades unions throughout the state, representing 2.5 million members) and city-level central labor councils (such as the New York City Central Labor Council made up of 300 affiliated unions across various industries representing more than 1.3 million workers). Unions from both the AFL-CIO and Change to Win are also affiliated with global union federations such as the International Metalworkers' Federation, the Public Services International (PSI) and the Union Network International (UNI).

## 1.3 Non-traditional Labor Organizations

The U.S. labor movement no longer includes only the traditional model of trade unions represented by the AFL-CIO, Change to Win, or independent unions such as the NEA that engage in collective bargaining for their members. Changes in the economy over the last thirty years have begun to redefine the categories of »worker« and »employer,« in many cases decisively reshaping labor-management relations. In response, new organizational models have begun to emerge to address the issues of workers not covered by national laws protecting collective bargaining, including farm workers, guest workers, day laborers, independent contractors, or those who work in industries whose fragmentation makes traditional collective bargaining impractical. The most popular model to emerge in the past two decades is that of the »workers' center.« Workers' centers combine advocacy and service functions. Some are organized around localities, such as the Workplace Project, which was founded in Long Island, New York, in 1992 to serve mostly immigrant service workers. Others focus on a particular sector, such as the Restaurant Opportunities Centers United (2007), a national network of workers' centers that serve the needs of restaurant workers. Some workers' centers or non-traditional worker organizations have even managed to engage in some forms of collective bargaining. The Coalition of Immokalee Workers (CIW), a Florida-based organization advocating for tomato pickers founded in 1993, has pressured the Florida Tomato Growers Exchange to improve wages and implement a code of conduct.



Table 1: The Major Union Federations of the United States of America

Parent Organization	AFL-CIO	Change to Win
<b>Established</b>	1955	2005
<b>Chairperson and Deputy Chairperson</b>	President: Richard Trumka Secretary-Treasurer: Liz Shuler	Chair: James Hoffa Secretary: Mary Kay Henry
<b>Number of Member Unions</b>	56	4
<b>Absolute Number of Members</b>	11.6 million	4.2 million
<b>Funding Principles</b>	Per capita dues paid by affiliated unions	Per capita dues paid by affiliated unions

While these non-traditional organizations still usually rely on unions and sympathetic charitable foundations for funding support, and have yet to solidly organize a geography or sector, their influence is growing. In recent years, the AFL-CIO has worked to expand its reach by developing relationships with these new organizations. In 2006, the national AFL-CIO’s Executive Council voted to allow state and local bodies of the AFL-CIO and neighboring workers’ centers to establish formal ties and work together. In 2011, the National Taxi Workers Alliance, a workers’ center, became the first nontraditional workers’ organization to become formally chartered by the national AFL-CIO. The AFL-CIO has also established partnerships with the National Day Laborer Organizing Network, the National Domestic Workers Alliance, and the National Guestworker Alliance. At its quadrennial convention held in Los Angeles in September 2013, the AFL-CIO welcomed representatives of such organizations and opened its deliberations to their voices for the first time.

#### 1.4 Union Density and Representation

In 2013, unions represented approximately 16 million U.S. wage and salary workers. This group includes both union members (14.5 million) and workers who report no union affiliation but whose jobs are covered by a collective bargaining agreement (1.5 million). Overall, union density in the United States stood at 11.3 percent in 2013. This represents a sharp decline from the post-war high of 35 percent recorded in 1953. Density figures have steadily declined since the 1970s. However, in recent years the decline has slowed. There was no change between 2012 and 2013.

Strong patterns shape union density by sector, industry, and demographic characteristics of workers. The starkest difference is the density differential between the private and public sectors. The private sector accounts for 7,318,000 union members (6.7 percent density), and 8,128,000 private sector workers are covered by collective bargaining contracts (7.5 percent density). The public sector accounts for 7,210,000 union members (35.3 percent density), and 7,900,000 workers covered by collective bargaining agreements (38.7 percent density). Public sector workers are thus almost five times more likely to be in a union than private sector workers. Most analysts attribute the differential density pattern primarily to the ability and determination of private sector employers to successfully resist unionization efforts.

Some occupations are clearly more conducive to union organization than others. Workers in education, training, and library occupations and in protective service occupations have the highest unionization rate, at 35.3 percent for each occupation group. In addition to the education sector, unionization rates are above the national average in construction, transportation, utilities, and telecommunication. Certain sectors are also more likely to be unionized. The highest union density (44 percent) can be found among workers for local governments, which include school districts. Meanwhile, other sectors have proven impervious to unionization. While the finance, insurance, and real estate (FIRE) sector claims a growing share of U.S. Gross Domestic Product, it has a unionization rate of 2.6 percent. Other sectors, once strongly unionized have seen union presence diminish. Manufacturing had a union density of over 50 percent after

World War II and led the way in union clout. In 2013 the density had slipped to 11 percent, bringing it below the national average.

Union membership is unevenly distributed across the United States. Among states, New York had the highest union membership rate in 2013 (24.4 percent), while North Carolina had the lowest rate (3 percent). Seven of the ten states that have membership rates at or below 5 percent are in the South or Southwest. More than half of union members live in just seven of the nation's 50 states (California, New York, Illinois, Pennsylvania, Michigan, New Jersey, and Ohio), although these states all rank among the 11 most populous states in the union. Such distinct geographical patterns reinforce and are reinforced by deep political differences between southern states where the Republican party is strong and labor is weak and Western, Midwestern, and Northeastern states, where both labor and the Democratic party are stronger. The relative isolation of the union movement in a handful of populous states makes it difficult for labor to pass legislation through the U.S. Senate, since each state no matter what its population contributes two members to that body.

Demographic patterns in union membership are not as distinct as those of sector and region, but they are still significant. Black workers are more likely to be union members (15 percent of all blacks were in unions in 2013) than whites (12 percent), Asians (10 percent), or Hispanics (10 percent). Older workers (those 55–64 years of age) are more likely to be union members (14 percent) than younger workers. Men are slightly more likely (11.9 percent) to be union members than women (10.5 percent). It should be noted that the differential union density among men and women has continually diminished over the years, but this is because unionization rates are declining faster among men than women. In 1983, 27 percent of men were organized compared to 14.6 percent of women.

## 2. Unions' Operating Conditions

U.S. unions must cope with challenging operating conditions in the realm of law, economic organization, and corporate behavior. In many ways, these conditions have only grown more challenging over the past few decades.

The legal regime under which most unions operate has not changed substantially over time. However, U.S. unions operate with fewer legal protections than unions in many other advanced industrialized nations. American labor law is both bifurcated and limited. Public and private sector workers and unions are governed by entirely different legal regimes, and each regime offers limited protection to workers and unions.

The foundational law governing private sector labor relations, the National Labor Relations Act (NLRA), was passed in 1935 during the Great Depression and the presidency of Franklin D. Roosevelt. It promoted collective bargaining as an antidote to the depression and an answer to rising labor unrest. The act guaranteed most private sector workers the right to organize unions, but this protection did not apply to agriculture laborers, household employees, or government workers. It also created a National Labor Relations Board (NLRB) to adjudicate disputes over workers' union rights. Over time, however, the NLRA has been weakened by amendments and economic changes that have made a labor law constructed during an era dominated by mass-production manufacturing seem increasingly anachronistic.

The most significant amendment to the NLRA was the Taft-Hartley Act of 1947, which was passed by a Republican Congress over the veto of Democratic president Harry S. Truman. That act prohibited secondary boycotts, gave employers the right to vigorously oppose union certifications in their plants, and allowed states to pass laws that forbid collective bargaining agreements that require the workers represented by unions to pay dues or representation fees to those unions. Currently, 24 of the 50 U.S. states have such laws, including all the southern states. These so-called »right to work laws« create a substantial burden for unions. While unions are required by federal law to represent all workers in a workplace in which the union has been certified as a bargaining agent through a majority election or show of support, the workers represented by the union are under no obligation to pay for that representation in »right to work« states. These laws tend to discourage union organization and weaken unions everywhere they are in effect.

Economic changes have also exposed deep flaws in the original law. The 1935 act did not offer clear protections for private sector workers' rights to engage in strikes.

In an important decision by the U.S. Supreme Court in 1938, justices ruled that the act should not be construed as blocking employers' efforts to replace striking workers during walkouts in which economic issues such as wages or benefits were at stake. That decision did not immediately hamper unions. During the first three decades after World War II, when the economy was booming and manufacturing base was stable, workers often used strikes to gain leverage in collective bargaining or to fend off efforts by their employers to gain an advantage. However, the economic crisis of the 1970s followed by the impact of globalization in shifting manufacturing jobs »off shore« tilted the balance of power toward employers. By the 1980s, employers began using the power the law gave them to hire replacement workers and replace strikers. As a result, the number of strikes that took place in the United States has dropped precipitously.

Changes in employer behavior, spurred by the changing economy, have exposed other weaknesses in national labor laws concerning the power of workers to organize unions. Employers face few penalties for firing workers for attempting to organize. If employers are found to have violated a worker's rights, the most they can be required to do is hire back that worker and pay them what they might have earned during the intervening time minus whatever the worker earned on a job they might have taken after their firing. Employers often judge it to be more cost effective to break the law and fire workers than to allow a union to form among their employees. While private sector workers' legal rights have not been significantly weakened since passage of the Taft-Hartley Act, the economic environment has encouraged employers to be increasingly aggressive in resisting unionization and the law and enforcement procedures allow them wide latitude in exercising their power.

During the 1950s, the U.S. averaged 352 major work stoppages per year (events that involved at least 1,000 workers each). Over the past ten years the average has been 16 per year. While 2.7 million workers participated in major work stoppages in 1952, only 55,000 workers were involved in work stoppages in 2013. As these figures make clear, the transformation of the world economy has exposed weaknesses in the nation's labor law that have effectively destroyed the strike as an effective instrument of leverage for U.S. workers and unions.

Significantly, some private sector workers originally excluded from coverage under the National Labor Relations Act have come to view their exclusion from such an ineffectual and restrictive legal regime as a blessing. Farm workers, such as the tomato pickers represented by the Coalition of Immokalee Workers (CIW), are excluded from NLRA protection, but this means they also are free to use the secondary boycott, which most private sector workers are forbidden to use due to the Taft-Hartley amendment. The CIW used boycotts of fast food restaurants and grocery chains to bring pressure on tomato growers to improve conditions, a tactic not available to most U.S. unions. For this reason, workers' centers have emerged as a powerful new tool for »excluded workers.« Employers now are exploring ways to have workers' centers classified as »labor organizations« in federal law, which would put them on the same unfavorable legal grounds as unions and deprive them of some of their most effective weapons.

## 2.1 Whilst Federal Workers are Not Allowed Collective Bargaining ...

The legal situation for public sector workers is entirely different, though also characterized by significant constraints. Public sector workers were excluded from the protection of the 1935 act. They did not gain clear legal rights to bargain collectively until the 1960s. Federal workers were offered a form of collective bargaining under the provisions of Executive Order 10988, signed by President John F. Kennedy in 1962. That order was subsequently expanded and then codified in the Civil Service Reform Act of 1978. Yet the form of collective bargaining that takes place at the federal level is limited. Federal workers are not allowed to negotiate over their compensation or benefits, nor are unions in the federal sector permitted to collect agency fees from the workers they represent. Workers can decide for themselves whether or not to pay dues to the union that the majority of their colleagues have certified as their bargaining agent. Federal workers are also prohibited from engaging in work stoppages.

## 2.2 ... Local Government and State's Workers Enjoy at Least Some Collective Rights in 40 States

Laws passed by individual states govern the rights of state and local government workers in their jurisdictions and there are a wide variety of legal regimes in place across



the states. The first state to grant collective bargaining rights was Wisconsin in 1959. Between 1960 and 1975 the number of states that followed Wisconsin's example mushroomed. Now 40 states have laws that provide for some form of collective bargaining. But many of these states provide limited bargaining rights to a small portion of public employees. Texas and Kentucky, for example, have codified rights only for fire fighters and police officers. In states where public employees do have bargaining rights, their protections can vary widely. Most states either impose heavy penalties for work stoppages or forbid them entirely. Some states allow unions to collect »agency fees« covering the costs of representation from the non-union workers they represent; others do not.

Developments in the public and private sectors have influenced each other for more than a half-century. The strength of the private sector collective bargaining regime in the 1950s influenced the adoption of collective bargaining in the public sector in the 1960s and 1970s. President Ronald Reagan's successful breaking of a prominent public sector strike by federal air traffic controllers in 1981 encouraged private sector employers to also become more aggressive in breaking strikes. And the weakening of private sector unions in the years since the 1970s has made public sector unions increasingly vulnerable to political pressure. This vulnerability was manifest

in the wake of the recent »Great Recession.« Anti-union forces were able to bring pressure against public sector unions by pointing out that their members often enjoyed better benefits or greater job security than comparably skilled private sector workers whose taxes subsidized the public sector. Making this argument, Wisconsin's Republican governor Scott Walker pushed through an act in 2011 that stripped most Wisconsin public employees of the right to bargain over salaries or pensions.

Pressures to roll back public sector workers' rights have continued to build in some states even as the economy improves. Teachers unions are a favorite target of anti-unionists in this environment. Together, the National Education Association and the American Federation of Teachers represent over 4 million teachers in the United States, and constitute the largest single bloc of organized workers. Opponents of the unions charge that they block educational reform and prioritize teachers' interests over those of students and parents. The anti-unionists propose the privatization of schools through the »charter school« movement, in which private schools receive tax support to educate students in what their proponents contend is a more effective (and non-union) fashion. While the data do not support the conclusion that charter schools are more effective, they continue to threaten teacher unionism.

### **Union-Avoidance and »Union-busting« Industries**

The union avoidance and »union-busting« industry has roots in the United States that run back to the late nineteenth century when entities like the Pinkerton National Detective Agency spied on workers and intimidated union organizers and into the 1930s when Pearl Berghoff ran a prominent national strike-breaking consulting firm. Such overt union-busting activities were curtailed after the passage of the Wagner Act in 1935. But by the 1950s a new generation of anti-union management consultants began to emerge. The industry grew rapidly during the economic crisis of the mid-1970s to the mid-1980s. During this period the number of union-avoidance firms rose from roughly 100 to ten times that number. Such agencies, which included anti-union law firms, management consultants, private security firms, and strike-breaking companies specialized in advising employer clients on strategies that would prevent unions from forming or weaken them where they had taken root. The meager penalties for violating workers' rights to organize in the United States often made it cost effective for employers to fire employees illegally in order to discourage union formation.

Even when a company did not employ union-avoidance firms, the depth of anti-union animus in the nation's political and corporate culture could make unionizing difficult, as workers in the Volkswagen plant in Chattanooga, Tennessee, found in 2014. Volkswagen management decided to open the door toward the unionization of its workforce because it wants to create a German-style works council in the plant and U. S. labor law would only allow such a council to be created through collective bargaining with an independent union. But when the United Auto Workers union sought a union election in the Chattanooga plant with the tacit approval of the company, the state's governor and U. S. senator, both anti-union Republicans took up the anti-union fight. On the eve of a government supervised election in the plant the political leaders announced that unionization of the plant would imperil its expansion and tax incentives and would force it to close and leave the state. The union narrowly lost an election in the plant in February 2014.

### 2.3 Economic Reorganization: Often Unfavorable to Unions

Operating conditions for unions in both the public and private sectors of the nation have clearly deteriorated over the past two decades. The introduction of new technologies and the expansion of logistical systems made possible by developments in telecommunication, transportation, and computerization have been fast reorganizing the U.S. economy in ways unfavorable to unions. The success of three recent U.S. corporations – Walmart, Apple, and Amazon – illustrates some of the problems that unions are facing.

Walmart has created a powerful logistical and marketing model that is squeezing unionism out of the U.S. retail sector. The vast majority of goods sold by Walmart are produced overseas (often in China) under conditions tightly controlled by the retailer, which enjoys enormous leverage over its suppliers due to volume of products it sells in its 11,000 stores worldwide. The 4,200 stores Walmart operates in the United States are all non-union, and Walmart employees are often part-time workers. Walmart's low-priced goods put significant competitive pressure on unionized grocery store chains, forcing union workers in those stores to forego wage increases or benefits in order to keep their employers competitive with the worldwide retail giant.

Apple has emerged as one of the world's most profitable corporations. But the company itself does not directly produce any product. By offshoring the manufacture of its iPhones and iPads to Foxconn, a giant Chinese manufacturer, Apple has maintained a profit margin of over 60 percent on its devices. Moreover, the company has managed to avoid paying taxes on much of its enormous revenue. It created an Irish subsidiary with no employees, through which it funneled approximately 30 billion US dollars between 2009 and 2012. Neither Ireland nor the United States was able to tax this revenue. With only 43,000 employees in the United States, Apple realized a profit of 7.5 billion US dollars in 2013. By contrast, unionized General Motors had more than double Apple's North American workforce, but made one-half Apple's profit (3.8 billion US dollars). The stock market clearly prefers Apple's lean-job/high-profit model to GM's labor-intensive/lower-profit approach. American corporate executives, who are often compensated with stock options, pay careful attention to this preference.

Amazon has used its book retailing operation to launch a bid to become the world's largest online retailer. Its prices ruthlessly undercut competitors. Non-union workers who often are hired on a part-time or temporary basis staff its vast system of warehouses. Its logistical network and its ability to deliver goods to a consumer's door within a day or two of their purchase online gives Amazon tremendous power in the marketplace, a power that it is now beginning to use to squeeze profits from its suppliers by forcing them to accept its terms. This in turn forces suppliers to increase pressure on their labor forces.

Walmart, Apple, and Amazon have helped redefine not only the U.S. economy but also the world economy in recent years. All are tremendously profitable and innovative. They are not unionized, nor are the prospects good for their unionization within the next several years. To the extent that these and similar companies are shaping the operating conditions for unions in the private sector, those conditions are likely to deteriorate further in coming years.

Efforts to improve labor conditions in the United States have met little success in recent years. Efforts to reform the nation's private sector labor laws in ways that would make organizing or striking easier ran into an insurmountable obstacle in the United States Senate, where a minority of senators (40 of 100) retains the power to prevent legislation from coming to a vote. Minority «filibusters» blocked labor law reform efforts in 1965, 1978, 1994, and 2010. The U.S. Senate has also blocked U.S. ratification of many conventions of the International Labor Organization. It has ratified only 14 ILO conventions; far fewer than Germany (86), the United Kingdom (88), and France (125).

## 3. Unions and Their Core Tasks

The core task of unions in the United States is collective bargaining. While collective bargaining is a central undertaking of effective unions everywhere in the world, this is especially true for unions in the United States. Given that the U.S. economy has historically been so large, diverse, dynamic, and protective of property rights, creating an effective strategy for collective bargaining has always presented special challenges. It is also a high stakes struggle for U.S. unions.

### 3.1 Collective Bargaining: Often a Substitute for State Policy

Because the U.S. has a more attenuated welfare state than most advanced industrialized nations (it is the only industrialized nation not to mandate paid leave for mothers of newborns, for example), collective bargaining has often been used as a substitute for state policy. Unions have had to win benefits through collective bargaining what workers elsewhere have won through legislation.

At the same time, a number of factors serve to fragment collective bargaining in the United States. The nation possesses no equivalent of German works councils that can speak on behalf of workers in a workplace, firm, or industry, and it lacks the framework that some nations have for creating national collective bargaining agreements that cover entire sectors. Indeed, anti-trust laws meant to foster price competition and a long tradition of suspicion of tri-partite relationships among government, business, and labor prevent the establishment of anything that smacks of »corporatism.« U.S. collective bargaining is thus usually undertaken at the level of the firm, multi-employer bargaining frameworks are rare, and there is no formal sectoral bargaining. Unions are in a constant struggle to build and maintain effective bargaining structures.

In this difficult environment the great achievement of U.S. collective bargaining in the post-World War II years was to win for unionized workers what social democracy created for workers elsewhere in the industrialized nations, such as health insurance, and retirement security. Unionized workers in core industries such as auto manufacture won significant gains in this period. In industries such as steel and auto manufacture, where a handful of large companies set wage, price, and personnel standards for the industry, it was possible for unions to engage in »pattern bargaining,« winning a model contract from a leading employer and then forcing other employers in the industry to accept similar terms. These included cost of living adjustments to wages that protected workers against inflation, annual productivity bonuses, employer-funded health insurance, pension programs, and more. In return for these gains unions made little effort to infringe on powers that employers wanted to reserve to themselves including the right to introduce new technologies, unilaterally determine product design and marketing, and exercise other so-called »management prerogatives.«

These trade-offs made in collective bargaining during the boom years seemed sensible to union leaders. They pushed for company-funded health insurance and pensions for their members after World War II to make up for the lack of a national health insurance system and an old age pension system that had been enacted in 1935 (Social Security) but offered modest retirement payouts. The health insurance plans gave union workers access to quality health care and the »defined benefit« pensions they won supplemented Social Security and delivered them guaranteed payments that corresponded to their length of service to their employer. Employers willingly granted such benefits in return for labor peace and improving productivity. However, when unionization rates began to decline and the economy entered a prolonged period of reorganization after the 1970s, the picture changed.

### 3.2 Challenges to Pension Funds

The pension and health plans unionized workers won through collective bargaining felt increasingly burdensome to employers in the 1970s and 1980s who wanted to reorganize to deal with global competition. The cost of health insurance rose steadily over time, mainly because nearly a quarter of Americans had no health insurance. The costs of pensions also rose. Faced with increased competition, some employers failed to adequately fund their pension obligations. If they defaulted on those obligations, the Pension Benefit Guarantee Corporation (a federal agency created in 1974 to oversee and insure the private pension system) could pick up their pensions, but retirees would receive only a portion of their full promised pensions in such cases. Other employers began shifting to »defined contribution« pension plans in which they funneled fixed payments to individual accounts that invested in stocks and bonds on each worker's behalf. And still other employers offered no pension plans at all. Americans thus found it difficult to accumulate retirement savings: fully one-third of Americans have less than 1,000 US dollars set aside for their retirement.

While the challenges facing unions in private sector collective bargaining are obvious, public sector unions face problems no less significant. Public workers, who are more likely to have health insurance and defined benefit pensions, have seen their collective bargaining agreements come under attack. As states and cities struggle with revenue shortfalls, many have failed to adequately

fund their pension promises. The Pew Center on the States, an independent research agency, estimates that states have underfunded their pension systems by as much as 1.38 trillion US dollars.

### 3.3 ... and Unions Have Been Unable to Protect »Defined Benefit« Plans Once Won

Health and retirement security remained a priority for unions in collective bargaining as the 20<sup>th</sup> century drew to a close, but by then unions were trying desperately to defend what they had won decades earlier. Although unionized workers are 28.2 percent more likely to be covered by employer-provided health insurance and 53.9 percent more likely to have employer-provided pensions, retaining these benefits has been an uphill fight. The enactment of President Barack Obama's Affordable Care Act (ACA) in 2010 has altered the terrain for unions. Under this plan, workers have the means to get health insurance coverage whether their employer offers it or not. But the plan also penalizes the comprehensive health insurance plans some unions won from employers, taxing the premiums paid to such plans, which government officials regard as too generous. The long-term effect of the ACA on union health plans is not yet clear. Meanwhile, unions have been unable to protect the »defined benefit« plans they won in the postwar years. Now only 7 percent of private sector workers with pension plans have the »defined benefit« model.

### 3.4 Extremely Modest Wage Development – and a Noticeable Union Wage Premium

Wage negotiations have also been a key element of collective bargaining. Unions were best able to advance their wage demands in the first decades after World War II. They played a leading role in doubling the inflation-adjusted incomes of American families between 1947 and 1973. After the mid-1970s, however, unions increasingly moderated wage demands in return for promises of job security. Unionization still clearly increases workers' wages: the union wage premium—the percentage-higher wage earned by those covered by a collective bargaining contract—is 13.6 percent on average. However, unions have found it harder in recent years to ensure that productivity gains come back to workers in the form of higher wages. The real income of American

wage earner has stagnated over time even as productivity increased. While productivity has risen 65 percent between 1979 and 2013, inflation-adjusted hourly wages grew just 8 percent. That means, productivity grew eight times faster than wages for the vast majority of American workers who have seen only minimal wage growth in the past decades.

### 3.5 Repairing the Crumbling System of Collective Bargaining?

While U.S. union leaders speak frequently of the need to revive organizing, in many ways the problem of repairing the crumbling system of collective bargaining is even more urgent. There are signs, though, that unions are developing creative strategies to meet the crisis. In the public sector, for example, some unions have inaugurated a strategy they call »bargaining for the common good.« They are joining with community allies and raising demands that align the interests of government workers, taxpayers, and community members. But fixing collective bargaining in the public or private sector is not a priority item on the nation's political agenda. While unions' collective bargaining strategies helped shape a prosperous American middle class in the post-World War II years, now the long-term survival collective bargaining is in doubt.

## 4. Unions and Their Political Clout

U.S. unions have been able to exert continuing political influence even as the share of unionized workers has declined, but they operate in a political system that poses daunting political challenges. Two durable parties dominate U.S. politics, the Democratic Party, which has its roots in the early nineteenth century and is identified with the political tradition of early U.S. presidents, Thomas Jefferson and Andrew Jackson, and the Republican Party, which was founded in 1854 by individuals including the future president Abraham Lincoln. Both parties made appeals to workers and unions in their formative years and for much of their history each of the parties received some support from organized workers, although over the course of the twentieth century organized labor aligned itself increasingly with the Democratic Party, especially following Franklin D. Roosevelt's New Deal labor reforms of the 1930s.

Although the Democratic Party has received more support from unions, it has been an unreliable and often ambivalent ally of organized labor. Nonetheless, unions have remained increasingly dependent upon Democrats. Periodic efforts by workers and unions over the years to develop a labor-based political party have invariably foundered. The Socialist Labor Party, the Socialist Party, and the Communist Party never established a lasting and significant political presence in the United States. The winner-take-all nature of elections for the U. S. Congress and the office of President discourage the development of third parties that might split pro-labor constituencies from liberal allies and end up electing anti-labor politicians. Moreover, many workers are tied by family traditions and long-standing cultural, religious, racial, and regional voting patterns to the two dominant parties. Thus, while the national Democratic Party consistently disappoints unions, labor leaders fear that any effort to break decisively with the Democrats would only create worse outcomes for unions.

How unions have attempted to project their influence within the two-party system has evolved over time as the parties have evolved. In the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, the AFL followed a non-partisan policy. AFL president Samuel Gompers encouraged union members to »reward your friends and punish your enemies« by voting for pro-labor politicians no matter which party. During the early 20<sup>th</sup> century, unionists could find pro-labor politicians in each of the major parties. By 1912, however, the Democratic Party of Woodrow Wilson began reaching out more aggressively for union support. Union support proved decisive in re-electing Wilson to the presidency in 1916. Under Franklin Roosevelt in the 1930s unions aligned themselves further with the Democratic Party, but still gave their support to some moderate Republicans. Republican presidents like Dwight D. Eisenhower (1953–1961) and Richard M. Nixon (1969–1974) successfully courted union votes and counted a number of unions among their supporters (building trades unions were among those most likely to support Republicans). However, the political parties underwent a re-alignment between the 1960s and the 1990s, propelled in large part by fallout from the fight for African American civil rights. By the 1990s, the Democratic Party had seen its conservative southern white and rural voters move into the more avowedly conservative Republican Party of Ronald Reagan. Meanwhile liberal and pro-union Republicans diminished in number and the AFL-CIO found it increasingly difficult to find any allies in that redefined party.

#### 4.1 Labor Movement and the Democratic Party Today

Today the labor movement copes with a deeply polarized national political situation in which Republicans and Democrats are sharply at odds on most issues affecting unions, workers' rights, and collective bargaining. Although union density declined as this political realignment unfolded, unions still managed to project significant political influence within the Democratic Party. They have done this using two tools: fundraising and get-out-the-vote operations.

Unions are the single most reliable institutional source of funding for Democratic candidates. In preparation for the 2014 Congressional elections, a number of unions have contributed heavily to Democrats. Unions account for 10 of the 14 organizations that have given at least 90 percent of their contributions to Democratic candidates. A number of large unions, including SEIU, have made 100 percent of their contributions to Democratic candidates and union money represented roughly one half of contributions to the Democrats from institutions that gave 1 million US dollar or more.

But unions also contribute time-tested and effective voter mobilization machinery. No single organization in the country has longer or deeper experience in electoral campaigns than organized labor. Union members are experienced in going door-to-door or staffing phone banks to identify likeminded voters. Moreover, unions are skilled in the art of getting voters to the polls, an important asset in a nation where voting participation lags. (While the average turnout of eligible voters in elections in the member countries of the Organization for Economic Cooperation and Development is 70 percent, only about 60 percent of the eligible population votes during presidential election years in the United States, and about 40 percent during midterm congressional elections.) Union members are more likely to vote, more likely to vote Democratic, and more likely to get family members to vote Democratic than non-union members with the same demographic characteristics. Some 59 percent of members of union households voted for Barack Obama in 2008.

By turning out their members and allies, unions regularly exert an influence disproportionate to their declining numbers. Precisely quantifying that influence is difficult,



Table 2: The Most Politically Active Unions

<b>Union</b>	Service Employees International Union (SEIU)	American Federation of State, County and Municipal Employees (AFSCME)	National Education Association (NEA)
<b>Chairperson and Deputy Chairperson</b>	President: Mary Kay Henry Secretary-Treasurer: Mike Fishman	President: Lee Saunders Secretary-Treasurer: Laura Reyes	President: Lily Eskelsen García Vice President: Becky Pringle
<b>Organizational Area</b>	Service industry, medical service workers, government, and other areas	State and local government	Primary and Secondary School Teachers
<b>Number and distribution of affiliated organizations</b>	150 union locals spread across all 50 states, the District of Columbia, Puerto Rico, and Canada (in 4 provinces)	Over 3,500 affiliated local unions spread across 46 states, the District of Columbia and Puerto Rico	Affiliated organizations in every state and 14,000 communities
<b>Absolute Number of Members and Ten-Year Trend</b>	1,867,531 (up 17 percent)	1,378,937 (up 2 percent)	3,003,885 (up 13 percent)
<b>Funding (total receipts in 2013)</b>	\$ 313,500,627	\$ 192,827,291	\$ 387,370,320
<b>Degree of Union Organization / Collective Bargaining Coverage</b>	10.4 percent of building service workers are union members and 11.3 percent are covered by union contracts; 9.3 percent of healthcare support workers are union members and 10.3 percent are covered by union contracts	AFSCME bargains on behalf of approximately 15 percent of the nation's 10.5 million non-education related state and local workers	NEA bargains on behalf of nearly one-half of the nation's 7 million teachers and teacher aides

but political expert Nate Silver calculates that unions add roughly 5 percentage points to the Democratic vote in presidential years. Union-provided margins were decisive in the elections of Democratic presidents Harry S. Truman (1948), John F. Kennedy (1960), Jimmy Carter (1976), and Barack Obama (2012). Only the landslide election of Lyndon B. Johnson (1964), the victories of Bill Clinton over a Republican Party splintered by the third party candidacy of Ross Perot (1992, 1996), and the victory of Barack Obama over John McCain amid the economic crisis of 2008 did not depend upon the margin provided by unions.

Despite their importance to Democratic electoral success, unions rarely receive political rewards commensurate with their levels of investment. To be sure, Democratic presidents consult unions on major appointments directly related to labor, and support a variety of mea-

sures dear to unions, such as efforts to reform the nation's outdated labor laws. But labor has never been able to count on unanimous support from Democratic senators in its failed efforts to enact reforms, and presidents often seem to offer only token support for labor's most cherished legislative goals. When labor law reform efforts failed under Carter, Clinton, and Obama, none of the presidents proved willing and able to overcome the obstacles the reform efforts encountered. At the same time, Carter, Clinton, and Obama all took positions on international trade that the unions strongly opposed. The concentration of half of the nation's union members in just seven states makes it difficult for the labor movement to exert enough influence to break this pattern.

State and local politics do not differ substantially from the national trend. Wherever unions are strong, they have a significant influence on politics. Generally, they are

aligned with the Democratic Party on the local and state level as well, but in the Northeast and Midwest moderate Republicans have been able to count on some labor support and in some cases even allegiance. While more bipartisan support for unions survives at the state level than at the national level, the difference between state and national trends is diminishing. In 2010, attacks on organized labor were central to the election of many state-level Republicans, such as Governor Scott Walker of Wisconsin.

#### 4.2 Augmenting Union's Political Influence

Unions continue to search for ways to augment their political influence amid a deteriorating political environment. Their efforts have taken on an added urgency since the 2010 U.S. Supreme Court decision in the case of *Citizens United v. Federal Election Commission*, which undercut restrictions on independent political expenditures by wealthy donors and institutions. Spending on congressional races tripled in the four years after that decision. The majority of the new money has gone to conservative campaigns. Unions cannot hope to keep pace with the growth of anti-union political funding. Therefore, they have tried to think creatively. One tool they have deployed is called Working America (founded in 2003), a door-to-door voter identification and canvassing organization. The organization initially focused its work in »swing states« such as Ohio, where elections are traditionally close, and whose voters often provide the decisive margin in presidential elections. In 2013 Working America announced plans to expand to all 50 states before the 2020 elections.

Talk of mounting a labor party has still not died out entirely in the U.S. labor movement. In 1996 a number of unionists around President Tony Mazzocchi of the Oil, Chemical, and Atomic Workers union founded the Labor Party. It failed to gather momentum and was defunct a decade later. But local labor parties have experienced more success. In New York State, a coalition of union and community activists helped create the Working Families Party (WFP) in 1998. The WFP offers endorsements to major party candidates who embrace strong pro-union positions. By getting its supporters to vote for those politicians on the WFP ballot line, the party has gained leverage over some Democrats and forced them to respond more favorably to labor's priorities. WFP chapters are now active in five other states.

One thing is clear: there is no short-term solution in sight to the steep challenges that organized labor faces in politics.

### 5. Perspectives on the Next Few Years: Six Major Challenges

In the years ahead, the U.S. union movement will have to meet six interrelated challenges: the creation of new models of organization and bargaining responsive to the needs of 21<sup>st</sup> century workers and workplaces; the recruitment of an increasingly inclusive membership and leadership that reflects the diversity of the American workforce; the fashioning of a 21<sup>st</sup> century labor policy appropriate for a post-Fordist world; the forging of stronger cooperation with workers and unions around the globe; the resolution of the U.S. immigration crisis; and the creation of new political dynamics more conducive to the advancement of workers' interests.

#### 5.1 New Forms of Organization and Bargaining

Unions understand that they will need to adapt their structures to the needs of the 21<sup>st</sup> century. The AFL-CIO has taken important strides in this direction by forging ties with workers' centers and admitting non-traditional labor organizations such as the National Taxi Workers Alliance into the national labor federation. There are perils associated with this strategy: The closer relations become between unions and workers' centers, the easier it becomes for labor's opponents to claim that workers' centers are simply a »union front,« and the more likely it becomes that the courts will rule that workers' centers should be subject to the same restrictions that hobble unions (such as the inability to use secondary boycotts to bring pressure against recalcitrant employers).

As they adapt to new conditions and develop new forms of organization, they will need to preserve and update models that already exist, pioneering new ways to bargain collectively in an economy that is simultaneously globalizing and fragmenting. While »pattern bargaining« was once possible in some industries, unions will need to adapt to the post-Fordist disaggregation of labor that has occurred with the globalization of manufacture, supply, and retail functions, and the proliferation of subcontracting and outsourcing.

## 5.2 Diversifying Membership and Leadership

Unions will also need to diversify the membership and leadership of their organizations. The U. S. workforce has become increasingly diverse in its demographic makeup over the past three decades. According to figures gathered in June 2012, non-whites made up 36 percent of the labor force: Hispanics accounted for 16 percent, African Americans for 12 percent, Asians 5 percent, and other nonwhites together accounted for 3 percent of the workforce. According to census projections, non-whites are likely to become a majority by 2050. New immigrants and their children are projected to account for 83 percent of the growth in the working-age population between 2000 and 2050. Women's participation in the labor market is also projected to grow. Today, women account for 47 percent of labor market participation. By 2020, they are expected to represent a majority of the workforce.

Unions will need to make a concerted effort to organize among workers whose participation in unions has lagged. To succeed in organizing such workers, unions will need to promote greater numbers of women and people of color to leadership positions in their organizations. Unions have shown their awareness of this issue and have made strides in this direction recently. Seventeen of the 55 AFL-CIO vice presidents are women or minorities and the second and third highest-ranking officers of the AFL-CIO are a woman (Secretary-Treasurer Liz Shuler) and an Ethiopian immigrant (Executive Vice President Tefere Gebre). The president of the second-largest non-AFL-CIO union, SEIU, is also a woman (Mary Kay Henry). The numbers of such leaders will need to proliferate in the coming years if organized labor is to speak effectively for an increasingly diverse workforce.

## 5.3 New Labor Policy

Private sector labor relations in the United States are governed by a foundational law (the National Labor Relations Act) that is now almost 80 years old. It has not been significantly amended in more than a half-century. This and other labor-related policies must be revamped to account for the changes that have occurred in the economy. Hopes of amending this policy within the next few years are slim. However, unions will need to undertake steps in the short term to prepare for a revision that

must eventually come. These steps include trying to enact on the state level reforms that can provide a model for later federal reforms. Because federal law pre-empts state law in defining such issues as unionization and collective bargaining, the field of action for states is limited. However, states can help lay the groundwork for a new regulatory order by taking a number of steps. Among these are efforts to raise the minimum wage and to tie future minimum-wage increases to increases in productivity, or to enact paid sick-day and paid parental leave legislation. Unions are currently working on state-level campaigns on these and other issues that might begin to bear fruit within the next few years.

## 5.4 A New Internationalism

U. S. unions will need to make more effective common cause with unions in other nations in order to deal with the problems workers face in a global economy. U. S. unions have inaugurated a number of campaigns within the past decade that demonstrate their interest in partnering with others. The Communications Workers of America are working with Germany's ver.di (Vereinte Dienstleistungsgewerkschaft) in an effort to organize T-Mobile telecommunications workers in the United States; the United Automobile Workers union has enlisted the help of allies in Brazil's labor movement in an effort to organize a Nissan plant in Mississippi; and the United Food & Commercial Workers are working with the UNI Global Union in an effort to raise standards and build organization at »big box« retailers such as IKEA. In the next several years all indications are that such cooperation will grow.

However, building a new labor internationalism will be difficult in the United States, a nation which has been so reluctant to tie itself to international labor standards and which has yet to ratify the two foundational ILO conventions regarding the right of freedom of association and protection of the right to organize (No. 87) and the right to organize and bargain collectively (No. 98). The failure of the U. S. to ratify ILO conventions has caused growing concern among European trade unionists in the context of negotiation now underway between the United States and the European Union for the creation of a Transatlantic Trade and Investment Partnership (TTIP), which would eliminate tariff barriers between the US and EU nations. Already many European companies that bargain





with unions in their home nations—including Mercedes-Benz and Ikea—have opted to do business in the United States as non-union entities. Fearing that the elimination of tariff barriers under TTIP will expose European trade unions to standards-undermining pressure from non-union US firms, labor activists on both sides of the Atlantic have been pushing their governments to incorporate an explicit acceptance of core ILO labor standards into the TTIP protocols. Such efforts have as yet gained little traction. In the wake of the November 2014 G20 summit meeting in Brisbane, Australia, the TTIP negotiations have taken on increased momentum, and an agreement could be forthcoming as early as 2015. There is yet no sign that the United States will relent and agree to the incorporation of the ILO's conventions and jurisprudence into the agreement, stoking fears that TTIP might accelerate the »Americanization« of European labor practices.

### 5.5 Resolution of the U.S. Immigration Crisis

Currently, almost 12 million immigrants reside in the United States illegally. While that number held relatively steady in the years immediately after the Great Recession, it is likely to increase in the next few years even though efforts to deport illegal immigrants are continuing. Growing violence and economic troubles in countries south of the U.S. Mexico border contribute to a stream of northward heading migrants. Illegal immigrants are vulnerable to economic exploitation and lack firm protections in American labor law. Efforts to enact immigration reform that would extend amnesty and

provide a path to citizenship for these immigrants have been bottled up in a legislative stalemate between President Obama and the Republican-controlled U.S. House of representatives. Most Americans believe that some form of immigration reform must be enacted, but there is no consensus on what that reform should look like. Labor's challenge in the next few years is to try to secure passage of a law that extends the greatest number of rights to the greatest number of immigrants and that limits the ability of employers to create a guest worker program that can serve as a constant source of poorly paid, un-unionized workers.

### 5.6 A New Politics

Much of labor's future, including passage of new labor and immigration policies, depends on the creation of a new balance of power in the country politically. The U.S. is not likely to see the creation of a third major political party in the next few years, but the spread of models like the Working Families Party discussed above is quite possible. In the meantime, unions are focused on helping the Democratic party win congressional elections in 2014 and 2018 and keep the presidency in 2016. All significant political actors are looking ahead to 2020 when the next U.S. census will be conducted. That census could lead to a redrawing of congressional districts in a way that could empower Democrats. Whether major legislation will be enacted on a host of issues including the revamping of labor policy is likely to depend on the outcome of that redistricting.



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