

**THE RISE IN INEQUALITY AND THE
DECLINE IN UNIONIZATION
IN THE UNITED STATES**

Universidad de Costa Rica
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The United States Department of Labor recently reported that union membership in 2013 as a percentage of the workforce was 11.3 %. From a workforce of around 129 million workers, only 14.5 million workers are union members. For private and public sector unions, membership is roughly the same at around seven million. However, as a percentage, public sector unionization is significantly higher than the private sector; 35.3% compared to 6.7%. The overall number of 11.3% represents a continued decline in union membership from a peak in the mid-1950s of 35%, which at the time was mostly comprised of private sector workers.

The peak of union membership, not coincidentally, occurred at a time in America after World War II when economic prosperity was more evenly distributed than ever before or since and helped create the American Middle Class. However, today income disparity in the United States is the greatest of any developed country. And, it is not coincidental that union membership rates have fallen to numbers not seen since the Great Depression in 1929, the last time that there was this large of a gap in income in the United States. As such, there is a strong correlation between high levels of unionization and shared prosperity and a vibrant middle class. The inverse occurs when unionization declines.

Evidence of income inequality is as follows: Measured since 1970, and adjusted for inflation in current dollars, wages today for all American production and non-supervisory workers have declined 14%, and for men wages have declined on average 19%. At the same time, CEO pay has grown 127 times faster than worker pay. In 1982, the ratio of CEO-to-worker pay was 42 to 1. In 2012, it was on average 354 to 1. At Walmart, the largest private employer in the United States, the CEO earns 1,000 times

more than the workers at his stores. Walmart is vehemently anti-union and advises its employees on how to obtain government benefits, including food stamps and Medicaid, rather than provide the workers with good wages and benefits. It is not surprising then that income disparity is so great at Wal-Mart.

Despite the declining membership number for unions, and because of collective bargaining, union workers continue to earn substantially more than non-union workers. The average weekly pay for union workers is around \$950, as compared to \$750 for non-union workers. On average, union workers earn \$4.95 an hour more than their non-union counterparts.

With respect to fringe benefits, the story is the same. According to government statistics, 94% of private-sector union members have access to health-care benefits, versus only 67% of nonunion members. And employers cover on average 83% of health insurance premiums for union members and their families versus 66% for nonunion members. Union members are also more likely to get paid vacation and sick time and retirement and life insurance benefits.

It is clear from these statistics that it is better for workers in America to belong to a union. Even the Wall Street Journal, which is not a friend of unions, agrees that there is a “wage premium” for union workers. So, why have union membership rates declined?

There are many reasons for the decline in union membership rates. Although the decline began in the late 1950s, the steepest rate of decline occurred in the decade from around 1978 to 1988 when the number of union members was almost cut in half. This decline coincided with economic deregulation policies in the United States and the Presidency of Ronald Reagan. While Reagan alone did not cause the decline, he

certainly set the groundwork for the anti-union fervor of American businesses and Republican politicians that has dominated for the past 30 years.

Many observers point to 1981 as the watershed year when American labor-management relations went from mostly peaceful coexistence to aggressively anti-union. In 1981, President Reagan ordered the firing of thousands of striking air traffic controllers. Emboldened by the tough talking and acting Reagan, American businesses and politicians quickly adopted an aggressive anti-union posture. They opposed most efforts at organizing workers by intimidating and firing union organizers; they demanded wage concessions from their workers and supported economic and tax policies that benefited the business class in America, while trying to undo the successes of Franklin Roosevelt's New Deal, such as Social Security. In the last 20 years, employer opposition to unionization has increased dramatically. Employers threaten to close plants and factories in 57 percent of union organizing drives and threaten to cut wages and benefits in 47 percent – while ultimately firing pro-union workers 34 percent of the time. The decline of unionization went into a free fall, as did real wages, while corporate profits and worker productivity increased.

At the same time that union membership rates have declined, union political power has remained relatively strong. That is the power to influence and affect electoral politics and elections from city mayors to the President of the United States. While it may seem counter intuitive – declining union rates and strong political power – it can be explained by the ability of unions to collect and spend money received from members' dues on political activities. To be sure, labor unions are not able to match corporations

dollar-for-dollar in politics. But, their contribution to political candidates and causes is substantial.

In the United States, elections for political office are financed by small donations from individuals, but mostly from corporations, unions and their allies. Unions are among the top contributors to Democratic candidates and causes. And, just as significant as money, more than two-thirds of union members vote for Democrats. President Obama won the last election in 2012 by around 4%. Union voters improved Obama's margin of victory by nearly 2%. Obviously, in close elections, which are the rule in a polarized America, the union vote is extremely important. So, any efforts to curb union growth and the ability to participate financially in American elections helps the conservative business interests and Republicans maintain their political and economic power.

While the steepest rate of decline began with the Reagan administration, it began at the peak of labor's power. And, it began with labor law reform. But, to understand how unions reached the top of the mountain, we must first start at the Industrial Revolution.

The Industrial Revolution in America was powered by millions of new mostly European immigrants and created a cauldron of labor strife as capital and labor clashed. At the turn of the last Century, strikes at railroads, coal mines and steel mills were occurring with more and more frequency. In 1919, one of five workers went on strike in a great wave of strikes across the United States. The federal courts were left to regulate the competing forces of capital and labor. The result was a patchwork of court decisions when a national labor policy was badly needed instead. The court decisions mostly sided with business interests, often finding that concerted activities by workers to improve their working conditions was a criminal offense, or exposed workers to significant money

damages. However, since money damages against poor workers were ineffective to protect companies, courts began using injunctions to prohibit strikes and other activities. Businesses and politicians struggled to control the labor unrest that was threatening the growing American economy.

In 1926, and in response to crippling railroad strikes, the United States Congress passed the Railway Labor Act. This law established the right of railroad workers to organize into unions and to collectively bargain. However, in exchange for this right, unions gave up the right to strike before first exhausting a lengthy series of negotiation and mediation steps that were part of the law. This was seen as an important step to curb labor strife in such an important industry.

Then the Great Depression struck. Unemployment in the United States reached 25% in 1933, the year that Franklin Roosevelt became President. Together, with a Democratic controlled United States Congress, laws were passed as a part of Roosevelt's New Deal legislation that created an economic safety net for Americans that continues today, and that has been a target for conservative politicians and business interests ever since. Unions stood to gain by the economic upheaval. In 1932, in the midst of the Great Depression, Congress passed the Norris-LaGuardia Act, which limited the right of courts to issue injunctions in labor disputes. The real purpose of this law was to encourage employers to recognize unions and to engage in collective bargaining as a means of resolving labor disputes.

The economic and political climate created by the Great Depression and Roosevelt's New Deal policies remained ripe for more legislation favoring workers. Two years later, in 1943, Congress passed the National Labor Relations Act. Its sponsor,

Senator Robert Wagner from New York, wanted to even the scales of power between capital and labor by making it a federal law guaranteeing the right of workers to join a union without interference from their employer. And to make this right to join a union meaningful, the law required employers to bargain collectively with the union over all their employees' terms and conditions of employment. Employers were now obligated to negotiate with unions over wages, benefits and other working conditions. The NLRA also gave employees the legal right to strike "for the purpose of collective bargaining or other mutual aid and protection." In other words, courts could no longer imprison or stop workers from striking to achieve their demands. It was their legal right. Finally, the NLRA also made it unlawful for an employer to interfere with its employees' right to organize and bargain collectively. And, it created a special agency – the National Labor Relations Board – which has the expertise to administer and enforce the law. The pendulum of economic power had swung in favor of the workers.

However, Republicans and business interests in the United States met the passage of the NLRA with anger. They repeatedly tried to repeal or amend the NLRA. However, these efforts failed as the United States entered WWII. But, eventually, the pendulum swung back because, it was argued, unions had become too powerful.

Between 1935 and 1947, union membership exploded from 3 million to 15 million workers. After the war, unions flexed their new found economic power in a wave of strikes in the coal, auto, steel and transportation industries, all critical to America's post-war economic expansion. At the same time, American workers were prosperous as never before. Nonetheless, American public opinion, fueled by the Republicans, began to sour on the power of unions. In 1947, with a new Republican Congress in control, the

NLRA was amended by the Labor-Management Relations Act which shifted the focus of labor law away from the rights of workers. It was one of more than 250 pieces of anti-union legislation proposed in the 1947 Congress. Instead of guaranteeing the right of workers to join a union, the new law guaranteed workers the **right not to join a union**. Added to this were union unfair labor practices, which made it illegal for unions to engage in certain activities to achieve their goals. Labor leaders called the legislation the “slave-labor bill.” There is no doubt that the law was passed to weaken the power of labor unions.

Importantly, and used and abused by employers for years to come as a means to defeat union organizing, the new law amended the “Free Speech” provision by giving employers the right to say anything about unions so long as it did not contain a threat of reprisal or a promise of a benefit to the workers. While the “Free Speech” provision sounds like a good thing, it has been used by employers since to actively campaign against the unions. Before the new law, choosing to join a union, or not, allowed workers to vote by secret ballot without employer interference. The new law changed that, and in the name of free speech permitted employers to interfere by actively campaigning against the union with lies, misrepresentations and other statements attacking unions. Employers hired consultants who specialized in union busting for the sole purpose of interfering with the right of employees to choose, and fear reigned in the American workplace.

But, arguably, the most devastating part of the new law was the provision that permitted individual states to pass laws that allowed workers not to join a union and not pay dues. Right to Work laws allowed individual workers to opt out from belonging to a union, while still enjoying the benefits of collective bargaining. These workers, called

“free loaders” by unions, enjoy all of the benefits of unionization without having to belong to a union.

As interpreted by the courts and the NLRB, Right to Work laws provide that even if an employee chooses not be a member of the union, and does not pay dues, the union still is required to represent that employee as they would a union member. So, when a union bargains over wages and benefits, the union member and the non-union employee cannot receive different wages or benefits based on whether or not they are a member of the union. Similarly, the union must represent and assist the non-union employee if, for example, they are discharged from their jobs without just cause.

Proponents of Right to Work laws generally argue that these laws protect workers from being compelled to join a union. They present the law as a matter of worker free choice. But, that is wrong. In the United States, if a majority of the workers in the workplace choose to join a union, then the union is the representative of all the employees, excluding managers and supervisors. So, the workers already had a right to express their free choice by choosing to accept or reject a union, generally in a secret ballot election.

In truth, the main purpose of Right to Work laws are to impair the ability of unions to collect dues from members which, in turn, are used to finance the union’s representational and collective bargaining activities. If employees are allowed to opt out from joining a union and from paying dues, unions are weakened financially. And, if unions are weakened financially, they will not have the resources to organize other workers and to collectively bargain.

Most importantly, these laws weaken unions on behalf of the workers to participate in electoral politics, leaving only businesses as the major financial player in American politics. Corporations alone will remain financially able to support political campaigns for candidates that support the agenda and interests of American business interests, while unions and workers will have a diminished political voice.

Today, twenty-four states have passed Right to Work laws. Most of these states are in the southern or western parts of the United States, states that historically do not have high unionization rates. However, in March 2012, the Republican dominated legislature in Michigan passed a Right to Work law. Michigan is headquarters to General Motors, Ford, Chrysler and the United Auto Workers Union, or UAW. It is one of the historic strongholds of organized labor. Passage of a Right to Work law in Michigan sent shock waves through the labor movement. No one ever believed that Right to Work would take hold in a state like Michigan.

Around the same time, in Wisconsin, another historically strong union state, the Republican legislature there passed a law outlawing the right of public sector employees to collectively bargain. Today, the teachers' union and other public sector unions in Wisconsin have been decimated. Some have lost 90% of their membership. Not surprisingly, wage rates have fallen for public sector employees in Wisconsin.

As a result of the amendments to the NLRA, since 1947 unions have been on the defensive and have seen their memberships decline. Recent and compelling evidence of the efforts to undermine unions was on display last month in Chattanooga Tennessee. There, the UAW attempted to organize 1,500 autoworkers at a Volkswagen auto plant. For years, foreign owned automakers operating in the United States have located in

southern states in an effort to avoid unionization by the UAW. But, the Volkswagen plant in Tennessee was different. When Volkswagen opened the plant a couple of years ago, its first plant in the United States, it agreed that it could be union if the workers voted for the UAW. In Germany, unions – or works councils – are part of Volkswagen’s culture. The workers in Germany are equally represented on a works council that decides how the plant is operated; from wages to work rules to capital investment. The UAW and Volkswagen agreed to establish a works council in Tennessee. Importantly, if the employees voted for the UAW, Volkswagen agreed in Tennessee not to oppose the UAW. It did not exercise its “Free Speech” right to denounce the UAW and urge the workers to vote against the Union. Volkswagen remained neutral, leaving the choice of whether to join the union entirely up to the workers.

Although Volkswagen agreed to be neutral, outside conservative organizations and politicians did not. These outsiders, including the Governor and United States Senator from Tennessee, made public statements denouncing the union, and urging workers not to choose the UAW. They even went so far as to state that if the union won the vote, Volkswagen would not expand and open up another production line in Tennessee. This was not a true statement. Under labor law, if Volkswagen management had made the statement, which amounts to a threat to the workers, it would have been unlawful. However, because it was made by outsiders – it is deemed lawful free speech, even though its intended effort was to scare the workers. In the end, the anti-union campaign worked, and in a close vote the employees voted not to join the union.

This vote has been viewed as a big defeat for labor in the United States, and it was. But, the union lost the vote not because Volkswagen opposed the union, but because

of outsiders who did not represent any party involved in the election. Instead, they represented outside interests ideologically opposed to unionization anywhere, and especially in the southern states. Throughout the history of labor relations in the United States, disputes over whether to unionize a particular workplace were fought between the union and the company. Many of these battles have been fiercely contested. But never to my knowledge, or in my 30 years of experience, have outside interests influenced a union organizing campaign to the extent they did at Volkswagen.

Now, even if an employer is neutral, and will acknowledge its employees' desires, that may no longer be acceptable to those who are opposed to unionization in any workplace. To be sure, the anti-union campaign run by the outsiders in Tennessee will become a blueprint for defeating other attempts to organize workers elsewhere. The Volkswagen vote has become a new watershed moment of heightened anti-union activity, much like when Ronald Reagan fired the air traffic controllers 33 years ago. The Volkswagen case signals a sea change in labor-management relations, one that does not bode well for the future of unions in America.

In a country as politically polarized as the United States, it is unlikely that unions can reverse their troubles by labor law reform. When Barak Obama was first elected, unions believed that the time was finally there for labor law reform that would revive the labor movement. Unions proposed, among other things, labor law reform that did not require workers to have to vote in a secret ballot election in order to choose whether they wanted a union. Unions wanted to eliminate the unfair and illegal influences that employers exert over their workers to scare them into voting against unionization.

Unions proposed the “Employee Free Choice Act,” legislation that would certify a union if a majority of the workers simply signed cards expressing their desire to join a union. There would be no need for a vote that is often preceded by weeks of an anti-union campaign by the employer. In Canada, certification of a union is permitted by a simple showing that a majority of workers have signed cards for the union. Although the legislation was supported by most Democrats, and by President Obama, the political winds quickly changed in 2010, and the legislation never saw the light of day, and is not likely to any time soon.

Given that the laws and political and economic forces are aligned against American unions, how do they stem their decline? How can unions recover from their membership losses and become a progressive economic force again that helps lift the fortunes of all workers?

There are no easy answers, but I will offer a few suggestions.

First, although I said that labor law reform is unlikely to pass in the United States Congress, I believe that comprehensive immigration reform will happen. Both labor – the AFL-CIO – and business groups – including the United States Chamber of Commerce – have worked together to propose immigration reform. It may not pass until after the elections this fall, but it will pass. And, when it does, immigration reform will have a positive impact on union growth. It is estimated that there are between 10 and 12 million undocumented workers in America. They are often exploited by unscrupulous employers who pay them substandard wages and no benefits. However, because many of these workers come from cultures that are receptive to the message of labor unions, it is believed that they would generally

support a union in their workplace. Without immigration reform, the problem for union organizers is that employers will threaten and intimidate these workers that they will be deported or worse if the union is voted in. The workers are also fearful of coming forward to report illegal activities by their employer. Union organizers have to overcome this wall of fear. However, with immigration reform millions of workers who are currently working in the United States illegally will be permitted to become citizens, and will no longer fear the illegal threats from their employers. It is hoped then that they will come out from the shadows and join unions in large numbers. Reform could add millions of new workers to the rolls of unions. Also, once they become citizens, these workers will add to the political strength of labor unions where, in 2012, Hispanic voters supported Democrats and Obama versus Romney and Republicans, 71% to 27%. Today, around 800,000 Latinos turn 18 each year, the legal age to vote in the United States. As such, in addition to immigration reform, generational replacement alone will push the age – and citizen – eligible Latino voter to around 40 million voters within 20 years. It is the fastest growing voting bloc in the United States.

So, unions in the United States have a historic opportunity from immigration reform that can reverse their declining membership rates for years to come while, at the same time, mobilizing these new members for changing the political climate in ways that are favorable to workers and unions.

Second, it has often been said that we live in a world of inter-connected global economies. As businesses move beyond their national borders, so can workers. By this, I do not mean that workers have become more mobile. I am referring instead to the

opportunity for workers to interact with each other globally to leverage their employers and influence outcomes for workers thousands of miles away. Unions can facilitate making this connection.

After the UAW's loss at Volkswagen, the workers in Germany that are on the works council issued a statement that it might not approve Volkswagen opening up other plants in the United States if the new plants are not unionized. The works councils there have a say in how Volkswagen invests. This is the kind of leverage that workers and unions who share a common employer might be able to exert to help workers across national borders. It is already being used to some degree in the United States, when European companies open in the United States, and the European unions use their leverage at home to assist workers in the United States organize.

Third, in 2013, there were many strikes among low wage workers who organized together through the use of social media. We have witnessed in the political realm how social media can connect seemingly unconnected people in order to bring about swift change to the existing political order. The Arab Spring, and recently in the Ukraine, are just two examples. In the United States, Walmart workers who live and work hundreds of miles from one another are using social media, and other tools, to connect, communicate and to take collective action to improve their working conditions. Now, unions don't have to only communicate face-to-face with workers, but can get out their message on Facebook, Twitter and other social media sites. Traditional organizing models are changing. Workers are becoming as they should, the vanguard of change by being able to communicate with each other around the United States and the world, and not just at their workplace.

Finally, there is the matter of gravity. Physics teaches us that what goes up, must come down. As earlier discussed, income inequality in the 1920s and the Great Depression preceded the first comprehensive national labor laws and other progressive laws that, in turn, helped bring about increased unionization, shared prosperity and the creation of the American Middle Class.

We know that it is not coincidental that unionization and shared prosperity go hand-in-hand. And it is a relationship that should be nurtured by laws and policies, rather than feared. It is good for the economy, for capital and labor alike, that workers are treated with dignity and paid a fair living wage. It is a concept that seems so elementary that it hardly needs explanation. If workers have more available income, they will buy more goods and services. There will be less employee turnover, better trained employees and increased productivity. Henry Ford, the inventor of the Model T, and no friend of unions, knew this when he startled the world in 1914 and doubled the pay of his autoworkers to \$5 a day, around \$120 in today's dollars. Ford's profits also doubled.

In 2008, the United States and the world economies experienced a major recession. Many countries, including the European Union countries, responded with severe austerity measures that have mostly failed. Other countries, like the United States, used fiscal stimulus policies to stave off a crippling depression. Still, five years later, there are too many unemployed workers and underemployed workers who work part-time jobs for low wages.

Today, in the United States and around the world, there is a growing discussion about the issue of income inequality. The Occupy Wall Street movement may have gotten credit for starting this discussion, but the real credit goes to the failed policies that created

the recession in the first place. Now, in the United States, politicians from both parties are talking about the need to increase the federal hourly minimum wage for American workers, which is currently at \$7.25 an hour, and is below the poverty level. Polls report that more than 70% of Americans support an increase. There is legislation proposed to increase the minimum wage to \$10.10. Some cities and states have not waited for Congress to act, and have increased the minimum wage above the federal level for their cities and states.

Today, we are at a similar cusp of income inequality that we were at in 1929. We have come full circle – back to the last time the income inequality gap was this large and unionization was this low. Yet, unions must see this as an opportunity. The message of increased unionization and shared prosperity is a powerful message. It goes beyond the immediate conditions at a worker’s place of employment. Unions must become economic missionaries and proselytize workers to the twined message that increased unionization will lift all boats on the sea of prosperity.