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Sharing the Prosperity: Why We Still Need Organized Labor

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Sharing the Prosperity

Why We Still Need Organized Labor

Angela B. Cornell June 7, 2016 - 12:25pm 3 comments

“We can either have democracy in this country, or we can have great wealth concentrated in the hands of a few, but we can’t have both.” —U.S. Supreme Court Justice Louis Brandeis

Today economic inequality is greater in the United States than in any other advanced nation. According to Federal Reserve Chairwoman Janet Yellen, “[b]y some estimates, income and wealth inequality are near their highest levels in the past hundred years...and probably higher than for much of American history before then.”

The consequences of such disparities have been dire. Forty years ago the United States was in step with other advanced democracies, but now we place at or near the bottom of rich nations on important measures of individual well-being and social cohesion. We are the world’s richest country, with a GDP of \$17.42 trillion, but 20 percent of our children live in poverty—and nearly half of those in extreme poverty. Deplorably, [we rank](#) [1] thirty-fourth out of thirty-five in relative child poverty among industrialized countries, according to UNICEF, with only Romania faring worse.

Poverty in the United States brings other risks, including [premature death](#) [2]. The gap between the life-expectancy of the rich and that of the poor has been widening for decades, and currently the longevity gap between the top 10 percent and bottom 10 percent is fourteen years for men born in 1950 and thirteen years for women. More striking perhaps, since 1999 death rates for white middle-aged men and women have risen dramatically, especially for those with only a high school education. Public-health researchers have found that smoking and drug abuse among the economically marginalized have exacerbated these disparities. The prescription-drug epidemic has also deepened the problem.

Basic food and shelter needs are also going unmet in ever-larger sectors of society, even among the employed. Last December’s U.S. Conference of Mayors’ Status Report on Hunger and Homelessness in American Cities: A 22-City Survey, pointed to the rampant demand for emergency shelter and food assistance. Low-paying jobs led the list of causes of hunger and were a significant factor in homelessness: 42 percent of those seeking emergency food assistance were employed. More than three-quarters of the cities surveyed reported that they were not able to accommodate all the families with children needing emergency shelter. With these basic needs unmet, and many parents cobbling together two or even three low-paying jobs, it’s fair to say that the working family is under siege.

Conservatives continue to argue that the solution to these problems are policies that promote economic growth by lowering taxes, unshackling business, and spurring greater competition. But the idea that corporate America has been stifled or disadvantaged over the past forty years defies all evidence. No, what has been pushed back on nearly every front is the American labor movement. Its revival is the key to reducing economic inequality and fostering real, widely shared prosperity.

Unionized workers earn about 21 percent more than nonunionized workers and receive better benefits. (The wage difference between union and nonunion jobs is even more dramatic for African-American and Latino workers.) The International Monetary Fund has concluded that declining union membership has led to rising inequality worldwide, with about half of the increase in the income of the world's wealthiest 10 percent tied directly to the decline in unionization. In this country, where only 6.7 percent of private-sector workers are unionized, the decline in union membership over the past forty years is responsible for up to one-third of the growth in wage inequality, according to the U.S. Bureau of Labor Statistics.

As this year's presidential race has shown, the issue of inequality has increasing salience with the electorate. Twenty-seven percent of Iowa Democratic voters surveyed during the caucuses listed inequality as the issue that mattered most to them. Exit polling of Democrats in other primaries has shown similar concerns. In a January Gallup poll, 69 percent of Americans expressed dissatisfaction with how wealth and income are distributed in this country. Much of the widespread voter disenchantment with establishment politics is surely tied to disillusionment with how the economy is functioning (or failing to) for the working poor and middle classes.

THIS NATION HAS FACED similar problems in the past and solved them. Last year the United States celebrated the eightieth anniversary of the National Labor Relations Act. The statute, passed in Franklin Roosevelt's first administration, was intended to redress acute inequality, promote labor peace, and strengthen the economy during the Great Depression. More important, the NLRA was designed to do more than establish a legal framework for collective organization and bargaining; the ultimate goal was to strengthen the nation as a whole by empowering workers and democratizing the workplace. "The struggle for a voice in industry through the process of collective bargaining is at the heart of the struggle for the preservation of political as well as economic democracy in America," said New York Senator Robert Wagner, the architect of the bill. Widely considered the most radical piece of New Deal legislation for its capacity to redistribute wealth and power, it set economic and political goals that are just as pressing today.

Labor rights have a secure place in international law as well. The 1919 Treaty of Versailles created the International Labor Organization to advance rights and justice in the workplace. In 1948 the ILO was integrated into the newly formed United Nations as its first specialized agency. International law protects the right to organize, to bargain collectively, and to strike. The International Bill of Rights, comprised of the Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights, all firmly place labor rights within the rubric of basic human rights.

In its 1937 [NLRB v. Jones & Laughlin Steel Corp](#) [3]. decision, the U.S. Supreme Court acknowledged that labor rights are “fundamental,” recognizing that an employee’s financial dependence makes him or her helpless in dealing with employers. The Court understood that union representation is essential if workers were to resist arbitrary and unfair treatment and deal with employers on a more equal basis. Collective action on the part of employees is essential to safeguard their interests.

Unfortunately, U.S. law has become less accommodating over the past few decades, with Supreme Court decisions undermining the right of workers to form unions. In *Lechmere v. NLRB* (1992), the Court ruled that a union may not access employer property, including the parking lot, to communicate with workers. Employers, on the other hand, can require workers to attend anti-union speeches during working hours or risk being fired. In other decisions, including *NLRB v. Kentucky River Community Care, Inc.* (2001), the scope of the law was narrowed, excluding many employees from the law’s protection by allowing them to be reclassified as supervisors. Worst of all, for nearly forty years unions have been deprived of a meaningful right to strike because of the modern Court’s interpretation of the Mackay Doctrine, which permits employers to permanently replace strikers. President Ronald Reagan ushered in the new anti-union era in 1981 when he fired thirteen thousand striking federal air-traffic controllers. The result has been devastating to the labor movement. Union membership, now just 11.1 percent of the public and private labor force, is a little over half what it was in 1983, and one-third that of the 1950s.

Equally damaging have been so-called “right-to-work” laws now on the books in twenty-five (and soon to be twenty-six) states. At first blush the language of this sort of legislation appears innocuous, stressing the right of individual employees to decide whether to contribute dues to their union. But these statutes are in fact deliberate efforts [to fatally weaken](#) [4] the ability of unions to function or organize workers. Labor law in the United States is majoritarian: if a majority of workers in a bargaining unit choose to be represented by a union, then the union is certified as the exclusive representative for all the workers. In non-right-to-work states, employees who wish not to be represented are still required to help pay the union’s basic expenses, but not required to contribute to a union’s political activities. Those expenses are separated out, allowing nonmembers to make a reduced contribution.

In right-to-work states, non-union members are exempt from all union dues. This creates what is known as a “free-rider” problem. Unions have a “duty of fair representation” that includes all workers in a bargaining unit. The “free-riding” employee who is not a union member thus receives the fruits of the collective-bargaining agreement—higher wages, job benefits, and the contractual requirement of just cause for termination—without paying his or her fair share of the expenses. There are significant benefits that come from being organized, especially the representation unions provide when an employee is disciplined or terminated. Such representation entails considerable expenses that should be borne by all those represented by a union.

In January, the issue of mandatory fees for public-employee union members [was argued](#) [5] before the Supreme Court, in *Friedrichs v. California Teachers Association*. The Court considered whether requiring union fees that support core functions, not political activities unrelated to collective bargaining, infringes on the First Amendment rights of public employees.

The petitioners, ten public-school teachers supported by conservative groups including the Center for Individual Rights and the National Right to Work Committee, argued that even the core activities of the union are political in nature and thus infringe on their First Amendment rights as a form of compelled speech and association. In January, the Court appeared poised to overrule a thirty-eight-year precedent, *Abood v. Detroit Board of Education*, which upheld the constitutionality of mandatory union fees. However, the unexpected death of Justice Antonin Scalia likely altered the outcome of the case. In March, the Court issued a 4-4 decision, which leaves in effect the lower-court ruling upholding mandatory dues for all, at least for now.

WHILE UNIONS HAVE made mistakes, history shows that a strong labor movement benefits society at large. Labor law, like tax policy, is a significant tool for ensuring that income and wealth accumulation are not concentrated at the top, which can cause a myriad of social ills, distort the economy, and ultimately undercut American democracy. It is no accident that the postwar rise of the American middle class coincided with historically high levels of unionization. Ensuring that labor laws are vigorously enforced and that labor unions can thrive helps recalibrate the economy, making sure the gains from productivity in the workplace—which for decades resulted in wage increases for working people—are once again widely shared. Since the late 1970s and early 1980s, the linkage between productivity and wages has eroded, with productivity gains gravitating upward in the form of skyrocketing CEO pay and capital gains in the stock market, even as wages have stagnated. The results have been devastating for millions of Americans.

There have been some significant gains for working people in the past few years, and high on the list is the “Fight for \$15,” the national campaign for increasing the minimum hourly wage. “Fight for \$15” was built on protests in the fast-food industry, and gained acceptance from the public at large by telling poignant personal stories about the human cost of poverty wages. The Service Employees International Union (SEIU) has been a driving force in this effort, working alongside other unions, community organizations, and non-profits. The results are impressive: minimum-wage increases in New York, Connecticut, and California and for federal contractors in 2013; in Delaware, Hawaii, Maryland, Massachusetts, Michigan, Vermont, and West Virginia in 2014; in Alaska, South Dakota, and Arkansas, thanks to midterm-election ballot initiatives; and in Rhode Island and the District of Columbia in 2015. This year, Oregon passed a minimum wage of \$14.75, to be phased in over a period of years. In California the minimum wage will rise to \$15 by 2022. In New York, the \$15 mark will be phased in by 2018 in the city and 2021 in the suburbs. Upstate the minimum will rise to \$12.50. In short, we’ve witnessed a sea change in Americans’ attitude regarding justice for minimum-wage workers. “Fight for \$15” is helping lift millions out of poverty, while also focusing attention on workers in the service sector, which is often neglected by organizing initiatives.

As readers of this magazine know, Catholic social teaching is especially strong in recognizing the right of workers to have an effective voice in the workplace. Labor unions are “a mouthpiece for the struggle for social justice, for the just rights of working people in accordance with their individual professions,” John Paul II wrote in *Laborem exercens*, his 1981 encyclical on work. And *Economic Justice for All*, the United States Conference of Catholic Bishops’ 1986 pastoral

letter, asserted that “[n]o one may deny the right to organize without attacking human dignity itself,” and “firmly oppose[d] organized efforts, such as those regrettably seen in this country, to break existing unions and prevent workers from organizing.” Responding to the recent attacks against public-sector workers in Wisconsin, the USCCB reasserted the important role of unions in promoting “principles of justice, participation, and how workers can have a voice in the workplace and economy.”

Bringing the minimum wage up to a true living wage is a crucial step forward, as are other employment-related benefits like broadening access to overtime and instituting paid sick leave. But employment statutes such as minimum-wage regulations cannot replace the broad-based benefits that come from organized labor. Unionization places the ability to influence what happens in the workplace directly in workers’ own hands, even as it creates institutions that can advocate for working people at the community, state, and national level. Under an effective labor-law regime, unions remain the unique vehicle for worker empowerment. As envisioned by Senator Robert Wagner more than eighty years ago, a strong union movement is the most effective tool for strengthening economic and political democracy.

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[2] <http://www.nytimes.com/2016/06/01/health/american-death-rate-rises-for-first-time-in-a-decade.html>

[3] <https://www.oyez.org/cases/1900-1940/301us1>

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