

Back to the Future? US Labour in the New Gilded Age

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Abstract

This article argues that the twenty-first century US labour movement has increasingly come to resemble its counterpart in the Gilded Age 100 years ago. Starting in the 1970s, deindustrialization and deregulation have gradually undermined the New Deal labour relations system, and have led to the proliferation of precarious labour. The labour movement then began to experiment with alternative labour organizing strategies and increasingly sought out political alliances with other progressive movements, reproducing practices that were widespread among US unions prior to the New Deal era. Although many of these experiments have succeeded on a small scale, they face intransigent opposition from employers and anti-union organizations, and whether they can be expanded enough to generate a new labour movement upsurge remains to be seen.

1. Introduction

In December 2012, despite vigorous protests from union supporters, the Michigan state legislature passed a law prohibiting ‘union shop’ provisions (clauses that require union-represented workers to pay dues or equivalent fees for union representation) in labour-management contracts. This ‘right-to-work’ law was similar to those already in place in 23 other states, mostly in the US South and West. In January 2012, Indiana became the first state in the nation’s Midwestern ‘rustbelt’ to enact such a law. When Michigan — a former bastion of industrial unionism and well to the left of Indiana on the nation’s political spectrum — followed suit later that year, it resonated widely as a symbol of the US labour movement’s distress. Adding insult to injury, 2012 was the seventy-fifth anniversary of the massive sit-down strike in Flint, Michigan, through which the iconic United Automobile Workers’

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union had first won recognition from General Motors, then the world's largest industrial corporation (Yeselson 2012).

The Indiana and Michigan right-to-work laws were vigorously promoted by well-funded conservative political advocacy groups such as Americans for Prosperity (AFP) and the American Legislative Exchange Council (ALEC), both of which receive funds from billionaire brothers David and Charles Koch and other right-wing corporate interests (Confessore and Davey 2012; Eidelson 2012). These organizations seized the opportunity presented by the 2010 midterm elections, in which Republicans won governorships and legislative majorities in Wisconsin, Ohio and Indiana. In early 2011, all three of those states passed variants of ALEC's model legislation limiting public-sector collective bargaining rights, and their newly elected governors promptly signed the measures into law. Despite massive grass-roots protests in Wisconsin — including weeks-long occupation of the state Capitol building — its new public-sector law survived intact, as did Indiana's; only in Ohio was the legislation repealed (by means of a referendum). Emboldened by these initial successes in passing anti-labour legislation in the formerly impenetrable Midwest, AFP and ALEC turned their attention to campaigns for right-to-work laws in Indiana and Michigan, this time targeting unions in the private sector (Center for Media and Democracy 2013: 9–17). As the Michigan AFP director explained, 'We would like . . . to take the unions out at the knees so they don't have the resources to fight these battles' (Eidelson 2012).

These developments constituted a final coda to the era of US labour history whose centrepiece was the legally regulated system of collective bargaining created by the 1935 National Labor Relations Act (NLRA). Although signs of labour movement decline had been accumulating for decades, well into the twenty-first century many unionists continued to believe that labour law reform could restore the viability of the New Deal system. As recently as 2003, the American Federation of Labor–Congress of Industrial Organizations (AFL–CIO), along with many individual unions and labour-oriented advocacy groups, poured vast resources into a national campaign for the Employee Free Choice Act (EFCA), a proposed overhaul of the NLRA designed to reverse its *de facto* capture by employer interests during the preceding decades.

Yet, even after Barack Obama's election in the wake of the 2008 financial crisis, EFCA failed to win passage in the US Congress. During his presidential campaign, Obama had repeatedly signalled his sympathies for workers and their unions, and soon after taking office he made a series of labour-friendly political appointments. But EFCA failed to secure the 60 votes needed to win passage in the US Senate, and the effort was finally abandoned in late 2009. The relentless decline of union density and power continued, now accompanied by persistently high unemployment and austerity policies that disproportionately affected the working class. Against this background, the passage of Michigan's 2012 right-to-work law was all the more devastating.

By the 2010s, then, the New Deal labour relations system was a dead letter for all practical purposes. Not only had private-sector union density fallen below 10 per cent in the opening years of the twenty-first century (Hirsch and MacPherson 2013: 13), but now the one remaining pillar of union strength, public-sector unionism (regulated not by the NLRA but by a variety of other statutes), was under direct attack as well — and there was no reason to expect that attack to be confined to Wisconsin, Ohio and Indiana. Public-sector unions had become an increasingly important source of campaign funding for local, state and national Democratic candidates, which was precisely why ALEC and other conservative organizations were so determined to undermine them.

In the 1935–1975 period, NLRA-based collective bargaining, along with New Deal labour and employment regulations and other social policies, had bolstered union power and narrowed inequalities between rich and poor. But early twenty-first-century US labour relations more closely resemble those of the legendary ‘Gilded Age’ a century earlier. This retrogression is the product of a series of interrelated trends that began in the mid-1970s and have gathered force ever since. Not only has union density fallen to pre-1930s levels, alongside the surge in income and wealth inequality to levels not seen since the 1920s; but also large-scale strikes — once the most potent weapon in organized labour’s arsenal — have become increasingly rare since the 1970s. In this same period, the NLRA, while technically still the law of the land, has been increasingly weakened in a manner that favours employers, with long procedural delays and minimal remedies for violations. Other labour protections that were institutionalized in the New Deal era, such as laws regulating minimum wages, overtime pay and working conditions, have also been weakened as a result of declining coverage and enforcement since the 1970s, fostering the growth of ‘precarious’ labour (Kalleberg 2011; Standing 2011).

All these trends are linked and can best be understood as part of a Polanyian wave of remarketization, directly undercutting unionism as well as state regulation (see Burawoy 2010: 307–9; Polanyi 2001 [1944]). In historical perspective, indeed, the New Deal era appears as an exceptional period of US labour history rather than the norm it was widely presumed to be in the mid-twentieth century. The post-1970s neoliberal turn has undermined unions generally, but its impact has been particularly devastating on the forms of labour organization that were most influential in the mid-twentieth century United States, namely the industrial unions that grew up alongside the NLRA in the 1930s and 1940s. Those manufacturing-based unions were also disproportionately impacted by new computer-based technologies, and by the sharp increase in capital mobility and outsourcing that marked the post-1970s period. But even in non-mobile sectors of the economy and those where technological change was relatively limited, such as construction and service industries, unions declined sharply in density, power and influence as a result of the wave of neoliberal deregulation and marketization that transformed the US political economy and undermined the New Deal regime.

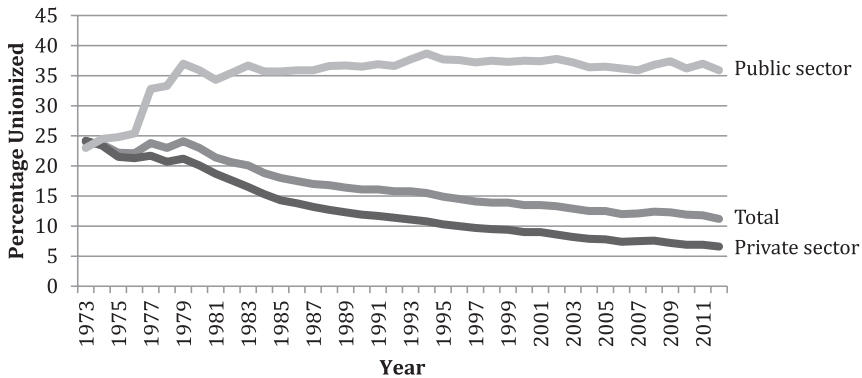
The initial response to this radically altered environment on the part of many US labour leaders was reactive: they sought to restore the old order, through EFCA and other legislative reform measures. Over time, however, more and more unionists came to recognize the futility of such efforts, and in the twenty-first century they began to experiment with a wider range of strategies and tactics. Many of those experiments, I argue here, recapitulate the US labour movement's pre-New Deal era strategic and tactical repertoire. Just as the nation's political economy increasingly resembles that of the late nineteenth- and early twentieth-century Gilded Age, so too do labour's emerging strategies and tactics. Thus, short walkouts are increasingly replacing long strikes, labour-sponsored boycotts are being revived, and more and more unions are organizing in coalition with community-based and social reform organizations. Non-union labour-oriented advocacy groups, such as worker centres, are flourishing, inspiring many traditional unions to adopt 'alternative' organizing approaches that resemble those of the 'new unionists' and their allies in labour reform groups during the Progressive era a century ago. The relationship of unions to politics is also changing: as the New Deal institutions that structured collective bargaining in the mid-twentieth century have withered, organized labour's status as a political 'insider' has been eroded, sparking increased union involvement in 'outsider' protest activities, often in alliance with other progressive forces.

2. The anatomy of US union decline

By 2012, only 11.2 per cent of US wage and salary workers, and 6.6 per cent of those in the private sector, were union members. As recently as 1973, the figures were 24.0 per cent and 24.2 per cent, respectively — already well below the mid-1950s peak of about 33 per cent (see Figure 1).¹ Although increasingly under attack, public-sector union density remains relatively high (35.9 per cent in 2012) and has been stable over recent decades, even as the gap between public- and private-sector unionization rates has widened. In the private sector, union density has been at its lowest level since 1900, when total US density (then almost entirely in the private sector) was 6.8 per cent. In 1934 — on the eve of the passage of the NLRA — total density was 11.5 per cent (again nearly all in the private sector), roughly similar to the 2012 level of overall union density (Freeman 1998: 291–2; Hirsch and MacPherson 2013: 11–13). In short, current private-sector union density levels are strikingly similar to those in the early twentieth-century Gilded Age.

Arguably, the power and influence of organized labour have been reduced even more than these data suggest. In the New Deal era, many non-union private-sector employers routinely matched union wages, benefits and working conditions, hoping to pre-empt unionization. But in recent years, that dynamic has been reversed, so that today non-union competition drives down compensation and standards among the few remaining unionized

FIGURE 1
Union Density in the United States, by Sector, 1973–2012.



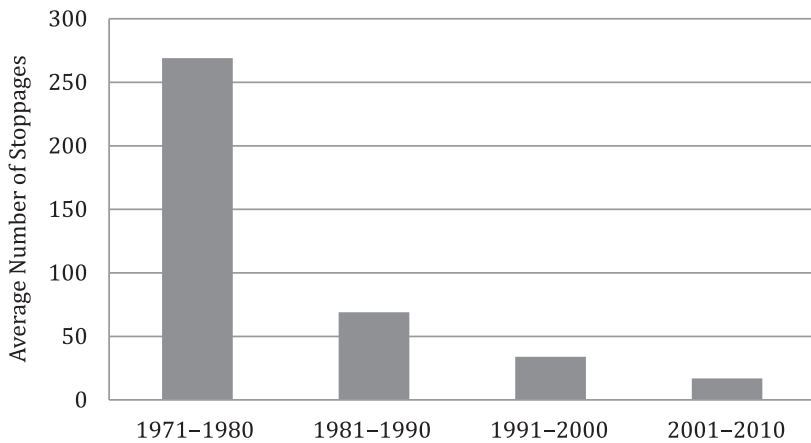
Source: US Current Population Survey data, available at unionstats.com.

firms. Moreover, since the late 1970s, many unions that previously won improvements in pay and working conditions for their members have been forced to surrender them through contract concessions or ‘givebacks’. Although this phenomenon emerged initially in the manufacturing sector, which was especially vulnerable due to the massive wave of outsourcing in the 1970s and 1980s, it rapidly rippled throughout the wider economy. Moreover, union density declined sharply not only in manufacturing but also in place-bound sectors, such as construction, retail and hospitality. The nation has experienced an across-the-board power shift in labour management relations that transcends the effects of economic globalization and technological change.

Another index of this transformation is the decline in large-scale strikes — historically the most effective expression of union power and leverage. By the early twenty-first century, few unions risked going on strike for more than a few days when their contracts expired, as was once routine. Instead, many union members work without new contracts for extended periods of time. And although since the 1970s, as Figure 2 shows, large strikes have become increasingly conspicuous by their absence, lock-outs are rising in frequency, making up nearly 10 per cent of all major work stoppages in the first decade of the twenty-first century (Combs 2012; Greenhouse 2012). And the few strikes that do take place often involve dynamics similar to lock-outs: defensive actions deliberately provoked by employers seeking large-scale concessions from once-powerful unions, typically leaving workers defeated and demoralized (for one revealing case study, see Rhomberg 2012).

Some commentators have called for a revival of strikes as a means to rebuild the US labour movement (Burns 2011), but this seems extremely unlikely in the absence of a major shift in the US legal regime, under which

FIGURE 2
Average Annual Major Work Stoppages Involving 1,000 or More Workers, by Decade, United States, 1971–2010.



Source: US Bureau of Labor Statistics, 'Major Work Stoppages in 2010', press release, 8 February 2011, http://www.bls.gov/news.release/archives/wkstp_02082011.pdf.

employers can (and routinely do) 'permanently replace' workers who strike over economic issues. In addition, crippling penalties can be imposed on unions that violate the many statutory restrictions on strike activity. Although the specific mechanisms are different, the current legal constraints on strikes are reminiscent of what historian William Forbath (1991) called 'government by injunction' in his classic account of the ways in which US courts repressed strikes during the first Gilded Age. The passage of the NLRA ended those particular practices, but subsequent shifts in the legal regime have once again sharply curtailed the right to strike.

The recent decline in strikes parallels the 1920s and early 1930s, another era of escalating employer attacks on unions and falling union density. The number of work stoppages ranged from 1,500 to 3,000 annually from 1901 to 1915, and then rose sharply in the First World War years, peaking at 4,450 in 1917. By 1921, work stoppages had returned to their prewar level, with 2,385 recorded in 1921, but then the trend turned sharply downward, with only 852 stoppages recorded in 1932 (Historical Statistics of the United States 2006: Series Ba4954-4964; see also Kaufman 1982). Union density, similarly, plummeted from a post-First World War high of 17.4 per cent in 1921 to only 11.0 per cent in 1933 (Freeman 1998: 291–2). The slump in both density and strike activity since the 1970s (shown in Figures 1 and 2, respectively) is already twice as long as the post-First World War decline, however.

Falling union density and the near-absence of strike activity are the two leading indicators of the withering away of the New Deal labour relations

system. Underlying both trends is the growth since the 1970s of managerial opposition to unionism, which by the twenty-first century effectively stymied nearly all efforts at private-sector union organizing under the NLRA. As early as the 1980s, for most private-sector employers in the United States, unionism had become anathema, viewed as a source of economic inefficiency and ‘adversarialism’. Except in a few ‘legacy’ industries (e.g. automobile manufacturing, airlines, supermarkets) where unions retain a foothold, the industrial relations departments that once were standard in large corporations have long since been replaced by human resources departments, for whose functionaries ‘avoiding’ unionization is a central preoccupation (Kochan *et al.* 1987).

On the rare occasions that organizing drives do emerge, employers routinely hire anti-union ‘consultants’ who guide them in deploying a variety of delaying tactics and other forms of systematic obstruction. Virtually, any enterprise willing to pay the steep consulting fees of the ubiquitous ‘union busters’ and to adopt the prescribed battery of anti-union tactics they promote has an excellent prospect of preventing or eliminating unionization (Logan 2006). Many of the tactics that the consultants use are perfectly legal, thanks to a decade-long series of management-friendly court decisions; however, others are blatant violations of the NLRA, such as firing union activists. Despite their illegality, such firings occurred in 34 per cent of a representative sample of 1,004 union-organizing campaigns conducted between 1999 and 2003 (Bronfenbrenner 2009); the number of workers fired during organizing campaigns grew ninefold from 1950 to 1990 (Meyerson 2012: 24), making a mockery of the NLRA system. Penalties for such violations are minimal and are seen by many employers simply as a ‘cost of doing business’. Even when unions win NLRA representation elections, against all odds, employers often drag their feet in the ensuing negotiations, delaying first contracts or making them impossible to secure.

Not only do individual employers demonize unions in their consultant-guided communications to workers who are actively seeking to organize, but also a variety of anti-union advocacy groups systematically promulgate anti-union views to the broader public. Alongside AFP and ALEC are more specialized organizations, such as the National Right to Work Committee, established in 1955; the National Right to Work Legal Defense Foundation, which dates from 1968; and the Center for Union Facts, created in 2006 (which was especially active in the campaign against EFCA). These organizations regularly place advertisements in mass media print outlets attacking unions, with headlines such as ‘How Are Unions Shredding Democracy?’ In recent years they have also promoted books directly attacking organized labour — for example, Peter Brimelow’s (2003) screed against teachers’ unions, *The Worm in the Apple*. The authors of such books are typically researchers tied to conservative foundations, such as the Pacific Research Institute, and often the publishers are conservative-leaning presses (e.g. Greenhut 2009). Unions are also routinely lambasted on right-wing talk radio and television shows, as well as online blogs. Anti-union advocacy

groups regularly finance television ads attacking organized labour, and on occasion have even promoted feature films, such as the 2010 *Waiting for Superman*, which pilloried teachers' unions.

Although it is impossible to measure the impact of these public relations efforts, which have yet to be systematically documented, they probably have contributed significantly to the increasingly negative views of labour unions evident in attitude surveys. In 2009, the same year that EFCA was given up as a lost cause, union approval rates fell to an all-time low of 48 per cent, compared with a peak of 75 per cent in the mid-1950s, according to the Gallup Poll. The 2013 figure was slightly higher at 54 per cent (and 34 per cent among Republicans). A majority of those polled believed that labour unions will become weaker in future years (Dugan 2013).

It should be noted that alongside the multi-pronged attacks on labour from the right, some of organized labour's wounds are self-inflicted, as several recent commentators have pointed out (Early 2011; Fletcher and Gapsin 2008). Divisions within the movement, along with bureaucratic inertia and missteps by individual leaders, surely have contributed to labour's decline, although the effects of these factors are difficult to track. Yet even most of labour's internal critics would concur that the root cause of labour's crisis is neither the movement's factional divisions, nor the effects of anti-union propaganda, globalization or technological change, but rather the broader logic of neoliberal economic restructuring that has transformed the United States since the 1970s. From the outset, the neoliberal agenda included explicit efforts to weaken or eliminate unions, which its proponents view as the source of unacceptable interference in the labour market. Other core elements of neoliberalism also have had devastating effects on workers and their unions, such as deregulation (especially in former union strongholds, such as transportation and communication), privatization (which has shifted many jobs from the unionized public sector to non-union private-sector firms), and most recently austerity policies.

Since the 1970s, as well, new business strategies designed to shift market risks from employers to subcontractors, or to individual workers themselves, have stimulated rapid growth in non-standard, precarious forms of labour. The relatively stable employment model on which mid-century unionism was predicated has been effectively dismantled. Many companies redoubled their efforts to cut labour costs in the face of deregulation, which fostered new forms of cut-throat competition, while others did so simply to boost profits or to please stockholders in the context of an increasingly financialized economy. Sweatshop labour — nearly extinguished in the heyday of the New Deal — has rapidly resurfaced. At the same time, employer efforts to externalize market risks have spawned a vast new population of 'independent contractors', many of whom perform tasks previously handled by wage and salary workers. This phenomenon has emerged across many industries and occupations, from blue-collar jobs, such as truck and taxi driving, to highly skilled information technology and other professional fields. In the same period, employers have increasingly entered into

subcontracting arrangements involving immigrant workers — both legal guest workers and unauthorized migrants.

Subcontracting in its various forms has steadily reduced the share of the labour force covered by the NLRA as well as by the 1938 Fair Labor Standards Act (FLSA), the bedrock legislation that sets minimum wages, and regulates hours, overtime and working conditions for ‘employees’ in most industries.² Independent contractors are excluded from coverage under both these core New Deal statutes, and they typically also lack access to employer-provided health insurance, paid vacation and sick days, pensions, and other benefits. Most part-time, temporary and other non-standard workers — all categories that have expanded dramatically since the 1970s — also are denied access to such employer-provided benefits, although these latter groups generally *are* covered by the NLRA and FLSA. And crucially, employer violations of minimum wage laws, overtime pay requirements and other labour standards embodied in the FLSA have become commonplace in recent years, especially in the low-wage labour market (Bernhardt *et al.* 2009). Rapid growth in the unauthorized immigrant workforce — a population that is especially vulnerable to labour and employment law violations, and often fearful of seeking redress through legal channels (despite the fact that nearly all the provisions of the NLRA and FLSA apply to workers regardless of their immigration status) — has exacerbated these trends. But growing numbers of US citizens and authorized immigrants — especially new labour market entrants — are also joining the precariat.

Finally, in contrast to the ‘Great Compression’ of 1935–1975 (Goldin and Margo 1992), inequality in earnings and wealth has skyrocketed in recent decades, in another striking parallel to the Gilded Age. As Western and Rosenfeld (2011) have shown, a significant share of growing income inequality can be attributed directly to the decline in union density since the 1970s; moreover, as they also argue, that decline has contributed to the erosion of the formerly widespread norms of economic equity that unions helped to institutionalize in the New Deal era.

3. Industrial union decline and the comparative advantages of backwardness

Faced with this bleak set of circumstances, few US unions have successfully recruited significant numbers of unorganized private-sector workers in recent years. Those that have managed to do so have typically bypassed the NLRA system, turning to alternative paths to union recognition. One well-documented example is the Service Employees International Union’s (SEIU) ‘Justice for Janitors’ campaign, which combined rank-and-file organizing with top-down pressure on employers to win recognition for building cleaners in Los Angeles and elsewhere starting in the late 1980s (Milkman 2006). The ‘card check’ campaigns pioneered by the Hotel and Restaurant Employees (HERE) union (which became part of UNITE HERE after it merged with the garment and textile workers union in 2004) are another

example. They too were predicated on the union's ability to exert direct pressure on employers, who agreed to grant recognition once a specified proportion of workers signed cards indicating that they wanted to be represented by HERE (Getman 2010).

These two unions, and to a lesser extent the United Food and Commercial Workers (UFCW) and a few others, also stood out from the rest of the labour movement in that they took steps to recruit a new generation of organizers and staffers in the 1980s and 1990s, many of whom were college-educated and had experience in other social movements. That too helped the unions revitalize and expand their tactical repertoire (Bronfenbrenner and Hickey 2004; Voss and Sherman 2000). In this same period, SEIU and HERE also launched high-profile organizing drives among low-wage immigrant workers, including significant numbers of unauthorized immigrants, falsifying the once-widespread assumption that such workers were 'unorganizable'. A few other unions soon began to recruit low-wage immigrants as well, notably the Carpenters and Laborers unions.

This burst of new activity culminated in John Sweeney's 1995 election to the presidency of the AFL-CIO. His rallying call to 'organize the unorganized' sparked widespread hopes of labour movement revitalization and encouraged a variety of innovative organizing campaigns. Those efforts did help slow the decline in union density in the late 1990s, but the respite proved short-lived, and membership losses continued to haemorrhage in the new century (Yeselson 2013). That in turn led to turmoil inside the AFL-CIO, which crystallized around an intense debate over an SEIU proposal to restructure the federation into a more centralized organization, in part by merging the affiliated unions along industry lines. When the federation voted to reject the proposal, SEIU, UNITE HERE, UFCW, joined by the Teamsters, Carpenters and Laborers unions, as well as the United Farm Workers (UFW), left the AFL-CIO and formed a rival federation, Change to Win (CTW).

CTW brought together a group of unions that had been unusually aggressive in their organizing efforts during the preceding decades, despite the long odds. The breakaway group envisioned collaborating on large-scale campaigns in place-bound industries, such as services, hotels, trucking and construction. However, this effort failed to achieve its own targets, much less to ignite the major labour upsurge that some of its founders had hoped for, and a few years after it occurred the split became yet another symbol of organized labour's disarray. More recently, CTW has all but collapsed as several of its affiliates have exited, in some cases rejoining the AFL-CIO.

Nevertheless, the ill-fated split did expose a significant fissure within the contemporary US labour movement. One key feature that distinguished the seven unions that initially constituted CTW was the fact that (except for the tiny UFW) their organizational roots dated back to the pre-New Deal era. All had originally formed as occupational unions, which as Dorothy Sue Cobble (1991) has argued positioned them relatively favourably when faced with the challenges of organizing in the 'post-industrial' economy — in

contrast to the industrial unions that were widely seen as the progressive centre of the US labour movement after 1935. Six of the seven CTW unions (again, all but the UFW) had formerly been affiliated with the American Federation of Labor (AFL) — which merged in 1955 with the Congress of Industrial Organizations (CIO) to form the AFL–CIO. As former AFL unions, these organizations had a strategic and tactical repertoire that had taken shape before the passage of the NLRA; by the late twentieth century, that legacy became an increasingly vital asset in their struggle to survive the effective demise of that system.

By contrast, the industrial unions that were formerly affiliated with the CIO had always been deeply entangled with the New Deal era regulatory order, alongside which their organizations had first taken shape. They literally knew no other world, which made it especially difficult for them to adapt to the neoliberal environment that emerged after the 1970s. Not only were the industrial unions disproportionately affected by outsourcing and deindustrialization, which gave employers in the manufacturing sector far more leverage *vis-à-vis* organized labour than their counterparts in place-bound sectors, such as services and construction, but the former CIO affiliates also had a strategic repertoire predicated on the existence of the NLRA and other features of the highly regulated New Deal economic order that flourished in the period in which these unions were born. In the 1930s and 1940s, that repertoire had served them well, but after the 1970s it limited their capacity to adapt to the radically altered circumstances of the neoliberal era.

The former AFL unions were by no means immune to the anti-union attacks that employers launched from the 1970s onward; indeed, in the decades that followed, density fell in construction and other former AFL jurisdictions nearly as much as in manufacturing. But the CTW-type unions were far better equipped than the former CIO unions to rebuild. While employment in manufacturing was shrinking, it was growing rapidly in sectors such as construction, hospitality and other services, and outsourcing was not an option in those industries. Equally crucial, SEIU, HERE and other former AFL affiliates, whose origins antedated the NLRA and the New Deal, could once again draw on an older strategic repertoire that they had relied on in that earlier period — which suddenly became a newly relevant and invaluable resource. Thus, SEIU's Justice for Janitors campaign and HERE's card check campaigns fell back on century-old tactics that involved exerting direct pressure on employers to win union recognition, a long-standing organizing tool for AFL unions that in many sectors had remained intact even in the New Deal years. In the construction industry, with its unstable and shifting workplaces — the jurisdiction of the Carpenters and Laborers — the NLRA system had never functioned especially well, and these unions too have often successfully deployed pre-New Deal organizing approaches in recent years. In short, the former AFL affiliates that came together briefly in CTW enjoyed a comparative advantage in the brave new world that emerged after the 1970s, with its many parallels to the first Gilded Age — not coincidentally, the very era in which they first had formed.

Although historically AFL unions were often denounced as conservative and exclusionary, favouring native-born white men over women, immigrants and workers of colour, in the late twentieth century the CTW unions took the lead in efforts to organize low-wage immigrant workers, such as janitors, hotel housekeepers and unskilled construction labourers, many of them female, Latino or both. That in turn enabled this group of unions to claim the high moral ground with the wider public. They did not face the scorn that the old CIO unions and the more elite building trades unions provoked as defenders of what were widely regarded as overly privileged labour aristocrats, most of them white and male. In an era of growing inequality, that lack of popular sympathy added to the political isolation of many former CIO unions (a problem that eventually affected public-sector unions as well). The industrial unions' understandable preoccupation with globalization and outsourcing, and the accompanying employer anti-union assaults, further limited their ability to recruit new members, at least in their traditional jurisdictions.

4. Worker centres and 'alt-labour'

Over time, employer opposition to the CTW unions' organizing outside the NLRA system grew steadily stronger and more effective, and even the unions that had perfected the non-NLRA model found it increasingly difficult to recruit new members on a large enough scale to justify the huge outlay of resources that successful organizing demands (Yeselson 2013: 77). At the same time, the viability of conventional forms of unionism became increasingly constrained as the relentless spread of subcontracting and other types of employment restructuring excluded more and more workers from the NLRA and FLSA. Against this background, the alternative forms of community-based labour organizing that sprang up starting in the 1990s in the burgeoning low-wage labour market began to attract increased attention from unionists. Starting in the 1990s, 'worker centres', in some cases incubated by unions themselves and in others launched by advocates and activists who viewed conventional unions as poorly suited to the challenges of organizing or representing excluded workers, proliferated: there were four such centres in the United States in 1992, but by 2003 there were 137, and by 2010 they numbered over 200 (Fine 2011: 607, 615).

These organizations are typically modest in size, with few staff and limited financial resources. Many target precarious, casualized occupations in which unions are notoriously difficult to establish, such as domestic work and day labour, along with other low-wage sectors that unions have effectively abandoned, such as garment manufacturing and restaurants. Worker centres also have formed among nominally self-employed workers, such as taxi drivers and street vendors, and a few centres recruit along ethnic lines. Recent immigrants, many of them unauthorized, are over-represented in the low-wage occupations and industries on which most worker centres focus, which

often leads them to engage in immigrant rights activity, as well as workplace-oriented organizing and advocacy (Fine 2006; Gordon 2005; Milkman and Ott 2014; Milkman *et al.* 2010).

Despite their limited resource base and small staffs, many of the worker centres have succeeded in launching highly visible and often successful campaigns. As advocates for those employed at the very bottom of the labour market, where violations of labour and employment law are widespread, these campaigns regularly capture the moral high ground in the public square. Since they are not unions, the centres are unburdened by the negative image that many traditional unions must contend with. Moreover, unlike unions, the centres do not seek to establish ongoing collective bargaining relationships with employers, and thus are not constrained by the various amendments to the NLRA restricting union activities. Worker centres instead deploy their limited resources to maximum effect by focusing on staff-driven research, media outreach, and legal and political campaigns to win immediate concessions from employers and/or new protective legislation.

Worker centres have perfected the science of filing back pay claims and complaints about other employment law violations with government regulatory agencies; many also initiate successful lawsuits over violations, sometimes winning millions of dollars in settlements. Framing their campaigns as struggles for social and economic justice, they often construct compelling narratives that include the voices of workers themselves, skilfully attracting public and media attention to the plight of the precariat and the legal violations inflicted on it. Many centres also build alliances with consumers and other key community actors, including elected officials and faith leaders, alliances that provide material and moral leverage over employers, whom they 'name and shame' to extract concessions. Conducting strategic research to identify vulnerabilities in the power structure also enables many of these organizations to win passage of legislative and regulatory reforms — both stronger labour and employment laws, and new forms of social protection, such as paid sick days and living wage laws.

The centres not only advocate on behalf of low-wage workers but also engage in grass-roots organizing, although their modest resources limit the scale of this aspect of their work. Although they easily recruit individual workers by providing legal services and social and educational opportunities, it is often challenging to retain those workers as active 'members' once their immediate needs have been met. Most worker centres are highly committed to popular education, leadership development and other types of member empowerment, but in terms of staffing, nearly all of them are professionally led — often by lawyers or college-educated professionals with other types of specialized training.

Although they draw on more recent traditions, such as the popular education methods of Paulo Freire (1970), worker centres also recall the organizational forms that emerged among an earlier generation of precarious workers a century ago. In the Progressive era, settlement houses and labour reform groups, such as the Women's Trade Union League, exposed

sweatshops and employer abuses, campaigned for protective legislation, promoted unionization, and provided educational and social services to immigrant workers from Southern and Eastern Europe (Flanagan 2002; Stromquist 2006). Like those Progressive reform groups, most worker centres rely heavily on philanthropic support — in the form of grants from liberal foundations — and are staffed by educated elites, often female (Milkman and Terriquez 2012).

The most probing critiques of the new worker centres, indeed, focus on this aspect of their work. For example, Steve Jenkins points out that, despite their dedication to empowering ordinary workers, in practice worker centres rely on ‘professionals such as lawyers and social workers [who] *mobilize elite institutions* such as government agencies, foundations, media or courts to help clients achieve the change they are seeking’. Echoing the vein of criticisms that many commentators once directed at Progressive reformers, Jenkins adds, ‘the changes that can be achieved are limited to those that are palatable to elite decision-makers’ (Jenkins 2002: 61, 72).

Jenkins’ comparative reference point is traditional labour unions, which as he emphasizes are funded by membership dues, and thus not beholden to elites. Yet, in suggesting that unions are a preferable organizational form, Jenkins elides the formidable legal and institutional constraints that restrict the types of activities in which unions may participate. Worker centres definitely have fewer resources and are more dependent on philanthropy, but they also have more room for manoeuvre. For example, since they are not covered by the NLRA, worker centres are not prohibited from engaging in secondary boycotts, and thus can freely picket a retail outlet that sells a commodity whose producer is the target of an organizing drive.

When the worker centre movement first emerged, many union leaders were doubtful, even dismissive, of their prospects. They questioned whether these tiny, poorly funded organizations with youthful, inexperienced staff could address the formidable challenges involved in workplace organizing. For their part, many worker centre leaders considered traditional unions anachronistic, overly bureaucratic and poorly suited to address the needs of the marginal, precarious workers whom they sought to organize. Due to this mutual scepticism, as well as the distinctly different structural and cultural characteristics of unions and worker centres, what might have been ‘a marriage made in heaven’ was instead ‘more of a mismatch’, as Janice Fine aptly put it (Fine 2007: 336).

Over time, however, as US union membership continued its relentless decline, and the number and visibility of the worker centres steadily increased, this mutual hostility gradually softened. Union leaders increasingly were confronting the growth of precarious labour arrangements within their own traditional jurisdictions, and thus came to appreciate the utility of the innovative organizing tactics and strategies that the centres had developed. At the same time, worker centre leaders slowly developed a more positive view of traditional unions as they struggled to build durable organizations. Starting on the West Coast (Milkman 2010), a process of

rapprochement between unions and worker centres began to unfold, which by the 2010s had spread to the national level. In recent years, several worker centres have attempted to launch formal unionization efforts, recognizing the need for long-term, financially sustainable forms of organization; at the same time, traditional unions have begun to experiment with the strategic and tactical repertoire of the worker centres, in a process of mimetic isomorphism.

On the union side, one of the key influences that helped create greater openness to alternative organizing forms was the growing immigrant rights movement. As I have argued elsewhere (Milkman 2011), the quest to win legalization for the estimated 11 million unauthorized immigrants presently residing inside the United States is above all a struggle for economic advancement, and in that sense constitutes a type of labour movement in its own right. Initially, US unionists had been internally divided in regard to the wave of immigration that began in the late 1960s, with many viewing it as a threat to hard-won labour standards. Many also believed that undocumented immigrants were ‘unorganizable’ — but that changed rapidly in the 1990s, in the face of evidence to the contrary in the SEIU’s Justice for Janitors campaign and other successful union drives among low-wage immigrants.

In 2000, the AFL–CIO officially adopted a pro-immigrant policy stance, abandoning its previous support for restrictive measures, and embracing the cause of immigrant rights and a path to legalization for the undocumented. Especially after the massive 2006 immigrant rights street marches, which so vividly displayed the organizing potential of the foreign-born workforce, both the federation and many individual unions took further steps to ally themselves with the immigrant rights movement, to which the worker centres and CTW were already closely tied. Shortly after 2006, the AFL–CIO entered into a series of formal partnerships with worker centres and community-based organizations representing domestic workers and day labourers. In late 2011, it issued a national charter to the Taxi Workers Alliance Organizing Committee — despite the fact that taxi drivers are not legally ‘employees’, and thus are not covered by the NLRA. This charter revived a pre-New Deal approach that has not been deployed since the 1930s (Cobble 1997).

As the worker centres’ ‘alt-labour’ organizing (Eidelson 2013) won, growing acceptance among union leaders, they also adopted community-based organizing approaches themselves, directly mirroring the strategies pioneered by the worker centres. An early example is the AFL–CIO’s ‘Working America’ programme, launched in 2003, which has recruited over three million working people, none of whom are union members, to support labour-friendly political candidates. It already had a significant impact on recent elections. Similarly, in 2011, the SEIU launched its ‘Fight for a Fair Economy’ campaign, mounting door-to-door canvas operations in 17 cities across the nation, with a political and community-organizing agenda. Although SEIU has weathered the neoliberal era far better than most other large unions, by this time its leaders had begun to speak openly about what

they have come to see as the futility of continuing to pursue traditional union organizing in the face of the ever-escalating attacks on organized labour (Meyerson 2012).

SEIU went on to launch the Fast Food Forward (FFF) campaign, which seeks \$15 per hour pay rates for fast food and other retail workers (roughly double the legal minimum wage), in collaboration with community-based organizations, such as New York Communities for Change. Starting in late 2012, FFF mounted a series of one-day strikes at fast food outlets around the country in 2013, attracting extensive media attention (Uetrict 2013). Similarly, the 'Our Walmart' campaign, which the UFCW launched in 2010, mounted widely publicized, one-day strikes at about 100 US Walmart stores on the busiest shopping day of the year in November 2012. Walmart has famously resisted unionization for decades, and crucially Our Walmart is not seeking collective bargaining rights (Kroll 2013). Instead, like FFF, it takes a page from the worker centre 'name and shame' playbook, calling public attention to the low wages, unpredictable hours and other issues that plague hourly workers at the giant retailer. Although protracted strikes are problematic today (as discussed above), just as they were in the first Gilded Age, one-day walkouts like these have proven feasible.³

5. Back to the future?

Organized labour's increasingly desperate plight not only led it to experiment with alt-labour organizing strategies, but also to seek out political alliances with other progressive movements. This is a sharp departure from the New Deal era, when organized labour was a key partner in the Democratic Party coalition; in those years, labour mastered the 'inside game' in electoral politics and legislative lobbying (Dark 2001). It routinely provided financial support to labour-friendly Democratic candidates, launched massive get-out-the-vote efforts, and developed a strong presence among lobbyists in Congress and key state legislatures, which helped secure legislation benefiting the nation's workers. Labour still retains significant leverage in the legislative and political arenas, but its influence has been greatly reduced since the 1970s, and is now under continual attack from ALEC and other such organizations. As their former insider status has been steadily eroded, unions increasingly have no alternative but to play the 'outside game', engaging in public protests and grass-roots organizing.

Thus, many individual unions as well as the AFL–CIO itself explicitly supported the meteoric Occupy Wall Street movement when it burst on to the scene in 2011. Although Occupy proved short-lived, it succeeded in placing the issue of economic inequality at the centre of US political discourse — something that organized labour had often attempted but never managed to achieve. In Occupy's aftermath, and especially in the period just before its September 2013 convention, the AFL–CIO launched a new effort to develop partnerships with a wide variety of progressive organizations, including the

Sierra Club and the NAACP (Maher and Trottmann 2013). The federation also held a series of 'listening sessions' at academic conferences and other such gatherings, seeking input and advice from labour-friendly intellectuals and activists. Several of the advocacy groups it was courting, including the National Organization of Women and United Students Against Sweatshops, were also invited to participate in the convention itself. 'Everyone has come to the realization that we need more partners, that we've got to rebuild the movement', one union president told a reporter. And in a direct allusion to Occupy, AFL-CIO President Richard Trumka declared, 'At the end of the day, it's on us to build a movement not *for* the 99 percent but *of* the 99 percent' (Greenhouse 2013).

This effort to 'open up' the formerly insular AFL-CIO features a self-conscious embrace of pre-New Deal era traditions. Trumka himself used the phrase 'back to the future', reminding an interviewer that in the 1920s and early 1930s labour often partnered with other reform groups (Maher and Trottmann 2013). In a similar vein, veteran labour journalist Harold Meyerson (2013) recently commented: 'The labor movement that emerges from these reforms might resemble a latter-day version of the Knights of Labor, the workers organization of the 1880s that was a cross between a union federation, a working class political vehicle . . . and a fraternal lodge'.

It is too soon to know whether organized labour's recent efforts to reinvent itself will prove successful. Employers and anti-union organizations, such as the Center for Union Facts, are not sitting idly by. Alarmed by the success of 'alt-labour', and perhaps even more so by the AFL-CIO's expanded support for it, they have begun targeting worker centres, which they portray as 'a backdoor approach to union organizing' (Maher 2013). For example, the conservative Capital Research Center's *Labor Watch* issued a 2013 report entitled 'Attack of the UFOs: Alt-labor, worker centers, and the rise of Union Front Organizations', which asserted that 'the main allure of worker centers is that organizers can skirt limitations imposed on them by labor law', adding that 'in most cases, worker centers are little more than unions by another name' (Vernuccio 2013). This may presage a systematic right-wing legal and public relations attack on worker centres by organizations like those in 2012 that successfully campaigned for the right-to-work laws in Michigan and Indiana.

The twenty-first century US labour movement has increasingly come to resemble its counterpart of a century ago, with a diversity of organizational forms; a broad strategic repertoire that includes boycotts, living wage campaigns and brief demonstration strikes; as well as a wide set of alliances with community-based organizations, advocacy groups, progressive activists and even intellectuals. Union density cannot be restored to mid-twentieth century levels in the absence of a large-scale social movement opposing market fundamentalism; indeed, as many commentators have pointed out (e.g. Clawson 2003), historically US labour movement growth has never been incremental but rather the result of large-scale social upsurges. Unless and until that occurs, the most likely prospect is for a diffuse reform-oriented

labour (and alt-labour) movement, with traditional collective bargaining confined to a limited number of industries and pockets of strength in a few metropolitan areas (Yeselson 2013) — in short, a labour movement closely akin to that of the Progressive era a century ago.

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Notes

1. The union density data before and after 1973 are not strictly comparable due to changes in methodology. For a comprehensive review of the historical trends, see Mayer 2004.
2. Agriculture and domestic service originally were excluded from both statutes, and both these industries still have only partial coverage.
3. In principle, the NLRA protects non-unionized strikers from being fired because their strikes are legally a form of ‘concerted activity’. Perhaps because employers know that SEIU and UFCW would pursue the available legal remedies if they did fire strikers, along with the potential ramifications for public relations, this has been extremely rare to date.

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