

Introduction

On a crisp October day in downtown Albany, New York, a small coalition of fast-food, retail, and transportation workers and their supporters took to the streets. The sound of a voice through a bullhorn pierced the air. “What do we want?” the voice roared.

“Paid sick leave!” the crowd answered.

“When do we want it?”

“Now!”¹

This Central Avenue rally wasn’t their first. Previously, coalition members conducted silent protests before the Albany County Legislature to secure a law requiring all area employers to allow both part-time and full-time workers to earn paid sick leave. Strategically, the coalition linked its demands to the larger communal good of protecting public health. All the protesters wore surgical masks. “I Served Food With the Flu,” read one protester’s sign. Their actions worked. The county legislature drafted such a bill.² But on that October day in 2018 the group marched in protest of an amendment that weakened the bill in favor of small business owners. Caught in the struggle between local business interests and protesting workers, in November 2018 the county legislature temporarily tabled the bill. As of this writing, the coalition is still waiting for the county legislature to reconsider the bill. Meanwhile, the workers take hope from the successes of similar coalitions throughout the state. The Westchester County legislature passed a mandate that now provides a new opportunity for paid sick leave to over 100,000 workers, almost a third of whom are women.³ In New York City, 1.2 million workers gained paid sick leave for the first time in 2014.⁴

There’s a new spontaneous energy in the labor movement, and a new kind of direct action is its engine of change, born of the decades-long

war against unions that has blocked vast numbers of American workers from the bargaining table. These direct action movements are taking place mainly outside the realm of organized labor and are in the process of reshaping the American labor movement. Conscious of their economic vulnerability and no longer willing to accept the economic and social status quo, tens of thousands of exploited workers in industries running the gamut from farm laborers and gig drivers to freelance artists and fast-food employees have taken to the streets in a collective attempt to attain a living wage and decent working conditions. This spontaneous new militancy, an upsurge of vibrant democracy from below, expressed through mass demonstrations, strikes, sit-ins, political action, and similar activities, has already achieved some successes and offers models for workers to exercise their power in the twenty-first century.

The history of the union movement in the United States has been the subject of an endless number of studies. And recent decades have produced countless analyses of why unions are in decline. Along the way, this book will briefly recap that history and summarize various factors cited as contributing to the union movement's current sorry state. This work argues that all these analyses are partially correct, but they fail to address the core of the problem: *the structure and culture of organized labor no longer serve the larger labor movement.*

This book frames the rise and development of the new labor movement in light of organized labor's decline by asking a number of important questions. The first series of questions arises from the historical contributions of labor unions, their current condition, and their future prospects: Why are unions important, and why does it matter that they're on the decline? Why are they losing members? What, if anything, can they do to reverse this decline? Finally, what are the social and political implications of a weak and ineffectual union movement? A second group of questions examines the new labor movement that has emerged outside the parameters of organized labor: What economic and social changes have given birth to this new militant labor movement? What are the goals of these new organizing groups, and what are they doing to realize them? What is their relationship to unions and to electoral politics? How might this relationship evolve? A third, and not inconsequential, set of questions looks at the impact of the Covid-19 pandemic on these workers and their direct action movements.

Before proceeding with a brief synopsis of the chapters, a few words on the idea of direct action are necessary. The genealogy of the concept

“direct action” goes back to the nineteenth-century anarchists, syndicalists, and others for whom direct action meant not just grassroots activities such as taking to the streets, demonstrating, and so on, but those activities that directly and immediately brought about the new world they envisioned. For example, when anarchist squatters occupy buildings, as they still do today, they are not merely protesting housing policies. They’re also attempting to start living the new utopia they seek without private property and beyond the tentacles of the political state.⁵ Martin Luther King Jr.—no anarchist—also described civil disobedience as direct action, holding onto the old idea that protest itself already anticipates and prefigures the new social order sought by activists. That’s why he supported nonviolence and respect for one’s opponents.⁶ This book does not use the principle of direct action in its classical sense. Instead, the idea as used here refers specifically to those grassroots activities aimed at improving the terms and conditions of employment outside the institutional structure of organized labor. It embraces a host of working-class efforts to win representation, benefits, and voice outside the traditional union framework.

The opening chapter begins with an examination of the so-called “golden years” of organized labor and documents why unions are of vital importance to America’s economy and its political institutions. The chapter argues that unions helped build the middle class and erased much of the economic inequality of the pre-union age through the creation of the most egalitarian level of income distribution in U.S. history. A viable union movement also enhanced America’s version of democracy by providing working people with an institution powerful enough to countervail the power of giant corporations. John Kenneth Galbraith, for instance, hailed organized labor’s ability to advocate for ordinary workers against powerful corporations as fundamental to American democracy. But as unions declined, all these gains began to disappear. Today, with only about one in ten workers belonging to a union, America’s middle class is shrinking, economic inequality is reaching new heights, and in the absence of a strong union movement, our institutions of procedural democracy increasingly favor the rich and powerful. More bluntly put, in the words of a recent presidential primary candidate, “the rules of our country have been rigged” in favor of the rich.⁷

The second chapter examines the causes of organized labor’s decline. There are almost as many reasons for the decline of unions as there are observers. Explanations include its tendency to reject organizing in favor

of business unionism, ineffective organizing techniques, a lack of militancy and refusal to strike, an emphasis on electoral politics, a failure to articulate union values, a hostile legal system, the globalization of capital, and, finally, its failure to develop into a larger social movement.⁸ This work recognizes that these diagnoses are correct as far as they go, but they fail to address the core of the problem: *The structure of corporate power, the forms of labor and its new workplaces, and the very character of employment itself have changed since unionism's golden era, but the structure of organized labor has simply not kept pace. Unions are fighting twenty-first-century battles with early twentieth-century tools.*

There are two aspects to organized labor's structural deficiency, one external and one internal. Externally, the U.S. economy has undergone a rapid change from manufacturing to one that is primarily service and knowledge-based and contingent. So much of today's labor is contingent that the world of work has a new Orwellian concept: "perma-temps." According to Louis Hyman, 94 percent of new jobs created between 2005 and 2015 consisted of some form of temporary work. As the French political economist Andre Gorz predicted decades ago, conventional full-time jobs are disappearing for vast swaths of the working class.⁹ This fact has broad implications. Polls indicate that young workers or millennials—those born between 1981 and 1996—know they'll frequently change jobs and, consequently, have little or no interest in joining a union. In the tech sector, the fluidity of jobs and preponderance of contract employees, many of whom work offsite, seriously impede labor's practice of organizing permanent workers at brick-and-mortar work sites. In low-pay sectors such as child care, home health care, and the fast-food industry, workers are often unwilling to pay a portion of their paltry earnings to union dues. Many of these workers support the growing sector of informal non-union organizations that build public support for legislative action to address their needs.

This chapter also examines the external threat to unions posed by hostile political forces bought and paid for by the corporate sector and a handful of extreme right-wing multibillionaires, some of whom see democracy and its key institutions, such as unions, as the primary threat to their liberty. Backed by the wealthy Koch brothers and other billionaires, the neoliberal attack on popular sovereignty and unions provides an ideological justification for corporate power. Operating on the premise that liberty exists only when individuals pursue their private interests by making choices in the so-called free market, neoliberals view

any interference in the market place as an assault on individual liberty. Therefore, social movements that countervail or otherwise interfere with the power of capital, as Friedrich Hayek argues, are sure to lead to some form of totalitarianism, and the social movement most likely to do that is none other than the one the Koch brothers dub “the labor monopoly movement.” In other words, capital can become as huge and powerful as it wants, while workers are advised to cherish their individualism: the preservation of individual liberty necessitates the crushing of unions.¹⁰ Put simply, this is a formula for weakening worker organizations and strengthening business. And the Kochs, among others, have spent lavishly to convince us that it is the right formula for America.

Factory shutdowns, outsourcing, and illegal firings of union supporters are squashing private sector unions. A hostile legal system, highlighted recently by the Supreme Court’s *Janus* decision, which exempts non-union members from paying their fair share for union services they receive, is likely to cost public sector unions—the most powerful arm of the union movement—tens of thousands of dues-paying members.¹¹ The Kochs and other billionaires who also underwrote the *Janus* campaign are more than willing to spend unlimited millions to smash organized labor thanks to another Supreme Court ruling. In *Citizens United v. Federal Election Commission*, the Court ruled that political spending was a protected form of free speech, which meant that corporations and unions could now legally spend as much as they wanted in the political arena. Unfortunately for unions, they lack the fiscal resources to compete with the corporate sector and the likes of the Koch brothers. The fiscal disadvantage is nothing new to organized labor. In the past, the corporate sector outspent Big Labor by about 15 to 1. Today the gap in spending is far greater. Campaign dollars helped Tea Party members win control of a number of state governments, including former union-dominated states in the Rust Belt. Once they assumed positions of power, these anti-government advocates were not reluctant to use the powers of the state to crush unions. To make matters worse for organized labor, the Trump presidency sought to aggressively tear unions apart, not only by promoting a hostile Department of Labor and National Labor Relations Board but also through appointing right-wing federal judges hostile to labor. After all, it was Trump’s appointee to the Supreme Court, Neil Gorsuch, who cast the deciding vote for *Janus*.

The chapter concludes with an examination of how external pressures on unions expose the internal conflicts inherent in organized labor’s structures. As membership numbers shrink, pressures increase on union

leaders to organize new members. After all, membership numbers and, most importantly, union dues are vital organizational imperatives to elected labor leaders who depend on rank-and-file support to keep their own jobs. Without sufficient dues revenue, unions cut staff, reduce membership services, and produce a lot of dissatisfied members internally. The union fractures. But too frequently union leaders have mistaken the survival of individual unions with the survival of the labor movement itself. As membership and influence declined, organizational survival became the name of the game. Consider, for instance, the formation of Change to Win (CtW).

In an effort to promote organizing and save the labor movement, seven large unions split from the AFL-CIO in 2005 to form Change to Win. But CtW didn't save the movement; in fact, its formation created many new problems. First, it fragmented and weakened the organized labor movement. It also created new levels of divisiveness and conflict within CtW as well as the broader labor movement. For instance, the flagship of CtW, the Service Employees International Union (SEIU), almost immediately became embroiled in internal battles when a 155,000-member local of health care workers in California broke away to form a national union of their own.¹² SEIU subsequently spent millions fighting this defection. This tale has been repeated many times over, creating tension and conflict within the larger union movement. Take, for instance, the case of the United Auto Workers, an industrial union, gaining the right to represent college faculty. What do professionals trained in industrial relations in the automobile industry know about higher education? Maybe we'll gain a more profound understanding of the inappropriateness of this practice by envisioning a higher education union, the United University Professions (UUP), for example, representing auto workers. Would that create hard feelings within organized labor? You bet. Would it give auto workers effective union representation? Unlikely.

What follows in each of four subsequent chapters is a study of five relatively successful non-union organizations, or, as they are more commonly known, alt-labor organizations. The rise of the alt-labor movement generates daily coverage in the mainstream media and has led to some highly popular books that analyze the movement's actions and future prospects. David Rolf's *Fight for Fifteen: The Right Wage for a Working America*, Annelise Orleck's *We Are All Fast-Food Workers Now: The Global Uprising against Poverty Wages*, and Eric Blanc's *The Red State Revolt: The Teachers' Strike Wave and Working Class Politics* are among the best. These

works scrutinize the proliferation of such movements across the globe. Orleck examines the travails of a plethora of international low-wage workers, ranging from McDonald's workers in Brazil to Filipino rice farmers.¹³ Rolf traces the rise of the Fight for \$15 movement, closely examines the struggle in Seattle, Washington, and looks at the Our Walmart movement, home care workers, and others while making the argument in favor of a \$15 minimum wage.¹⁴ Blanc's *The Red State Revolt* studies the collective action of workers in a single occupation—teachers who in 2018 waged illegal strikes in Arizona, Oklahoma, and West Virginia that brought gains they failed to win by other means.¹⁵ The scope of this book is not as broad as Orleck's work or as wide-ranging as Rolf's study, and unlike Blanc's tome, it focuses on more than a single industry. It takes an in-depth look at five alt-labor movements that represent a good cross-section of the many direct action strategies now being utilized by exploited workers throughout the United States.

The five non-union organizations studied are the Immokalee Workers of Florida and New York's farmworkers; Gig workers in California, mainly Uber and Lyft drivers, who are not much better off than the highly exploited farmworkers; the Freelancers Union, an organization that attempts to mitigate rather than reverse changes in the economy; and, finally, fast-food and tipped restaurant workers involved in what some observers view as the birth of a new labor movement, the Fight for \$15. All five groups rely on direct action to improve terms and conditions of employment, and all point to ways the labor movement can achieve successes while operating *outside* the union structure.

All these different groups of workers achieved significant gains without paying union dues or facing the many legal hurdles unions confront when trying to organize or secure contracts. Each chapter studies the structure and strategies of these action groups, including the important role now played by social media in fostering internal cohesion. This book searches for areas of commonality and differences among the groups. How do they define success? What have they achieved? Why are these groups successful? What is the relationship between direct action movements and the union movement? Why are these groups thriving outside the organized union movement? Most crucially, what can unions learn from these direct action groups? It's important to note that direct action is not a recent phenomenon. In fact, such actions helped form the modern labor movement. For example, think of the 1937 sit-in strikes at auto plants that led to the creation of the United Auto Workers of America.

Will this scenario be repeated? If not, what is the future role of these direct action groups?

The first of the four analyses focuses on the farmworkers in New York State and the Immokalee Workers of Florida. The National Labor Relations Act did not provide farmworkers with the right to organize a union. Nevertheless, farmworkers in both states formed non-union organizations to promote their economic interests. In Florida the Immokalee workers, unhindered by restrictive labor laws, won a major victory by waging a boycott prohibited by labor laws. In New York, farmworkers have used their political clout to gain significantly better working conditions and have secured legislation allowing them to form a union.

The fourth chapter explores the plight of Uber and Lyft drivers in California and their struggle to fight back against their classification as contract workers—Hayek’s heroic free individuals—who are not entitled to the benefits and protections available to traditional employees. This chapter documents how California’s gig workers successfully took to the streets en masse to correct what many characterized as a corporate-driven misclassification of their employment status. After years of struggle the California legislature passed a law—California AB5—that classified most gig workers as employees, but a ballot initiative exempting rideshare drivers from the law passed in the November 2020 election. Not only did Uber and Lyft oppose AB5, but many drivers and gig workers did too.

Chapter 5 investigates the growth and political and social impact of the Freelancers Union. According to a recent report issued by the Freelancers Union and Upwork, a freelancer website, more than one of three workers in the entire labor force identify as freelancers. Many of these workers are younger than thirty-five and a large majority find their work online. Full-time freelance workers, however, do not have many of the same legal protections afforded other full-time employees.¹⁶ Most are contract workers not protected by the NLRA; they frequently do not get paid for their work, are not protected against discrimination, and have little or no recourse to contest arbitrary and capricious behavior by their contractor. To address these issues, many have joined the Freelancers Union, which, contrary to what the name might suggest, is not a labor union. The Freelancers Union doesn’t do collective bargaining. But it offers much-needed services to its members and advocates effectively in the political arena. The organization now has nearly 500,000 members and is growing at a rate of one thousand each week. Unlike traditional unions, the Freelancers Union does not charge dues. Instead, it is financed

through grants and fees from the insurance plans and other services it offers, and supports its members through political action. For example, in New York City, the Freelancers Union secured legislation requiring the use of contracts and mandating payment within thirty days. Freelance work is the fastest-growing segment of work in the United States, and, since polls indicate that freelancers are among the most politically active groups, the organization's future in the political arena bodes well.

Chapter 6 studies the Fight for \$15 and its sibling struggle of tipped workers, the fight for One Fair Wage. Unlike the previous groups of workers studied here, these workers are classified as employees and are protected by existing labor laws. Nevertheless, restaurant workers—both fast-food and tipped employees—are among the most exploited in the U.S. workforce. The chapter opens with a brief analysis of the plight of these mostly minimum-wage restaurant workers. Despite the common belief that most of these workers are teenagers working at their first job, the average age of these workers approaches thirty, and many have families to support. The chapter critically examines the strategy and tactics of restaurant workers and their connection with organized labor, and evaluates future prospects and what their efforts mean to the growing new American labor movement.

All the workers examined in this book have taken to the streets either because labor laws have excluded them from the bargaining table or because the nature of their work and full-frontal corporate attacks on unions have made them almost impossible to organize. But these workers can't go it alone. The book's conclusion proposes ways a new direct action movement can work in conjunction with a smaller, reimagined organized labor movement to reduce economic inequality and rebuild the middle class. And one key way the labor movement can be reimagined is to adopt the model of European unions that operate within a larger framework of industry-wide sectoral bargaining.