The point is, there’s a need, no matter what the state of the economy, there are people who are always being exploited, and there’s a need for labor law enforcement. When the economy’s good, there’s a demand for more workers, and increased productivity, and people are asked to work overtime, and they’re often not paid. So there’s more work being done. And when there’s more work, inevitably, there’s potential for wage and hour violations. People are being asked to work more. And obviously, when the economy is bad, we have the pressures on the other end, you know, with the wages being lowered and undercut.

So there’s a need for what we do all the time. I strongly believe that labor law enforcement is good and needed not only for the workers, but for employers, the economy, and our nation as a whole. It’s one of the things that distinguishes us as a civilized society, and I’ll always believe that. It was true 75 years ago when the FLSA was enacted, and 50 years ago when I’d meet my father at the subway station at 7 or 8 pm, after his long day working in the garment industry. And it’s still true today. There are a lot of hardworking people who are severely underpaid, and a lot of businesses who are being hurt by those practices, not to mention our local and state and national government.

You would think that we’d see less and less minimum wage violations, and instead we’re seeing more because of all these dynamics: the economy, the demographics, the nature of the population and the nature of competitive low-wage industries. So at the same time, I truly see a continuation of the trends, such as more employers complaining to us about unfair competition. And so ... we’ll be busy forever.

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The Decline of American Unions: Irrelevance, Homicide or Suicide?

by June Zaccone

Most Americans believe that they can be downsized, but they can’t be fired for no reason. They’re wrong. Except for protected categories, like race or sex, employment in the US is “at will,” of the employer, that is. Further, once at work, private citizens become employees, and lose their right of free speech, and increasingly, privacy.2 CVS staff must report health metrics, like their body fat, blood sugar, blood pressure and cholesterol levels, to the company’s insurer or pay a $600 penalty.3 Workers here have fewer rights and benefits than in any other advanced, industrialized country. Of the 25 richest countries, the US alone lacks universal health insurance, and paid or even unpaid vacations or sick days.4 Unions give workers a collective voice and help achieve these benefits. As the rights of sexual and racial minorities, women, and the disabled have all advanced, worker rights are going backwards.

... for more than a half a century – the decline in private sector unionism has been inexorable, proceeding relentlessly through good economic times and bad, through Democratic as well as Republican administrations, and through periods of frantic organizing by unions, as well as periods of inactivity.5

Let’s look at the state of unions. In 2012, 7 percent of private-sector workers were in unions, the lowest fraction since 1980.6 A larger fraction – 37% – of public sector workers belong to unions, so for the first time, they form a majority of union members.7

The process of decay continues. Overall, 11% of workers were unionized in 2012, a decline from 12 percent in 2008. 20% in 1983 and the lowest since the 11% of 1916.8 In 1983, 42 states had at least 10 percent of private-sector workers with union contracts; now it’s 8.9 Note that union membership reached its postwar peak in the mid-1950’s, and started its precipitous decline in 1980’s. Diminishing union power is reflected in diminishing strikes, and more attacks on those with higher union wages.10

Why do we care? Unions have been a major reason for middle class expansion, and their decay a major reason for its decline. Note the slower growth of median family income after 1973 than before. The income lag complements a slowdown in the reduction of work time: our work year now exceeds workaholic Japan’s. Median income grew more slowly because corporations used their power to increase their share of the benefits of economic growth at the expense of wages. In the early postwar period, wages tracked productivity growth, that is, output per worker. Since the 1970’s, wages have lagged behind. Even college graduates have not escaped. Labor’s share of national income has declined as profit approaches its postwar high.12 This shift affects us all. Until the 1970’s, rising income based on shared output gains fueled the steady expansion of our economy. Rising inequality has replaced this widely shared growth, based on mass spending, with speculative financial booms fueled by assets of the superrich.

Work-place democracy appears to benefit only workers but unquestioned acceptance of authority on the job encourages its acceptance by workers in their roles as citizens.13 Unions boost political participation of members and nonunion members alike,14 providing an effective voice for social welfare spending. So their loss has permitted increasing inequality and an economic policy that focuses on the deficit rather than on problems of greater concern to the majority – unemployment, stagnant incomes, or mortgage and student debt. Despite increasing income shares to the top, their tax rates have fallen. The higher the income level, the greater the fall. For the 99%, the rate has hardly changed. Corporate tax rates have fallen too, so government policy has made inequality worse.15

What ever happened to the labor movement? There are three theories of its decline: irrelevance, suicide, and murder.

Irrelevance means that natural forces have undermined unions – they are no longer necessary or are not adapted to the current structure of production. For example, some Conservatives believe that unions are weaker because wage and other problems of workers have been solved by a century of economic progress. Or it may be that changes in the economy, such as globalization, which have shriveled manufacturing and other labor strongholds, have made unionization impossible for a wide swath of workers.

A second explanation is suicide – unions are to blame for their plight. There is corruption; excessive compromise with corporations; looking out only for members’ interests rather than those of all workers; and failure to organize new groups of workers as industrial structure changed.

Finally, there is murder – government and business have combined to destroy unions using anti-labor laws and the courts. This case includes Taft-Hartley, which restricted union rights and drove out labor activists, and a corporate attack, supported by government, on both existing union power and union organizing.

Their devastating problems demand new strategies, so I’ll end with what might help union renewal, and what is being done.
IRRELEVANCE

A conservative explanation of union decline is that workers are so comfortable that unions are no longer necessary. One such commentator said after the financial crisis [late 2007] and its high unemployment:

Someone tell me how unions matter now? They made sense when there were few/no worker protection laws but with today’s laws why do we need them? … If employers screw employees they will walk off the job, word will get out and the company will likely have to hire new workers to keep the job – one caused by willful violation of an OSHA requirement. Doesn’t that seem plausible?

This writer assumes that anyone can always find another job, ignoring the chilling effect of chronic unemployment. The director of the corporate-backed Center for Union Facts had a slightly different response, this in 2010. “Labor union membership is an outdated concept for most working Americans,” he said. “It’s a relic of Depression-era labor-management relations.”

These explanations are without credibility, given the economic status of the working class since the counterattack against union power. As a labor supporter describes class relations, “As long as capital sees labor as it must as a cost to be cut, there will be a need for working-class institutions of resistance.”

Our earlier look at the condition of labor shows that this is so. It’s not only slowdown of the median income. The real value of the minimum wage was very low, pennies, or even cents. And it’s not only income. Take accidents. Though rates have diminished, 2010 Congressional testimony by an Occupational Safety and Health [OSHA] official reports that every year “over 4.6 million workers are injured or killed at work.”

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However, table 1.1, which compares changes in employment to changes in unionization shows that structural change isn’t enough to account for union decline. Of course, changes in both employment and union change, jobs expanded but the percent unionized declined in construction, durable goods, wholesale trade, and FIRE – finance, insurance, and real estate; jobs declined but unionization declined even more in agriculture: jobs down 25%, unions, 53%; mining down 42%, unions, 56%; nondurable goods down 46%, unions, 57%; retail trade, down far less than 1%, unions, down 36%.”

The structural impact of global outsourcing farades the murder of a union activist: globalization was a joint government-corporate project [p.4]. To test this source of union decline, let’s see what happened elsewhere. Unions in market-oriented economies like ours or Britain have declined more than those in Western Europe. Even Canada, which faced similar economic and social change, hasn’t had the same precipitous decline, though their trajectory followed ours until the mid-1960’s. Their laws are far more favorable to unions.

However negative mainstream opinion is on unions, the public and workers differ. Though diminishing, a majority of the public continues to approve of unions, and prefers them to have at least as much influence. Oddly, negative opinion of unions declined after the financial crisis. [The light green line in both graphs.] A survey by a Harvard labor economist showed that if workers had had a choice, the “unionization rate would have been around 58%” in 2005, instead of the actual rate of 12.5%.

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Was it suicide? Have unions weakened their own cause? Historically, labor leaders have from time to time undermined labor’s position. A notable example is the fight for an eight-hour day, which became a rallying point in 1886 after decades of agitation for a shorter workday. The AFL-CIO in 2005, instead of the actual rate of 12.5%.

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The same argument applies to the AFL-CIO’s canvassing for and donations to Democrats: Between 2000 and 2012, unions donated nearly $650 million to the Democratic Party, which is growing in two states that outlaw collective bargaining: North Carolina and South Carolina. In Wisconsin, though supporting the right of public workers to join unions, the Wisconsin state government cut union salaries by 28% and typically does not endorse progressive candidates. In 2010, North Carolina, the outgoing president, and his father in law, Vicki, lost union support for his, the latter empowers corporations.

In contrast, American Federation of State, County and Municipal Employees [AFSCME], whose outgoing president, Jerry McAuliffe was paid $387,000, lost union members in those same states.

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eventually elected many from the Tea Party to Congress. Even worse, unions have transferred organizers and ... labor invoked this amendment when employers 
or the government interfered with the rights to organize and strike. The Taft-Hartley Act [1947] was the culmination of a conservative 
counterattack against this labor upsurge and made possible by the election of Representative Democrats in both the House and Senate in 1946. The Act amended the Wagner Act, and placed strict limits on union organizing, the limitation to bargaining by a majority of employees ..., on unions’ mutual aid tactics. 47 Republicans were joined by Southern Democrats, whose anti-labor stance reflected expanding union membership in the South and its threat to the prevailing racial order. The Act was in part a response to the labor movement’s major drive in the South, Operation Dixie, which began in early 1946. The drive was expected to build on union growth there during WWII, which had been favored by low 
unemployment. But the drive failed. “... the [Operation Dixie] campaign is more a study in the techniques of union-busting than union-building.” Workers faced every possible source of opposition, from company intimidation, spies, wiretapping, and lossing their jobs; organizers and “troublemakers” were often threatened, beaten, imprisoned and some lynched. Interracial activities were branded as Communist. Even George Meany, head of the AFL, along with employers and Southern politicians, attacked Operation Dixie as subversive. 48 There were problems of union leadership as well. The failure is a subject still debated. 49 How different our politics would be had the CIO’s organizing 
strategy been so directed. “Right-to-work” is an obvious misnomer. It offers workers no actual right to work – only the right to get union benefits without paying union dues. Unions must even handle their grievances. 50 Evidence of their effect is immediately at hand. Unionization in Indiana, which enacted right-to-work in March 2012, dropped from 11% to 9% in just one year. 51 Controlling for relevant variables, RTW costs the average full-time worker about $1,500 annually. 52 Labor once assumed that the success of the 
Civil Rights movement in the South would permit its own success in organizing there. Instead, the South’s opposition to unions 
spread North. 53 “Right-to-work” threatens to become the law of the land.

Taft-Hartley represents a retrogression of labor rights. “Imagine 
the gun rights movement without the Second Amendment.” This is labor without the Thirteenth Amendment, which prohibits involuntary servitude, argue some labor activists. 54 From 1909 until Taft-Hartley, labor invoked this amendment when employers 
or the government interfered with the rights to organize and strike.
“What is necessary is

unlike the U.S.; there is no Canadian version of “right-to-work”

Compare Canada. Several provinces 

handlers, did not support PATCO.

their increase. Reagan’s breaking the PATCO strike had enormous

impact. Though it was a public union, by breaking PATCO, the

their only jobs for American workers mattered.

remedy and, in fact, worked against the only policy that might have

workers with new technology. Business unionists never found a

first to non-union, right-to-work areas such as the South; ultimately

Industrial leaders moved in several directions to weaken or destroy

Taft-Hartley’s effect on unions.

They have showed employers “that they

incredible asymmetry tilts the field in management’s favor.”

assets will be seized and their leaders thrown in jail. ... this

in contrast, if workers violate the law with a

profitable. In contrast, if workers violate the law with a

US policy favors management. If a company illegally fires a worker

example, employers illegally discharged workers in over a third of

Taft-Hartley, unions couldn’t retaliate like this, or they would end

weak legal protection for organizers, firms risk the occasional loss

industrial leaders moved in several directions to weaken or destroy

power to retaliate, employers followed the law.

“in the 1930s and 1940s, they tried [to break the law], and they got

roots in the streets: mass picketing, secondary strikes, etc. But after

Taft-Hartley, unions couldn’t retaliate like this, or they would end up

with penalty fines and jail sentences.” With labor’s decline, employers have become far more aggressive in fighting unions, both by legal and illegal means. “Between 1999 and 2003, for example, employers illegally discharged workers over a third of organizing drives under the auspices of the NLRA.”

US policy favors management. If a company illegally fires a worker for union organizing, a complaint to the NLRB may take years to settle. Even when worker complaints are successful, awards are paltry. So “breaking the law and getting rid of agitators” can be very profitable. In contrast, if workers violate the law with a wildcat strike, a company usually can get an immediate injunction, thanks to Taft-Hartley. “If the workers continue their strike, their assets will be seized and their leaders thrown into jail,” this incredible asymmetry tilts the field in management’s favor.”

words, they should have to volunteer to pay instead of requesting “not to pay.” Imagine if corporations were required to get the consent of stockholders to spend on political campaigns.

It is clear that whatever strategies labor chooses one must assume they are playing a game against not only the government, either political party, and frequently with major opposition from all of the above. The attack on both public and private sector unions shows that their survival strategies shaped to this hardier reality.

The Canadian unionist, Sam Gindin, among others, believes that the crisis of labor reflects a crisis on the Left. Labor’s past strength was nourished by the Left’s energy and analysis. If so, labor’s renewal awaits recovery of a Left that challenges the way society runs rather than just current wage and benefit levels. For example, a Left labor movement would be organizing unemployed former union members, though they pay no dues, and helping them understand the crisis. Traditional labor practices are at a dead end.

Recruiting a majority of workers in the private sector to win an election is moribund. Union elections fell from about 6,000 in 1980 to fewer than 1,200 in 2011, a decline of about 80 percent.”

Employers are unafraid of breaking the law, and workers are afraid of losing their jobs.”

OTHER STRATEGIES ARE NEEDED: “What is necessary is not reform but revolution,” according to Bill Fletcher, a long-time union activist. “The way back to winning big majorities of Americans to unionize workers needs to be based on a vision of freedom and sustainability.”

He and Jan McAlevey urge unions to “stop acting like a special interest and start behaving like a social movement.”

This means learning to act politically, to represent the entire working class and not just those with membership cards.

Unions should invest in mass education, and instead of separating workplace and non-workplace issues, shift to “a fight for dignity and economic justice that can deeply appeal to a much wider audience. The way back to winning big majorities of Americans to the cause of labor is for labor to take up the causes of the majority,” such as rights at work. Richard Freeman, previously mentioned, has similar advice, and suggests that labor act more like the AARP, becoming a lobbying group for all workers. Others believe that labor must break with the Democrats, then create a labor party to fight for labor issues obviously a long-term project.

Let’s explore a few labor initiatives. One effort is Working America, the community affiliate of the AFL-CIO begun in 2003 to reach non-union people. This group has worked on issues only loosely connected to the labor movement: they “helped stop a plan in Ohio to shorten the school year by up to five weeks – a plan pushed by the amusement park lobby.”

Working America has recruited nearly a million members, and has organized in around 25 states, talking with people about labor issues. Its action in Ohio helped to overturn that state’s attack on collective bargaining.

A promising effort emerged during the recent election: unions joined forces with the working people in a Walmart and retail giant labor coalition called Wisconsin Jobs Now, which has worked to raise the minimum wage and stop cuts in Medicaid. Some segments of Occupy have joined forces with unions, for example, the West Coast Port Shutdown of Dec 2011.

There is then Change to Win, whose goal is to organize 50 million workers in industries that can’t be outsourced. Affiliated with the AFL-CIO, SEIU, and the United Food and Commercial Workers, now [8/13] rejoined to the AFL-CIO, they waged an exciting campaign, called OUR Walmart. Walmart is a good choice of focus. Critical, wages are low, benefits poor, and working conditions at some stores abominable.

A worker earning the company-reported average full-time hourly wage working Walmart’s definition of full-time would be earning below poverty. And many will never receive benefits for public assistance, so the company is a burden on taxpayers. Ironically, Walmart itself suffers from the low-wage world it helped to create: low-wages constrict consumer spending. “Where are all the customers? And where’s their money?” asked one of their executives.

Our Walmart is a grassroots group of hourly employees dedicated to improving their conditions, but not a union. Its requests included “dependable, predictable work schedules” and “wages and benefits that ensure that no Associate has to rely on government assistance.”

Walmart squealed it, with the aid of the NLRB. Citing the Taft- Hartley Act, which prohibits picketing for longer than 30-days when pursuing a union, Walmart asked the NLRB to intervene on its behalf. The NLRB has held off charges against Walmart for about a month.

Postponing charges ensures that the union complies with its promise not to try to unionize Walmart workers. Otherwise it will be charged with illegal picketing. Would that the NLRB helped workers with as much dispatch as it helps their employers.

A good example of social movement unionism, one shaped by intense worker activism, is the United Food and Commercial Workers Union victory in a 16-year campaign to organize Smithfield Foods’ massive hog plant in Tar Heel, N.C. in late 2008. Their success resulted from the tenacity and unity of the largely African-American and Latino workforce. A Justice for Smithfield campaign, launched a few years before, mobilized community, religious and consumer support. Smithfield saw it as dangerous enough to file a lawsuit against the union for racketeering, “claiming the solidarity campaign had cost them $900 million.”

The Chicago Teachers’ strike is perhaps the most stunning labor action in recent years, marking a decisive break with labor’s approach of not challenging the Democratic Party’s neoliberal agenda. The union identified so-called “education reform” as policies that would accelerate educational inequalities, strip union power, reduce standards of living, and weaken public education.

The union put forth its own vision of reform, joining the interests...
Social justice unionism is a potentially winning strategy for the labor movement – one that identifies with the aspirations of the people unions serve, and begins to repair our frayed and unappreciated social bonds. Margaret Thatcher’s dictum was “Economics are the object, the means is to change the heart and soul.”118 Labor supporters agree with the strategy. But unlike Thatcher, for whom “society” didn’t exist, we want a society in which social arrangements encourage our looking out for each other, as does a good union.

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NOTES:

1. This article was first presented at Quest, A CCNY/CWE Committee for Lifelong Learning, April 2013 and slightly revised September 2013. It could not have been written without the dedicated work of labor historians, economists, lawyers, and union activists whose studies I’ve used and referenced in these notes. I am grateful to Ann Robertson and Bill Leumer for their critical reading and suggestions.


15. See http://www.nyjca.org/union/cookie.htm for an amusing graphic from Occupy Sesame Street.


20. In 2001 a tank full of sulfuric acid exploded at an oil refinery in Delaware, killing Jeff Davis, a worker at the refinery. His body literally dissolved in the acid. The OSHA penalty was only $175,000. Yet, in the same incident, thousands of dead fish and crabs were discovered, allowing an EPA Clean Water Act violation amounting to $10 million. OSHA, ibid.

21. Ibid. accord by testimony by a plan manager in a successful lawsuit in Mississippi brought by four cotton workers who suffered burns in northern Miss from the gin.


34. See http://www.bls.gov/OPA/2013/04/af1-coal-own-oil-disaster/


37. Ibid, 14. The problem reflects a protective system based on coverage for causing organizing efforts or attacks and for agreeing to lobbying by the operators’ political agenda, which included defeating a bill of rights for nursing home residents, and for agreeing to lobby on behalf of the resort’s agenda.

38. See http://www.counterpunch.org/2012/08/31/how-union-coulds-should-much-better/ forstering and encouraging communities to support labor unions and workers.


40. See http://www��/gallup.com/poll/149297/Approval-Labor-Unions-Have-Gotten-Slides-lately.aspx


43. I find it interesting that members had voted down. Fitch’s advice: reform the labor movement. AFL-CIO is still an umbrella org and can’t call a halt to repeal the AFL-CIO’s endorsement. More precisely, labor split on whether to endorse. Unh. George, one of the AFL-CIO president who not only supported the Vietnam War but reviled the peaceniks and all the new-politics-crowd (women, non-machine blacks, college students) who rallied to McGovern’s cause, never even considered the idea of endorsing McGovern. But nine major unions, including the UAW, the Communications Workers, and AFSCME, did support him. “http://prospect.org/article/four-notes-george-mcgeovers-getting-ready-ending-the-war; a garden of easy, income, and women’s reproductive choice. http://www.counterpunch.org/2009/02/01/return-of-the-democrats/


45. Ibid


52. “AFL-CIO’s Own Oil Disaster,” Ann Robertson & Bill Leumer, http://www.counterpunch.org/2013/03/04/af1-coal-own-oil-disaster/


54. See http://www.counterpunch.org/2012/08/31/how-union-coulds-should-much-better/ Fitch


59. Richard Meyerson

60. “According to testimony by a plant manager in a successful lawsuit in Mississippi brought by four cushion workers who suffered burns in northern Miss from the gin.”

61. “According to testimony by a plant manager in a successful lawsuit in Mississippi brought by four cushion workers who suffered burns in northern Miss from the gin.”

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65. “According to testimony by a plant manager in a successful lawsuit in Mississippi brought by four cushion workers who suffered burns in northern Miss from the gin.”
In 1938, op. cit. Jacobin.

Richard Holbrooke and Moshe Marvatz, Why Labor Organizing Should be a Civil Right. 3.


Pope et al. (2012), p. 98.


Kim Scipes, from a post to the mailing list of epigonine: “the first year after the war, September 1945-September 1946, over 116 million production days were lost during strikes. This included the national strikes in steel, auto, electrical parts, and meatpacking in early 1946... The strikes were more than just ‘economic strikes,’ they were political. And they laid the basis for the emergence of the great American ‘middle class’... labor and induced concessions... raised wages, improved working conditions, expanded benefits, etc... allowed production workers to enter the ‘middle class’... And it was this that caused the decreasing economic inequality between 1948-68. See also http://www.zcommunications.org/neoliberal-economic-policies-in-the-united-states-by-kim-scipes-1.html

Scipes, ibid.


Dixon, ibid. 314.


Ibid. and Michael Goldfield, “The Failure of Operation Dixie: A Critical Turning Point in American Political Development?”, in Race, Class and Community in Southern Labor History, ed. Gary M. Fink and Meryl E. Reed, 1994, 166-89. This is an important subject, too difficult to summarize here, as the failure “marginalized the labor movement in national politics” [p.167] and its success might have advanced the Civil Rights movement by several years [168] in Goldfield.


In 1965: http://www.peopletalk.org/after-64-years-still-paying-the-price-for-fail-hardley/

Scipes, op. cit.


Scipes, op. cit.

Schrecker, WorkingUSA op. cit., quotes Robert Ziegler, 94.


http://www.counterpunch.org/2012/12/13/losing-michigan/ These outlawed both the union shop, which required employees to be union members, and the agency shop, requiring non-union employees to pay union fees. They can’t run for union office or vote in union elections, but not many workers for most people

Greenhouse, NYTimes, op. cit, 1/24/13.

http://www.epi.org/publication/bp299/

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Dixon, ibid. 314.


Ibid. and Michael Goldfield, “The Failure of Operation Dixie: A Critical Turning Point in American Political Development?”, in Race, Class and Community in Southern Labor History, ed. Gary M. Fink and Meryl E. Reed, 1994, 166-89. This is an important subject, too difficult to summarize here, as the failure “marginalized the labor movement in national politics” [p.167] and its success might have advanced the Civil Rights movement by several years [168] in Goldfield.


In 1965: http://www.peopletalk.org/after-64-years-still-paying-the-price-for-fail-hardley/

Scipes, op. cit.


Scipes, op. cit.

Schrecker, WorkingUSA op. cit., quotes Robert Ziegler, 94.


http://www.counterpunch.org/2012/12/13/losing-michigan/ These outlawed both the union shop, which required employees to be union members, and the agency shop, requiring non-union employees to pay union fees. They can’t run for union office or vote in union elections, but not many workers for most people

Greenhouse, NYTimes, op. cit, 1/24/13.