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# How the American Labor Movement Can Counter "Right to Work" Campaigns against Unions

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Union membership in the United States is declining and income inequality is rising – and most researchers see a connection. Growing income gaps over the past three decades may well be partly explained by the loss of bargaining power that organized labor exercised from the end of World War II until the election of President Ronald Reagan in 1980. Because unions have less leverage, wages stagnate even as economic productivity goes up. But why are American workers no longer able to organize into labor unions and strike to force employers to share the benefits of economic activity? Answering that question requires attention to political outlooks and efforts in the U.S. states as well as at the national level.

## Cultures Supportive or Hostile to Organized Labor

Many analysts argue that employer use of unfair tactics is the most important cause of union decline. In this version of events, when aggressive, unlawful tactics are deployed against workers trying to form a union, organizing efforts dissipate and the sponsoring unions give up. But the thesis falters when developments are analyzed at the state level. Across the various U.S. states, there is no statistical correlation between the percentage of workers who are unionized and the proportion of organizing efforts that have charges of unfair labor practices.

Still, it is true that some states have much higher levels of union membership than others. In 2013, for example, North Carolina had only 3.3% of wage and salary earners unionized, while almost a quarter of New York workers were enrolled in unions. Not surprisingly, the dead zones for unionization are heavily in states that once belonged to the Confederacy. Southern states have lower per capita incomes, lower levels of trust among people, and fewer opportunities for human development – and they also signal clear hostility to unions through “right to work” laws that prohibit unions from collecting dues to sustain their operations. Southern states have a distinctive, hostile cultural stance toward unions that fits an orientation called “hierarchical individualism.”

Behavioral economists, psychologists, and legal policy experts have developed a convincing body of scholarship dealing with what they call “cultural cognition.” This research claims that citizens react to policy issues according to their orientation as “hierarchical individualists” or “collectivist egalitarians.” Such orientations have been shown to influence whether people will support or oppose policies favoring same-sex marriage, abortion rights, gun control, climate change remediation, and many other contentious policies. Compared to people typed as collective egalitarians, hierarchical individualists tend to believe that personal merit and reward are the touchstone of labor markets; and they believe that owners of firms have a right to use their property to maximize profits, offering wages and benefits as they see fit.

Rationality has little to do with how people of these contrasting orientations evaluate policy disputes. In fact, the more knowledgeable a person is about an issue, the more he or she will cling to a comfortable cultural stance toward it – and experience dissonance if the issue does not fit cultural proclivities. One study showed that hierarchical individualists who were skilled in manipulating quantitative data performed well on a problem that involved skin rash, but performed less on average than collective egalitarian respondents when the same problem involved gun regulation. In other words, culture counts in political debates, and it counts more than information or straightforward skills.

## National and State Labor Law

“Right to work” is usually attributed to William Ruggles, a Texas journalist who used the term in 1941 to refer to state laws that prohibit requiring all workers covered by a collective bargaining agreement to pay dues to the union that bargains on their behalf. The concept has deep historical roots, invoked in the first U.S. labor case, *Commonwealth v. Pullis*, decided in Philadelphia in 1806 by Judge Moses Levy. He declared that a society of shoemakers had acted illegally when it demanded that the master fire a non-compliant journeyman who

refused to join the society.

This judicial doctrine lived on and presented dilemmas for Senator Robert Wagner as he drafted the National Labor Relations Act of 1935. Wagner's legislation allowed unions to create closed shops, whereby the bargaining agent could require any prospective employee to join the union as a condition of employment. But in order to avoid issues with the Supreme Court, Wagner also specified that closed shops were created under the authority of state governments.

Things did not work out as Wagner expected. In the 1947 Taft-Hartley amendments modifying the National Labor Relations Act, conservatives in Congress used Wagner's references to state law to justify Section 14(b), which gives jurisdiction to states to prohibit all forms of union security. Since then, the spread of right to work laws from Florida in 1943 to Indiana and Michigan in 2012 has hobbled unions. Studies show that these laws restrict union membership.

## Can Labor and Its Allies Turn to State Politics?

American unions and their political allies repeatedly tried but failed to get Congress to repeal Section 14(b). A key 1964 effort was stopped by a Senate filibuster, and national political tides are now running so strongly against organized labor that unions and their allies would be better advised to look to potentially receptive states, where they could perhaps counter the ongoing attacks of anti-union groups such as the American Legislative Exchange Council. That organization and its wealthy sponsors have recently become very aggressive in trying to get more and more states, including northern former union bastions like Wisconsin and Michigan, to destroy worker organization by enacting right to work laws.

Labor and its allies could potentially respond with narrowly targeted state-level measures to get around 14(b) and with bills meant to protect workers against unjust discharge. Organized labor has little to lose by shifting its focus from national to state policymaking – and, in fact, right now the best way to combat anti-union politics is to fight where union rights are under the fiercest attack – in state legislatures. In many states outside the South, citizens still have the cultural proclivity to understand why union rights are vital.

**Read more in Raymond Hogler, *The End of American Labor Unions: The Right to Work Movement and the Erosion of Collective Bargaining* (Praeger, 2015).**