

7 The Double Game of Unions and the Labor Movement

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After a long period of neglect, sociological interest in the labor movement has burgeoned in recent decades, despite the relentless decline of trade union density in nearly all the world's nations. The ubiquitous growth of class inequalities since the 1970s and the accompanying expansion of what has come to be called "the precariat" (Standing, 2011), along with a wave of innovative organizing efforts and the emergence of progressive union leadership in many countries in the 1980s and 1990s, helped to stimulate this unexpected renewal of labor movement sociology. "Not since the 1930s, when the 'labor problem' was omnipresent, has unionism commanded as much attention by sociologists," an essay in the 1992 *Annual Review of Sociology* declared soon after this new literature began to develop (Kimeldorf and Stepan-Norris, 1992).

Indeed, by the early 21st century sociology had become the primary disciplinary home for scholarship on unions and the labor movement, especially in the United States. This occurred partly by default, as economists, who formerly had dominated the study of "industrial relations," all but abandoned the subject as the subfield of institutional economics faded away and as union density declined to what many economists viewed as trivial levels. Some heterodox political scientists are engaged in research on labor movements, as are a few geographers and anthropologists, but in all these fields the number of labor scholars is modest relative to that in sociology. Labor historians continue to make significant contributions, but even their numbers have dwindled since the 1970s and 1980s, when figures like E. P. Thompson and David Montgomery inspired a new generation to enter the field. In the 1980s, sociologists also engaged with the "new labor history" that this generation produced (for US examples, see Kimeldorf and Stepan-Norris, 1992); soon after, however, the focus of sociological research on labor shifted to contemporary studies of "organizing the unorganized" and union revitalization (Clawson and Clawson, 1999).

One inspiration for the revival of interest among sociologists was the rise of "social movement unionism" in the 1980s in several countries in the global South, in particular in Brazil, South Africa (Seidman, 1994) and South Korea (Koo, 2001). A decade later many commentators applied the same label to

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the grassroots union organizing that unexpectedly emerged among recent immigrants and other low-wage workers in the United States. Despite the widespread use of the term “social movement unionism” in these varied settings, however, the 1990s scholarship on this phenomenon developed almost entirely independently of the vast and growing literature on social movements. Indeed, the late-20th-century sociological literature on the labor movement generally disregarded – and was disregarded by – what Jasper (2010) calls the “McTeam” group of social movement scholars who elaborated the “political process” paradigm that was hegemonic at the time. Some labor sociologists did situate their work explicitly in relation to earlier social movements literature, especially resource mobilization theory (see Conell and Voss, 1990; Ganz, 2000; Martin, 2008), and a few were overtly critical of the political process model (Lopez, 2004; 2008), but most simply ignored it. The lack of attention was mutual: the voluminous “McTeam” literature seldom mentions union organizing or workers’ movements, despite the capacious, open-ended conception of social movements embodied in the political process paradigm.

This disconnect did not always exist. As recently as the 1970s, trade unions and labor movements were a central preoccupation among sociologists of social movements. Well-known examples from the canon include Charles Tilly’s detailed analysis of strikes in his *From Mobilization to Revolution* (1978), and Piven and Cloward’s analysis of the labor upsurge of the 1930s in their influential *Poor People’s Movements* (1977), among many others. Scholars like Michael Mann (1973), if less directly identified with the social movements subfield, also made influential sociological contributions to theorizing about labor in this period. Others, notably Offe and Wiesenthal (1980), developed a probing sociological analysis of trade unions based on a critical revision of Olson’s *Logic of Collective Action* (1965).

Social movements theorists’ attention to labor seemed to evaporate in the 1980s. To some extent this reflected the new attention during that decade to “new social movements” led by Alberto Melucci (1988) and Alain Touraine (1981). Their interventions generated a wave of new research on the environmentalist, feminist, and various other identity-based movements, which were far more vibrant than organized labor at the time. Even earlier, many sociologists had joined André Gorz (1982) in bidding “Farewell to the Working Class” as an agent of social change. By the early 1980s, unionism’s strength and influence already had declined greatly from its post-World War II peak in many countries, and what remained of organized labor often resembled an encrusted bureaucracy rather than an active “movement.” The collapse of communism across Eastern and Central Europe at the end

of the decade further reinforced the perception that trade unions, along with the class conflicts in which they had once played a leading role, were relics of a bygone era.

That soon changed in the United States, however, where the 1990s brought progressive new leadership to the AFL-CIO and a resurgence of union organizing activity – a key stimulus for the revived interest in the US labor movement among sociologists that began during that decade. But this new literature emerged entirely outside the social movement subfield, as political-process scholars did not respond to the changes in US unions and the nation's wider labor movement, and paid little heed to the burgeoning of scholarship those developments inspired.

One reason for this neglect may be that, as Walder (2009) has recently argued, the scope of inquiry in the social movements literature had narrowed dramatically by this period, moving away from its original concern with the macro-sociological dynamics giving rise to movements and shaping their political orientation. In addition, as Jasper (2004) points out, the subfield's attention shifted to the micro-foundations of collective action. Even as the social movements literature continued to proliferate in the 1980s and 1990s, it tended to concentrate on a single, if ambitious, goal, "to explain the conditions under which a movement – of any type – can grow and succeed."

Perhaps the tendency of the "McTeam" group to presume that all social movements are alike in their basic dynamics is one reason that labor movements – which, as detailed below, are distinctive in many respects – so rarely appear in the political process literature; another may be that in recent years labor movement "growth and success" have been rare. And crucially, as Walder suggests, social movement scholars of this period exhibited a conspicuous "lack of curiosity about the social structural roots of protest" (Walder, 2009: 398, 407). As a result, the vast changes in the organization of work unleashed by the neoliberal turn of the 1970s, which later helped to transform many unions and labor movements, were not on the radar screen.

Several other features of the political process paradigm also deflected attention from labor. As its main proponents have themselves acknowledged (see McAdam, Tarrow, and Tilly, 2001: 42), it emphasized opportunities more than threats, yet in the late 1970s and 1980s labor movements faced a frontal assault from employers in many countries and their opportunities for expansion were few and far between. That the political process literature also focused "inordinately on the *origins* of contention rather than on its later phases," as its proponents have acknowledged (McAdam, Tarrow, and Tilly, 2001: 42) also may have helped push labor movements to the periphery of the field. Even the burst of new union organizing in the United States

associated with John Sweeney's election to the presidency of the AFL-CIO in 1995 involved union "revitalization" rather than the emergence of anything resembling a new movement, as Voss and Sherman (2000) have shown.

Another "defect" that McAdam, Tarrow, and Tilly identify in their self-criticism of the political process paradigm, namely that "it works best when centered on individual social movements and less well for broader episodes of contention," is also relevant here, since as Dan Clawson (2003) has emphasized, labor movements tend to grow not incrementally but through large bursts of activity like the one in the 1930s in the United States. Finally, the internal dynamics of labor movements bear little resemblance to the US civil rights movement that was the main exemplar for political process theory. Nor do trade unions have much in common with the "new social movements" – defined precisely by their distinctiveness from the "old" social movements (unions and working-class political parties).

Perhaps the political process paradigm is a better fit for analysis of the community-based low-wage worker organizations known as "worker centers" that took shape in the United States (Fine, 2006) during the 1990s, although these resemble NGOs more than "movements" (see Milkman, 2010). Worker centers have also contributed to the rise of the US immigrant rights movement in recent years, a movement that, as I have argued elsewhere (Milkman, 2011), can be understood as a type of labor movement, and one that happens to share several features with the civil rights movement. Indeed, the best analyses of this movement do make use of the social movements literature (Bloemraad, Voss, and Lee, 2011). But this may be the exception that proves the rule; in general, concern with unions and labor movements is conspicuously absent from recent social movements literature.

Against this background, it is useful to explore the ways in which unions and labor movements might be analyzed in terms of the "players and arenas" perspective that motivates this volume. Due to space constraints as well as the limits of my own expertise, I attempt this only for the US case, but it could also prove a fruitful approach for labor movements in other national contexts. Because of the way it privileges strategies and tactics, as well as individual and collective choices, and because it is so resolutely anti-determinist, the "players and arenas" framework seems especially well suited to the analysis of unions and labor movements. Indeed most sociological studies of recent labor struggles already include detailed attention to strategies and tactics (see Bronfenbrenner, 1997; Ganz, 2000; Lopez, 2004; among many others).

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Labor Is Not Just Another Player

Trade unions and labor movements are different from many of the other players considered in this volume. Unlike corporations, the media, or professionals, they regularly engage in protest activity themselves, either on their own or as part of larger coalitions. Indeed, the most common form of labor protest, the strike, typically involves not only a work stoppage intended to disrupt operations at the target employer(s) but also direct appeals to members of the larger community for support. In addition to strikes, unions and other worker organizations often launch consumer boycotts to protest employer abuses, again appealing to the wider community. In recent decades, as strikes have become increasingly ineffective (for reasons discussed below), US unions and other workers' organizations have increasingly turned to "corporate campaigns," which pressure employers through appeals to third parties or by actions that threaten to tarnish the public image of the corporate target (Manheim, 2000).

A classic article by Offe and Wieselth (1980) remains among the most valuable analyses of the radically different structural positions of workers and employers and their collective associations. As they point out, employers are the primary "organizers" of workers, in so far as they select individuals through the hiring process; unions are thus subordinated from the outset as *secondary* organizers (Offe and Wieselth, 1980: 72). In addition, both because they are fewer in number and because their collective interests are narrower, employers are far less easily divided internally than are workers.

For the same reasons, whereas labor organizations must continually struggle to build and maintain solidarity and collective identity among their members, for employers building unity is a much simpler task. Of course, employers also have far greater resources at their disposal when they do engage in collective action than unions do (78). And because governments depend so directly on the capital accumulation process for their own survival, employers' political power is far greater, and far more easily hidden from public view, than that of organized labor. Indeed, the relatively weak position of unions and other workers' associations often forces them into the vulnerable position of making public "demands," a position that corporations are never compelled to assume (85-87).

Offe and Wieselth's critique of liberal political theory, emphasizing the asymmetry between unions' and employer associations' collective action repertoires, offers an important caveat that is vital for the "players and arenas" perspective as well. Players vary in the nature and extent of their

power and influence, and unions are at the weak end of the spectrum (even if they seem strong compared to other protest groups).

A related and equally crucial difference between unions and the other “players” analyzed in this volume, at least in the United States, is that organized labor’s legitimacy has long been contested. That is true to a degree of some of the other players analyzed in this volume – for example, the legal profession is famously held in low public regard, and in some sectors of the population, the same is true of corporations, especially the largest and most powerful ones. But the illegitimacy of labor organizations goes much deeper, rooted in the long tradition of anti-communism in the United States and the nation’s pervasive cultural discomfort with the language of class. Even in the 1940s and 1950s, when US labor unions were at the height of their power, they were often tagged as “unAmerican,” their systematic purge of communists in the postwar period notwithstanding.

In recent years, what limited legitimacy unions enjoyed in the past has been further eroded as external attacks on them have escalated. Those attacks rarely come from conventional “protesters”; instead they are orchestrated by employers and corporate-funded right-wing political organizations. In the 21st century, despite the precipitous decline in organized labor’s membership, power, and influence since the 1970s, unions are regularly pilloried as “Big Labor,” a pejorative term that encapsulates their illegitimate status in society.

Despite all this, and even in its weakened state, the US labor movement *is* in some respects a player within “the Establishment.” Unions still have substantial human and financial resources that enable them to influence politics and public policy. As is often pointed out, organized labor is the single largest organized entity that speaks for and works in the interests of nonelites in the United States. It does so in four distinct arenas, each of which is governed by highly institutionalized rules:

- a) *Collective bargaining.* Labor unions see their primary role as representing workers in collective bargaining with employers, in order to improve compensation (both wages and benefits), working conditions, employment security, and so forth. Other types of (nonunion) workers’ associations, while rarely able to engage in formal collective bargaining, are also sometimes able to build up enough leverage to extract concessions from employers.
- b) *Organizing the unorganized.* Unions, and in recent years other labor movement organizations like worker centers, organize workers who do not yet have collective bargaining relationships with employers, with the goal of either establishing such relationships or finding other means through which to obtain concessions from employers on behalf of workers.

- c) *Electoral politics.* Organized labor's role in US electoral politics remains substantial and well-known. Unions and labor federations provide large campaign donations to Democratic candidates, and also fund and staff get-out-the-vote efforts on behalf of those candidates. They do so in hopes that those elected with their help will support labor's policy and legislative agenda, although as many commentators (e.g., Davis 1980) have pointed out, those hopes are regularly disappointed. For example, labor's efforts to win passage of labor law reform have failed consistently over the last half-century.
- d) *Legislative lobbying.* The failure of labor law reform notwithstanding, the US labor movement is a significant player in the legislative arena, both at the national level and in states with high union density. In this capacity, organized labor represents not only the interests of union members but also those of the larger working population. Over the past eight decades labor has successfully lobbied for minimum wage and living wage laws, regulation of overtime and working hours, occupational health and safety regulations, unemployment insurance and workers' compensation, pension insurance and family and medical leave legislation. In recent years labor has also lobbied for comprehensive immigration reform and opposed trade liberalization, although in these areas its efforts have been far less successful. Still, as Taylor Dark (2001) has argued, labor's influence in the legislative arena remains far greater than its dwindling membership would lead one to expect.

In all four of these arenas, the US labor movement participates in what is colloquially known as the "outside" game of mobilizing protests as well as – indeed sometimes simultaneously – exerting its leverage "inside" the system. Again, this dual approach differentiates labor from other "players" considered in these pages.

Over time, the balance between these two sets of activities has shifted: In the 1935-1975 period, the inside game was predominant; since the 1970s, however, with the neoliberal turn and the relentless decline of union density and power that accompanied it, the balance has tipped more and more toward the "outside" game. Indeed, this is precisely what gave rise to the "social movement unionism" of the 1990s, which involved the proliferation of strategies and tactics that were rarely used in the 1935-1975 period, although many of them were reminiscent of labor's pre-New Deal repertoire (Milkman, 2006). Ironically, just as this shift was taking hold, social movements scholars abandoned the study of labor movements, as we have seen.

The New Deal and the Inside Game, 1935-1975

The recent wave of “social movement unionism” echoes many features of the era of US labor history that is most often associated with social movement activity among workers and their unions, namely the early 1930s. Although the scale of organizing in the 1990s was miniscule by that historic standard, on other dimensions the parallels between the two periods are striking. At the outset of the depression decade, as in the 1990s and 2000s, private-sector union density was in the single digits, amid extreme levels of income inequality. At the time few commentators thought that labor had any prospect of growth or revival. “I see no reason to believe that American trade unionism will so revolutionize itself within a short period of time as to become in the next decade a more potent social influence,” George Barnett (1933), then president of the American Economic Association, famously stated in a December 1932 address. “Trade unionism is likely to be a declining influence in determining conditions of labor.”

The massive labor organizing upsurge that emerged shortly after this grim prognostication had a broad social base and a transformative agenda and impact – a major social movement by any standard (like many other major movements, its emergence came as a rude surprise to social scientists). Millions of workers won new legal rights and economic benefits through unionization itself and from the New Deal policies that the resurgent labor movement helped to secure. Among the key outcomes was the “Great Compression” in income inequality (Goldin and Margo, 1992), which benefitted not only union members but the entire working class. So did legislation like the 1935 Social Security Act and the 1938 Fair Labor Standards Act. Especially important for organized labor was the 1935 National Labor Relations Act (NLRA), which for the first time guaranteed the right to union representation and collective bargaining to most US private-sector workers (albeit with significant exclusions such as domestic and agricultural workers as well as public-sector workers).

Over the next decade, the labor struggles that helped generate all these changes would be successfully channeled into state-sponsored institutional arrangements that rapidly rendered US trade unions far less “movement”-like. The 1947 Taft-Hartley amendments to the NLRA, along with the Cold War purges of communists and other radicals from union leadership positions, effectively preempted much potential worker militancy in the postwar era. This “postwar settlement” created a relatively stable system of industrial relations that would endure for the next three decades. During that period, the role of unions as “players” in the collective bargaining and

organizing arenas became highly routinized. The rules were defined by the NLRA (as amended by Taft-Hartley), a statute often referred to by labor and management alike in this period simply as “The Act,” precisely because it was so fundamental to their relationship. It formally regulated collective bargaining as well as the electoral process through which unions could recruit new members.

The law was peculiar by international standards in regard to its winner-take-all system that granted exclusive representation for workers in a given “bargaining unit” to a single union. But much like its counterparts in other advanced capitalist countries, the basic purpose of the system was to create “labor peace” and an orderly process of dispute resolution. Under the act, this took the form of legally binding multiyear contracts specifying wages, hours, working conditions, and fringe benefits, along with job security provisions, seniority systems and a variety of “work rules.” In contrast, the organization of the labor process, product choice and design, as well as marketing, were cordoned off as “managerial prerogatives” that were *not* mandatory subjects for collective bargaining. Contracts nearly always included elaborate grievance procedures as well; under some conditions labor-management conflicts could also be adjudicated by government agents, or as a last resort, the courts.

Inside this arena, which directly governed about a third of the private-sector workforce at the peak of union density in the mid-1950s, and persists in some sectors to the present day, the key players on the labor side were elected and appointed union officials, as well as rank-and-file workers, who typically had their own informal leaders (many of whom eventually became union officials). Those union players interacted frequently with management representatives (ranging from foremen and supervisors to top executives), and with the government functionaries who administered “the Act.” Other players included private arbitrators and attorneys.

Labor was not a monolith: national and local union officials often had different agendas, and rank-and-file leaders and workers were not always in accord with the union “bureaucrats” who served as their official representatives. As well, workers were divided by race, ethnicity and gender, which sometimes created internal conflicts within unions. Thus unions had the continual challenge of unifying and creating a collective identity among their own members (see Offe and Wiesenthal, 1980), along with developing strategies and tactics vis-à-vis employers.

On the whole, the NLRA system functioned effectively in this period. Building on the foundation laid by the highly regulated political economy of the World War II years, a tripartite system in which unions were key

players (Lichtenstein, 1987), the postwar settlement not only stabilized labor-management relations, much to the benefit of employers, but also “delivered the goods” for unionized workers in the form of improved wages and benefits (especially health insurance and pensions); seniority systems to ensure equity in the distribution of layoffs, job assignments, shift schedules, overtime, and the like; it established avenues to pursue grievances against management; and perhaps most important, job security. Parallel systems of labor regulation directly modeled on the NLRA were later established in the public sector in many US states, and in California’s vast agricultural industry as well.

The NLRA and the various laws modeled after it also defined the rules under which unions could organize new workers (the second “arena” listed above), through government-supervised “representation elections” in which workers voted for or against a particular union (or in some cases, in which they voted to choose among two or more unions competing to serve as their exclusive collective bargaining agent, or for the “no union” option). If a union won an election, it then entered into negotiations with the employer that typically led to a multiyear contract regulating the labor-management relationship in a given workplace or company. A standard feature of these agreements was a “no-strike” pledge, ensuring that for the duration of the contract work stoppages would not occur (although unofficial “wildcat strikes” could and did break out without union authorization). As the contract expiration date approached, negotiations for a new agreement would begin, and once that date arrived authorized strikes could be launched.

Many commentators (most recently Burns [2011]) have argued that the power to withdraw their labor – the strike – is the most important resource available to workers to advance their collective interests vis-à-vis employers, both in already-organized workplaces and in those where new organizing is underway. Indeed, it was mainly in strike settings – either end-of-contract strikes or those seeking initial union recognition – that the act’s effectiveness in stabilizing and regulating labor-management relations sometimes faltered. In an effort to address this problem, Taft-Hartley gave the government added legal means to intervene in strikes, mandating “cooling off” periods and binding arbitration under some circumstances.

Thus from the end of World War II through the 1970s, organized labor in the sector covered by the NLRA only appeared as a recognizable social movement, actively protesting against the status quo, when strikes broke out, often spilling over the boundaries of “normal” labor-management relations into the public arena. In these situations unions typically appealed for community support, both indirectly by seeking to advance their case

through the mass media, and directly by reaching out to the public through pickets and printed flyers. The struggles of workers in the 1960s and 1970s who were not covered by the NLRA, such as farmworkers and public-sector workers, more often took the form of social movements – indeed in the latter case, there was a direct intersection with the civil rights movement, since African-Americans were so often employed in the public sector. Over time these led to NLRA-like regulation of labor-management relations in those sectors as well.

In addition, as a key partner in the Democratic coalition that emerged in the New Deal era and then governed for much of this period, labor mastered the “inside game” in electoral politics and legislative lobbying in this period as well (Dark, 2001). It offered financial support to 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 benefitting the nation’s workers.

Offe and Wiesenthal’s analysis (1980) appeared just as this era, when a critical mass of employers (however reluctantly) endorsed the principle of collective bargaining, was coming to an unceremonious end. Their account was based on the presumption that, in their words, “Unions have been accepted, in all advanced capitalist states, as an indispensable element of interest representation and of order and predictability, in the absence of which labor conflict and the disruption of social peace would be much harder to control” (99). That is an apt characterization of the 1945-1975 period even in the United States, as commentators like C. Wright Mills also recognized at the outset of the postwar settlement (Mills, 1948). However, starting in the late 1970s, that system came under sustained attack from employers, and before long it ceased to function effectively.

Neoliberalism and the Outside Game, 1975-Present

The managerial reaction against unions, which began gathering force in the 1970s, was part of the larger neoliberal turn: deregulation and deunionization went hand in hand. Although the conventional wisdom often attributes union decline to global economic competition and new technologies, their impact was concentrated in the manufacturing sector, where outsourcing and massive deindustrialization further strengthened management’s ability to rein in once-powerful unions. But in sectors like construction, where jobs cannot be outsourced and international competition is negligible, a systematic managerial assault on union power also led to dramatic declines

in density (Linder, 2000). And although they were never as highly unionized as manufacturing and construction, density also fell sharply in industries like hospitality and retail, neither of which can be outsourced. Indeed, private-sector unionism fell in almost every industry and sector from the 1980s onward.

In earlier decades, forward-looking employers had erected a parallel “human resource management” (HRM) model as an alternative to the traditional NLRA-based system of labor relations that took root in the New Deal era. As Sanford Jacoby (1998) has documented, this approach was motivated from the outset by employers’ desire to avoid unionism. Over time, the HRM model became hegemonic, embedded in business school curricula and widely celebrated in accounts of managerial “best practices.” The unionized sector was simultaneously condemned as cumbersome, inefficient, and overly “adversarial” (Kochan, Katz, and McKersie, 1986).

By the early 1980s, nonunion HRM-based employers who, despite their best efforts, did face unionization efforts among their employees, could turn to the burgeoning “union avoidance” industry for expert assistance in combating the scourge (Logan, 2006). Virtually any company willing to pay the steep consulting fees of the new “union busters” and willing to adopt the prescribed battery of anti-union strategies and tactics they promoted had an excellent prospect of “preventing” unions from gaining a foothold. Many of the strategies and tactics in this new playbook were perfectly legal, thanks to a series of previous anti-union court decisions, but others were blatantly illegal (if highly effective) tactics, like firing union activists. Such firings occurred in 34 percent of a representative sample of 1,004 union organizing campaigns conducted between 1999 and 2003 (Bronfenbrenner, 2009). Between 1950 and 1990 the number of workers fired during organizing campaigns grew nine-fold (Meyerson, 2012: 24), making a mockery of the NLRA representation election system. Even when unions somehow did win representation elections despite all these tactics, many employers dragged their feet in the follow-up negotiations, engaging in “surface bargaining” so that first contracts were delayed or in many cases proved impossible to secure.

The ongoing process of “creative destruction” in market economies that guarantees the continual appearance of new firms and the disappearance of old ones, combined with the growing influence of the HRM model and the rise of the union-avoidance industry, contributed to the sharp decline in private-sector union density that took off in the 1970s. By the 1980s, apart from the public sector, unionism was largely confined to “legacy” companies that were organized decades ago.

But in this period, employers within such former bastions of unionism mounted a different kind of assault on union power. With the advice of the union-avoidance industry and partly inspired by the dramatic air controllers' strike of 1981, they learned how to transform strikes, once the most effective tactic in organized labor's arsenal, into vehicles for *undermining* unions. Now employers learned to deliberately provoke strikes by demanding massive "givebacks" when their union contract expired. (If their unions failed to take the bait and declare a strike, lockouts often followed.) Taking advantage of the legal option under the NLRA of hiring "permanent replacements" for strikers, employers then moved to either eliminate unionism entirely or to bludgeon unions into accepting dramatic concessions in order to maintain a foothold. Recent examples of such employer-initiated work stoppages include the southern California supermarket workers' strike in 2003-2004, which involved some 70,000 workers (LeDuff and Greenhouse, 2004), and the multiyear *Detroit News* strike (Rhomberg, 2012). Since 1980, strike rates have plummeted in the United States, and the few strikes that do occur tend to be defensive struggles of this sort (US Bureau of Labor Statistics, 2011; Burns, 2011).

In short, the rules defining labor relations under the NLRA, although nominally still in force, have been captured by the union-avoidance industry and by the employers who rely on it. As a result many unions today have abandoned the NLRA framework entirely in favor of a broad array of "new" organizing strategies, some of which are not really new but recapitulate the pre-New Deal labor movement repertoire. Most of these new strategies involve the "outside game" of mobilizing rank-and-file workers and their supporters in the wider community into various types of public protest. The inside game has not been abandoned entirely – for example, many unions appeal to elected officials and other elites (such as clergy) for support as they seek leverage against targeted employers, as a supplement to grassroots mobilization and protest. But the balance has decisively tipped toward the outside game in recent years.

Another characteristic of the neoliberal era that has contributed to organized labor's woes is the proliferation in advanced capitalist countries of precarious workers, including temporary and contract workers, interns, as well as a variety of nominally self-employed workers like day laborers, domestic workers, taxi and truck drivers and street vendors. Another growing group in the US case is comprised of "independent contractors," many of whom are legally misclassified as such. For all these workers, NLRA-type unionization is either impractical or legally prohibited, further undermining what remains of the New Deal system. The term "excluded workers,"

often used in the US context to denote precarious workers, reflects the continuing legacy of the NLRA, in that such workers are explicitly excluded from coverage under the act (as well as the Fair Labor Standards Act and Social Security Act).

For a variety of reasons, then, although in principle the bedrock labor laws passed in the 1930s remain in force today, in practice they have become increasingly ineffective. Traditional unions, many of whose leaders came into power under and became acculturated to the old New Deal order, were slow to adapt to this radically changed situation. A widespread siege mentality in union circles (understandable in that they *are* indeed under attack) has added to the difficulty many union leaders face in responding to the new challenges. Nor did it help matters that many of these leaders were approaching retirement age and thus had limited personal motivation to shift course.

Nevertheless, starting in the 1990s some unions did begin to experiment with different strategies and tactics, and to recruit a new generation of leaders, many with experience in other social movements (Voss and Sherman, 2000). This gave rise to the “social movement unionism” of the period and, equally important, to a new internal emphasis on leadership development. At the same time, impatient with the traditional unions and skeptical of their ability to adequately represent excluded workers as well as low-wage, undocumented immigrants in NLRA-covered jobs, other labor activists began to develop new community-based organizational forms in the 1990s.

Most important among these are the “worker centers,” now numbering in the hundreds, which have a much broader repertoire of advocacy and organizing than traditional unions (Fine, 2006). Targeting the most precarious, casualized occupations in which traditional forms of unionism are difficult to establish, such as day labor or domestic work, along with low-wage industries that unions have largely abandoned, like restaurants and garment-making, as well as nominally self-employed workers like taxi drivers and street vendors, these fledgling organizations have attained a high profile in recent years and have greatly increased public awareness of the plight of low-wage workers. Recently some worker centers have attempted 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 centers, in a process of mimetic isomorphism (see Milkman, 2010).

Thus the players on the labor side have proliferated in the past two decades, and have broadened their tactical and strategic repertoires. This had generated an assortment of highly creative campaigns, many of which have succeeded despite the formidable forces arrayed against them. To date,

however, virtually none of them have been brought to scale, and desperation is the order of the day inside labor's ranks, especially in collective bargaining and organizing (Meyerson, 2012).

Organized labor retains significant leverage in the legislative and political arenas, however. Until very recently, the level of union density among public-sector workers like teachers, protective service workers, hospital workers, home care and child care workers has remained intact, even as private-sector union density has fallen into the single digits. Indeed the gap between private- and public-sector density has never been wider.

But in 2011, a long-brewing assault against public-sector unions burst into view, most dramatically in the state of Wisconsin, where Republican governor Scott Walker signed a bill virtually eliminating most public-sector collective bargaining rights in the state. Ironically, half a century earlier, in 1959, Wisconsin had been the very first state to legislate collective bargaining rights for public-sector workers. The rollback of that law by a Republican-dominated government, organized by the right-wing American Legislative Exchange Council (ALEC), sparked a new outbreak of social movement unionism, as Wisconsin workers took to the streets to defend their unions, among other things occupying the statehouse for weeks (Buhle and Buhle, 2011). Their spirited efforts, however, followed by an unsuccessful drive to recall Walker from office, failed to restore the earlier law, and public-sector union membership in the state has fallen dramatically.

Similar attacks on public-sector workers in other states, also emanating from ALEC, are proliferating. Although in late 2011, Ohio voters reversed a law similar to the one that is now in effect in Wisconsin through a referendum, the one remaining bastion of unionization in the United States – and the last pillar supporting what remains of the “inside game” – is now coming under the same kind of systematic attack that began in the private sector in the late 1970s.

The US labor movement in the early 21st century increasingly resembles its counterpart during the pre-NLRA period, when workers lacked any formal right to collective representation and when the judicial system as well as the police and military were regularly mobilized on behalf of employers faced with labor disputes. The iron fist is less often deployed against labor today than in the past, replaced by the velvet glove in the shape of the “union-avoidance industry” – although that would likely change rapidly were a major labor union upsurge to develop. In the meantime, unions and other worker organizations increasingly have no alternative but to play the outside game, as their insider status is steadily evaporating. The renewed grassroots organizing and protest this has already begun to unleash deserves careful attention from social movement scholars.

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Conclusion

Unions and the labor movement are different from the other players considered in this volume, in that they are simultaneously part of the “establishment” and active agents of social protest. From the New Deal era onward, the US labor movement in particular has played both an “inside” game – using its leverage with elected officials and other elites and within the collective bargaining process to secure advances for workers – and an “outside” game – mobilizing workers and their allies in public protests and deploying tactics that disrupt normal routines. As organized labor’s power and legitimacy have declined in recent decades, however, the balance has shifted decisively toward the outside game. Thus 21st-century labor unions have increasingly turned to the strategic repertoire of their pre-New Deal counterparts, and nonunion forms of labor organization have proliferated, as they did a century ago. As a result, the distinctiveness of labor as a player relative to other protest groups is more muted than in the past, even as labor’s status and capacity as an institutional player has become increasingly tenuous. These shifts both help to explain the recent resurgence of sociological interest in labor movements and point to the relevance of the players and arenas perspective that is the framework of this volume.

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Part 3
Experts, intellectuals, and media

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