



# THE URBAN IMPERATIVE OF LABOR AND EMPLOYMENT POLICY IN THE AGE OF OBAMA

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**O**n January 6, 2013, the Bureau of Labor Statistics reported a unionization rate of 11.3%, the lowest in the U.S. since 1916. Nearly 100 years later, despite the right to union representation guaranteed by the 1935 National Labor Relations Act, American workers face a brave new world where such legal guarantees mean little in practice. Joining a union has become nearly as difficult as it was when child labor was a common feature of the American workplace. At stake is the emphatic effect unionization has on boosting wages, increasing benefit levels, reducing wage inequality, and mitigating gender and racial discrimination (Parks, 2012; Schmitt, 2008; Western & Rosenfeld, 2011).

Plummeting unionization rates are most evident in urban labor markets, where their effects have been keenly felt. Yet these dramatic trends seem to barely register in urban policy debates. Perhaps this is the fate of all things urban in the American federalist tradition, doubly fated because of the intensely laissez-faire tradition surrounding labor market policy in general. In this commentary, I discuss the major trends in labor and employment policy under the Obama administration, placing these within the spatial context of unionization that defines labor as a quintessentially urban policy domain. My argument, largely overlooked in canonical explanations of union decline, is that American labor's decreasing economic and political significance can be explained in part by the urban concentration of union jobs. Reciprocally, labor's decline partly accounts for the marginal position of urban issues on the national policy agenda. The small steps taken by the Obama administration to strengthen labor and employment policy—primarily through the implementation of extant laws—may have slowed, but not reversed, the inexorable trends of union decline and growing urban inequality.

Unionization has always been an urban phenomenon and continues to be so. In 2012, 30% of all union jobs in the U.S. were concentrated in the ten largest metropolitan areas (Table 1). The New York City metropolitan area tops the list as the nation's largest urban workforce and the most unionized. With a unionization rate of nearly 20%, New York's unionized workforce represents 11% of all union members in the U.S. Put in terms of relative representation, union workers are 70% more concentrated in the New York labor market than in the U.S. economy as a whole. Beyond New York, higher-than-average union densities in more than half of the top 25 metropolitan areas illustrate unionization's urban inflection. The most unionized urban areas, after New York, are Seattle (17.2%), San Diego (18%), San Francisco (15.9%), and Pittsburgh (15.1%). Unionization rates in Los Angeles and Chicago, the nation's second and third largest urban labor markets, are 13.8% and 13.4%, respectively. Despite crippling deindustrialization in cities like Detroit and Philadelphia, the labor legacies of these twentieth century fordist strongholds persist, albeit more anemically than in the past. In 2012, 17% of Detroit's workforce and 14% of Philadelphia's was unionized. Nearly all of the metropolitan areas with unionization rates below the national average are located in right-to-work states (e.g., Houston, Phoenix, Miami, Atlanta).

Although unions have their greatest purchase in urban areas, the secular trend of union decline has not escaped the city. Between 2008 and 2012, the rate of union decline was slightly higher across the largest ten metropolitan areas than for the U.S. as a whole, representing a quarter of all lost union

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TABLE 1

**Union Membership in the Ten Largest U.S. Metropolitan Areas, 2012**

Rank	Metropolitan area	Population	% of U.S. population	Union membership rate	% of U.S. union membership
1	New York-Newark-Jersey City, NY-NJ-PA	19,831,858	6.3%	19.8%	10.7%
2	Los Angeles-Long Beach-Anaheim, CA	13,052,921	4.2%	13.8%	4.9%
3	Chicago-Naperville-Elgin, IL-IN-WI	9,522,434	3.0%	13.4%	3.7%
4	Dallas-Fort Worth-Arlington, TX	6,700,991	2.1%	6.6%	1.4%
5	Houston-The Woodlands-Sugar Land, TX	6,177,035	2.0%	5.4%	1.0%
6	Philadelphia-Camden-Wilmington, PA-NJ-DE-MD	6,018,800	1.9%	14.0%	2.4%
7	Washington-Arlington-Alexandria, DC-VA-MD-WV	5,860,342	1.9%	8.1%	1.6%
8	Miami-Fort Lauderdale-West Palm Beach, FL	5,762,717	1.8%	6.9%	1.2%
9	Atlanta-Sandy Springs-Roswell, GA	5,457,831	1.7%	4.1%	0.7%
10	Boston-Cambridge-Newton, MA-NH	4,640,802	1.5%	13.2%	2.0%
Total	Top 10 US MSAs by Population	83,025,731	26.5%	12.2%	29.7%
	USA Population	313,914,040		11.3%	

Source: Author's calculations from Hirsch and Macpherson, 2013.

jobs. The losses were uneven, as unionization rates fell in only half of these metropolitan regions. Unionization trends for the next ten largest metropolitan areas (rounding out the top twenty) were largely negative, with unionization levels dropping in all but two. Among these, rates fell furthest, by over four percentage points, in the Phoenix, Detroit, and St. Louis metropolitan areas. The diversity among these urban areas underscores the unrelenting decline of unions that continues unabated regardless of economy or region. This economic diversity further emphasizes the significance of policy in shaping the terms and conditions of American labor and employment.

Unionization rates are directly connected to the “rules of the game” established by American labor law that govern how workers join unions, the strategies unions can employ when organizing workers and pressuring employers, and ultimately the power that unions can wield in the workplace and beyond. Although economic factors such as deindustrialization play a role, scholars identify these rules, and ultimately politics, as the major cause of union decline (e.g., Freeman, 2007; Warren, 2011). Labor leaders have continually fought for labor law reform that addresses the growing asymmetrical power differential between employers and workers, a divide that has widened since the mid twentieth century. No sooner had workers won the right to unionize and collectively bargain in 1935 than these newly won rights came under attack. The Taft-Hartley Act of 1947 greatly curtailed the positive unionization effects of the Wagner Act by various means, including allowing states to pass “right to work” laws. These attacks have been sustained, yielding a contemporary labor relations environment wherein workers are illegally fired in 34% of all union election campaigns and more than half (52%) of those who successfully form a union still do not have a first contract a year later because of employer resistance to bargaining in good faith (Bronfenbrenner, 2009).

For contemporary labor leaders, the Employee Free Choice Act, or EFCA, represented a sine qua non for comprehensive labor law reform. Faced with few legal protections, weak regulatory enforcement, and management’s willingness to oppose unions, and even break the law, American labor has had little success stemming, let alone reversing, plummeting unionization rates. EFCA aimed to reduce barriers to forming a union primarily through mechanisms, such as majority sign-up

campaigns or “card-check,” that make it easier for unions to organize new members and by increasing the penalties employers incur when violating workers’ rights under the National Labor Relations Act. EFCA represented the first major push for labor law reform since 1992, when labor failed in its attempt to pass legislation that would end the practice of permanent replacement of striking workers.

With the election of a pro-labor president in 2008, optimism initially ran high among labor leaders, betting that their strong support for Obama would yield swift passage of EFCA (Warren, 2011). But aggressive Republican opposition and the intense battle around both the stimulus and healthcare reform conspired to temper Obama’s support. After failing to achieve a filibuster-proof majority in the Senate before the loss of Democratic seats after the 2010 mid-term elections, EFCA was confined to the legislative dustbin (Greenhouse, 2011).

Warren (2011) argues that EFCA’s demise reflects structural political conditions rather than a litmus test of Obama’s support for labor law reform. Labor law reform, Warren (2011) establishes, has failed under every Democratic president since Truman (albeit not attempted under Kennedy). Instead, Obama’s strong record of administrative action better indicates a commitment to leveling the playing field for American workers. Most significantly, Obama’s appointment of Hilda Solis to Secretary of Labor initiated a significant about-face of the Department of Labor (DOL) (Phillips, 2009). Solis expanded the pool of investigators in the DOL’s wage and hour enforcement division by nearly one-third, a significant departure from the George W. Bush years of attrition and shrinkage (Justin, 2011). Local DOL offices, particularly in large cities such as Chicago, began to proactively engage community partners in efforts to curb the most offensive wage and hour violations, such as wage theft. In particular, community-based organizations such as worker centers benefited from a responsive DOL. While this responsiveness did not necessarily yield high rates of claims processing or adjudicated cases, the open lines of communication helped guide worker centers in how best to represent their, often immigrant, members experiencing workplace violations (Lesniewski, 2013). Additionally, the DOL and the Department of Homeland Security (DHS) renewed and strengthened a commitment to equal standing in cases involving immigrant workers. This agreement prohibits the DHS from initiating enforcement raids at workplaces under DOL investigation (U.S. DHS & U.S. DOL, 2011).

The DOL’s administrative activities have been important for bolstering the enforcement of employment law, while Obama’s National Labor Relations Board (NLRB) appointments have been most significant for workers’ rights and collective representation. The NLRB issued several critical decisions favoring labor before Republican-induced rigor mortis brought about through quashed appointments and legal challenges to Obama’s recess appointments. One such rule guarantees workers protection when they engage in concerted activity, a ruling that enables workers to act collectively even when not in a union, such as bringing group claims before an arbitrator. Before this ruling, workers were barred from making such claims (Greenhouse, 2012). Another rule change would have sped up union elections, helpful to labor because it limits the amount of time employers can mobilize anti-union campaigns. A federal judge later overturned this ruling on technical grounds related to quorum (AP, 2012). Whether or not the NLRB will vote again on this issue remains uncertain.

The political showdown around the NLRB came to a head in the summer of 2013. In June, the Supreme Court decided to hear a case that challenges President Obama’s ability to make recess appointments to the NLRB. In January 2013, a federal appeals court had ruled against the administration, calling the president’s recess appointments unconstitutional. If the Supreme Court upholds the ruling, all NLRB decisions from January 4, 2012 to July 30, 2013 would be overturned (Liptak, 2013). The Senate voted on July 30, 2013, to fill all five seats of the NLRB. Without this decision, the work of the NLRB would have come to a complete halt in August because only two members would remain seated, one short required for quorum (AP, 2013).

Despite this administrative action, the slide in unionization rates has continued under Obama and shows no signs of abating. Workers depend upon a level playing field to exercise their right to join a union, yet this right is highly dependent on politics and policy. Significantly, the geographic concentration of union workers in urban districts, severely underrepresented in the American political system, puts their issues at the same disadvantage as all other urban concerns. Unionization exerts a strikingly positive effect on urban wages, particularly for lower skilled workers of color, and gives a

political voice to the economic interests of America's urban working and middle classes. These are the surest economic and political antidotes to inequality. Obama's administrative successes on the employment front deserve recognition, but policy failure in the labor arena facilitates current trends of both union decline and growing urban inequality.

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