Are U.S. Unions Ready for the Challenge of a New Period?

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BY NOW IT SEEMS CLEAR that the United States has entered a new period of contradictory trends that presents a profound challenge to organized labor. First there is the deepening world recession that is bringing down some of American capitalism's most high profile institutions from Wall Street to Detroit. At the same time, of course, it is wiping out millions of jobs, 4.4 million from December 2007 to February 2009. Slightly less dramatic is the changing climate of social and political opinion in the US that has been taking shape for a number of years and made the landmark victory of Barack Obama possible. This change is not simply that the dark clouds of neoconservatism have lifted. Nor is it that we have a Democratic administration and Congress, as these predictably disappoint. At root is a definite mood shift away from faith in markets and business leaders that just might help unions recruit and open the door to bolder action.

There are a number of ways to measure this shift in public opinion away from the conservative hegemony that seemed to solidify when Newt Gingrich led his far right posse to seize control of Congress in 1994-95. First is the rise of pro-union sentiment. When Gingrich took the gavel, 39 percent of non-managerial workers were favorable to unions. A decade later it was up to 53 percent, according to a Peter D. Hart poll. If the attitudes toward unions have become more favorable, views of America's leading capitalist institutions have gone largely sour. NBC/Wall Street Journal surveys taken over the past decade show that those who had "little or no confidence in large corporations" rose from 24 percent in 1998 to 54 percent in late 2008. Similarly negative views of the "financial industry" rose from a mere 17 percent in 2000 to 55 percent in late 2008. Another indication was, of course, the incredibly negative ratings of George W. Bush from 2005 on. This general shift was one of the underlying factors that made the election of America's first African-American president possible.

What of the impact of this new administration and Congress on union hopes? President Obama is supposedly committed to passing the Employee Free Choice Act (EFCA) on which the hopes and dreams of America's labor leadership rest. He owes a lot to the unions, who put a quarter of a million people in the streets and on the phones and whose members voted by 67 percent for him — 69 percent in key battleground states according to the AFLCIO. But Obama and the Democratic majority in Congress also owe much to certain sections of big business. Since the Democrats took Congress in 2006, business money has shifted from Republican to Democratic campaign coffers, as it usually does when they dominate Congress and its committees. According to Federal Election Commission figures, defense, FIRE, and health care all went from giving more to Republicans prior to 2007 to giving a majority of funds to Democrats. Even Obama, who has made much of the majority of small campaign contributions he received, got over a quarter of his money from contributions of more than $1,000. About 2,000 contributors bundled gifts of $25,000 or more. Among these big donors Wall Street and related investment and real estate firms were well represented. On top of this, big business has mounted a multi-million dollar campaign to defeat EFCA.

Obama has made pro-union gestures by appointing union-friendly people in second-tier positions, notably Secretary of Labor and Chair of the NLRB. Vice-President Joe Biden and Labor Secretary Hilda Solis have both appeared at AFL-CIO events. But, at the same time, Obama has surrounded himself with union-shy Clinton veterans and imperial praetorians whose interests lie more in the bailout of global capital than of the working class at home. He has the votes to pass EFCA, even in the Senate, but there is massive business resistance. While Obama does represent something new in American politics, he is still the leader of the free (market) world. At most with most previous Democratic administrations since the Second World War, union issues have tended to slide down the legislative agenda and face compromises or even defeat as capital asserts its right to rule. The EFCA was introduced in Congress on March 10, but will certainly go through a long process involving possible compromises. Obama has hinted that the bill may have to be amended. If labor hopes to win the EFCA in a timely and useful form it will have to fight for it.

Fit to Fight?

BUT ARE THE UNIONS FIT TO FIGHT? Basically, many union leaders have had two strategies for survival and increased fitness: mergers and new organizing. Mergers have been a matter of survival for small and shrinking unions. For the larger unions that have absorbed smaller ones, mergers were meant to increase the membership size, financial resources, and presumably power of individual unions. As many unions shrank, the number of mergers increased from 24 in the 1960s to 42 in the 1990s. Mostly these were absorptions of smaller unions by larger ones. Increasingly, they had little industrial or jurisdictional logic. The bigger unions became conglomerate organizations. By the 1990s almost half these mergers were carried out by five conglomerates. With the merger of UNITE and HERE in 2004, six conglomerates dominated the merger process and accounted for a majority of the membership of the pre-split AFL-CIO. The multi-jurisdictional giants included SEIU, IBT, UFCW, USWA, and CWA. UNITE-HERE and the UAW followed close behind.

Did this growth through merger and absorption bring the resources and power that had been promised? Financially, all of these conglomerate unions remain precarious, in most cases more so than before. The fact is that most unions cannot finance their top-heavy structures through members’ dues. Most cover about 8090 percent of expenditures from dues and fees. The rest comes from investments, a risky practice in today’s world. Even to do this, the big conglomerates have raised dues.The Teamsters, SEIU, CWA, and UFCW had some of the largest dues increases between 2000 and 2004 and still couldn’t cover expenses with member-based revenue. The main reason is that the conglomerates must administer more contracts and sustain more officials and divisions. In most cases the union’s bureaucracy is inflated even more. While sheer size might increase their political clout to some degree, the bargaining record of the conglomerates in recent years often lags behind the average wage increase of all union agreements and seldom exceeds it. Whatever mergers do for this or that union, they clearly have not contributed to the growth and revival of the movement as a whole.

Unity from Strength?

SINCE DECEMBER, top leaders of the AFLCIO, Change-To-Win Federation (CTW), and the National Education Association (NEA) have met at least three times to discuss the possibility of some sort of unification either in the AFL-CIO or a rumored federation of federations. The Obama administration has encouraged this to simplify pacification, while the imminent departure of John Sweeney opens some doors. But the rush to re-unify is above all an admission of failure on the organizing front, particularly for CTW. Both federations saw a drop in overall membership since the split in 2005. In 2006-2008, the AFL-CIO saw a drop of 146,939 members in its affiliates, a 1.7 percent decline. The CTW, however, saw the membership of its affiliates drop a net 458,083, a disastrous 8.6 percent drop. The only CTW union to show any growth through organizing since the split was the SEIU.

Here something needs to be said about the Bureau of Labor Statistics figures for union membership in 2008. The BLS figures show a net gain of 428,000 union members for 2008. The AFL-CIO and CTW figures showing a combined drop of over 600,000 members are based on the fiscal years of their affiliates, meaning in most cases that the last three months of 2008 are not counted. So, they are not strictly comparable to the BLS figures. Yet, the combined drop of over 600,000 members means that the gap between the federation figures and those of the BLS exceeds a million union members. How do we account for this? Some part of this may simply stem from statistical problems with the current population survey on which the BLS figures are based. Then too, almost two-thirds of the recorded gains are in the public sector where employment grew significantly in 2008. My own theory is that the bulk of the BLS increase came from what might be called the "Obama Effect." That is, the intense canvassing of members by their unions during the 2008 elections probably made more workers aware of their union membership — hence the statistical surge. If this is the case, the 2008 increase represents a greater consciousness of union membership rather than actual growth, particularly in the private sector.

The 2008 Department of Labor LM-2 membership figures are not yet available for most individual unions, but the organizing record since 2000 is not encouraging. From 2000 through 2007, only 17 unions grew as a result of recruiting new members. Nine of these were public sector unions, including the huge NEA, which added 237,612 new members over those years, excluding the 400,000 in the New York State AFT who affiliated with NEA in 2006. Similarly, the SEIU's legendary growth, over 300,000 from 2000 through 2007, was mostly in the public sector. These were largely home health care workers recruited through political deals with governors whom the SEIU funded and helped elect, including the now disgraced Blagojevich of Illinois. Besides the SEIU, only eight mostly private sector unions grew in this period.Three were construction unions, and five were smaller, occupationally-based unions. The fastest growing union in the United States was not the SEIU, but the small International Federation of Professional and Technical Engineers which grew by 42 percent, compared to the SEIU's 23 percent.The second fastest growing union was the SEIU's arch rival, the California Nurses Association/National Nurses Organizing Committee.

What figures we have for 2008 are not encouraging either.The SEIU, usually the growth engine of the movement, "united," as they say, only 89,000 workers in 2008 and 55,000 of those came from the affiliation of the North Carolina State Employees Association. The Teamsters claim 43,000 new members. The CWA's 2008 LM-2 shows a slight decline, while UNITE-HERE admits a drop in members. All of this points to organized labor's inability to organize in the private sector, the heart of American capitalism.

Card Check, Reality Check

PUBLIC SECTOR UNIONS HAVE GROWN over the years, while a majority of private sector unions have lost ground — including most of the big conglomerates. The net loss of private sector members since 2000 was almost a million. As we saw, the split didn't change that. But neither did the other panacea tried by several unions — neutrality agreements and card checks. These are voluntary methods of gaining recognition without going through the unbalanced and ineffective channels of an NLRB election. Recognition is granted on the basis of a majority show of authorization cards, and in most cases the employer agrees to not attack the union. In recent years fewer than 100,000 workers have been recruited annually through NLRB elections with a win rate of about 55 percent. So, several unions have taken the neutrality/card check route to growth. One study identifies five unions that use it fairly regularly, UNITEHERE, CWA, UAW, SEIU, and the Steelworkers. The Teamsters and Food and Commercial Workers also use this approach.

The win rate for card check recognition is considerably higher than for NLREB elections, around 68 percent, according to one study. Furthermore, while hard figures are rare, the AFLCIO claims its unions organize more workers through this channel than through the NLRB. In 2005, it gained 150,000 new private sector members through card check or other voluntary methods, compared to 70,000 through the NLRB. It is also the case that the targets of card check campaigns are generally much larger on average. Not surprisingly, this tactic works best with employers with whom the union already has a longstanding bargaining relationship. This is often called "bargaining to organize." The CWA's neutrality agreement with AT&T netted it 40,000 members at its wireless subsidiary (formerly SBC Cingular) from 1997 to 2007. UNITEHERE's agreement with Hilton and Star-wood Hotels brought it 6,000 new members from 2004 through 2006, while the UAW's eleven agreements with auto-parts suppliers won it 20,000 from 2002 through 2006. The Teamsters have such an agreement with UPS Express (formerly Overnite) and claim to have organized 12,000 workers under this agreement in 2008.

All this comes at a price. In most neutrality agreements, the union agrees not to attack management, removing the "them v. us" sensibility that helps build a union identity. The biggest problem, however, comes with employers who have no prior relationship with a union and wish to keep it that way. Most U.S. companies are not prepared to volunteer for unionization. So, the campaign to convince them often becomes a long drawn out and costly one, not unlike those through the NLRB. An example is the SEIU's successful campaign to organize 5,000 janitors in Houston. It took months of mobilization and a ten-day strike to get to card check and then recognition and another year and a strike to get a contract. Similarly, the CWA's 1997 neutrality agreement at Cingular Wirless (later AT&T) was, according to Dorothee Benz, "the result of years of struggle and organizing." Writing in Working USA, Benz pointed out that to evaluate the effectiveness of this approach, "we have to look at the process it takes to get to neutrality or card check agreements as well as the results from such agreements."This tactic was rendered more difficult in 2007 when the Bush NLRB ruled in its Dana/Metaldyne decision that the traditional "recognition bar" that gave a newly recognized union a reasonable amount of time to negotiate a contract before anyone could file for de-certification no longer held in card check cases.

Most of the unions that use this approach have failed to grow, losing members faster than they gain them. One reason is that most of these campaigns are part of highly targeted, very expensive, drawn out campaigns where employer resistance remains high. The highly praised Justice for Janitors national campaign, UNITEHERE's Hotel Workers Rising, and the drawn out Teamster campaign at UPS Express are examples. While this approach has its strengths, it also has at least two drawbacks. Janice Fine, writing in New Labor Forum, notes that it took SEIU ten years to organize 900,000 workers for a net gain of 600,000 at a cost of $1 billion. She argues that at this pace "To reach the same goal in health care, it would take upwards of thirty years, at a cost of three billion." In other words, the resource-based, targeted road to growth is very long, expensive, and staff-intensive. Unions that follow this approach are likely to experience financial tensions and enormous frustration at slow progress. It is, at least in part, this problem that is at the heart of the exploding fight between the top leaders of UNITE-HERE.

EFCA to the Rescue?

THE LABOR LEADERSHIP IS UNITED in the belief that the EFCA will pass and will save the day, allowing rapid expansion. Canadian industrial relations scholar Roy Adams says, "Canadian experience indicates otherwise." In Canadian provinces that have laws granting card check and first contract arbitration, union density has continued to fall in the private sector. Adams cited employer resistance as the main reason. The EFCA would undoubtedly make organizing easier in many cases but could not eliminate all the problems of organizing in a depressed economy with intense employer opposition.

One of those problems is the tendency for this resource-based approach to growth to make unions even more top-heavy than before. Staff proliferates, decisions on targeting and tactics are made by the central leadership, more power is concentrated at the top, and the nature of the union as a workers' organization is perverted. As Bill Fletcher and Fernando Gapasin put it in their recent book Solidarity Divided, this approach has become "focused on retooling existing unions to make them more effective organizing machines." In this view, "one chooses to ignore the character of the union or unionism…" Democracy, already a slim reed in a strong wind, is further undermined. The temptation to take short cuts to recruitment via "partnership," that is sweetheart deals, becomes massive. The most extreme example of both of these, as Herman Benson showed in New Politics #46 (winter, 2009), is the SEIU.

Since 2000, more and more power has been concentrated into the hands of its president, Andy Stern, and a small group around him. Locals are forcefully merged into gigantic, sometimes multi-state administrative units with officials appointed by Stern. The staff has doubled since 2000, not only to expand organizing, but to administer these outsized units. With leaders more isolated from rank and file scrutiny, corruption has returned to SEIU. Most recently, workplace representation has been outsourced to call centers known as member resource centers.This drive to centralized power has led to the flight of the union's largest health care local, the California-based United Healthcare Workers — West, which is now reorganizing itself outside the SEIU as the National Union of Healthcare Workers. Inside the SEIU, Stern's heavy hand has also spawned a national rank and file opposition known as SMART (SEIU Member Activists for Reform Today). The issues in both cases are democracy and resistance to sweetheart deals.

Dump the Business Union, Resource-based Model

IF AMERICA'S LABOR MOVEMENT is to meet the challenges of the new economic and political context, it will need to jettison the whole business union model. Top down, conventional organizing, even with EFCA, will not create the social momentum needed to turn the fate of millions of workers around in today's unfolding economic crisis. One practice that can and should be dropped is that of limiting union members to existing or soon-to-be-recognized, majority bargaining units. "Open source" or non-majority unionism, where any group of workers can begin engaging in concerted action, should become a norm in new organizing. This practice could have kept the nearly 475,000 workers who participated in lost NLRB elections between 2003 and the end of 2008. It could have brought into unions those in the 30 percent of lost card check campaigns. It could also keep those who face long-term layoffs, a practice that could be important in a period of recession or worse. More importantly, it could bring in at least a slice of the 50 million who say they would vote for a union. A few unions such as the UE, CWA do use this tactic and interestingly enough UE, several AFL-CIO unions, and CTW have all petitioned the NLRB to allow recognition of unions without majority status. But formal recognition need not be a requirement to getting a big foot in the door and acting like a union from the start. A little Knights of Labor style expansion is in order as a transition to a growing union movement.

To organize in the midst of recession will take bold, high profile tactics. The 250, mostly Latino UE members at Chicago's Republic Windows and Doors set a fine example when they occupied their plant for six days in December in the face of its closure. They demanded back pay, health insurance, and vacation pay owed them, and won. They had the backing of their union and the sympathy of the working class public. Plant occupations have been illegal since the Supreme Court ruled them so in 1939 after three years of sit-down strikes. Yet, no one attempted to enforce the law. The action was widely publicized and popular, making eviction a messy task. It is a precedent that has yet to be followed, but a tactic of great relevance with layoffs and closures certain to spread. It might have made some difference for UAW members in the debacle that passes for bargaining at the "big" three auto makers.

Whatever tactics are used, labor's most important resources aren't its budgets or staff, but its membership. As AFSCME's Paul Booth put it a few years ago, "What we need is an army, and that can only come from our underutilized membership ranks." Member-based organizing and mobilizing should become the alternative to resource-based organizing. If organized labor can turn out a quarter of a million workers to elect a president, why can't a similar force be mobilized to kick off a huge recruitment drive? The two million or more non-union workers the AFL-CIO has recruited into its campaigning Working America could help. The goal would not be just a few thousand more bargaining units, but a movement aimed at changing the balance of social forces in America.This mobilized force could fight for EFCA, universal health care, and a shift in "stimulus" from capital to working people, even as it recruits new union members. The pro-labor, anti-business sentiment is there to be drawn on. Yes, this too will take resources and a lot of motivation and inspiration to get the largely passive membership on board. But the activist layer is there to lead if encouraged. If there is to be a reunification of labor, and there should be, let it not be just one more layer of bureaucracy, but a coordinating committee to launch such an ambitious campaign.

P.S.

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