WHY LABOR UNIONS MUST [AND CAN] SURVIVE

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Every year thousands of unrepresented American employees are discharged without good cause. Several million are laid off by companies that transfer their production jobs to lower-wage facilities in the South, in Mexico, or in other developing countries. When workers at firms like Greyhound, Eastern Airlines, and Caterpillar walk out to protest wage and benefit reductions or to seek enhanced employment conditions, they are permanently replaced, and their representative labor organizations are greatly undermined. Senior personnel who participate in strikes against firms like Trans-World Airlines have their hard-earned positions filled by replacement workers and less senior co-workers who cross the picket lines during the labor dispute. Individuals who strike technologically advanced corporations like AT&T discover that their employers are able to maintain basic operations without the assistance of their regular employees. Other diversified corporations can relocate production from striking plants to non-striking facilities in other areas of the world. The declining economic power of organized labor makes it increasingly difficult for unionized employees to maintain beneficial compensation levels and preserve long-term employment security. Most unorganized workers enjoy no real job security and exercise no meaningful control over the fundamental terms of their employment.

During the past two decades, deregulation and government budget reductions have led to a decrease in the enforcement of health and safety laws, wage and hour statutes, pension guarantee provisions, and other employee protection legislation. As a result, thousands of American workers are seriously injured each year in industrial accidents that could be prevented through mandated safety inspections. Many more workers are underpaid or deprived of earned overtime compensation, and others are denied the protection of laws designed to enhance employment conditions. The presence of conscientious union representatives would substantially

diminish the likelihood of such violations continuing unabated.

As the American labor movement approaches the third millennium, it is confronted by challenges that threaten its very existence. In 1935, when the National Labor Relations Act (NLRA) extended organizational and collective bargaining rights to most private-sector employees, labor unions had 3,584,000 members, representing 13.2% of the non-agricultural labor force. Following the enactment of the NLRA and the creation of the new Congress of Industrial Organizations, which organized the major firms in the automobile, electrical manufacturing, rubber, and steel industries, trade union membership grew steadily. By the mid-1950s, union membership exceeded 17,000,000 and comprised nearly thirty-five percent of non-agricultural workers. From the mid-1950s through 1980, the absolute number of union members continued to increase, but not at a rate commensurate with the growth of the overall labor force. As a result, the union density rate began to decline. By 1980, while labor organizations had 22,366,000 members, the union density rate had declined to twenty-one percent.

During the 1980s, the position of organized labor deteriorated from both an absolute and a relative perspective. The illegal air traffic controller strike against the federal government in 1981 had a profoundly negative impact on labor unions. The termination of over 10,000 strikers and the decertification of PATCO signaled a major change in governmental policy. The federal government seemed to indicate to private-sector business leaders that it would condone the replacement of striking employees and the termination of existing bargaining relationships. By 1996, private-sector union membership had declined to 9,400,000, comprising a mere 10.2% of non-agricultural workers. Labor organizations that had won seventy to eighty-six percent of representation elections conducted by the National Labor Relations Board during the 1940s, and sixty-one to seventy-five percent of the elections held during the 1950s, prevailed in fewer than half of the elections held during the early 1990s. If this downward trend continues, unions will represent a mere five percent of private-sector personnel by the beginning of the next century and will become an almost irrelevant economic and political force outside the few major manufacturing sectors that will presumably continue

2. See id.
3. See id. at 11 tbl.2.
to enjoy expansive union representation.

Many people believe that labor organizations are outmoded institutions providing representational services no longer needed by individuals employed by enlightened business enterprises. The unconscionable sweatshop conditions that were pervasive in the early twentieth century have been mainly eliminated, and the labor movement has directly or indirectly caused significantly enhanced employment conditions for most workers. The public image of organized labor has been undermined by media reports of leadership corruption and violence associated with acrimonious labor disputes. As a result, public support for unions has declined, and the moral fervor of the crusading union sympathizers of the past is rarely seen today. The charismatic instigators of social reform and economic equality who previously inspired millions of workers to unite in progressive labor organizations are gone, and few current labor leaders are able to generate similar intensity.

Changing demographic, industrial, and technological conditions have also undermined the cohesiveness and effectiveness of unions. During the past few decades, the face of labor has changed dramatically. The participation rate for women, traditionally employed in unorganized, lower-wage occupations, has significantly expanded. The labor force participation rate for minority persons has also increased, and is expected to continue to do so in the coming decades. Historically, labor organizations have not been responsive to the needs of female and minority employees, and will have to change their image if they hope to appeal effectively to these new labor force entrants. Due to the aging of the post-war, baby boom generation, the number of older labor force participants will grow over the next two decades. As a result of this phenomenon, unions will have to address issues of interest to more senior employees.

One of the most dramatic demographic trends over the past three decades has involved the migration of jobs and people from the Northeast and North Central states to the Southern and Southwestern states. Many Sunbelt states have right-to-work laws that prohibit union security arrangements and employment environments perceived as antiunion in

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6. Labor organizations indirectly affect working conditions in nonunion shops because many companies provide their employees with benefits and working conditions comparable to those granted by organized business firms in an effort to discourage unionization efforts by their own workers.

7. See generally Thomas Geoghegan, Which Side Are You On? Trying to Be for Labor When It's Flat on Its Back 1 (1991) (pronouncing organized labor "a dumb stupid mastodon of a thing, crawling off to Bal Harbor to die").


nature. Indeed, more than half of all union members presently reside in Rustbelt states. If unions are to succeed in expanding membership ranks, they will have to develop new means of appealing to employees in these Sunbelt regions.

The introduction of new technologies in the workplace has substantially modified the structure of the American economy. The substitution of capital for labor in the manufacturing sector has caused the displacement of many organized blue-collar personnel and has generated a concomitant increase in nonunion white-collar positions. The service sector has experienced similar growth, and labor unions have discovered that organizing campaigns that used to appeal to traditional blue-collar workers are not well received by white-collar and service personnel.

The technological developments that have altered the structure of the American economy have also contributed to the internationalization of the global economic system. By the twenty-first century, several hundred multinational corporations will dominate world trade. The developed nations provide the capital-intensive technologies, the consumer markets, and the distribution system, while the developing countries provide low-cost labor. The proliferation of low-cost "export platforms" has caused the exporting of many blue-collar jobs. If labor organizations hope to meaningfully influence the employment policies of international business enterprises, they must coordinate their efforts with trade unions located in the other countries in which those firms operate.

Is the decline of the American labor movement symptomatic of a terminal condition? Are unions really outdated organizations that no longer have a vital function to perform? As white-collar employees and new technologies supplant blue-collar workers, and as industrial behaviorists humanize employment environments, some observers suggest that union representation will no longer be necessary. Other commentators, however, maintain that labor organizations continue to provide valuable services and can be rejuvenated if they revolutionize their objectives and modernize their organizing techniques. Which view is correct, and should we really care what happens to unions?

This Article will first examine the functions performed by representative labor organizations and indicate why unions should survive.

12. See, e.g., Robert Schrank, Are Unions an Anachronism?, 57 Harv. Bus. Rev. 107-08 (1979) (concluding that the role for unions will be very different and that to survive unions will have to tackle new issues in the workplace).
It will evaluate the benefits unions provide for the individuals they represent, and discuss the indirect benefits accruing to unorganized personnel that might be lost if labor organizations ceased to be viable entities. It will then indicate what the labor movement will have to do if it wishes to stem its decline and generate support among white-collar and service workers. If unions are to gain converts in such expanding areas as banking and finance, computers, insurance, health care, and retail, they must create new organizations that satisfy the needs of individuals employed in these areas and develop organizing campaigns that will appeal to those workers.

I. WHY UNIONS MUST SURVIVE

When Congress enacted the NLRA in 1935, it acknowledged in section 1 "[t]he inequality of bargaining power between employees who do not possess full freedom of association... and employers who are organized in the corporate [form]." It declared the policy of the United States to alleviate this economic power imbalance "by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment." The Supreme Court reiterated this theme when it sustained the constitutionality of the NLRA:

Long ago we stated the reason for labor organizations. We said that they were organized out of the necessities of the situation; that a single employee was helpless in dealing with an employer; that he was dependent ordinarily on his daily wage for the maintenance of himself and family; that, if the employer refused to pay him the wages that he thought fair, he was nevertheless unable to leave the employ and resist arbitrary and unfair treatment; that union was essential to give laborers opportunity to deal on an equality with their employer.

Over the past sixty-three years, millions of workers have taken advantage of their statutory right to influence their wages, hours, and employment conditions through the collective bargaining process.

A. Economic and Voice Factors

Empirical evidence demonstrates that workers who have selected bargaining agents have enhanced their individual economic benefits.\(^{16}\) Their wage rates have improved, and they have obtained health care coverage, pension programs, supplemental unemployment benefits, day-care centers, and other important fringe benefits. Similar studies indicate that unorganized personnel have received indirect financial gain from the labor movement, as their employers have provided them with wage and benefit packages competitive with those enjoyed by unionized employees.\(^ {17}\) If these business firms did not fear the possible unionization of their own employees, many would show little concern about their employment terms. It is thus clear that labor unions have directly advanced the economic interests of the employees they have represented, and have indirectly enhanced the economic benefits received by unorganized workers.

Labor organizations do not merely advance the economic interests of their members. Through the "collective voice" exerted by united groups, workers have also advanced important noneconomic interests.\(^ {18}\) Collective bargaining agreements generally preclude worker discipline except for "just cause." This protection contrasts with the traditional "employment-at-will" doctrine, under which employers are authorized to discharge employees for good cause, bad cause, or no cause at all.\(^ {19}\) Other contractual provisions typically establish orderly layoff and recall procedures, and require the application of relatively objective criteria to promotional opportunities.

When employees are not satisfied with the way in which contractual terms are applied, they may invoke grievance-arbitration procedures. During grievance-adjustment sessions, labor and management representatives are usually able to negotiate mutually acceptable solutions for their outstanding contractual disputes. When no mutual accords are achieved, the dissatisfied parties may ask neutral arbitrators to determine the controverted issues. Grievance-arbitration procedures prevent arbitrary employer action and provide workers with access to impartial determinations of controversies concerning the interpretation and application of contractual terms. Without the rights and protections contained in bargaining agreements, individual employees could rarely

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17. See id. at 151-53.
18. See id. at 94-110.
challenge questionable employer decisions. They would be required to either accept the actions of their employers or seek work elsewhere.

Business firms depend on the input of three fundamental groups for their success: investors, managers, and workers. Shareholders provide the necessary capital; managers provide the requisite managerial skills; and employees create the commercial goods or provide the business services. As each of these groups competes for a greater share of company profits and a more significant degree of control over corporate decision making, individual employees are at a distinct disadvantage. Companies seeking investment capital must provide prospective stock or bondholders with detailed information regarding the proposed venture. Shareholders have the right to vote on significant corporate issues, and they can limit their exposure to particular firm financial difficulties through diversified investment strategies. When investors become disenchanted with the performance of specific corporations, they can sell their shares in that firm and invest the proceeds elsewhere.

Professional managers may similarly protect their own interests. Those with relatively unique personal skills can negotiate long-term employment contracts that may provide them with "golden parachutes" in the event the business relationship is terminated prematurely. High-level executives have access to confidential financial information, apprising them of their firm's economic well-being. They are usually well-connected at the upper levels of other business entities, and can use those contacts to locate other employment when they decide to leave their current positions.

Rank-and-file employees do not enjoy any of these privileges. They are fortunate to have one or two job opportunities at any one time. Employers feel no need to give job applicants detailed information regarding firm affairs. Once they accept employment with a specific company, workers enjoy minimal mobility. They possess limited information about other job openings, and the transaction costs associated with relocation may be substantial. To change jobs, they may lose some or

20. Although some unorganized employers have unilaterally adopted internal grievance procedures that may be invoked by employees dissatisfied with certain management decisions, many of these programs would not exist absent employer fear of the possibility of unionization. In addition, it is important to note that some employers who do institute internal grievance procedures also use these procedures to limit the ability of workers to challenge managerial actions in judicial forums. See Gilmer v. Interstate/Johnson Lane Corp., 500 U.S. 20, 26 (1991) (holding that employee who has agreed to arbitrate any dispute or claim arising between him and his employer must exhaust available arbitral procedures before seeking judicial redress for a civil rights claim under the Age Discrimination in Employment Act).

all of their pension rights. They may also be forced to forfeit accrued seniority and to start at the bottom of the ladder in their new work environment, greatly jeopardizing their future employment security.

It is ironic that the individuals who possess the least mobility normally exercise only marginal control over their employment destiny. Unorganized workers are generally powerless to negotiate with their corporate employers over their wages, hours, and working conditions. They must accept the terms unilaterally offered or else look for alternative employment. If they are directed to submit to drug testing or to engage in particularly arduous tasks, they have no real choice but to comply. This loss of personal freedom results directly from the considerable inequality of bargaining power that exists between individual employees and corporate managers.

The labor movement was initiated to provide individual workers with a collective voice that could effectively counter the aggregate power possessed by corporate enterprises. Without organizational strength, there is no broad-based institution to represent the interests of rank-and-file employees. A lack of such power would render workers one of the few groups in America without a collective voice. Business firms have organizations like the National Chamber of Commerce and the National Association of Manufacturers to represent their interests. More specific groups speak for pharmaceutical companies, chemical manufacturers, retail establishments, media groups, and other similar businesses. Lawyers have the American Bar Association; doctors have the American Medical Association; disabled individuals have various associations representing persons with diverse mental and physical impairments; and older people have the American Association of Retired Persons. In large corporations, however, individual employees often lack the assistance of representative organizations. Workers who think it would be "unprofessional" or "lower class" to join labor organizations should remember that their employers are all affiliated with business "unions" that effectively advance their economic interests. It is hypocritical for these business enterprises to tell their employees that they do not need a collective voice to further their employment interests.

If labor organizations become wholly ineffective institutions, many employers will undoubtedly exploit their employees by retaining an excessive portion of firm profits, creating less beneficial working conditions, and subjecting lower-level personnel to more arbitrary treatment. Over the past ten to fifteen years, union membership has steadily declined. While corporate profits have doubled, enhancing stock

prices and firm dividends, and the compensation levels of corporate managers have increased dramatically, employee wage rates have stagnated and even declined. It is easy to understand why employees have been left behind economically: they lack the economic power to demand and obtain their fair share of increased corporate profits. A recent survey of U.S. workers found that a substantial number now believe that companies are not sharing the economic gains they helped to generate. As a result, many of these individuals have become disenchanted and think that their employers do not really consider their interests when they make managerial decisions affecting employment conditions.

B. Advancing Industrial Democracy

The United States prides itself on being one of the world’s great democracies. Other nations have enormous respect for the American voting tradition and for the orderly transfer of power from one individual and party to another every two or four years. “Democracy is based on the belief that social integration through citizenship is normatively and practically superior to monolithic unity imposed from above . . . [and] that an accepted plurality of interests is more conducive to social cohesion and productive cooperation than an authoritatively enforced unity of purpose . . . .” The importance of democratic employment environments was recognized by Senator Robert Wagner, the principal author of the NLRA:

[W]e must have democracy in industry as well as in government . . . democracy in industry means fair participation by those who work in the decisions vitally affecting their lives and livelihood; and . . . the workers in our great mass production industries can enjoy this participation only if allowed to organize and bargain collectively through representatives of their own choosing.

The increasingly unorganized employment setting remains the most significant arena in which democratic participation is denied to

23. See Daniel Pedersen, Big Brown’s Union Blues, NEWSWEEK, Aug. 18, 1997, at 50; see also Unions Gather Strength, But So Do Executives, N.Y. TIMES, Sept. 7, 1997, § 3, at 2 [hereinafter Unions Gather Strength] (indicating that since 1982, executive compensation has increased 182% while corporate revenues have risen by 127%).


employees. Representative labor organizations remain a sine qua non to meaningful industrial democracy.

Collective bargaining was expected to provide individual employees with a vehicle to counterbalance the overwhelming power advantage enjoyed by corporate employers. Through organizational strength, employees would be able to influence their terms and conditions of employment and to participate in the governance of the businesses for which they toiled. They would also be able to share in the economic success of their respective employers. To the extent that individuals are permitted to influence employment conditions and business decisions that directly affect their economic future, they are more likely to develop a personal commitment to the enterprise. They are more inclined to be comfortable with the final determinations made and to be more cooperative and productive workers.

Increasingly, American employers treat their employees as second-class corporate participants. They begin new relationships with letters specifically informing job entrants that they may be terminated at any time for any reason, and then they wonder why rank-and-file workers display minimal loyalty toward their employers. Even company machinery receives more respect than employees through regular maintenance to offset the high cost of equipment breakdown. In addition, corporate officials try to reduce labor costs through the use of part-time or temporary workers, or through subcontractor arrangements. Accordingly, most displace their full-time personnel without much consideration.

The 1997 United Parcel Service (UPS)-Teamsters Union labor dispute provided graphic evidence of the way American firms have begun to treat their employees. While UPS had created over 40,000 new jobs during the preceding five years, over eighty percent were part-time positions which paid approximately half of the rate earned by full-time personnel. Many of the new jobs involved tasks that had to be performed on a part-time basis, but thousands of UPS part-time positions essentially involved work that could have been performed by full-time employees. For this reason, the Teamsters Union demanded and obtained a firm commitment to expand the full-time work force by 10,000 over the coming years. Despite 1996 profits of approximately $1.2 billion, part-time employees' wages had not increased since 1982.

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The new bargaining agreement between the union and UPS will raise part-time compensation by $4.10 per hour over the next several years.\textsuperscript{31} Without the collective strength enjoyed by UPS workers, it is unlikely they would have received any of these economic gains. Notably, UPS has a well-deserved reputation as an outstanding employer with extremely professional employees. If a firm of this repute did not feel the need to implement these changes until it faced a two-week work stoppage, it is easy to imagine how less generous employers would treat their employees in the absence of a collective worker voice.

II. HOW LABOR UNIONS CAN SURVIVE

The labor movement historically has derived its organizational strength from white, male, blue-collar employees residing in northern states. Over the past several decades, demographic and structural changes have substantially depleted the ranks of these workers and expanded traditionally unorganized sectors of the work force. The labor force participation rates for minorities and females have risen appreciably; the number of older employees has increased; and the United States has continued its transition from an industrial to a white-collar service economy. If labor unions hope to survive, they will have to modify their organizational focus. Labor leaders must develop programs that appeal to minority and female personnel, more senior workers, and individuals employed in the service sector.

It will not be easy for labor organizations to unionize traditionally unorganized occupations. Many nonunion workers are satisfied with their existing employment conditions because of their employers' efforts to avoid the adverse environments that have generated collective action in the past. Corporations try to provide their unorganized white-collar personnel with compensation and benefit packages as generous as those enjoyed by organized workers.

If labor organizations are to meaningfully advance the employment interests of these nonunion individuals, they must provide more than conventional economic gains. Labor groups will have to establish goals that enhance employee participation in the managerial decision-making process and that promote employee self-actualization. They must recognize that workers are more concerned with issues pertaining to self-respect and personal dignity than they are with purely economic matters. Labor organizations must also acknowledge the special needs of minority, female, and older workers.

\textsuperscript{31} See id. The compensation of full-time workers will increase by $3.10 per hour.
A. Creating a Favorable Public Perception

Labor leaders must realize that many people have a negative image of unions. There is a popular perception that many labor leaders are corrupt, that bargaining agreements create inefficient work rules inhibiting worker productivity, and that organized employees' compensation levels exceed the value of their services. American business leaders and the news media reinforce the negative reputation of labor organizations by emphasizing criminal convictions of union officials and by depicting organized workers as unambitious. Rarely do media stories positively portray union members or labor leaders.

Labor leaders must work actively to counteract these negative public views. AFL-CIO officials recently announced a new media campaign designed to enhance the public perception of labor organizations and to spark interest in union membership. Labor leaders should draw from the previous apparel manufacturing union "look for the union label" advertisements, which encouraged people to purchase garments manufactured in union shops, and the American Federation of State, County, and Municipal Employees, which showed the various government functions being performed by AFSCME-represented personnel. Such media campaigns must convince members of the general public that unions provide important services to the individuals they represent. Unions should focus not solely on the economic gains achieved through the bargaining process, but also on the collective voice which enables workers to influence their employment destinies.

Labor leaders must encourage news reporters at the national and local levels to disseminate stories about the enhanced working conditions enjoyed by unionized personnel and about industries that exploit unrepresented employees. For example, the sweatshop conditions once endemic in the apparel manufacturing industry should be documented, along with evidence of unsafe and unhealthy environments in many unorganized service settings. Unions must emphasize that organized work environments offer relatively healthful and safe surroundings. Unions need to provide reporters with statistics regarding the thousands of conscientious individuals discharged each year for no valid reason and without recourse to impartial appeal procedures. They should emphasize the "just cause" protections contained in bargaining agreements and the availability of grievance-arbitration procedures that provide employees with a right to challenge unjust management determinations.

Members of the general public have the impression that an excessive number of union officials are corrupt. Most of the public, however, is

unaware that the conviction rate for union leaders is no higher than the rate for business officials. By publicizing the fact that thousands of union officials work diligently to further the employment interests of represented workers at salaries substantially below those earned by their management counterparts, organized labor may focus the public’s attention on the labor organizations’ accomplishments. The limited number of union officers who earn over $100,000 per year pales in comparison to the multimillion dollar compensation packages enjoyed by countless business executives. Unions must remind individuals whose real earnings have remained constant in recent years how well their firm managers and shareholders have been doing.

Labor organizations should consider sponsoring television programs and movies that portray unions and union members in a positive light. Documentaries depicting the successful efforts of union leaders or the beneficial work of particular labor organizations would enhance the unions’ image. These programs would educate people who think that Archie Bunker is the quintessential union member and that violent strikes are typical union activities. Labor organizations can emphasize the gains achieved by unionized professional performers and airline pilots as well as the many collective contracts negotiated without work stoppages.

The recent UPS-Teamsters Union dispute has provided the labor movement with an excellent vehicle to redeem itself. Because most people know and value UPS employees’ professional services and appreciate the efforts of the Teamsters Union to restrict the proliferation of lower-paid part-time jobs, the striking UPS workers enjoyed unexpected public support. The strike activities were carried out with almost no violence, and the contract achieved at the bargaining table was generally viewed as beneficial for the workers involved. Labor leaders need to highlight these gains and encourage unorganized employees to contemplate benefits they might obtain through unionization.

Labor organizations can most directly enhance their public image by achieving gains for employees at the bargaining table. By providing represented employees with benefits unavailable to nonunion workers, labor organizations can make themselves more attractive to unorganized personnel. Thus, they must work to protect the pension benefits, health care coverage, family leave rights, child care, and antidiscrimination provisions union members enjoy. In recognition of the expanding labor force participation of female and minority workers, unions must ensure the elimination of compensation inequities and the eradication of discriminatory bars to entry into training programs and high-paid skilled positions. They must also strive to obtain additional fringe benefits, such

as legal care, eye care, dental care, and elder care. Although these benefits would cost money, they might be cost-efficient. Employers have already discovered that the cost of providing child care is outweighed by the savings gained through reduced absenteeism, improved employee morale, and the employer's enhanced ability to attract and retain more qualified workers. Individuals with satisfactory personal lives are usually more productive than those experiencing personal problems.

During the coming years, labor organizations must use the bargaining process to protect represented employees from the vicissitudes associated with the introduction of new technology, production relocation, and plant closures. Some unions may be able to obtain contractual provisions restricting the relocation or elimination of bargaining-unit positions. Other unions may have to allow such changes, but will be able to ensure displaced workers continued employment security through guaranteed annual wages or a form of job tenure similar to that enjoyed by many Japanese workers. These job security programs would not merely benefit the affected employees. When such tenure programs are in effect, workers are less resistant to operational change. This security provides management with greater flexibility and enhances employee morale.

Unions should demand provisions requiring companies to give advance notice of contemplated decisions likely to affect job security. Employees must be given the opportunity to discuss such proposed changes. Even when economic realities make it impossible for labor organizations to prevent the introduction of labor-saving technology or the relocation of unit jobs, they may be able to protect the interests of the adversely affected workers through provisions guaranteeing intra-plant or inter-plant transfer privileges, retraining opportunities, or severance pay. The availability of these benefits for unionized personnel would encourage collectivization among unorganized workers.

In order to limit the impact of competition from foreign facilities operated by multinational corporations, American unions should coordinate their bargaining efforts with labor organizations that represent employees of the same companies in other countries. They might initially agree that workers in one nation will not make up for lost production caused by a strike at a plant located elsewhere. In some instances, unions representing the workers of transnational enterprises might be able to seek comparable wages and benefits for people employed in different areas of the world, thereby minimizing competition based on labor cost differentials. These labor organizations might eventually seek coordinated bargaining for collective contracts covering individuals working for the same firm in different countries.

American unions should also try to advance industrial democracy through the establishment of meaningful worker-participation programs designed to enhance labor-management cooperation. They could bargain for the creation of shop-level committees similar to the works councils legislatively mandated in many European countries. These committees would be entitled to information regarding contemplated managerial changes that would affect employee interests, and corporate leaders would be required to consult these committees before making final decisions. Similarly, labor organizations could demand employee representation on corporate boards to ensure the consideration of worker concerns during debates regarding the future direction of business entities.

In order to further their public image, labor organizations must also enhance worker interests through the legislative process. These actions would enable unions to demonstrate a commitment to employees that transcends the mere interests of current union members. AFL-CIO affiliates have lobbied in favor of minimum-wage and maximum-hour legislation, civil rights enactments, health and safety regulations, worker and unemployment compensation programs, family and medical leave policies, and statutes protecting employee pension and benefit plans. However, most unions have not sought to provide unorganized employees with rights and protections commensurate with those enjoyed by union members under collective bargaining agreements.

This provincial philosophy can be attributed to the fear that the legislative enhancement of general employment conditions would diminish the need for traditional union representation. Union leaders who fear this possibility fail to recognize that conventional bargaining procedures are no longer adequate to deal with many of the complex problems created by the American economic system in a post-industrial society and by the increasing internationalization of the business world. Corporations in highly competitive fields cannot agree to contractual obligations that disadvantage them vis-à-vis unconstrained firms. Only legislation covering all workers can provide industry-wide protections that include both organized and unorganized companies.

The economic plight of unorganized workers adversely affects unionized employees. The availability of lower-wage nonunion labor threatens the employment standards and job security enjoyed by unionized personnel. In addition, the higher labor costs imposed on organized businesses cause nonunion firms to work more diligently to prevent employee collectivization. When important, and potentially costly, protections are extended to workers through legislative action, the cost of

35. See generally WORKS COUNCILS: CONSULTATION, REPRESENTATION, AND COOPERATION IN INDUSTRIAL RELATIONS (Joel Rogers & Wolfgang Streeck eds., 1995).
these programs is shared equally by industry members. Thus, no advantage exists in remaining unorganized, and the increased cost of unionization is diminished.

Union leaders fearful that increased legislative activity would undermine the popularity of labor organizations must remember that European trade unions, which historically have been actively involved in the political process, have membership rates three, four, and even five times the moribund rate of their American counterparts. Even within the United States, the most rapid union expansion over the past three decades has occurred in the public sector, where employees are provided with pervasive statutory protections.

By pursuing legislation advancing the rights of all workers, unions would further their interests in two ways. They would demonstrate a commitment to all employees, which would enhance their public image and increase the likelihood that workers traditionally opposed to unionization might reconsider their position. At the same time, they would reduce the diseconomies associated with unionization by extending to nonunion firms the same benefits available to union companies. This offer would make it less likely that nonunion corporations would work as hard to combat organizing campaigns.

Both organized and unorganized employees are increasingly affected by automation, subcontracting, and job relocations. Only the most powerful labor organizations can protect member interests through the bargaining process. Unions would be more efficient seeking appropriate protections through the legislative process. Through this venue, they could seek laws that would establish retraining and relocation funds, similar to unemployment compensation plans, that would provide employees with portable rights based on their previous attachment to the labor force. Displaced individuals would be able to use these financial resources to learn new skills or to relocate to geographic areas with greater employment opportunities, or both. Legislation could also require severance pay for displaced workers who are unable to obtain other positions with their current employer.

Unions could also appeal to labor force members by addressing issues of employee dignity. Legislation requiring employer- or government-sponsored child care, job sharing, and flex-time programs would benefit parents with younger children. Increasing numbers of single-parent and dual-income families would consider such programs essential; yet most employers have been unwilling or unable to provide them unilaterally. Legislation could also mandate job sharing in lieu of layoffs during short-term economic recessions as a means of protecting the job opportunities of more workers. By requiring firms to reduce the weekly hours of full-time personnel to thirty or thirty-five, a greater number of people would be able
to retain their jobs.

Labor leaders should continue to support comprehensive health insurance coverage for all Americans. Approximately forty million individuals currently lack basic health coverage. Thus, a national program would reduce the financial pressures encountered by private firms that provide health insurance coverage while increasing the number of individuals protected. By lobbying for expansive health care protection for all individuals, unions could significantly enhance their image among older workers who find it difficult to obtain health care coverage before they become eligible for Medicare. In addition, labor officials would be seen as supporting an issue of real national importance.

Labor organizations should also lobby in favor of laws restricting intrusive drug testing. They could seek amendments to the Drug Free Workplace Act of 1988 that would restrict random testing to persons occupying safety-sensitive positions. Unions could also try to restrict individual tests to persons whose behavior has provided a reasonable suspicion of drug or alcohol abuse. While union efforts in this regard would acknowledge the serious nature of the drug problem and the need for employers to protect the safety of their workers and clientele, these legislative actions would also advance the dignity of innocent employees who are offended by needless drug testing.

Unions should also lobby for legislative provisions minimizing the possibility of false drug-use determinations. Many corporations presently rely exclusively on the less expensive and less accurate enzyme-multiplied immunoassay technique (EMIT). Companies that obtain positive EMIT results frequently reject applicants and even terminate current employees based on those tests. Firms obtaining positive EMIT results should be statutorily obliged to perform the more accurate gas chromatography/mass spectrometry (GC/MS) test before making adverse employment decisions with respect to the affected individuals. By working to lower the risk of "false positives," unions can show employees that they have the power to protect against arbitrary and unfair treatment. Finally, labor organizations should encourage federal, state, and local governments to establish more alcohol and drug rehabilitation programs so that workers with substance abuse problems can also feel they are important to the labor movement.

Labor unions should cooperate with companies and government agencies to enhance the educational programs available at work and through high schools and community colleges. Employers face an increasing difficulty in obtaining well-educated workers. Approximately

twenty-five percent of high school students fail to graduate, and many
individuals who obtain high school diplomas lack the basic verbal and
math skills required by technologically advanced companies. Programs
should be designed to advance the ability of both new labor force entrants
and current workers to learn the skills required for new occupations. In
addition, unions should work jointly with business and education leaders to
courage the adoption of minimal competency standards that would
prevent the graduation of functionally illiterate individuals. This
investment in human capital would increase productivity and decrease
unemployment.

One of the most significant benefits employees derive from union
representation is the "just cause" limitation on discipline expressly or
implicitly contained in almost all bargaining agreements. Without such
restrictions and the accompanying grievance-arbitration enforcement
procedures, most unorganized private-sector employees can be terminated
at any time and for any reason not violative of a statutory prohibition.
Even though a number of state courts have created an exception which
precludes employee discharges that violate clear and important public
policies, the public policy limitation rarely benefits lower-level personnel.
Approximately 150,000 private-sector employees are terminated each year
under circumstances that would be found inappropriate by arbitrators
enforcing "just cause" provisions. To provide protection against such
arbitrary treatment of workers, labor organizations should lobby for state
and federal legislation protecting all private-sector employees against
unjust discharge.

Union leaders should not fear that the availability of these legislative
protections would diminish employee enthusiasm for unions, because
representative labor organizations would continue to provide valuable
assistance to individuals forced to invoke their statutory rights. The labor
organizations could also insure that wrongfully discharged persons who
have been reinstated do not suffer employer retaliation. The fact that
thirty-eight percent of public-sector employees who enjoy "just cause"
protection through civil service laws continue to be union members clearly
demonstrates that the availability of these protective laws does not detract
from worker interest in union representation.

Unions that continue to focus on the narrow interests of bargaining-
unit personnel are unlikely to survive. The decreasing number of

40. See Commission on Workforce Quality and Labor Market Efficiency, U.S.
Depart't of Labor, Investing in People 2 (1989).
41. See Frank Elkouri & Edna Asper Elkouri, How Arbitration Works 650-53
42. See Jack Stieber, Recent Developments in Employment-at-Will, 36 Lab. L.J. 557,
558 (1985).
organized corporations will fight more zealously to decertify incumbent bargaining agents they think are placing them at an economic disadvantage vis-à-vis their nonunion competitors. Labor organizations must return to their heritage. During the latter part of the nineteenth century, groups like the Knights of Labor and the National Labor Union functioned like social movements dedicated to the advancement of the rights of all workers. AFL-CIO affiliates have traditionally operated like "business unions" that are primarily concerned with the enhancement of the employment conditions of dues-paying members. As a result, unorganized personnel have often believed that modern labor unions do not care about their employment situations.

For the American labor movement to reestablish its power as a social movement, it must revitalize its alliances with other activist groups. Unions must work more closely with civil rights groups, such as the National Association for the Advancement of Colored People, the Mexican American Legal and Education Defense Fund, the National Organization for Women, and the American Association of Retired Persons. They should also strengthen their ties with groups concerned with health and safety issues, the adequacy of worker and unemployment compensation systems, Social Security and Medicare coverage, the fairness of tax laws on lower-income individuals, the lack of basic health coverage for millions of Americans, and other issues of interest to workers and their families. If these groups coordinate their efforts, they can achieve greater economic and political influence. Unions can use their increased power to expand membership and remain a vital force in the American economy.

If labor organizations were to induce Congress and state legislatures to enact statutes providing all workers with comprehensive employment protections, union strength would be enhanced, not diminished. The focus of labor organizations would shift somewhat from conventional collective bargaining to the provision of advice and assistance to individuals challenging discriminatory practices, improper layoffs, or unjust discipline; or to those seeking unpaid wages or overtime pay, the protection of their pension or fringe benefit rights, worker or unemployment compensation, or the enforcement of applicable health and safety regulations. The active participation of union representatives would provide both organized and unorganized personnel with unprecedented influence. Because most lower-level employees lack the financial resources to retain legal counsel with respect to such basic employment issues, they would welcome the assistance of union specialists. The costs associated with this representation would be offset by membership dues or

43. See Klare, supra note 22, at 58.
service fees imposed on nonmembers requesting such assistance.

If labor organizations are to generate the degree of political influence necessary to induce legislators to enact laws favorable to workers, they must enhance their political clout. They can accomplish this objective in several ways. With approximately 13,000,000 members, unions can ask their members to volunteer their services on behalf of political candidates who are favorably disposed toward employee rights. These volunteers could help candidates to reach prospective voters through mailed leaflets, telephone calls, home visits, and neighborhood rallies. They could also encourage apathetic individuals to vote for appropriate candidates. Union leaders could also solicit monetary contributions from members that would be used to finance political action programs. During the 1996 elections, AFL-CIO affiliates raised $35 million to educate workers about candidates supportive of employee interests. These campaign efforts are likely to be well remembered by legislators who owe their election success to the efforts of organized labor.

B. Organizing Traditionally Unreceptive Workers and Occupations

As the United States is transformed into a post-industrial society, the number of white-collar and service positions will continue to increase, with a concomitant decline in blue-collar jobs. Business firms are opening a disproportionate percentage of new facilities in Sunbelt areas; more women and minorities are entering the labor force; and the average age of workers is increasing due to the impact of the post-war, baby boom generation. If labor organizations hope to survive in the twenty-first century, they must find innovative ways to entice white-collar, service, Southern, female, minority, and older individuals to recognize the benefits they may derive through collectivization. If they cannot achieve real gains in these areas, private-sector unions will become impotent institutions with limited economic and political influence beyond the shrinking manufacturing sector.

Despite the continued decrease in union membership, labor entities have devoted fewer resources to organizing efforts in recent years. Membership declines have left unions with fewer resources to commit to organizing activity. Corporate executives have begun to envision the total demise of American labor unions. If union membership continues to decline over the coming years, business leaders may be able to generate an employment environment in which labor organizations will no longer be relevant institutions. This would allow management officials to determine

44. See Freeman & Medoff, supra note 16, at 228-29; Goldfield, supra note 1, at 206.
all employment conditions unilaterally because individual employees would exercise no significant influence over the basic terms of their employment. AFL-CIO President John Sweeney understands this reality and has moved expeditiously to correct the power imbalance. He recently announced that AFL-CIO affiliates plan to spend $20,000,000 per year on organizing activities—an eightfold increase from the early 1990s.\textsuperscript{45} President Sweeney knows that unions face a daunting challenge.

Business leaders are unlikely to cease their overt opposition to unionization efforts. When the Supreme Court recently sustained the authority of the NLRB to promulgate rules defining the bargaining units for healthcare institutions,\textsuperscript{46} the American Hospital Association immediately pledged to fight union organizing efforts on all fronts.\textsuperscript{47} To overcome such management opposition to unionization, labor entities will have to devise novel organizing campaigns that will appeal to workers who might contemplate collective action to enhance their influence in managerial decisions.

1. Developing Innovative Organizing Techniques

In recent years, management-labor relations specialists have modified their methods of discouraging employee collectivization. The overt threats and palpable economic intimidation of the past have been replaced by sophisticated techniques developed by professional behaviorists.\textsuperscript{48} Corporations have combined more aesthetic employment environments with subtle appeals to workers' class consciousness to convince employees of the obsolescence and "lower class" nature of union representation. Employers assert that wages and working conditions will not be improved through collective bargaining because employees can only obtain what businesses are willing to provide. They emphasize the fact that the NLRA does not obligate them to agree to any union proposal, and they note that employees who decide to engage in a work stoppage in support of union bargaining demands may be permanently replaced.

The success of these employer arguments can be attributed, in large part, to the fact that many union organizers continue to use the provincial proselytizing techniques that were developed during the late 1930s and early 1940s to organize blue-collar production personnel.\textsuperscript{49} While these traditional approaches may still appeal to unskilled and semi-skilled

\textsuperscript{45} See Unions Gather Strength, supra note 23.
\textsuperscript{48} See, e.g., Julius G. Getman, Ruminations on Union Organizing in the Private Sector, 53 U. Chi. L. Rev. 45, 50 (1986).
service-sector workers, they are unlikely to influence more educated white-collar personnel. Unions have to modernize their organizing techniques to respond successfully to managerial opposition. Unions must tailor their organizing efforts to discrete groups of workers in particular industries and specific occupations in order to generate the support necessary to be a viable economic and political force in society.

Unions must initially recognize that their traditional way of selecting officers and organizing personnel does not guarantee the promotion of the most effective individuals. These union employees historically have been recruited from the rank-and-file to ensure identification with the interests of the workers they represent or hope to organize. This politically motivated practice makes it difficult for unions to select the well-educated and charismatic personnel needed to counter the innovative antiunion efforts of management officials. The minimal financial rewards and the relatively low social prestige accorded to trade union officials and organizers make it difficult for labor organizations to attract new talent. This phenomenon often causes the proteges of aging former leaders to continue established practices without regard to the changing needs of the workers they represent.

The established union leadership has not been particularly adept at organizing recent labor force entrants. Union officials fail to understand the concerns and aspirations of the burgeoning white-collar occupations. As labor officials encounter more affluent and better-educated workers, they must understand the hopes and fears of those workers. Tremendous technological and educational changes over the past several decades have greatly affected most occupations. Unions must respond to the needs of the individuals occupying new positions in the work force. Unions must employ energetic and charismatic individuals who are committed to the advancement of worker rights. These individuals should include people with degrees in industrial relations and experience in organizational behavior. Such people would bring new strategies to the labor movement and would enhance the organizing skills of representatives promoted from the rank-and-file. Novice, and perhaps some experienced, organizers should receive special training to familiarize themselves with the unique needs of the occupations they seek to unionize. Some larger labor organizations may have sufficient resources to develop their own training programs. Other unions may enroll their organizers in courses at the George Meany Center for Labor Studies, an organization established for this purpose by the AFL-CIO in 1968. Special classes are also offered at university institutes of industrial relations. The available courses are quite

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diverse:

Organizer training has shifted from information-giving (about the law and merits of unionization) to in-depth practice skills required for effective enlistment of members—speaking, planning, interpersonal and group relationships. How to cope with "union-busters" is another feature. Case studies and simulations immerse trainees in problem-solving and interpersonal skills development.\(^5\)

Trained organizers must be able to empathize with the individuals being targeted. It is generally beneficial for the organizers or their families to have worked in the industries involved. This familiarity increases the probability that the organizers will be respected by the group being unionized. It also makes it easier for organizers to reflect the concerns of that group. During the formative stages of a campaign, union organizers must identify the workers who are most respected by their colleagues and enlist their support and assistance. These leaders can distribute union literature and proselytize effectively in favor of collectivization. Unions must recognize that collectivization is a grass-roots movement involving rank-and-file personnel. Successful organizers are able to elicit the views and assistance of workers in the proposed bargaining unit, because "[e]mployees have strong views about their jobs that they are eager to tell to someone they think really cares."\(^5\)

Employees generally contemplate collectivization because they lack influence with respect to their fundamental employment conditions. Organizers must appreciate these frustrations and educate workers regarding the degree to which they can gain empowerment through a unified voice. Organizers must also realize that many white-collar employees today are more concerned with issues of employment dignity and self-actualization than they are with economic issues. Therefore, organizers must emphasize how unionization can enhance workers' feelings of self-worth.

In order to demonstrate to prospective members that they are personally accessible to the employees involved, organizers must spend substantial time in the communities they are attempting to unionize. A recent AFL-CIO study found that unions prevail in seventy-eight percent of elections in which regular house calls are made to target employees.\(^5\) By contrast, the union success rate is only forty percent when communication is carried out primarily through telephone calls, and thirty-nine percent when mass mailings are the primary source of

\(^{51}\) Id. at 112.

\(^{52}\) Getman, supra note 48, at 60.

communication.\textsuperscript{54} House visits tends to stimulate grass-roots enthusiasm. By taking the time to listen to each employee’s concerns, organizers are able to show respect for each person’s viewpoint and to formulate collective objectives that reflect the actual desires of bargaining-unit personnel.

AFL-CIO data similarly show that other “rank-and-file intensive” organizing techniques significantly increase the likelihood of union success. Small group meetings with bargaining-unit personnel, representation committees comprised primarily of unit workers, and other devices generating the regular involvement of rank-and-file employees in the organizing campaign greatly increase the union success rate.\textsuperscript{55} The use of union buttons or T-shirts also helps to generate visible worker solidarity.

The organizing success of the Harvard Union of Clerical and Technical Workers (HUCTW) provides a model for other labor entities. HUCTW sought worker support through one-on-one personal contacts and carefully recruited organizing leaders from within the targeted work force.\textsuperscript{56} While economic issues were not ignored, the union organizers stressed issues of empowerment and self-respect. They recognized the need to imbue clerical personnel with a sense of dignity, and convinced the workers that they could improve their individual situations by using a collective voice.

Labor unions cannot afford to expend precious resources on target groups that are unreceptive to collectivization. They must look for employees who are dissatisfied with their present employment conditions and who would thus be more likely to contemplate unionization. Unions may respond to requests from displeased employees who have already decided to explore the benefits of unionization, or conduct surveys designed to identify the groups most amenable to collectivization. Because unions win over half of elections held in units of under fifty employees, but only twenty-eight percent of elections in units of over 500 workers,\textsuperscript{57} unions should be especially receptive to requests from smaller units. Although it might seem more efficient to target larger groups, labor organizations would be more effective going after more discrete units. It should also be noted that many service-oriented concerns have a number of employment settings containing fewer than fifty employees at each location.

\textsuperscript{54} See id.

\textsuperscript{55} See Union Tactics Found Key to Winning Elections 138 Lab. Rel. Rep. (BNA) 475 (Dec. 9, 1991) [hereinafter Union Tactics Key] (citing the unpublished work of Professor Kate Bronfenbrenner).

\textsuperscript{56} See Philip Foner, Women and the American Labor Movement 265 (1982).

The continued migration of workers to the Sunbelt states will force unions to develop new organizing strategies appealing to the needs of people in this region. Historically, unions have found this area difficult to organize, but more recent developments indicate that this situation is changing. As more Snowbelt workers, traditionally supportive of the labor movement, migrate to the Sunbelt and discuss the benefits of union representation with their co-workers, union organization is being facilitated. For example, during the late 1980s, unions that had the assistance of the AFL-CIO Industrial Union Department prevailed in a highly respectable sixty-three percent of representation elections conducted in the Deep South. These labor organizations committed substantial resources to the Southern unionization campaign, establishing employee committees within each targeted plant and securing a significant degree of worker participation. The greatest impediment to organization involved the employees' ignorance of their legal rights and their fear of employer reprisals. Through carefully structured education programs, union organizers apprised individuals of their statutory rights and dispelled any unfounded apprehensions. Other labor organizations could develop similar programs enabling them to organize a greater proportion of Sunbelt employees.

2. Targeting Female, Minority, and Older Workers

Labor unions must devise organizing strategies that will appeal to the growing number of female and minority workers. Approximately two-thirds of labor force entrants over the coming years will be women, and almost thirty percent will be minorities. By 2030, one-third of Americans will be fifty-five and older. While labor unions historically have not achieved significant organizational success with female, minority, and older workers, there is reason for contemporary union officials to be more optimistic. Recent AFL-CIO statistics indicate that unions prevail in sixty to sixty-six percent of labor board elections involving bargaining units comprised primarily of female or minority employees, or both. As older workers continue to work full- or part-time to supplement their retirement income, they, too, may respond to appropriate union organizing entreaties.

Female workers acknowledge the empowerment they can achieve through collective action. As a result, over forty percent have indicated

58. See GOLDFIELD, supra note 1, at 140-42.
60. See JOHNSTON & PACKER, supra note 9, at 89.
62. See Union Tactics Key, supra note 55, at 476.
that they would support union organizing efforts given the opportunity to do so. AFL-CIO leaders have begun to realize the importance of women to the future of the labor movement. Unions endeavoring to organize female occupations should employ more women organizers and work more closely with the Coalition of Labor Union Women, the National Organization for Women, and other groups of working women.

Labor organizations also need to confront issues of importance to female workers. They must seek legislation and bargaining agreement provisions designed to eliminate gender-based compensation differentials, and challenge artificial barriers which have generated the so-called "glass ceiling," impeding the advancement of qualified women. Labor organizations should seek provisions that go beyond the narrow "equal pay for equal work" concept and require equal compensation for different positions that are of comparable worth to the employer. Unions should support parental leave programs and flexible hour and job-sharing plans, and strive to obtain government or employer sponsored day-care centers. These programs would significantly benefit both single parents and working couples with younger children.

Millions of women continue to be segregated in traditionally female occupations and to earn substantially less than their male counterparts. They also frequently suffer from a lack of meaningful control over their employment conditions. Union organizers should emphasize to female employees that women workers who have collectivized earn thirty-nine percent more than their nonunion counterparts and enjoy a greater sense of occupational empowerment. Such appeals could induce millions of women workers to seriously contemplate the benefits they might derive from collectivization.

Although African-American and other minority workers were responsive to union organizing appeals during the late 1930s, particularly in mass-production industries being collectivized by industrial unions, their enthusiasm later waned due to discrimination in many craft unions.

65. For a discussion of the diverse pressures affecting single parents and working couples with children, see Arlie Russell Hochschild, The Time Bind (1997).
69. See generally William B. Gould IV, Black Workers in White Unions: Job Discrimination in the United States (1977); F. Ray Marshall, The Negro and
The enactment of federal and state civil rights statutes required offending labor organizations to abandon their discriminatory policies and forced recalcitrant union leaders to recognize their legal and moral duties to minority employees. Today, most unions work diligently to guarantee equal employment opportunities for all ethnic groups. Organizers should emphasize the fact that the average earnings of unionized minority workers exceed those of their nonunion counterparts by approximately thirty percent. If labor organizations continue to demonstrate their commitment to the advancement of all groups, minority employees could become a cornerstone in the rebirth of the labor movement. A recent survey indicated that almost seventy percent of minority personnel would support unions if given the opportunity. This predisposition should facilitate union organizing of areas in the work force occupied by high percentages of minority employees.

As the American labor force continues to age, labor unions will have to formulate new bargaining objectives that reflect the interests of older workers. Unions can attract these workers by strengthening pension plans and negotiating supplemental health insurance to protect retirees from expenses not covered by Medicare. They should also seek antidiscrimination clauses protecting older employees against age-based discrimination. Many older workers want to be able to move toward retirement on a phased basis. Labor organizations should attempt to obtain contractual provisions granting senior personnel the right to opt for part-time employment on a two-thirds or half-time basis as they approach retirement. Work-sharing programs would permit several older workers to share the same position, while allowing their employer to benefit from their advanced skills. There is reason to believe that a number of post-war, baby boom generation individuals will continue to work into their sixties and seventies. If labor unions demonstrate their commitment to these workers, they should be able to induce many to recognize the continued benefits they might derive from unionization.

3. Targeting White-Collar and Service Occupations

If the labor movement is to remain a vital economic and political force, unions will have to develop ways to organize white-collar and service employees who have not been traditionally receptive to collectivization. Labor leaders must concentrate their efforts on such major industries as insurance, computers, health care, banking and finance, and retail. To reach these workers, the labor movement must undergo an

Organized Labor (1965).

71. See Medoff, supra note 63.
organizing revolution like the industrial union movement of the late 1930s and early 1940s and the public-sector movement during the 1960s and 1970s. Many government labor organizations, such as AFSCME, the National Education Association (NEA), and the American Federation of Teachers (AFT), have successfully organized white-collar and service employees. The AFL-CIO should create a Professional and Service Employee Department that would include new organizations covering each of the targeted industries. Existing unions, such as the Retail Clerks International Association (RCIA), the Office and Professional Employees International Union (OPEIU), the United Food and Commercial Workers Union (UFCWU), and the Service Employees International Union (SEIU)—all of which have already demonstrated the capacity to collectivize retail, office, and health care workers—should be charter members of the new department. It is important to note that while conventional industrial and craft unions have been declining, these white-collar and service unions have been expanding by hundreds of thousands of members.  

Service employees are usually locked into low-paying and low-skill jobs with minimal opportunities for personal advancement. While worker turnover is often high, negating a perceived need among employees for unionization, service personnel are actually optimal targets for collectivization because of the poor economic and environmental conditions associated with their employment. Union representation could enhance their financial circumstances and improve their working conditions. Labor organizations would be relatively unconcerned with foreign competition, since most service jobs must necessarily be performed within the United States. AFL-CIO affiliates should learn from unions like the RCIA, UFCWU, and SEIU, and accordingly develop programs that will appeal to service personnel wishing to improve their employment circumstances, regardless of their short- or long-term employment prospects.

The SEIU's "Justice for Janitors" campaign provides a perfect example of techniques available to unions to organize occupations that tend to be temporary in nature. Instead of trying to organize particular providers of janitorial services, SEIU recognized that most service contracts turn over on a regular basis from one provider to another. It thus decided to organize the buildings served by the different janitorial services by using sit-ins, public demonstrations, appeals to health and safety and wage and hour agencies, and other similar pressure tactics. These corporate campaigns generated great success in cities like Los

Survival of Labor Unions

Angeles and Washington, D.C. 73

Unions could employ analogous corporate campaigns to counteract employer opposition in other service industries. White-collar and professional personnel are especially difficult to unionize. These workers have historically enjoyed an upward mobility that induced them to identify more with management than with their rank-and-file colleagues. 74 Their middle-class socioeconomic status has caused many white-collar workers to question the benefits they might derive from membership in blue-collar trade unions. Manipulative management representatives have worked hard to convince their white-collar personnel that labor union participation would be both unprofessional and demeaning.

Over the past few decades, white-collar positions have greatly expanded while individual employment freedom has decreased. Global firms control local operations through managerial authority centralized at corporate headquarters. As a result of these hierarchial structures, many lower-level management employees have had their discretionary power circumscribed. They receive directives from regional, national, or even international officers who instruct them on the precise manner in which they must carry out their managerial tasks. The employment situation for non-managerial professionals has similarly deteriorated. Restrictive corporate policies have reduced their autonomy and limited their exercise of professional judgment. The computer revolution has also curtailed white-collar employee autonomy. Supervisors can electronically monitor employee key strokes, break periods, and error rates, 75 and they can peruse personal employee e-mail communications. 76 Even the work of problem-solving analysts has become more mechanized, and scientists and engineers have become subject to greater constraints. 77

The economic well-being of white-collar personnel has declined over the past two decades. Between 1977 and 1990, the compensation received by upper-level executives rose an astonishing 220%, while the compensation levels for middle managers and hourly employees rose at a modest rate. 78 Top corporate officials no longer pretend that they share a common bond with lower-level white-collar personnel. Business leaders

73. See id. at 26.
78. See id. at 204. Regarding the increasing division between rich and poor, see Andrew Hacker, Money: Who Has How Much and Why 10-11 (1997).
believe that they deserve to receive financial rewards reflecting the profits generated by their efforts. Since they no longer provide managerial employees at the plant and regional levels with significant autonomy, upper management no longer attributes enterprise gains to the decision-making functions of those individuals. Many corporate executives now regard lower-level white-collar employees as similar to their blue-collar associates. When economic conditions deteriorate, those white-collar professionals become as disposable as their blue-collar colleagues. This decreased job security makes it more difficult for firms to convince white-collar personnel to identify with long-term enterprise interests, and weakens the belief of lower and middle managers in their potential for upward corporate mobility.

As white-collar employees increasingly find themselves in employment circumstances analogous to those enjoyed by their blue-collar compatriots, they are likely to begin to appreciate the benefits to be derived from collectivization. Labor organizations must recognize that these individuals are not concerned primarily with economic issues. They wish to participate in the decision-making process of their respective firms and to enhance their employment dignity. Many no longer believe that corporate leaders are responsive to their needs, concerned about their employment security, or willing to provide work environments as pleasant as those they used to enjoy.

The post-war, baby boom generation has experienced an additional barrier to upward mobility. While the number of well-educated professionals has increased significantly in recent years, the number of desirable corporate positions has not. Individuals in their late thirties and early forties have thus encountered fewer opportunities for advancement. A study of technicians and engineers taken in the French electrical industry revealed that union militancy was directly correlated with diminished professional mobility. As American professional workers continue to encounter promotional barriers, they may begin to identify more closely with their blue-collar colleagues than with the corporate managers who have contributed to their declining employment opportunities. This trend may induce a growing number of white-collar employees to succumb to unionization appeals. American labor organizations should be encouraged by the fact that substantial numbers of white-collar personnel in other industrial nations have been unionized for many years.
If labor unions hope to successfully organize white-collar personnel, they must develop strategies that will directly appeal to those workers. It would be beneficial for the AFL-CIO to create new entities comprised entirely of white-collar members working in specific areas such as finance, insurance, health care, and computers. The campaign literature of these new organizations must be drafted to interest highly educated people who are more concerned with self-actualization than with economic issues. Labor unions must employ erudite organizers who can relate effectively to professional employees. Organizers must emphasize issues pertaining to worker dignity and respect. They should formulate bargaining objectives that focus on employee autonomy, worker participation in managerial decision-making, and the opportunity for professional advancement. Campaign goals might include employee access to paid educational leaves and the opportunity to attend professional conferences.

It is important to acknowledge that the overall unionization rate for white-collar professionals now exceeds the rate for non-professional workers. This trend supports the thesis that increasing numbers of white-collar personnel want to enhance their employment influence and are willing to consider unionization as an appropriate vehicle to accomplish this objective. Even though a substantial share of organized white-collar people are government employees, there is no reason to think that labor organizations could not similarly advance the employment interests of private-sector professionals. As the American industrial system becomes more technologically advanced and professional positions become more mechanized, more highly educated but underutilized employees will experience dampened aspirations and greater professional dissatisfaction. To counteract their loss of professional autonomy and regain the respect and dignity they once enjoyed, many private-sector white-collar workers may resort to collectivization. As greater numbers of physicians, lawyers, accountants, engineers, and other professionals experience a similar loss of control over their employment destinies, they may also contemplate unionization. Expanding governmental regulation

of these occupations has already caused groups like the AMA and the ABA to pursue policies designed to protect the employment interests of their members. It is important to recognize that the British Medical Association has been a registered trade union for many years.

During the past several decades, the socioeconomic situations of blue-collar and white-collar employees have become intertwined. Changing employment conditions have caused the simultaneous "embourgeoisement" of blue-collar workers and the "proletarianization" of professional employees. White-collar workers who previously considered themselves "upper-middle class" are more likely to view themselves as "middle-class" today, while blue-collar employees who formerly saw themselves as "working-class" now think of themselves as "middle-class." Both groups share feelings of powerlessness that can be effectively alleviated only through collective action. If American labor organizations can demonstrate their capacity to preserve professional values while advancing important employment interests, they can experience significant future growth among white-collar personnel.

During the tenure of his AFL-CIO presidency, John Sweeney has slowed the decline in union membership from 5% in 1993 to 2.2% in 1995 to a current one percent over the past two years. He is committed to organizing efforts that will expand membership rolls over the coming years. If he and his colleagues are successful in this regard, labor organizations may experience a renaissance that will convince corporate leaders that predictions of the demise of the American labor movement have been greatly exaggerated.

III. CONCLUSION

Over the past several decades, union membership has declined significantly. The ninety percent of private-sector workers who are currently unrepresented enjoy minimal job security and exercise no control over their employment destinies. Demographic and industrial changes have eroded the traditional manufacturing base of organized labor and have generated a growth in white-collar and service occupations, work force areas traditionally unreceptive to unionization.

Labor organizations perform important social functions. They enhance the economic benefits received by union members, and they provide represented employees with a collective voice that can be used to influence corporate decisions affecting their employment conditions.

88. See Daniel Gallagher & George Strauss, Union Membership Attitudes and Participation, in THE STATE OF THE UNIONS, supra note 53, at 143; MANN, supra note 82, at 25.
Arbitrary discipline is prohibited, and grievance-arbitration procedures are available to workers who are dissatisfied with adverse firm determinations. Labor unions also contribute greatly to a democratic society because they are the only mechanism providing workers with meaningful industrial democracy.

If labor unions are going to survive, they must improve their public image and convince American workers that they will benefit from collectivization. Labor leaders must gain favorable media coverage regarding organized personnel and publicize the negative employment conditions that affect many unorganized workers. They must demonstrate their ability to obtain beneficial employment terms through the collective bargaining process. They must also lobby for legislation advancing the employment rights of all workers. Such activism would show unorganized personnel how committed unions are to all employees, and it would diminish the competitive disadvantage unionized firms experience alongside their unorganized competitors.

Labor unions must develop innovative organizing techniques that will appeal to a majority of future labor force participants. They should tailor their campaigns to reflect the needs of female, minority, and older workers, and create new entities that can satisfy the interests of white-collar and service personnel. Organizers must change their focus from conventional economic matters to issues relating to personal dignity and self-actualization. If they can convince educated, white-collar employees suffering from a loss of autonomy and from increasingly mechanized work that appropriate labor unions could advance their employment interests without undermining their professional identities, many might opt for collectivization. This support would stem the labor movement's decline and allow it to remain a vital economic and political force as we enter the twenty-first century.