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LABOR UNIONS, CORPORATIONS AND RIGHT-TO-WORK LAWS:
IMPACTS ON THE AMERICAN ECONOMY

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Abstract

The labor movement of the U. S. continues to bring the issue of worker rights to the forefront of American policy debates. As the American economy again has shifted from one based on manufacturing and the production of hard goods to one reliant upon human, financial and informational services, the labor movement faces new challenges. Labor unions and business leaders continue to disagree on the proper role of collective action and the effectiveness of policies aimed at the workplace sector. Today, one of the largest debates is the continued role and expansion of Right-to-Work (RTW) legislation. The debate is often cast as one between two perspectives on the guaranteed right to freedom of association. Labor unions believe RTW limits the power of collective action and, subsequently, the collective rights of workers versus business management. Conversely, business management believes that individual choices to associate are taken away through union requirements (Hogler, 2005). This analysis will examine the history of Right-to-Work laws, their impact on state and individual economies, the issues generated from their implementation and offer a recommendation for policy reform.

Introduction

Beginning with the onset of the American Industrial Revolution in the mid 1800s, workers increasingly left the traditional agricultural sector for manufacturing and extraction employment.

This transition marked a shift from production ownership (i.e., growing crops on one's own land) to shared production (i.e., factories and mines). More workers were now employed by someone else. As a result a formal labor class was established. Many manufacturing industries were characterized by unhealthy working conditions, unfair employment practices and low wages. In response the labor class began to mobilize. Prior to the expansion of the Industrial Revolution small trade unions (i.e. carpenters) had formed in some cities across the country but a nationwide labor movement did not exist. In 1866, the National Labor Union was founded as the first recognized national labor union in the United States. It was followed by the American Federation of Labor (AFL) in 1886 and the Congress of Industrial Organizations (CIO) in 1932.¹ Labor unions and their members helped shape twentieth century business and politics by calling for new wage, benefit, and health standards and the recognition of union and worker rights. Today, 15.4 million Americans or 12.5 percent of the workforce are members of labor unions (American Federation of Labor-Congress of Industrial Organizations [AFL-CIO], n.d.). They remain a powerful force in American society and a highly debated entity in the political sector.

The labor movement of the U. S. continues to bring the issue of worker rights to the forefront of American policy debates. As the American economy again has shifted from one based on manufacturing and the production of hard goods to one reliant upon human, financial and informational services, the labor movement faces new challenges. Labor unions and business leaders continue to disagree on the proper role of collective action and the effectiveness of policies aimed at the workplace sector. Today, one of the largest debates is the continued role and expansion of Right-to-Work (RTW) legislation. RTW legislation guarantees the right of individual workers to determine their union membership status (i.e., no forced membership regardless of the employment sites union affiliation). The debate is often cast as one between two perspectives on

the guaranteed right to freedom of association. Labor unions believe RTW limits the power of collective action and, subsequently, the collective rights of workers versus business management. Conversely, business management believes that individual choices to associate are taken away through union requirements (Hogler, 2005). This analysis will examine the history of Right-to-Work laws, their impact on state and individual economies, the issues generated from their implementation and offer a recommendation for policy reform.

History & Context

Federal Policies and American Labor Relations

The National Labor Relations Act/Wagner Act (NLRA) of 1935 was passed by Congress to protect workers' rights to unionization. NLRA states and defines the rights of employees to organize and bargain collectively with their employers through representatives of their own choosing (i.e., elected union leaders). The NLRA identified workers' rights to form a union, join a union, and to strike in an effort to secure better working conditions (National Labor Relations Board, 1997). "The act also created a new National Labor Relations Board (NLRB) to arbitrate deadlocked labor-management disputes, guarantee democratic union elections and penalize unfair labor practices by employers" (Cooper, 2004, p. 2). Furthermore, NLRA prohibited employers from setting up a company union and firing or otherwise discriminating against workers who organized or joined unions (Encyclopedia Britannica, 2007).

Prior to the passage of NLRA, the federal government had been largely antagonistic to union organizing. Labor unions across the country faced significant challenges in social action initiatives aimed at ensuring adequate wages, benefits and the reduction of industry health hazards. During the first half of the twentieth century, for example, laborers who attempted to organize

protective associations frequently found themselves prosecuted for and convicted of conspiracy (Beik, 2005). With the onset of the Great Depression, and an unemployment rate of 24.9 percent in 1933, the national political framework shifted its focus from the protection of the business sector to the protection of workers and individuals through the creation of New Deal policies (e.g., Social Security and Civilian Conservation Corps). These policies hoped to create a social safety net that would prevent further economic disaster. Due to the power of business interests and persons advocating a free market society, many New Deal policies had been declared unconstitutional by the United States Supreme Court, including the previous labor legislation – the National Industry Recovery Act of 1933 which authorized the President to regulate businesses in the interests of promoting fair competition, supporting prices and competition, creating jobs for the unemployed, and stimulating the United States economy to recover from the Great Depression (Babson, 1999). Thus, many businesses believed that the NLRA would follow the same path. In April of 1937, however, the NLRA was declared constitutional by the Supreme Court, highlighting the increased power of labor unions on national politics and policymaking (Beik, 2005).

In 1935, 15 percent of American workers were unionized. By 1945, the proportion had risen to 35 percent (Babson, 1999). During this time there were three primary types of union/employer structural arrangements: the agency shop, the union shop, and the closed shop. Cooper (2004) describes the arrangements as follows:

- Agency Shop: The union's contract does not mandate that all employees join the union, but it does mandate that the employees pay agency fees.
- Union Shop: The union's contract requires that all employees join the union within a specified amount of time after becoming employed.

- Closed Shop: The union's contract mandates that the employer only hire union members (pg. 2).

1945 marked the peak of American unionization with over one-third of American workers belonging to labor unions. Organized labor reached the zenith of its power in the U.S. from 1935 - 1947 (Beik, 2005). Many business leaders, however, began to lobby for a loosening of union power insisting that businesses and individuals were, due to the NLRA, prevented from exercising their right of association and employment procedures. At the same time, the political landscape was changing and anti-communism was used as a key argument to stymie the power of unions. Labor unions were seen as a corrupt socialist tactic and, thus, could be associated with the "red scare." The public also began to demand action after the World War II coal strikes and the postwar strikes in steel, autos and other industries were perceived to have damaged the economy.

With the increasing constituent pressure and the election in 1944 of the pro-business and pro-states' rights Republican congress, the second significant piece of national labor legislation was passed, the 1947 Taft-Hartley Act. Taft-Hartley effectively overturned many of the rights guaranteed by NLRA and outlawed the closed shop arrangement (Cooper, 2004). Moreover, "section 14(b) of Taft-Hartley made Right-to-Work laws legal and gave states the power to pass laws to outlaw both agency and union shops" (Cooper, 2004, p. 10). This provision afforded states the opportunity to pass laws that forbade the establishment of businesses and/or union contracts where union membership was a condition of employment; thus, the age of RTW began.

Right-to-Work Laws

Immediately following the passage of the Taft-Hartley Act states began to enact Right-to-Work laws. The basic concept of RTW is that workers should not be obligated to join or give

support to a union as a condition of employment (Kersey, 2007). The main objectives of RTW laws have, to this day, shared similar purposes. These objectives include: a. the promotion of individual freedom; b. the creation of a pro-business atmosphere aimed at spurring economic growth; c. the elimination of the power of union organization. As of January 1, 2006, 22 states had passed RTW legislation. Table 1 below indicates the states that have passed RTW and the year the law was enacted.

TABLE 1

Table of Right-to-Work Laws as of January 1, 2007

State	Year Enacted
Alabama	1953
Arizona	1947
Arkansas	1947
Florida	1943
Georgia	1947
Idaho	1985
Indiana <i>only applicable to school employees</i>	1995
Iowa	1947
Kansas	1958
Louisiana	1976
Mississippi	1954
Nebraska	1947
Nevada	1951
North Carolina	1947
North Dakota	1947
Oklahoma	2001
South Carolina	1954
South Dakota	1947
Tennessee	1947
Texas	1993
Utah	1955
Virginia	1947
Wyoming	1963

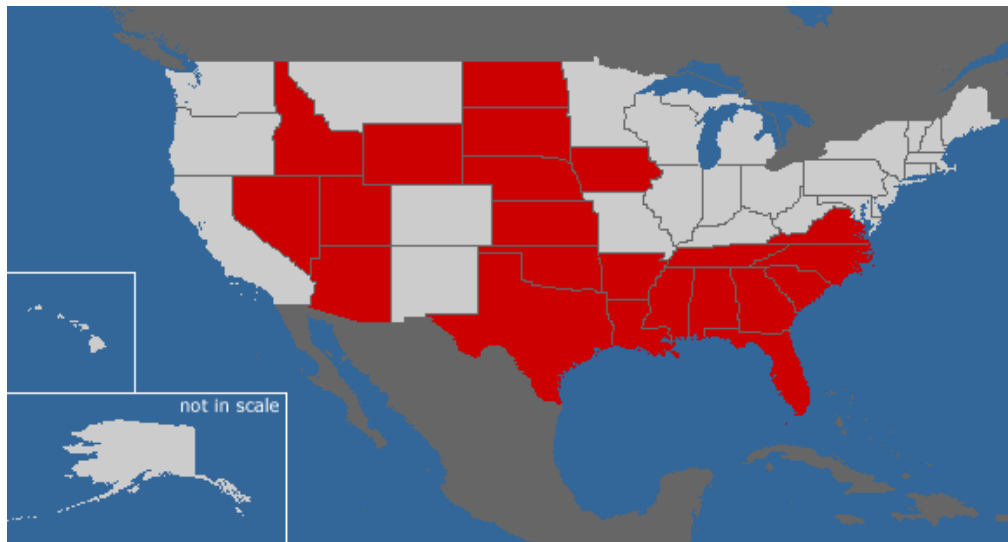
Note. From United States Department of Labor (2003). *State right-to-work laws as of January 1, 2007 with year of passage.* Retrieved December 2, 2007, from <http://www.dol.gov/esa/programs/whd/state/righttowork.htm>

It is important to note that a regional divide exists with regard to the establishment of RTW laws. As seen in Figure 1 below, most of the states with RTW laws are located in the southeast, Midwest and Rocky Mountain States. These states have traditionally maintained lower rates of unionization -- 18% in 1947, 52% lower than their non-RTW counterparts (Beik, 1998).

The basic objective of worker choice in choosing union membership is uniform across state RTW legislation. A typical RTW law reads, "No person may be denied employment, and employers may not be denied the right to employ any person, because of that person's membership or non-membership in any labor organization" (Wright, 2007, p. 3). There are, however, differences with respect to the use of section 14(b) of the Taft-Hartley Act which grants to the individual states the right to extend their statutes to include the barring of the establishment of

FIGURE 1

Geographic Distribution of Right-To-Work States (in red)



Note. Created with data from United States Department of Labor (2003). *State right-to-work laws as of January 1, 2007 with year of passage*. Retrieved December 2, 2007, from <http://www.dol.gov/esa/programs/whd/state/righttowork.htm>

agency shops. Of the 22 states with RTW laws, 20 also include provisions eliminating the agency shop option of union/employer relations. The inclusion of this provision is important to understanding the varying degrees of union capacity in governance and negotiating as the states with agency shop allowance are not, in essence, decreasing union power. Agency shops afford labor unions the right to operate under exclusive representation. Exclusive representation is the privilege that empowers union officials to represent all employees in a company's bargaining unit regardless of membership status (National Right-to-Work Legal Defense Foundation [NTRW-LDF], 2007). All employees of agency shops must pay fees regardless of status, thereby maintaining the fiscal capacity and the associated political power of labor unions.

The passage of RTW laws symbolizes the ongoing debate about freedom of association that creates a divide between unions and employers. Each organizational stakeholder (labor unions, employers) believes that RTW laws create significant changes in the U.S. workplace landscape with regard to wages, job creation, collective bargaining and economic growth. These changes, however, are viewed differently by each stakeholder group. The concerns of each group are key components of the policy debate.

Labor unions believe that RTW laws stall the potential growth of worker wages and, subsequently, state economic growth. Furthermore, a decline in union membership, according to leading labor unions, further diminishes the power of workers to bargain with employers. This leads to lower wages, less comprehensive benefit packages and more hazardous working conditions. The AFL-CIO, one of the nation's leading labor unions² states, "Right-to-Work laws are a direct attack on the fundamental right of freedom of association. They are a veiled attempt to weaken or remove unions from the bargaining table" (Indiana AFL-CIO, 2000, paragraph 1). Conversely, employers believe that forced union membership inhibits the freedom of workers to

choose their place of employment based upon the wages determined by the market. The power of union bargaining can diminish the capacity of businesses to effectively design strategies that ensure economic growth and the creation of new jobs. In other words, unionized workers and their associated employment agreements often are products, not of the prevailing economic system, but of the negotiating ability of union leaders. Both groups argue that their perspective is the best to ensure economic viability of individual workers, businesses and their state and national economies.

Impacts

Right-to-Work Laws and Employment

One of the key arguments offered by proponents of RTW legislation is that the laws increase employment. Proponents believe that, if businesses are not required to operate under union wage contracts, they will remain profitable due to decreased labor costs and the economic landscape will encourage cross-state relocation of businesses; thus, employment opportunities will increase for all citizens. “Opponents, however, argue that most job growth occurs from in-state business expansion not the relocation of businesses from a non-RTW to a RTW state” (Oklahoma League of Economists, 1996, para. 2). The unemployment rates in RTW states pre and post RTW passage, as well as the comparison of RTW to non-RTW states, provide important insights in to the impact of RTW legislation on employment across jurisdictions.

Overall, the unemployment rates in RTW states are lower than non-RTW states. For example, the unemployment rate between 1978 and 2000 averaged 5.8 percent in RTW states versus 6.3 percent in non-RTW states. Additionally, between 1970 and 2000 overall employment increased by 2.9 percent annually in RTW states versus 2.0percent in non-RTW states. This trend has continued, although tightening, into the 2000s; between 2001 and 2006 RTW states had

a median 4.8 percent unemployment rate compared to 5.1 percent for non-RTW states (Kersey, 2007). As of March 2010, RTW states had an average unemployment rate of 8.6 percent while the rate in non-RTW states stood at 9.4% (Bureau of Labor Statistics [BLS], 2010).

Another aspect of the impact that RTW laws have on employment relates to the type and condition of employment between the two types of states. The share of manufacturing employment in the U.S. in 1950 was 35 percent of the workforce. This figure declined to 13 percent in 2004 (Fischer & Rupert, 2005). Many RTW advocates believe pro-business laws, such as RTW, lessen manufacturing losses by creating a conducive business atmosphere. While both types of states have not been able to stem the national tide, data indicates that manufacturing employment in RTW states has decreased at a much lower rate than in their non-RTW counterparts where manufacturing employment has seen significant decreases. Between 2001 and 2006 the typical RTW state saw manufacturing employment decline 1.5 percent annually, equaling 7.1 percent overall. Non-RTW states, however, faced even sharper declines, averaging 3.0 percent annually and 13.7 percent over the five year period. Every non-RTW state but one, Alaska, lost manufacturing jobs during that period, while five RTW states registered at least modest gains in this area (Wright, 2007).

In terms of job conditions, the government data shows that in 2003 the rate of workplace fatalities per 100,000 workers was highest in right-to-work states. The rate of workplace deaths is 51 percent higher in RTW states (BLS, 2006). Nineteen of the top 25 worker fatality rates were found in RTW states, while three of the bottom 25 states were RTW states (Bureau of Labor Statistics [BLS], 2003). Further, in a study of New York City construction site fatalities, it was found that 93 percent of deaths happened at non-union sites (Walter, 2007). The same holds true

in the coal mining industry where 87 percent of fatalities between 2007 and 2009 occurred at non-union mines (U.S. House of Representatives Committee on Education and Labor, 2007).

Right-to-Work and Job Growth

Holmes (1998) argues that large manufacturing establishments are more likely to be attracted to RTW states because larger plants are more likely to be unionized. RTW laws, according to manufacturers, help maintain competitiveness and encourage development in the strained sector. He also found that eight of the ten states with the highest manufacturing employment growth rates are RTW states. All ten states with the lowest growth rates are non-RTW states. Opponents charge that the laws depress individual worker wages at the expense of profits and capitalist objectives. From 1977 through 1999, Gross State Product (GSP), the market value of all goods and services produced in a state, increased 0.5 percent faster in RTW states than in non-RTW states (Wilson, 2002).

Right-to-Work Laws and Wages

The impact that RTW laws have on wages is another important consideration. This includes both absolute wages and the overall wage distribution across income and racial lines following RTW passage. There are currently 132,604,980 workers in the United States (U.S.). The American worker, as of July 2009, earned an average of \$44,901 per year. This translates in to an average hourly wage of \$22.36 (Bureau of Labor Statistics [BLS], 2009).

Leading researchers disagree on the impact of RTW laws on wages. For example, 16 of the 18 RTW states are estimated to have had higher average wages in 2000 as a result of their RTW status (Reed, 2003). On the other hand, Bureau of Labor Statistics (BLS) data reveals that

average annual pay is higher in non-RTW states. In addition, income polarization is higher in RTW states, with a higher percentage of workers earning the minimum wage (even when controlling for education level) than in non-RTW states. After years of economic development, the portion of heads of household earning around the minimum wage is still 35.5 percent (4.4 percentage points) higher in RTW than in high-union-density states (Cassell, 2001).

Lawrence Mishel (2001) of the Economic Policy Institute found that in 2000 the median wage for workers living in RTW states was \$11.45, while wages for those living in non-RTW states were \$13.00, indicating that wages were 11.9 percent lower in RTW states. He further concluded that previous research citing wage increases in RTW states were directly attributable to the improved income characteristics of those residing in large cities located on a state border with a non-RTW state. At the same time, when looking at weekly and hourly wages by industry between RTW and non-RTW states *adjusted for cost-of-living*, RTW states have higher wages in two key industries. For example, in manufacturing workers in RTW states earn an average of \$717 weekly and \$17.89 hourly while their non-RTW counterparts earn \$672 and \$16.80. In education and health services, those amounts are \$717 and \$21.34 for RTW and \$650 and \$20.06 for non-RTW. These differing statistics question the true RTW impact on wage increases and the quality of employment.

The impact of union status on wages, rather than RTW vs. non-RTW, may play the biggest role in terms of weekly earnings. The following chart provides wage data by industry between union and non-union jobs. As Table 2 demonstrates, in all presented industries union workers earn a higher weekly wage than their non-union counterparts. This is further augmented when looking at employment benefits.

TABLE 2

INDUSTRY	Union	Non-Union
OVERALL	\$908	\$710
Manufacturing	\$800	\$762
Transportation & Utilities	\$975	\$748
Local Government	\$956	\$720
Service Occupations	\$702	\$435
Education & Health Services	\$839	\$698

Note. Created with data from Bureau of Labor Statistics (2009). “*Employer Costs for Employee Compensation –MARCH 2010.*” Retrieved April 21, 2010, from <http://www.bls.gov/news.release/pdf/ecec.pdf>

For example, in goods-producing industries, union workers earn health insurance benefits worth \$5.04 per hour while their non-union counterparts earn an average of \$2.51. In service-producing industries, for union workers that benefit stands at \$4.24 per hour while for non-union workers it is equal to \$1.76. Restrictions on unionization may prohibit earnings and benefits increases at individual workplaces.

Right-to-Work Laws and Unionization

Are RTW laws, as unions would suggest, reducing the freedom of association afforded to America's workers through unionization? Ellwood and Fine (1987) suggest that a RTW law reduces the percentage of employees working in organized plants by five to ten percent. The number of persons belonging to a union fell by 326,000 in 2006 to 15.4 million. The union membership rate has steadily declined from 20.1 percent in 1983, the first year for which comparable union data are available, to 12.5 percent in 2008. The overall power of unions is diminished nationwide but is lower in non-RTW states. In 2004, the private sector unionization rate in non-RTW states was 14.9 percent versus 6.7 percent in RTW states (Hirsch & Macpherson, 2009). For example, 20 percent of construction workers in non-RTW states are unionized while only 8 percent are in RTW states. Only one state (Nevada) has a higher unionization rate than the national average.

Labor unions have, through collective bargaining and organizing, the ability to set contracts that diminish the power of discrimination on the behalf of employers based on racial and/or gender bias. The uniform nature of the labor contracts ideally has, although not always, been able to secure non-discriminatory wage rates. As of 2006, black workers (14.5 percent) were more likely to be union members than were white (11.7 percent). Any RTW law may then disproportionately affect black workers as the power of unions decreases. Moreover, the most unionized industries are teachers and librarians at 37 percent, occupations dominated by women (BLS, 2006).

For the bottom fifth of American workers the unionization rate is 5.6 percent (Fine, 2005). The lack of unionization among the lowest-income Americans signifies the falling influence of unions. In the U.S. there is a growing divide between the lowest economic categories and the top

one percent of wage earners. The U.S. is increasingly dividing in to a two class system – the rich get richer, the poor get poorer and the middle class shrinks. The low rate of unionization, the increased income class divide and the potential disparate impacts on minorities and the decline in union membership nationwide may increasingly assist in diminished capacity of the working class. The following table summarizes the impacts of RTW laws on the variables discussed in the *Impacts* section.

TABLE 3**Impacts Summary of Right-to-Work Laws**

RTW Laws and Impact	POSITIVE	NEGATIVE
Unemployment Rates	X	
Working Conditions (safety, poverty rate)		X
State Economic Growth	X	
Wages	X	X
Minority Impact		X
Unionization		X

Issues***Free Riders***

Free riders are actors who consume more than their fair share of a resource, or shoulder less than a fair share of the costs of its production (Cooper, 2004). Labor unions argue that RTW laws enhance the free rider problem. In other words, non-union members at a workplace are not paying dues but are benefiting from the contracts negotiated by unions and their members. RTW advocates counter that the problem is not the “free riders” but laws that require employees, union

members or not, to operate under a union contract and maintain union bargaining representation. They claim there is always a group of highly skilled or ambitious workers whose ability to get ahead is impeded by union contract restrictions such as rigid seniority clauses, which prevent them from competing for advancement. Employees may also oppose union obligations because of union discrimination, which can result from employees objecting to forced financing of union political activities (Wilson, 2002). Moore (1998) concluded that if all RTW laws were eliminated, the percentage of free riding would be reduced from an average of 15.5 percent to an average of 7.2 percent in RTW states.

Service Economy

In 1960, 58 percent of Americans were employed in the service sector. Since that time the percentage has grown to 75 percent (Herzenberg, Alic & Wial, 1998). The service sector, which includes banking, construction, retailing and travel, generates about two-thirds of the nation's economic activity (The Associated Press, 2006). This transition has important implications for labor unions and RTW legislation. High and low-wage service occupations have low unionization rates. For example, financial services occupations in 2006 had a unionization rate of 1.9 percent while sales and retail occupations were at 3.1 percent. At the same time, the majority of labor sector growth in 2006 was attributable to job increases in the service sector -- 40 percent. The food service sector in 2007 has added 306,000 jobs while the manufacturing industry has lost 138,000 (BLS, 2007). The traditionally low rate of union membership combined with the significant employment increases in the service sector must be examined when analyzing the effects of RTW laws.

As traditionally high unionized sectors (e.g., manufacturing) experience job declines, what wage impacts are attributable to RTW laws versus the overall national shift towards low wage positions? Although overall income has grown by 27 percent since 1979, 33 percent of the gains have gone to the top 1 percent of the nation's income earners. Meanwhile, the bottom 60 percent are making less: about \$.95 for each dollar they made in 1979 (Domhoff, 2006). The low rates of unionization among service sector workers, the largest of which are retail and food service employees earning an average of \$10.34 per hour, combined with their traditional part-time status creates difficult access for unions. Service sector businesses are also antagonistic to organizing. For example, Wal-Mart, the nation's largest retail store employing 1.3 million workers (Wal-Mart, 2007), has openly engaged in union busting and the NLRB is currently hearing a case of such activity at a Las Vegas outlet.

The service economy is not solely a lower-income sector. The Financial Insurance Real Estate (FIRE) sector represents the upper class of the service economy. The income in these industries has grown by 50 percent since 1990 (BLS, 2006). Their low rates of unionization are due to both the lack of historical ties to labor unions and the general job satisfaction of the classification's employees. In 1998, persons employed in the FIRE industries reported a 67 percent job satisfaction rate versus 32 percent for their lower-wage service counterparts (Frenkel, Korczynski, Shire, & Tam, 1999)³. This combination reflects the move towards the two-tiered income class system and the declining power of unions to assist in the development of higher wages.

Geography & Globalization

Is there also a two-tiered geography in the U.S.? Figure 1 shows the geographic division of RTW laws. In response to the higher labor costs in Northern states, many companies began moving their factories and plants to the Southeast in the 1930s. The laws, demographics and culture of the Southeast created an atmosphere amenable to business expansion and the population followed. The cost-of-living and tax rate structures of these states are also lower. Among the five states reporting union membership rates below 5.0 percent in 2006, North Carolina and South Carolina (RTW states) continued to post the lowest rates (3.3 percent each). The next lowest rates were recorded in Virginia (4.0 percent), Georgia (4.4 percent), and Texas (4.9 percent). Four states had union membership rates over 20.0 percent in 2006--Hawaii (24.7 percent), New York (24.4 percent), Alaska (22.2 percent), and New Jersey (20.1 percent). Hawaii and New York, non-RTW states, have recorded the highest union membership rates among all states for ten of the past eleven years (Kersey, 2007).

After the movement to the Southeastern United States, as the age of globalization set in, businesses continued with their geographic expansion. The low labor costs and lax health and environmental standards in developing countries offer attractive incentives for corporate development. Before the forces of globalization opened the relatively insular U.S. economy to increased trade, U.S. manufacturers were enjoying near monopolistic market conditions in the United States. The U.S. auto industry, for example, enjoyed a 90 percent domestic market share in 1960 (Wilson, 2002). Forrester Research estimates that in the next decade four million jobs will be outsourced (DeLong & Cohen, 2004). The availability of intra- or international options creates significant barriers for labor unions in the U.S. as they are torn at the negotiating table between

keeping their jobs and increasing their wages and other benefits. RTW laws do little to curb or enable this expansion.

Politics

The political system is also divided along RTW, non-RTW lines. Twenty out of 28 non-RTW states voted Democratic in the 2004 presidential election while all 22 RTW states voted Republican in 2004. This divide further illustrates the polarization between the two categories (Cable News Network, 2007).

Policy Recommendations

RTW laws are often seen as the struggle between the power of unions and the power of business. The employment, wage and unionization impacts of RTW laws coupled with the changing labor market (service economy) offer a chance to reform policies to better serve the economic needs of the nation, the states and the citizens. How then can laws governing unions and their business adversaries be altered to enhance the economic viability of the country? The following section provides a plan for reform that focuses on the reformation of the political system, labor unions and corporations.

Right-to-Work Laws

One policy option is to continue the path of divided state federalism that allows states, through RTW laws, to choose their policies governing the relationship between labor unions and the business sector. The aforementioned impacts of RTW laws are mixed, subject to factors not directly related to their implementation and face challenges in the new global economy. This path,

if chosen, will further enhance the geographic polarization of the country (i.e., Southeast vs. Northeast) and dilute the power of labor unions.

At the same time, the repeal of Taft-Hartley will not bring back the golden age of unions as the modern economic landscape and its occupational composition have changed drastically since the 1930s and 1940s. A reform that focuses on reducing the influence of business and unions on the political process as well as increasing the economic access for individuals will help curb the increasing two-tiered U.S. class system and help ensure the stability of workers in the changing markets. There are three areas for reform: politics, labor unions and corporations.

Campaign Finance Reform

Modern American politics is about money and power. How much will business A contribute versus union A? The average wealth for the 2008 presidential campaign was \$32 million (Dannheisser, 2007).⁴ Rich people in the U.S. run for office. RTW laws are directly impacted by the role of businesses and unions in local campaigns. If a large segment of the voting population consists of union members, it is more likely that a state will not pass RTW. However, this does not mean that businesses will not move to a RTW state. The financing of campaigns must be changed to offer increasing access to the political system and to help curb the influence of large contributors.⁵ This can be accomplished through a system of public financing of campaigns through government subsidies or personal vouchers (Rauch, 2005).

Currently thirteen states have some form of public campaign financing. Research shows that states that have campaign finance laws have more contested races (Mayer, Werner & Williams, 2005). The goals of public financing are to increase competitiveness and reduce influence, both of which will help curb the power of labor unions and corporations. Individuals in

states dominated by unions, business or both will not, most likely, design policies that help the economic development of that state. Their concerns are largely their members or their profits but not the well-being of the economy.

Labor Union Reform

Researchers (Herzenberg et al., 1998) argue that national policies, including the NLRA and Taft-Hartley, offer workers two options: a. join the labor unions as they exist or b. do not join. Option B is typically the one available for the non-unionized sector, particularly service employees. Many service jobs are located in small businesses and firms, thereby limiting the access of employees to collective representation. A framework offering workers the opportunity for multi-worksite and/or multiemployer bargaining will help unionize small firm employees. The NLRB should be given the authority to certify broad occupational, sectoral or network-based bargaining units. For example, florists across Philadelphia, or another chosen geographic area, regardless of direct employer would have representation for collective bargaining.

New, decentralized institutions designed for the modern economy in which change is constant and rapid are necessary. In particular, there is a need for job ladders and worker associations that cut across firm boundaries. “These institutions would foster individual and collective learning, mark out career paths, and facilitate coordination among both individuals and organizations in a networked economy” (Herzenberg et al., 1998, p. 163). These new rules will help reshape labor market institutions and policy while improving economic performance and opportunities for workers that will not likely result from RTW law repeals.

Corporate Reform

In order to filter the corporate profits made through cost-cutting measures, including the reduced labor costs due to RTW, large corporations (at least 500 employees) should be required to invest 15 percent of their profits in a nationwide job training and economic development program to help offset the increased income inequality and stagnant wage growth. Due to globalization, the mere repeal of RTW laws will only encourage outsourcing and/or job cuts. Moreover, high tax penalties should be applied to companies that are proven to use deceptive profit reporting mechanisms. The process should be overseen by the NLRB. Further, laws protecting worker safety and union busting must be uniform across states and industry.

The policy tension regarding freedom of association and RTW loses its importance in the face of other economic and industry factors (globalization, service economy, politics). RTW laws are a product of the geographic, political and cultural context in which they are passed. Their impacts, while largely negative, are also largely marginal. Manufacturing is declining in all locations regardless of RTW status; the unemployment rates between the two types of states are within one percent and the real power of wages in all states is declining. The employment and income of Americans is a product of the overall governance system and the debate about unionization is often marred by the power-hungry nature of some labor unions. To truly create economic development, measures aimed at adjusting the political power structure as well as access to labor unions and corporate social responsibility are policy areas in which to affect real economic change in both RTW and non-RTW states.

¹ The two unions merged in 1955 to form the AFL-CIO (AFL-CIO, n.d.).

² Voluntary federation of 55 labor unions representing ten million members (AFL-CIO, n.d.).

³ 7.6 million employees in 2000 or 5.7% of workforce (BLS, 2006)

⁴ Rudolph Giuliani, Mitt Romney, John McCain, Hillary Clinton, Barack Obama, John Edwards

⁵ Labor unions contributed \$66 million in 2006 versus \$1.1 billion for corporations (Open Secrets, n.d.).

References

- American Federation of Labor-Congress of Industrial Organizations (n.d.) *Union Facts*. Retrieved December 7, 2007, from <http://www.aflcio.org/aboutus/faq/>
- Babson, S. (1999). *The Unfinished Struggle: Turning Points in American Labor, 1877- Present*. Lanham, MD: Rowan & Littlefield.
- Beik, M.A. (2005). *Labor Relations*. Westport, CT: Greenwood Press.
- Bureau of Labor Statistics (2003). *National Census of Fatal Occupational Injuries in 2003*. Retrieved December 5, 2007, from <http://www.bls.gov/iif/oshwc/foi/cfir0010.pdf>
- Bureau of Labor Statistics (2006, May). *National Occupational Employment and Wage Estimates*. Retrieved December 4, 2007 from http://www.bls.gov/oes/current/oes_nat.htm#b00-0000
- Bureau of Labor Statistics (2007, December 7). *The employment situation: November 2007*. Retrieved December 3, 2007, from www.bls.gov/news.release/pdf/empisit.pdf
- Bureau of Labor Statistics (2009). “*Employer Costs for Employee Compensation -March 2010.*” Retrieved April 21, 2010, from <http://www.bls.gov/news.release/pdf/ecec.pdf>
- Bureau of Labor Statistics (2010). “*The Employment Situation - March 2010.*” Retrieved April 21, 2010 from http://www.bls.gov/news.release/archives/empisit_04022010.pdf
- Cable News Network (2004). *2004 Election Results*. Retrieved December 9, 2007, from <http://www.cnn.com/ELECTION/2004/pages/results/>
- Cassell, M (2001). *Right-to-Work laws and economic development in Oklahoma*. Retrieved on December 5, 2007 from Economic Policy Institute. Web Site: http://www.epinet.org/content.cfm/briefingpapers_rtw-ok.
- Cooper J. W. (2004). *Effects of right-to-work laws on employees, unions and businesses*. Retrieved December 1, 2007, from <http://www.johnwcooper.com/right-to-work-laws/right-to-work-laws.pdf>
- Dannheisser, R. (2007, October 16). *U.S. Elections 2008: Wealthy candidates abound as campaign costs zoom*. Retrieved December 9, 2007, from <http://london.usembassy.gov/elec08/news14.html>
- DeLong, J. & Cohen S. (2004). *Thinking about outsourcing*. Retrieved December 8, 2007, from University of California-Berkeley, The Berkeley Roundtable on the International Economy. Web Site: <http://brie.berkeley.edu/~briewww/research/innovation/DeLong%20and%20Cohen.doc>
- Domhoff, W. (2006, December). *Wealth, Income, and Power*. Retrieved December 4, 2007 from University of California-Santa Cruz, Sociology Department. Web Site: <http://sociology.ucsc.edu/whorulesamerica/power/wealth.html>
- Ellwood, D. & Fine, G. (1987, April). The impact of right-to-work laws on union organizing. *Journal of Political Economy*, 95, 250-273.

- Encyclopedia Britannica. (2007). *Wagner Act*. Retrieved December 4, 2007, from <http://www.britannica.com/eb/article-9075846>
- Farber, H. S. (1984, September). *Right-to-Work Laws and the Extent of Unionization*. Retrieved December 7, 2007 from <http://ssrn.com/abstract=304852>
- Farber, H. (2005). *Union membership in the United States: The divergence between the public and private sectors*. Retrieved December 2, 2007, from Princeton University, Industrial Relations Section, Firestone Library. Web Site: <http://www.irs.princeton.edu/pubs/pdfs/503.pdf>
- Fine, J. (2005, March). Community unions and the revival of the American labor movement. *Politics & Society*, 33(1), 153-199.
- Fischer, E. & Rupert, P. (2005, December 10). *The Decline of Manufacturing Employment in the United States*. Retrieved on December 6, 2007, from <http://www.calpoly.edu/~efisher/fr20050327.pdf>
- Frenkel, S. J., Korczynski, M., Shire, K.A. & Tam, M. (1999). *On the Front Line: Organization of Work in the Information Economy*. Ithaca, NY: Cornell University Press.
- Herzenberg S., Alic, J. & Wial, H. (1998). *New Rules for a New Economy Employment and Opportunity in Postindustrial America*. Ithaca, NY: Cornell University Press.
- Hirsch, B. and Macpherson, D. (2009). *Union Membership and Coverage Database*. Retrieved April 23, 2010 from <http://unionstats.gsu.edu/>
- Hogler, R. (2005). The historical misconception of right to work laws in the United States: Senator Robert Wagner, legal policy, and the decline of American unions. *Hofstra Labor & Employment Law Journal*, 23(101), 101-151.
- Holmes, T. J. (1998, August). The effect of state policies on the location of manufacturing: Evidence from state borders. *Journal of Political Economy*, 106(4), 667-705.
- Hunter, R. (1997). *Compulsory union dues in Michigan: The need to enforce union members' rights, and the impact on workers, employers, and labor unions*. Retrieved December 9, 2007, from Mackinac Center for Public Policy. Web Site: <http://www.mackinac.org/archives/1997/S1997-01.pdf>
- Indiana American Federation of Labor-Congress of Industrial Organizations (2000). *The misunderstanding of right-to-work*. Retrieved December 5, 2007, from <http://www.inaflcio.org/documents/leg2000-p21.htm>
- Kersey, P. (2007). *The economic effects of right-to-work laws: 2007*. Retrieved November 27, 2007, from Mackinac Center for Public Policy. Web Site: <http://www.mackinac.org/archives/2007/s2007-11.pdf>
- Mayer, K., Werner, T. & Williams, A. (2005). *Do public funding programs enhance electoral competition?* Retrieved December 7, 2007, from University Wisconsin-Madison, Department of Political Science. Web Site: <http://campfin.polisci.wisc.edu/Wisc%20Camp%20Fin%20Proj%20%20Public%20Funding%20and%20Competition.pdf>
-

- Moore, W. J. (1998). The determinants and effects of Right-to-Work laws: A review of the recent literature. *Journal of Labor Research*, 19, 445-470.
- National Labor Relations Board (1997). *Basic guide to the National Labor Relations Act*. Retrieved December 2, 2007, from http://www.nlr.gov/nlr/shared_files/brochures/basicguide.pdf
- National Right-to-Work Legal Defense Foundation (2007). *In State Right-to-Work Laws*. Retrieved December 2, 2007 <http://www.nrtw.org/rtws.htm>
- Oklahoma League of Economists (1996). *In State Right-to-Work Laws*. Retrieved December 4, 2007 from <http://www.busn.ucok.edu/ole/Fall%201996/rtw.htm>
- Open Secrets (n.d.). *The big picture 2006 cycle: Business-Labor-ideology split in PAC, soft & individual donations to candidates and parties*. Retrieved December 8, 2007, from <http://www.opensecrets.org/bigpicture/blbio.asp>
- Rauch, J. (2005, May 7). Here's a new campaign finance reform plan: Just stop. *National Journal*. Retrieved December 5, 2007, from <http://nationaljournal.com>
- Reed, W.R. (2003). How right-to-work laws affect wages. *Journal of Labor Research*, 24(4), 713-730.
- Tannenwald, R. (1997, March/April). State regulatory policy and economic development. *New England Economic Review*, 83-99.
- The Associated Press. (2006, November 4). Fast growth seen in service sector. *The New York Times*. Retrieved December 4, 2007 from <http://www.nytimes.com>
- United States Department of Labor (2007). *State right-to-work laws as of January 1, 2007 with year of passage*. Retrieved December 2, 2007, from <http://www.dol.gov/esa/programs/whd/state/righttowork.htm>
- United States House of Representatives Committee on Education and Labor (2007, March 28). *Protecting the Health and Safety of America's Mine Workers*. Retrieved April 23, 2010 from <http://bulk.resource.org/gpo.gov/hearings/110h/34100.pdf>
- Wal-Mart (2007). *Corporate Facts*. Retrieved on December 7, 2007 from http://www.walmartfacts.com/FactSheets/Corporate_Facts.pdf
- Walter, L. (2007, November 28). *Most NYC Construction Deaths Occur on Non-Union Worksites*. Retrieved April 23, 2010 from http://ehstoday.com/construction/news/ehs_imp_76542/
- Wilson, W. (2002). *The Effect of Right-to-Work Laws on Economic Development*. Retrieved on December 1, 2007 from Mackinac Center for Public Policy. Web Site: <http://www.mackinac.org/archives/2002/s2002-02.pdf>.
- Wright, P. (2007). *A model right-to-work amendment to the Michigan constitution*. Retrieved December 4, 2007, from Mackinac Center for Public Policy. Web Site: <http://www.mackinac.org/archives/2007/s2007-12.pdf>
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