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ILR Impact Brief - Collective Bargaining
Remains the Linchpin of Worker
Representation

Rebecca Givan
rkg22@cornell.edu

IMPACT BRIEF

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Collective Bargaining Remains the Linchpin of Worker Representation

Research question: Can unions and civil society organizations, alone or in combination, adequately represent the interests of American workers?

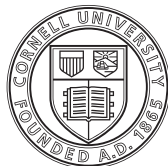
Conclusion: The decline in union density and collective bargaining coverage has created a representation gap that civil society organizations only partially bridge. Their offer of mutual insurance and political and legal advocacy on issues of concern to workers is no substitute for collective bargaining, a function that resides entirely within the union portfolio. Growing wage inequality is the clearest indication that representation without bargaining provides workers little protection against the power of employers and “the state.” Alliances between unions and civil society organizations may help labor reach potential members and advance workers’ non-bargaining interests.

Policy implication: Despite a split in the union movement over the allocation of resources between organizing and political action, the two groups share the goal of labor law reform. Unions perceive the legal environment as hostile and seek to avoid representation elections and other structures created by the National Labor Relations Act (NLRA). To better protect workers’ rights, unions are pressing for new laws that would diminish the power of the union-avoidance industry, impose stiffer penalties for unfair labor practices, and require card-check recognition and arbitration for first contracts.

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Abstract: By law, only unions can bargain collectively with employers over wages, hours, and working conditions for non-supervisory workers. But concession bargaining in key industries and declining shares of union coverage are forcing the labor movement to consider anew whom to represent, over what issues, and through what kinds of structures. Civil society organizations are non-bargaining actors that also are wrestling with similar questions even as they fulfill some of the same functions as the unions, such as mutual insurance and related services (e.g., credit cards, discounted health insurance), and advocacy on hot-button issues (e.g., raising the minimum wage, healthcare reform). These latter functional areas—and the organizations that embrace them—have assumed greater importance as labor’s ability to protect workers’ rights on the job and in society at large has diminished.

Nonetheless, the question remains whether workers are truly represented in the absence of collective bargaining. Some scholars assert that employment and civil rights laws are a sufficient form of representation, while others suggest that community-based organizations and worker centers, with their focus on human and immigrant rights, living wages, and local economic development, also represent workers on critical matters. Still others argue that only unions can successfully organize, represent, and protect the full range of workers’ interests, although doing so these days requires innovative strategies and alliances with grassroots organizations. Observers cite increasing wage inequality and the controversial employment relations practices of



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companies like Wal-Mart as the inevitable result of the representation gap.

Closing that gap is proving quite a challenge. The 2005 split in the labor movement reflects ongoing internal debate over priorities and resource allocation: Change to Win favors reaching out to, and organizing, peripheral and previously excluded workers, such as janitors, laundry workers, and home-based child care workers; the AFL-CIO emphasizes the continued need for political engagement at the state and national level. Both groups remain fully committed to the core union issues of wages, benefits, and working conditions but exhibit different attitudes about the relative strategic importance of rights in the workplace and general socio-economic and political issues—the very themes taken up by non-bargaining actors. The emerging issues of workers rights as human rights, and professional licensing and regulation, meanwhile, are beginning to generate some interest within the movement.

Regardless which matters the two union groupings choose to emphasize, they both are contending with a hostile legal and political environment. A strong union-avoidance industry is often called into action by employers during organizing drives, representation elections, and first-contract negotiations. With the right to organize and bargain collectively under siege, union affiliates of Change to Win and the AFL-CIO often seek voluntary recognition by employers to bypass the elections machinery established by the NLRA. The groups' ultimate goal, however, is the type of labor law reform that would, at the least, facilitate and enforce workers' right to be represented by a union. On this issue, they are in agreement about the utility of political action.

Although some unions are trying to recruit new members through offers of non-bargaining services, such as credit cards and legal assistance, they have no comparative advantage over civil society organizations that provide similar services and fill other vital functions. These non-bargaining actors, frequently organized around identity or socio-economic concerns, take on causes unions often relegate to second place. For some demographic groups—such as low-wage immigrant workers—basic legal and civil rights, the struggle for dignity, and strong community connections may at times take precedence over the benefits and protections that come with collective bargaining.

Unions and non-bargaining actors have complementary realms of specialization. Each plays a vital role in advancing workers' interests, but only unions have the institutional and legal capacity to represent workers in three crucial dimensions: collective bargaining, political action, and social insurance. Unions that actively seek out coalition partners from among civil society organizations may succeed not only in attracting new members but also in leveraging their ability to affect workers' lives.

Methodology: The author drew on recent research into worker representation, as well as her own interviews with union members and leaders.

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by REBECCA KOLINS GIVAN
Professor of Collective Bargaining (ILR)



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