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New Labor in New York: Precarious Workers and the Future of the Labor Movement

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New Labor in New York: Precarious Workers and the Future of the Labor Movement

Abstract

[Excerpt] This book includes thirteen case studies of recent efforts by both unions and worker centers to organize the unorganized in the New York City metropolitan area. Home to some of the first U.S. worker centers and to thirty-seven of the 214 that exist nationwide at this writing, New York has the single largest concentration of this new form of labor organizing.¹ In recent years, as part 4 of this volume documents, New York also has become a launching pad for efforts to expand the scale of worker centers by building national organizations, such as the TWAOC. However, most worker centers, in New York and elsewhere, remain locally based and modest in size—especially relative to labor unions, which despite decades of decline still had over fourteen million dues-paying members nationwide in 2012 (Hirsch and Macpherson 2013).

Keywords

labor movement, labor unions, organizing, worker rights

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Labor Relations | Unions

Comments

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NEW LABOR IN NEW YORK

Precarious Workers and the
Future of the Labor Movement

**Edited by Ruth Milkman
and Ed Ott**

ILR Press

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INTRODUCTION

Toward a New Labor Movement? Organizing New York City's Precariat

Ruth Milkman

“Our basic system of workplace representation is failing to meet the needs of America’s workers,” Richard Trumka, president of the American Federation of Labor–Congress of Industrial Organizations (AFL-CIO), declared in March 2013, in an unusually candid acknowledgement of the deep crisis facing U.S. unions in the twenty-first century. “The AFL-CIO’s door has to be—and will be—open to any worker or group of workers who wants to organize and build power in the workplace,” he added. “Our institutions, our unions will experiment, will adapt to this new age” (Trumka 2013). Although Trumka used the future tense, the AFL-CIO had already begun to follow this path when he uttered these words. In recent years the federation has entered into a series of partnerships with community-based organizations representing domestic workers and day laborers—groups that have almost never had access to union membership. And in October 2011 the AFL-CIO issued a national charter to the Taxi Workers Alliance Organizing Committee (TWAOC)—despite the fact that taxi drivers are not legally “employees” and therefore lack collective bargaining rights under U.S. labor law (Massey 2011c).

The TWAOC is an outgrowth of the New York Taxi Workers Alliance (TWA), one of the many community-based groups, known as “worker centers” (Fine 2006), that have sprung up around the United States in recent decades to organize and advocate for low-wage and marginalized workers, most of them—like the vast majority of New York City taxi drivers—immigrants. Some centers focus on sectors that traditional unions have almost never tried to organize, like domestic work or day labor; others on industries that were once highly

organized but from which unions have nearly disappeared, like restaurants or garment manufacturing; still others recruit “independent contractors” like taxi drivers who are unprotected by most labor and employment laws because they are legally classified as self-employed.

This book includes thirteen case studies of recent efforts by both unions and worker centers to organize the unorganized in the New York City metropolitan area. Home to some of the first U.S. worker centers and to thirty-seven of the 214 that exist nationwide at this writing, New York has the single largest concentration of this new form of labor organizing.¹ In recent years, as part 4 of this volume documents, New York also has become a launching pad for efforts to expand the scale of worker centers by building national organizations, such as the TWAOC. However, most worker centers, in New York and elsewhere, remain locally based and modest in size—especially relative to labor unions, which despite decades of decline still had over fourteen million dues-paying members nationwide in 2012 (Hirsch and Macpherson 2013).

Worker centers are the primary alternative organizational form that has emerged alongside traditional unions with a focus on organizing the new “precarariat” that has burgeoned in the United States and other advanced industrial economies in recent decades. Precarious workers, as the term suggests, typically have no employment security and most are excluded from the legal protections that the organized labor movement struggled to achieve for the proletariat over the past century (Standing 2011, 8; Vosko 2010, 2). Instead the precariat is embedded in what Kalleberg (2011, 83) describes as “market-mediated” or “open” employment relations, with “relatively weak labor market institutions, standards and regulations.” Although the term “precarariat” is new, the work arrangements it refers to are hardly without historical precedent: in many cases they parallel older forms of labor exploitation that were widespread in the United States prior to the New Deal reforms of the 1930s.²

The worker center movement, which itself echoes pre-New Deal forms of labor organizing in some respects, took shape in the 1990s. It was a response to the growth of the precariat in the 1970s and 1980s, on the one hand, and to the rapid deunionization that marked those same decades, on the other. Although some worker centers actually were launched or funded by traditional unions, most labor leaders greeted the rise of these new organizations with deep skepticism, and in some cases with outright hostility. For their part, worker center leaders often looked askance at traditional unions, which they considered anachronistic and poorly equipped to meet the needs of the marginal, precarious workers they sought to organize. Thus, as Janice Fine put it, what might have been “a marriage made in heaven” was instead “more of a mismatch” (Fine 2007, 336).

Over time, however, as U.S. union membership continued to decline and the number of worker centers grew steadily—from only four in 1992, to 137 in 2003, and then to over two hundred by 2013 (Fine 2011, 607, 615; personal correspondence with Fine)—this mutual hostility began to soften. Union leaders increasingly were confronting the growth of precarious labor arrangements within their own traditional jurisdictions, and gradually came to appreciate the utility of the innovative organizing tactics and strategies the centers had developed. At the same time, as several of the chapters in this volume illustrate, many worker center leaders developed a more positive view of traditional unions as they struggled to build durable organizations. Starting on the West Coast (Milkman 2010), a process of rapprochement between unions and worker centers began to unfold, which by the 2010s had spread to the national level.

New York is the most highly unionized large city in the United States, with union density (the proportion of wage and salary workers who are union members) roughly double the national average (Milkman and Braslow 2012). As such it is the nation's premier example of what Rich Yeselson (2013, 79–80) calls “fortress unionism,” a metropolitan region where high union density also sustains a labor-liberal political bulwark. But New York is also marked by higher levels of income inequality than any other large U.S. city, and it is home to a large and growing precariat. The chapters that follow, each of which is based on original research and participant observation, document and analyze the recent efforts of several New York-based worker centers and union-community partnerships to organize this expanding segment of the workforce. Taken together, these case studies offer a richly detailed portrait of the new labor movement in New York City, as well as several recent efforts to expand that movement from the local to the national scale.

Labor's Crisis

Obituaries for the U.S. labor movement have been a perennial in both academic and journalistic commentary since the 1970s, when declining union membership first attracted widespread attention. Indeed, union density has been in free fall for decades. By 2012, only 11.2 percent of U.S. wage and salary workers, and 6.6 percent of those in the private sector, were union members. As recently as 1973 the figures were 24.0 percent and 24.2 percent, respectively (Hirsch and Macpherson 2012)—already far below the mid-1950s peak of about 33 percent.³ In the public sector, union density remains much higher (35.9% in 2012), and has been relatively stable over recent decades, even as the gap between public and private sector unionization rates has widened steadily.

Arguably the power and influence of organized labor has been reduced even more than these data suggest, especially in the private sector. In the 1950s and 1960s many nonunion private-sector employers routinely matched union wages and working conditions, hoping to preempt unionization; in recent years that dynamic has been reversed, as nonunion competition drives down compensation and standards among the few remaining unionized firms. As a result, unions that won improvements in pay and working conditions for their members in the past increasingly have been forced to surrender them in contract “givebacks.” Since the 1970s, moreover, large-scale strikes—historically the most effective expression of union power and leverage—have become conspicuous mainly by their absence, as figure I.1 shows. In contrast, lockouts have become more common, and the few large strikes that do occur are often defensive actions provoked by employers seeking to win large-scale concessions from once-powerful unions, typically leaving workers defeated and demoralized.

Although some commentators have called for a revival of strikes as a means to rebuild the U.S. labor movement (for example, Burns 2011), this seems highly unlikely in the absence of a major shift in the nation’s legal regime, which currently allows employers to “permanently replace” workers who go on strike over economic issues and imposes crippling penalties on traditional unions that violate the many legal restrictions on strike activity. Although recent demonstration strikes in the fast food industry and at Walmart have attracted significant attention and public support, these have been brief and relatively small-scale events. Moreover, these actions were led by worker centers and other community-based organizations, which are not bound by the same laws as unions and thus can more easily engage in strikes and other forms of direct action. Indeed legal constraints on traditional unions dating back to the 1947 Taft-Hartley Act are one of the key drivers of the decades-long decline in union density and power (Yeselson 2013).

Moreover, as many commentators have pointed out (for example, Fletcher and Gapasin 2008; Early 2011), some of organized labor’s wounds are self-inflicted. Factionalism and internal divisions within the movement, along with bureaucratic inertia and missteps by individual union leaders, have contributed to labor’s decline, although their effects are difficult to measure systematically. Globalization and technological change have had an impact as well, especially in the manufacturing sector—historically a key union stronghold. But these factors constitute at best a partial explanation for the dismal plight of organized labor in the United States. The fact that unionization has fallen as sharply in place-bound industries such as construction and hospitality as in the footloose manufacturing sector already suggests the limits of globalization-centered explanations. Moreover, some of the unions that are regularly pilloried by critics as overly bureaucratic and “top-down”—notably the giant Service Employees International

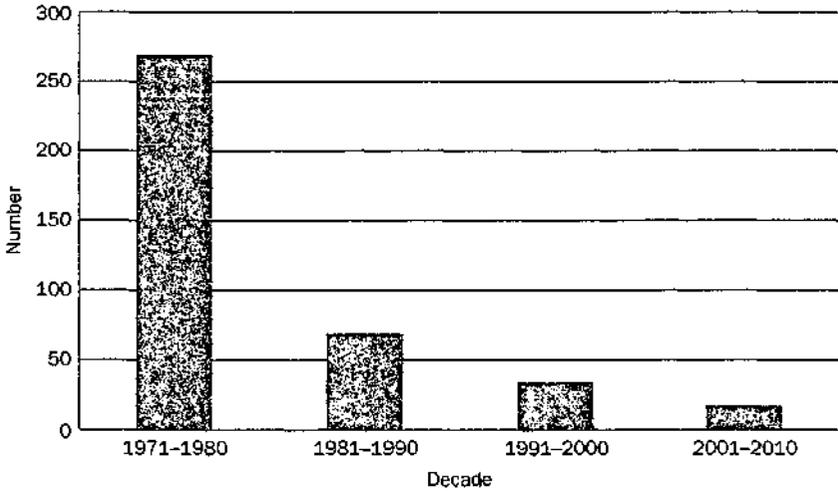


FIGURE I.1 Average annual major work stoppages involving 1,000 or more workers, by decade, United States, 1971–2010.

Data from U.S. Bureau of Labor Statistics, "Major Work Stoppages in 2010," press release, February 8, 2011, http://www.bls.gov/news.release/archives/wkstp_02082011.pdf.

Union (SEIU)—are among the few that have managed to expand their membership in recent decades, defying the larger downward trend in union density.

The primary source of labor's crisis is neither the movement's internal problems nor the deleterious effects of the twin processes of deindustrialization and outsourcing, but rather the broader logic of neoliberal economic restructuring that took root in the 1970s. From the outset, the neoliberal agenda included explicit efforts to weaken or eliminate unions, which for its proponents represent an unacceptable form of interference in the labor market. Other core elements of neoliberalism—deregulation (especially in former union strongholds such as transportation and communication), privatization (which often involves shifting jobs from the unionized public sector to nonunion private-sector firms) and more recently, austerity policies—have had less direct but equally devastating effects on workers and their unions.

By the late twentieth century, for most private-sector employers in the United States, unionization was simply anathema, viewed as a source of economic inefficiency and "adversarialism." Except in a few "legacy" industries where unions retained a foothold, the industrial relations departments that once were standard in large U.S. corporations had long since been replaced by human resources departments, for whose staffers "avoiding" unionization was a central preoccupation (Kochan, Katz, and McKersie 1987). With assistance from the burgeoning cadre of professional labor consultants, virtually any employer eager to prevent

or eliminate unionization could manage to do so, systematically circumventing the 1935 National Labor Relations Act (NLRA), the New Deal legislation that guaranteed U.S. workers' rights to union representation and collective bargaining (Logan 2006; Lafer 2007), which remains the law of the land.

Meanwhile, new business strategies designed to shift market risks from employers to subcontractors, or to individual workers themselves, stimulated rapid growth in nonstandard, precarious forms of labor. The relatively stable employment model on which midcentury unionism had been predicated was dismantled systematically, as companies redoubled their efforts to cut labor costs in the face of deregulation, which fostered new forms of cutthroat competition, or simply to boost profits or to please stockholders in the context of an increasingly financialized economy. Sweatshop labor—nearly extinguished in the heyday of the New Deal order—soon resurfaced. At the same time this era spawned a vast population of “independent contractors,” many of whom performed tasks previously done by ordinary wage and salary workers. They ranged across many industries and occupations, from blue-collar jobs such as truck and taxi driving to highly skilled information technology and other professional fields.

These developments steadily reduced the share of the labor force covered by the NLRA as well as by the 1938 Fair Labor Standards Act (FLSA), which sets minimum wages and regulates hours, overtime, and working conditions for “employees” in most industries.⁴ Independent contractors are excluded from coverage under both these core statutes, and also lack access to employer-provided health insurance, paid vacation and sick days, pensions, and other benefits. Most part-time, temporary, and other nonstandard workers—all categories that have expanded dramatically in recent decades—also are denied access to such employer-provided benefits, although these latter groups generally are covered by the NLRA and FLSA.

Along with the lawful strategies employers have adopted to circumvent the bedrock labor protections established during the New Deal era, illegal practices that are explicitly banned by the NLRA and FLSA have become increasingly prevalent, further undercutting the varieties of unionism that took hold in the 1930s and flourished in the mid-twentieth century. For example, the number of workers fired for attempting to organize—a blatant violation of the NLRA—grew ninefold between 1950 and 1990 (Meyerson 2012, 24); such firings took place in 34 percent of a representative sample of 1,004 union organizing campaigns conducted between 1999 and 2003 (Bronfenbrenner 2009). In addition, violations of minimum wage laws, overtime pay requirements, and other labor standards first established by the FLSA have become commonplace in recent years, especially in the low-wage labor market (Bernhardt et al. 2009).

Rapid growth in the 1980s and 1990s in the ranks of unauthorized immigrant workers—a population disproportionately vulnerable to labor and employment law violations and often fearful of seeking redress through legal channels (despite the fact that nearly all the provisions of both the NLRA and FLSA cover all employees, regardless of immigration status)—has exacerbated these trends. Increasingly, however, U.S. citizens or authorized immigrants—especially new labor market entrants—are joining the precariat as well.

Starting in the late 1980s, alarmed by these developments and hoping to reverse the continuing decline in union density, labor organizers in some U.S. unions began to experiment with new tactics and strategies. One effective approach that was widely adopted in this period was to demand direct employer recognition of newly organized workers, to avoid the pitfalls of the increasingly treacherous NLRA representation election process. At the same time, forward-looking unions began to recruit a new generation of organizers and staffers, many with experience in other social movements, who helped to infuse the labor movement with new ideas (Voss and Sherman 2000). In this period some unions also launched efforts to organize precarious low-wage immigrant workers, including the unauthorized, and soon falsified the widespread assumption that such workers were “unorganizable” (Milkman 2006).

These initiatives culminated in John Sweeney’s 1995 election to the presidency of the AFL-CIO, and his rallying call to “organize the unorganized,” which sparked widespread hopes of labor movement revitalization. Indeed, this effort led to many creative organizing campaigns involving a range of innovative strategies and tactics (see Corrigan, Luff, and McCartin 2013). As a result, the decline in union density did slow briefly in the late 1990s, but that respite proved short lived, and membership losses continued to hemorrhage in the new century. In 2005, after their hotly debated proposal to restructure the AFL-CIO was rejected, SEIU and a few other large unions that had been especially aggressive in organizing during the previous decade formed a rival labor union federation, Change to Win. The breakaway group envisioned launching large-scale campaigns in place-bound industries such as services, hotels, trucking, and construction. However, this effort failed to achieve its own targets, much less to ignite the major labor upsurge some of its founders had hoped for, and soon the split became yet another symbol of organized labor’s disarray.

Although all these developments preceded the 2008 financial crisis and the Great Recession, the surge in unemployment and other forms of severe economic distress associated with the downturn only made matters worse for workers and organized labor. In the aftermath of the financial crisis, moreover, unions faced renewed attacks on the political front. Despite sharply diminished membership,

in the late twentieth and early twenty-first centuries, the labor movement had managed to retain considerable political influence, largely through their ongoing campaign contributions and get-out-the-vote efforts on behalf of labor's Democratic allies (Dark 1999). As private-sector unions continued to shrink, however, these political activities were forced to rely more heavily on resources from public-sector unions, which remained intact.

That in turn led conservative strategists in groups such as the American Legislative Exchange Council (ALEC), funded by major corporate interests, to focus their attention on undermining public-sector unions. In 2011, with guidance from ALEC, Republican governors in Wisconsin and several other Midwestern states launched coordinated campaigns to pass laws eliminating or limiting collective bargaining rights for public-sector workers. That effort ultimately succeeded in Wisconsin, despite the massive grassroots protests that it provoked, as well as in Indiana (Nichols 2011). Public sector union density in both states declined precipitously, from 50.3 percent in 2011 to 37.4 percent in 2012 in Wisconsin, and from 28.3 to 22.8 percent in Indiana (Hirsch and Macpherson 2013).

Adding further to labor's political woes, in 2012 Republican elected officials in Indiana and Michigan moved—once again with assistance from conservative political groups—to secure passage of “right to work” laws in their states (Confessore and Davey 2012). Such laws—widespread in the South and in parts of the West but never previously enacted in the Midwest, which had been a bastion of industrial unionism in the mid-twentieth century—prohibit labor-management contract clauses that require union-represented workers to pay union dues.

These defeats not only led to still further erosion of union density but also deeply resonated as attacks on iconic landmarks of U.S. labor history. Wisconsin had been the very first state to pass legislation authorizing public-sector collective bargaining in 1959, and Michigan was the site of the massive General Motors strike that had galvanized the original upsurge of industrial unionism in the 1930s. That such sacred territories were now vulnerable to successful right-wing attacks deeply demoralized what remained of the organized labor movement, which was still recovering from the failure of its campaign to win labor law reform at the federal level a few years earlier. Even under the relatively labor-friendly Obama administration and with Democratic majorities in both houses of Congress, that effort had ended in ignominious defeat and was abandoned in 2010.

Faced with this bleak situation, the labor movement became increasingly open to alternatives to its traditional repertoire of strategies and tactics in the twenty-first century. In what journalist Harold Meyerson (2011) aptly termed a “Hail Mary pass,” unions began to scale up their efforts at community-based organizing. The AFL-CIO's Working America program, launched in 2003, has

recruited over three million working people, none of whom are union members, to support labor-friendly political candidates; it already has had a significant impact on recent elections (Meyerson 2012; Dean 2012). And in 2011, the giant SEIU launched its Fight for a Fair Economy (FFE) campaign, mounting door-to-door canvas operations in communities of color in seventeen cities across the nation, with a political and community-organizing agenda in mind. (Turner, this volume, documents the New York City FFE campaign in detail.) Although SEIU was in far better shape than most other large unions, its leaders began to speak openly about what they saw as the futility of continuing to pursue traditional union organizing in the face of the escalating attacks on organized labor.

As the downward spiral continued, organized labor began to reach out to other social movements—including the meteoric Occupy Wall Street movement, which won extensive union support in New York and elsewhere soon after it emerged in the fall of 2011. In addition, labor has become a leading ally of the immigrant rights movement in recent years. The dramatic 2000 shift in the AFL-CIO's official policy, definitively renouncing support for immigration restriction and embracing immigrant worker organizing, was initially promoted by the SEIU and the other unions that later left to form Change to Win. But even among those unions that remained in the AFL-CIO, the massive immigrant rights protest demonstrations that erupted nationwide in the spring of 2006 eliminated any lingering doubts about the "organizability" of immigrants. Those marches also helped inspire labor's growing support for worker centers—most of which focus on low-wage immigrants, and which have close ties to the larger immigrant rights movement. Increasingly, as Trumka's 2013 speech (cited above) implied, union leaders have come to view these alternative forms of organization as helping to lay the groundwork for future revival. As the labor movement increasingly turns away from the now-broken system created in the New Deal era, which employers unilaterally abandoned decades ago, it is also returning to its own historical roots, reviving an older strategic repertoire that U.S. unions widely practiced in the early twentieth century (Cobble 1991a, 1997).

New York City Labor, Old and New

In the middle of the twentieth century, when U.S. labor was at its peak, union density in New York was only slightly higher than in the nation as a whole (Troy 1957). In the decades that followed, however, the gap widened dramatically. As Figure I.2 shows, in 2011–12, in both the public and private sectors, New York City's union density was approximately twice the national level. At that time there were about 735,000 union members in the five boroughs, and density was

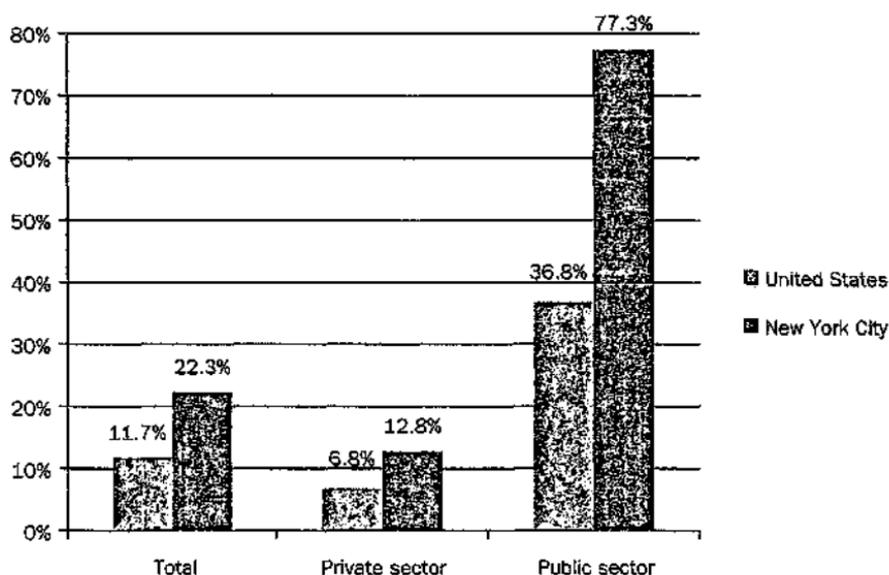


FIGURE 1.2 Union density, by sector, United States and New York City, 2011-12.

Data from Milkman and Braslow 2012 (U.S. Current Population Survey, Outgoing Rotation Group). Percentages shown include the eighteen months from January 2011 to June 2012.

higher in New York than in any other major U.S. metropolis. New York remains a labor-friendly city, a rare bright spot in the national firmament, still relatively insulated from the desperate crisis that organized labor faces in most of the United States.

In the Progressive and New Deal eras, its strong and politically powerful private-sector unions played a crucial role in helping to shape New York City's social-democratic political culture. They also contributed to an institutional infrastructure that provided affordable housing, public transportation, and other social benefits on a scale that, as historian Joshua Freeman (2000) argues, set the city apart from the rest of the United States. Since the mid-1970s fiscal crisis and the restructuring that followed, however, this cultural and institutional legacy has been severely eroded, and growing inequality has increasingly isolated New York's union members from the city's larger working-class population.

As many commentators have pointed out (most recently Western and Rosenfeld 2011), declining private-sector unionization since the mid-1970s accounts for a large proportion of the recent growth in U.S. earnings inequality. Paradoxically, however, twenty-first-century New York has not only the highest level of union density but also the highest level of income inequality among the nation's large cities. In part this is due to the huge concentration of financial-industry

employees whose salaries have skyrocketed in recent decades (most of whom have substantial unearned income as well). Moreover, even if the decline has been modest relative to that in the nation as a whole, private-sector union density in New York City is much lower today than in the past: as recently as 1986, it was 25.3 percent, nearly twice the level a quarter century later (see figure I.2). Although the private-sector decline began long before the Great Recession, it accelerated after 2007 (Milkman and Braslow 2012). By contrast, public-sector union density in New York City has been stable in recent decades, and actually rose slightly after 2007, despite the downturn. Indeed, at this writing the gap between public- and private-sector unionization rates in the city is at a record high.

Job growth in New York has been highly polarized in recent years, with rapid expansion in low-wage service industries such as hospitality and retail (Petro 2011; Abel and Deitz 2012), alongside steady growth in professional, managerial, and technical jobs. Income inequality parallels this pattern, as rising incomes at the top end combined with stagnant or declining incomes at the bottom to produce a pattern of sharp income polarization (Fiscal Policy Institute 2012). The city's unionized workers are part of a shrinking middle class: they have lost ground relative to top earners, but are highly privileged relative to low-wage workers, growing numbers of whom have become part of the new precariat. Although union members make up nearly one-fourth of the overall New York City labor force, they comprise only about one-eighth of the private sector, and are at growing risk of political isolation as nonunion low-wage work continues to expand. As Bhairavi Desai, executive director of the New York TWA, warned, "Unless we lift the floor, the ceiling is going to collapse" (Greenhouse 2008b).

The city's workforce has also been transformed by the wave of new immigration from Latin America, Asia, Africa, and the Caribbean that followed the passage of the Immigration and Nationality Act of 1965, which lifted previous restrictions on immigration to the United States from the global South. As a result, New York has returned to its historic role as an immigrant gateway city. Many of the less-skilled newcomers have joined the emerging precariat, finding jobs as domestic workers, in restaurant kitchens, in garment sweatshops, on nonunion construction sites, as taxi drivers, and in other low-wage jobs. Over time, however, immigrants have also moved into the unionized sector of the city's labor market. As figure I.3 shows, by 2011–12, in New York City, foreign-born workers who had arrived in the United States before 1990 had a *higher* unionization rate than their U.S.-born counterparts. Unionization rates were much lower among more recent immigrants, however, especially those who arrived in the United States in the 2000s. Indeed, this is the group most often found in low-wage, precarious employment.

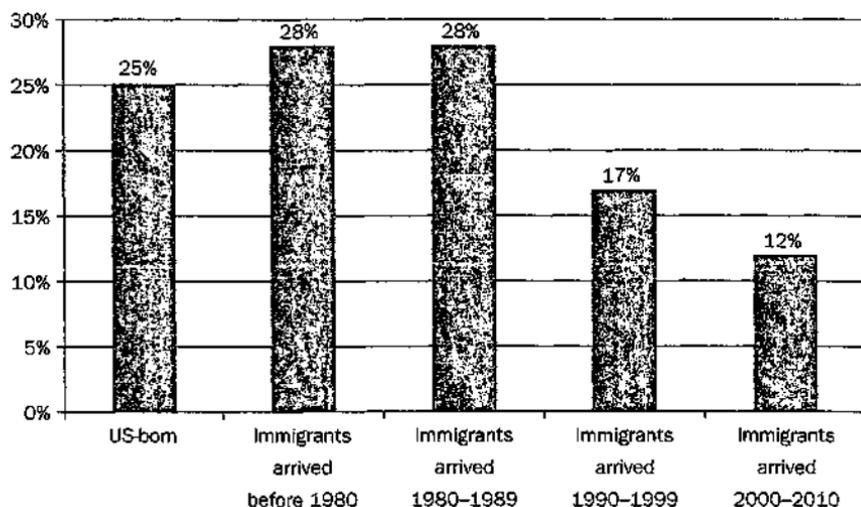


FIGURE 1.3 New York City unionization rates, by nativity and date of arrival in the States, 2011-2012.

Data from Milkman and Braslow 2012 (U.S. Current Population Survey, Outgoing Rotation Group). Percentages shown include the eighteen months from January 2011 to June 2012.

Recent immigrants are overrepresented in several occupational groups that are explicitly excluded from coverage under labor and employment laws such as the FLSA and NLRA—for example, street vendors, domestic workers, and taxi drivers—all of which have expanded in recent decades (see Dunn, Goldberg, and Gaus, all in this volume). Foreign-born workers also make up a substantial share of the low-wage workforce in the city's burgeoning retail and restaurant industries, where precarity assumes a different form: most jobs *are* covered by the FLSA and NLRA, yet workers are nevertheless often paid less than the legal minimum wage and other violations are widespread (Shapiro, this volume; Brady, this volume; Bernhardt, Polson, and DeFilippis 2010).

In other sectors, legal violations are less widespread, but access to employment security or the ability to earn a living wage is blocked by other means. For example, in many frontline retail jobs, as recent research has documented, employers' scheduling practices severely limit the number and predictability of hours (Ikeler, this volume; Luce and Fujita 2012; Lambert and Henly 2010). Such jobs employ more female than male workers, including a substantial number of immigrants but many U.S.-born workers as well.

Yet another rapidly growing component of the city's precariat is composed of highly-educated professional and technical workers who are freelancers or employed on short-term contracts. In contrast to earlier generations of workers in similar occupations, and despite their high level of skill and education, many of

these middle-strata workers find it difficult to secure full-time or full-year work, and most lack access to health insurance, paid vacations, sick leave, and other benefits (King, this volume).

The Emergence of Worker Centers in New York

Perhaps because the deunionization process that undermined labor's strength in so many other parts of the nation was far slower in New York, few of the city's union leaders were concerned about the new forms of precarious work when they first began to appear on the horizon in the 1970s and 1980s. A notable exception was the International Ladies' Garment Workers Union (ILGWU), which launched a "Campaign for Justice" in the late 1980s that in many ways prefigured the worker center movement that would flourish in later years. Unlike most of its New York-based counterparts at the time, the garment workers union already faced a life-threatening crisis in the wake of the massive global outsourcing of clothing production, and immigrants in nonunion sweatshops accounted for a growing share of the garment factory jobs that remained in New York City. As its historical base collapsed, the ILGWU embarked on a bold experiment, establishing two community-based centers in New York (along with three more in other parts of the country) oriented toward recent immigrants employed in the burgeoning nonunion sector of the garment industry. In creating these centers, the ILGWU self-consciously invoked its own history of building community-based "social unionism" among Jewish and Italian garment workers in the early twentieth century. Once again it began to offer nonunion immigrants English classes, skills training, and immigration counseling in the new centers (Hermanson 1993).⁵

Almost a decade earlier, in 1979, a group of Chinese immigrant worker-activists had founded the Chinese Staff and Workers' Association (CSWA) in New York's Chinatown, the very first worker center established in New York and among the first in the nation. Some of CSWA's founders had been involved in union organizing efforts with the Hotel Employees and Restaurant Employees (HERE), but they were frustrated by the union's bureaucratic practices and its lack of attention to the needs of Chinese immigrant restaurant workers. Seeking an alternative approach, they established a community-based organization that aimed to serve the specific needs of immigrant workers. Unlike the ILGWU centers, CSWA was entirely independent of the traditional labor movement, supported instead by foundation grants and membership dues. As one commentator noted, "CSWA was critical of the framework of traditional trade unionism, including its business nature, its racist and anti-immigrant tradition, its tendency

of compromising, its increasing reliance on legislatures and electoral politics, and its narrow focus on economic gains rather than the development of its members" (Chen 2003; see also Kwong 1994).

CSWA established a labor rights clinic to help workers facing employment law violations such as nonpayment of wages, a chronic problem confronting immigrants employed in the city's garment and restaurant industries alike. From the start, the group encouraged workers themselves to take an active role in addressing such problems, urging them to collaborate with others facing similar issues, rather than simply receiving services from lawyers and other experts. Rank-and-file leadership development and collective action were also central aims of the organization. And despite the fact that its founders were highly critical of traditional unions, CSWA succeeded in winning recognition for an independent restaurant workers' union in several Chinatown establishments. However, that achievement proved short-lived as skyrocketing real estate values and rising rents drove the newly unionized restaurants out of business (Chen 2003).

The next major worker center initiative launched in the New York City area was the Long Island-based Workplace Project, which attorney Jennifer Gordon founded in 1992. Although it focused on Central American rather than Chinese immigrant workers, most of whom were day laborers and domestic workers rather than factory or restaurant workers, in most other respects it was similar to CSWA. From the outset, the Workplace Project's primary focus was on unpaid wages and other violations of employment law, and like CSWA it explicitly rejected the mainstream labor union tradition in favor of an organizing approach that emphasized rank-and-file worker empowerment and leadership development. The Workplace Project, again like CSWA, also took pains to avoid becoming a legal or social service provision agency that treated workers as "clients" rather than empowering them to organize collectively on their own behalf. To this end, in order to receive services from Workplace Project lawyers, workers were required to attend a series of classes on workers' rights (Gordon 2005).

These early initiatives defined the template of the worker centers that later multiplied in New York City and elsewhere in the nation starting in the 1990s. Indeed, many of those centers have acknowledged that they were directly inspired by and modeled after the Workplace Project or CWSA, or both (Fine 2006, 284n3). Apart from the ILGWU's Campaign for Justice, none of the early New York centers were union sponsored, although that would change in the 2000s. Whereas by the 1980s the ILGWU already faced the type of survival-threatening crisis that, as Kim Voss and Rachel Sherman (2000) have shown, often leads unions toward radical strategic innovation, such crises confronted relatively few unions in New York City at that time. Most of the city's unionized workers were employed in place-bound industries such as the construction

trades, hospitality, health care, utilities, and the public sector. New York never had many of the large-scale factories that had given rise to the large CIO unions in the 1930s, and thus was much less affected—apart from the garment industry and a few other small-scale manufacturing industries—by the massive deindustrialization of the 1970s and 1980s (Freeman 2000). Indeed, that was one reason that union density remained higher in New York than in many other U.S. cities.⁶ Unions did lose ground in New York City's retail and restaurant sectors (Ikeler, this volume) as well as in manufacturing, but otherwise the city's labor movement remained largely intact—a highly exceptional case of a city largely insulated from the devastation facing unions across the nation.

Nevertheless, in the late 1990s, a few New York local unions launched efforts to organize the emerging precariat by more traditional means. In 1996, a local affiliate of the national Laborers Union, whose leadership had made immigrant organizing a priority in reaction to the challenges it faced in other parts of the country, ran a successful campaign in New York among low-wage asbestos removal workers—most of whom were unauthorized Latino immigrants recruited through labor brokers, who faced a variety of abuses (Kieffer and Ness 1999). The next year, a New York local of the Union of Needletrades, Industrial, and Textile Employees (UNITE), a successor to the ILGWU (which had merged with the Amalgamated Clothing and Textile Workers in 1995), launched a union drive among Mexican immigrants employed in small delicatessens and greengrocers in an effort to recruit in new sectors, as its historic base in garment manufacturing continued to shrink (Ness 2005). Two other union drives in this period among the emerging precariat involved African immigrant grocery delivery workers and South Asian livery car drivers. As independent contractors, both these groups were excluded from the NLRA and FLSA, but in both sectors workers organized on their own, later attracting support from established local unions—the United Food and Commercial Workers (UFCW) and the International Association of Machinists and Aerospace Workers (IAM), respectively (Ness 2005).

Apart from these campaigns, all of which found it extremely difficult to establish durable organizations, most of the city's established unions took little interest in recruiting New York's growing precariat in the 1990s. However, that decade gave rise to a burst of activity on the part of newly established worker centers in New York, including several of the organizations profiled in this book. The Taxi Workers Alliance, which would later become part of the national TWAOC, dates from the early 1990s (Gaus, this volume); the Freelancers Union was founded in 1995 (King, this volume); Domestic Workers United (DWU), although officially founded in 2000, built on predecessor organizations created in the 1990s (Goldberg, this volume); and Make the Road New York was founded

in 1997 (McAlevy, this volume). Min Kwon's predecessor organization, the Young Korean Service and Education Center, dates back even earlier, to 1984; like CSWA it focuses on a single ethnic group. Although it was originally a traditional social service agency, in the 1990s it began the transition to a worker center (McQuade, this volume).

None of these groups were union-sponsored; on the contrary—like CSWA and the Workplace Project—they deliberately set out to create alternatives to traditional unions, which their leaders saw as ill-suited to the needs of the new precariat. Drawing on the template created by the Workplace Project and CSWA, they focused on grassroots organizing among low-wage workers (apart from the Freelancers, whose main base was college-educated professionals from the start) and leadership development programs, while also offering legal services and social and educational opportunities. Although committed to popular education and empowerment for the workers they recruited, the centers were professionally led and staffed by advocates—often lawyers or college-educated staffers with other types of specialized training.

The centers have perfected the science of filing back pay claims and pursuing complaints about other employment law violations with government regulatory agencies; many also initiated successful lawsuits over violations, often winning millions of dollars in settlements. Some have also focused on winning new forms of social protection from the state, such as paid sick days and living wage laws (Broxmeyer and Michaels, this volume).⁷ Framing their campaigns as struggles for social and economic justice, they construct compelling narratives that include the voices of workers themselves, skillfully attracting public and media attention to the plight of the new precariat. They build alliances with consumers and other key community actors, including elected officials and faith leaders, and exert material and moral leverage over employers, who they often "name and shame" into making concessions. They conduct strategic research to identify vulnerabilities in the power structure and generate public pressure on lawmakers to win passage of legislative and regulatory reforms. Many of their members are immigrants, and they also regularly engage in immigrant rights advocacy.

The worker centers, despite a limited resource base and small staffs, have proven highly successful at these efforts. Their strategic repertoire is strikingly different from that of traditional labor organizations. They do not aim to establish ongoing collective bargaining relationships with employers. Nor do they have the capacity to mount large-scale popular mobilizations. Instead they deploy their limited resources to maximum effect by focusing on staff-driven research, media outreach, and legal and political campaigns to win immediate concessions from employers and to win new protective legislation. Although they often aim to recruit workers as members, the centers often find it difficult to

sustain long-term relationships once the immediate need for legal or other services has been met.

Historical Antecedents

Although they also draw on newer traditions, like the popular education methods of Paulo Freire (1970; see also Horton and Freire 1990), worker centers in some respects echo the organizational forms that emerged in the early twentieth century among southern and eastern European immigrants, an earlier wave of precarious workers. Settlement houses and labor reform groups such as the Women's Trade Union League flourished in the Progressive Era, exposing sweatshops and employer abuses, lobbying for protective legislation, providing educational and social services to immigrant workers, and assisting their efforts to unionize. Although their structure and goals differ from today's worker centers in some respects, these groups too often relied on philanthropic support and were staffed by highly educated elites. In that era, labor unions—which then represented about the same proportion of U.S. workers as in the early twenty-first century (Freeman 1998)—lacked the institutional infrastructure later provided by the NLRA; but those, like the ILGWU, that actively recruited low-wage immigrants relied on a broad strategic repertoire that include many features of today's community-based organizing.

However, by the early twenty-first century this earlier history had been largely obliterated from public memory. When the worker centers first began to expand in New York and elsewhere in the 1990s, few trade unionists recognized the parallels to earlier forms of organizing, nor did they see the centers as serious contenders for rebuilding the labor movement's waning power. To many labor leaders, worker centers appear as weak organizations with limited resources, lacking any ability to build or maintain a large membership base. Janice Fine has insightfully summarized the salient differences in culture and structure between worker centers and unions:

Worker centers are non-bureaucratic, grass-roots organizations with small budgets, loose membership structures, improvisational cultures and strategies that are funded by foundation grants . . . the inverse of prototypical American unions. . . .

Unions are often alienated by workers centers' non-connection to industry and employer, broad and blunt internal organizational structures, loose membership bases, and ad hoc and reactive organizational ways of operating.

Ideologically, some unions are annoyed by some centers' anti-capitalist rhetoric and are perplexed by their tendency to focus on the distant horizon as opposed to shorter-term political, policy and industry organizing goals. (Fine 2007, 341)

Fine also pointed out that in most cities, including New York, worker centers are "under-networked," working in relative isolation from one another (Fine 2006, 226, 240), and sometimes even competing directly for funding.

Indeed, in the 1990s, in the absence of union support, most worker centers relied primarily on foundation grants, although some (for example, the Taxi Workers Alliance) also had significant income from membership dues and contributions. Indeed, one factor that helps explain why more worker centers were established in the New York metropolitan area than in any other part of the country is the city's uniquely thick concentration of philanthropic institutions. New York is also home to a disproportionately high supply of attorneys, which is relevant here as well, since most worker centers provide extensive legal services to members and often initiate lawsuits involving violations of employment law.⁸ But unlike Los Angeles, for example, where in the 1990s there was extensive synergy and strategic convergence between worker centers and key local unions that were experimenting with new organizing strategies and recruiting thousands of immigrants (Milkman 2010), in New York there was little contact between the centers and the established unions, and considerable skepticism—on both sides. That would gradually change, however, in the twenty-first century.

A Marriage of Old and New Labor?

Some commentators argue that worker centers represent an inherently limited form of organization. The most incisive and comprehensive critique along these lines is that of a sympathetic insider, Steve Jenkins, a former staff member of Make the Road New York, among the city's most successful worker centers (McAlevy, this volume). He points out that although worker centers have often successfully organized to bring employers who illegally violated minimum wage regulations and other basic standards into compliance, they are not in a position to go further than this: "unlike union campaigns, where workers can potentially demand higher wages, vacation days, and health insurance, these types of worker-center campaigns are advocacy campaigns primarily confined to remedying illegal practices" (Jenkins 2002, 69). He also maintains that despite their dedication to empowering ordinary workers, in practice worker centers rely on "professionals such as lawyers and social workers [who] mobilize elite

institutions such as government agencies, foundations, media or courts to help clients achieve the change they are seeking. . . . However, the changes that can be achieved are limited to those that are palatable to elite decision-makers" (Jenkins 2002, 61, 72).

Other commentators, similarly, have highlighted the perils of dependence on foundation support for advocates of radical social change (Smith 2007; Wolch 1990), and this is indeed one of the primary dilemmas confronting worker centers as they seek to scale up their efforts. Jenkins's comparative reference point is labor unions, which as he notes are funded by membership dues and thus not beholden to elites. He recognizes that worker centers have what he calls "advocacy power," enabling them to name and shame abusive employers, and to lift up workers' own voices and include them in public policy debates. But he argues that the centers lack the "social power" that unions historically have been able to wield by organizing members to withhold their labor and thus disrupt capitalist production.

Jenkins's thesis about the limited power of worker centers is compelling, but his comparison to labor unions—at least under current conditions—is less persuasive. He fails to acknowledge that unions themselves face a variety of formidable legal and institutional constraints in the twenty-first-century United States.⁹ Although strikes were indeed a key vehicle of labor unions' social power in the past, they have been rendered increasingly ineffective and indeed have virtually disappeared from the United States in recent years. The new political-economic order that has in effect replaced the New Deal—notwithstanding the fact that laws such as the FLSA and NLRA are still on the books—has undermined organized labor's traditional strategic repertoire in other respects as well (Piven and Cloward 2000).

Moreover, the ability of mainstream U.S. unions to pursue a radical agenda is severely constrained by their relationship to the established legal system, which restricts the types of activities in which they can participate. As Stephen Lerner (2011a) argues, "Unions with hundreds of millions in assets and collective bargaining agreements covering millions of workers won't risk their treasuries and contracts by engaging in large-scale sit-ins, occupations and other forms of non-violent civil disobedience." Unions have far greater financial and staff resources than worker centers do, but, Lerner notes, they are "just big enough—and just connected enough to the political and economic power structure—to be constrained from leading the kinds of activities that are needed" (Lerner 2011a, 9–10). Moreover, worker centers have greater room for maneuver as they are not covered by labor laws restricting unions from engaging in secondary boycotts and various forms of direct action.

As union density and power continued their relentless decline into the twenty-first century, leaders and activists in the organized labor movement became

increasingly interested in exploring alternatives to traditional union strategies, and the achievements of the worker centers began to capture their attention. The centers had educated thousands of workers directly about their rights, won significant concessions from employers, won new protective legislation and improved enforcement, and won the hearts and minds of many ordinary citizens. At a time when labor unions were increasingly ignored, and even demonized, in the mainstream media, the worker centers had proven themselves highly effective at directing public and media attention to employer abuses of immigrants and other low-wage workers.

Starting around the turn of the twenty-first century, a few key New York unions—HERE, SEIU, and the UFCW, as well as its affiliate, the Retail, Wholesale and Department Store Union (RWDSU), all of which had experience collaborating with worker centers in other parts of the country—began to seriously experiment with their own efforts at this new form of organizing. Three of the organizations profiled in this book began as union-sponsored initiatives, all launched after the year 2000. The Restaurant Opportunities Center (ROC), created by an HERE local in the aftermath of the September 11, 2001 attacks, went on to mount a series of successful campaigns targeting employers who had violated existing minimum wage laws and other labor standards, winning millions of dollars in back pay (Brady, this volume). With a somewhat different focus, in 2002 the SEIU building services local union, in partnership with two other New York unions and two community organizations, founded the New York Civic Participation Project (also known as La Fuente). The main aim was to promote immigrant union members' civic and political involvement (McFarland, this volume). And in 2005, partnering with a community-based organization, RWDSU launched the Retail Action Project (Ikeler, this volume). RWDSU also launched several union drives among precarious workers in the retail sector, among other efforts targeting nonunion grocery stores in Brooklyn, again in partnership with community-based organizations (Shapiro, this volume).

In New York and nationally, union interest in immigrant organizing further increased in the aftermath of the massive immigrant rights protests that swept the nation in the spring of 2006. That November, the New York City Central Labor Council, whose executive director was then Ed Ott (coeditor of this book), invited the TWA to join the Council, a move with no precedent in recent memory and one that prefigured the national AFL-CIO's issuance of a federal charter for the TWAOC five years later. Ott also encouraged the city's labor movement to support DWU, the Freelancers Union, and other fledgling worker centers that were organizing and advocating on behalf of the city's rapidly growing precariat (Greenhouse 2008b). Although Ott stepped down from the Central Labor Council soon afterward, New York unions increasingly supported worker center cam-

paigns in the years that followed. For example, the unions threw their political support behind worker center campaigns for protective legislation, such as the Domestic Workers' Bill of Rights and the New York Wage Theft Prevention Act, both of which were enacted by the New York Legislature in 2010.

Although they initially had been doubtful about the viability of collective bargaining for the workers they organized, worker center leaders have become much more open to traditional unionism in recent years. This change developed along with the centers' aspirations to expand in scale, to build more durable organizations, and to be financially independent rather than continuing to rely on philanthropic foundations for support. This new openness and the centers' efforts to scale up from local to national organizations—as documented in the chapters in this book on ROC, DWU, and TWA (Brady, Goldberg, and Gaus, respectively, this volume; see also Cordero-Guzmán, Izvanariu, and Narro 2013)—have led them into more extensive partnerships with organized labor, especially at the national level. “Worker centers are movements in search of institutions,” the AFL-CIO’s Ana Avendaño recently commented. “And our unions are often institutions in search of movements” (Eidelson 2013, 16).

Recent initiatives such as the AFL-CIO’s national TWAOC charter have nurtured the growing ties between unions and worker centers around the country. In New York, some local unions recently have engaged in the highest form of flattery, adopting the worker centers’ strategic and tactical playbook in renewed efforts to recruit low-wage immigrant workers and other members of the new precariat into union ranks. One example, documented in the next chapter of this book, is the unionization drive that the UFCW launched in the summer of 2011 at a Target department store on Long Island with a workforce dominated by Caribbean immigrants (Becker, this volume). Other recent examples include a successful 2012 RWDSU campaign to unionize car-wash workers in Queens (Semple 2012), and a series of one-day strikes at New York fast food outlets organized by the community-based organization New York Communities for Change, with support from SEIU (Greenhouse 2012b).

Further fueling the growing interest in new organizing strategies among traditional unionists in New York was the Occupy Wall Street movement, which large numbers of New York City union leaders and members alike (and their counterparts around the country) enthusiastically supported. Although tensions and conflicts between Occupy and the traditional unions periodically surfaced, organized labor’s support for the occupation was reciprocated by an infusion of new energy and involvement by Occupy activists in local union struggles (Lewis and Luce 2012). This led to increased recognition among union leaders that they had something to learn from other social movements and thus further encouraged the formation and deepening of active union partnerships with worker

centers and other community-based organizations like those documented in this volume (see the chapters by Shapiro, Broxmeyer and Michaels, and Turner).

To date, these collaborative efforts are small in scale and their sustainability has not yet been fully tested. But they do suggest the possibility that a marriage between traditional unions and worker centers may yet be consummated, at least in relatively labor-friendly environments such as that of New York City. To be sure, this May-to-December relationship, one in which the partners have vastly unequal resources, is at serious risk of devolution into what Frege, Heery, and Turner (2004) call a "vanguard coalition," in which case excessive union domination could easily render it a barren marriage. But if both partners can manage to retain sufficient independence, such a marriage of convenience might yet prove fruitful, multiplying the capacities of unions and worker centers alike to confront the formidable challenges presented by the growth of the new precariat, and incubating a generation of new labor activists and new labor movement organizational forms.

Part I

**IMMIGRANT UNION
ORGANIZING AND
UNION-COMMUNITY
PARTNERSHIPS**

TAKING AIM AT TARGET

West Indian Immigrant Workers Confront the Difficulties of Big-Box Organizing

Benjamin Becker

On June 17, 2011, a Target store in Valley Stream, New York, became the first to go to a union election in over twenty years. There are over seventeen hundred Target stores across the United States, employing 355,000 workers, but none of these stores are unionized. The election in Valley Stream did not alter this record: workers voted 137–85 (out of 260 eligible voters) against union representation. The union vying for the workers' vote was United Food and Commercial Workers (UFCW) Local 1500, which represents nineteen thousand workers—primarily in chain grocery stores—in the New York City metropolitan area.¹ After nearly a year of legal wrangling, the National Labor Relations Board (NLRB) ruled in 2012 that Target had illegally intimidated its employees, throwing out the election results and setting the stage for a new vote. At the time of this writing, it is unclear how and if such an election will take place; after the first election and prior to the NLRB decision, Target announced a six-month closure of the store—ostensibly for renovations—which displaced and dispersed the existing employees.

Valley Stream is just outside New York City, but the majority of Target's workforce lives in the West Indian neighborhoods of nearby Queens. The campaign involved three main worker-leaders—Tashawna Green, and two other workers named Aaron and Sophia, all of whom are Jamaican immigrants.² Nearly the entire prounion worker organizing committee, numbering around fifteen to twenty people, came from Jamaica and Guyana, with a few from Haiti and St. Kitts. Although exact data on the ethnic and national composition of the workforce is not publicly accessible, the committee appeared to be roughly representative