

## A SPECIAL NOTE TO STUDENTS

My goal in writing this book is to create the foundation for you to learn about the important issues and concepts in labor relations in an engaging and enjoyable fashion. Studying labor relations can be both intellectually stimulating and fun! Labor relations have been influenced by everything from violent strikes to religious writings, from libertarians to Marxists, from radical union leaders to great industrialists. You will encounter two characters named Big Bill, the brazen yet grandmotherly Mother Jones, and the still-missing Jimmy Hoffa—not to mention the colorful language of labor relations, which includes yellow dog contracts, the blue flu, hot cargo, whipsawing, and a narcotic effect. You can enrich your studies by listening to union folk songs and watching *Norma Rae*, *On the Waterfront*, *Matewan*, *Billy Elliot*, *Pride*, and other films. Studying labor relations draws on scholarship in industrial relations, management, economics, history, psychology, sociology, political science, law, working class and women's studies, and philosophy, and I hope you find this diversity both stimulating and interesting.

At the same time, labor relations can be controversial, and many people have strongly formed opinions about labor unions even if they've had little or no firsthand experience with them. I encourage you to approach this book and your labor relations course with an open mind. As you will see, whether labor unions are good or bad depends largely on how one thinks the employment relationship works, especially the extent to which one believes that labor markets are competitive. You do not need to change your beliefs about the employment relationship (and by extension, labor unions), but you do need to understand other perspectives and respect those with other views—just as they must respect your viewpoint. Try to learn from your classmates with different perspectives and engage them in reasoned and respectful discussions with an open mind. I've worked hard to include diverse materials in this textbook to help you understand labor relations from multiple perspectives and to foster lively classroom exercises and discussions. Be an active yet respectful learner in your classroom.

U.S. labor relations are often equated to negotiating thick contracts full of detailed work rules. This is undeniably an important part of labor relations, and it will receive the necessary attention in this book; but do not sell labor relations short by limiting your expectations to this narrow view. I wrote this book so you can learn not only *how* the traditional labor relations processes (like negotiating contracts) work but also *why* these processes exist. Ultimately, labor relations are not about negotiating work rules—they are about trying to balance the economic and human needs of a democratic society and foster broadly shared prosperity. As you learn about the existing processes, continually ask yourself how they contribute (or not) to balancing these needs, and whether there are better ways of achieving these objectives—with traditional unions, with new types of unions, or without any unions at all—in the 21st century world of work. Even if you are a current or future manager or union leader with practical concerns, understanding the pros and cons of the labor relations processes—not just simply grasping how things currently work—is necessary because the labor relations system is in flux. Designing new policies, practices, and strategies that are effective hinges on a deep understanding of the employment relationship and the past, present, and future of labor relations.

Enjoy your stimulating journey through the fascinating world of labor relations!

John W. Budd



# Labor Relations: Striking a Balance

Sixth Edition

John W. Budd

*University of Minnesota*

**Mc  
Graw  
Hill**



## LABOR RELATIONS: STRIKING A BALANCE, SIXTH EDITION

Published by McGraw-Hill Education, 2 Penn Plaza, New York, NY 10121. Copyright © 2021 by McGraw-Hill Education. All rights reserved. Printed in the United States of America. Previous editions © 2018, 2013, and 2010. No part of this publication may be reproduced or distributed in any form or by any means, or stored in a database or retrieval system, without the prior written consent of McGraw-Hill Education, including, but not limited to, in any network or other electronic storage or transmission, or broadcast for distance learning.

Some ancillaries, including electronic and print components, may not be available to customers outside the United States.

This book is printed on acid-free paper.

1 2 3 4 5 6 7 8 9 LSC 24 23 22 21

ISBN 978-1-260-26050-2 (bound edition)

MHID 1-260-26050-X (bound edition)

ISBN 978-1-260-51190-1 (loose-leaf edition)

MHID 1-260-51190-1 (loose-leaf edition)

Portfolio Manager: *Laura Hurst Spell*

Marketing Manager: *Lisa Granger*

Content Project Managers: *Jeni McAtee, Emily Windelborn*

Buyer: *Laura Fuller*

Design: *Jessica Cuevas*

Content Licensing Specialist: *Brianna Kirschbaum*

Cover Image: *QtraxDzn/Shutterstock*

Compositor: *Aptara®*, Inc.

All credits appearing on page or at the end of the book are considered to be an extension of the copyright page.

### Library of Congress Cataloging-in-Publication Data

Names: Budd, John W., author.

Title: Labor relations: striking a balance / John W. Budd, University of Minnesota.

Description: Sixth edition. | New York, NY: McGraw Hill Education, [2021]

| Includes bibliographical references and index.

Identifiers: LCCN 2019034680 (print) | LCCN 2019034681 (ebook) | ISBN

9781260260502 (hardcover; alk. paper) | ISBN 126026050X (hardcover;

alk. paper) | ISBN 9781260511901 (spiral bound; alk. paper) | ISBN

9781260511949 (ebook)

Subjects: LCSH: Industrial relations—United States.

Classification: LCC HD8066 .B83 2021 (print) | LCC HD8066 (ebook) | DDC

331.880973—dc23

LC record available at <https://lcn.loc.gov/2019034680>

LC ebook record available at <https://lcn.loc.gov/2019034681>

The Internet addresses listed in the text were accurate at the time of publication. The inclusion of a website does not indicate an endorsement by the authors or McGraw-Hill Education, and McGraw-Hill Education does not guarantee the accuracy of the information presented at these sites.

[mheducation.com/highered](http://mheducation.com/highered)

In memory of my father and Craig A. Olson

# About the Author

John W. Budd is a professor in the Center for Human Resources and Labor Studies at the University of Minnesota's Carlson School of Management, where he holds the Industrial Relations Land Grant Chair. He is a Phi Beta Kappa graduate of Colgate University and received M.A. and Ph.D. degrees from Princeton University. Professor Budd has taught labor relations to undergraduates, professional master's students, and Ph.D. candidates and has received multiple departmental teaching awards as well as an excellence in education award from the Labor and Employment Relations Association (LERA). He has served on LERA's education committee and executive board and has published journal articles about teaching labor relations. Professor Budd's main research interests are in industrial relations, especially labor relations. He is the author of *The Thought of Work* (Cornell University Press), *Employment with a Human Face: Balancing Efficiency, Equity, and Voice* (Cornell University Press), and *Invisible Hands, Invisible Objectives: Bringing Workplace Law and Public Policy into Focus* (with Stephen Befort, Stanford University Press) and the coeditor of *The Ethics of Human Resources and Industrial Relations* (with James Scoville, Labor and Employment Relations Association). He has also published numerous articles in *Industrial and Labor Relations Review*, *Industrial Relations*, the *Journal of Labor Economics*, the *British Journal of Industrial Relations*, the *Journal of Industrial Relations*, *Labor Studies Journal*, and other journals and edited volumes. He is a LERA Fellow and serves on the editorial boards of the *British Journal of Industrial Relations*, *ILR Review*, *Human Resource Management Journal*, and *Labour and Industry*. Professor Budd has been the director of the University of Minnesota's Center for Human Resources and Labor Studies and has also served as the director of graduate studies for Minnesota's graduate program in human resources and industrial relations, one of the oldest and largest such graduate programs in the United States. He also has a monthly blog called "Whither Work?"

# Preface

The traditional approach to studying U.S. labor relations focuses on an uncritical exploration of how the existing labor processes work: how unions are organized, how contracts are negotiated, and how disputes and grievances are resolved. And because U.S. unions have typically used these processes to win detailed work rules, there is a tendency to equate labor relations with work rules and therefore to structure labor relations courses and textbooks around examination of these work rules. In other words, traditional labor relations textbooks are dominated by rich descriptions of the *how*, *what*, and *where* of the major labor relations processes. But what's missing is the *why*. Labor relations are not about work rules. Labor relations processes and work rules are simply a means to more fundamental ends or objectives. What are these objectives? Under what conditions are collectively bargained work rules a desirable or undesirable method for achieving these objectives? In the 21st century world of work, are there better ways of pursuing these objectives? These are the central and engaging questions of labor relations—questions ignored by textbooks that narrowly focus on how the existing labor relations processes and detailed work rules operate in practice.

The importance of moving beyond a process-based focus in studying labor relations is underscored by the fact that today's labor relations processes are under attack from all directions. Business professionals, labor leaders, and diverse academics frequently criticize the operation of contemporary U.S. labor relations, albeit usually for different reasons. Analyzing whether the labor relations system needs updating and evaluating alternative options for reform requires an intellectual framework that is rooted in the objectives of the employment relationship. A description of how the current processes work without any discussion of what the processes are trying to achieve fails to provide the basis for determining whether the processes are working and fails to supply metrics for judging alternative strategies, policies, and processes.

This textbook presents labor relations as a system for striking a balance between the employment relationship goals of efficiency, equity, and voice and between the rights of labor and management. It is important to examine these goals to discover what motivates contemporary U.S. labor relations processes and to evaluate whether these processes remain effective in the 21st century. What are the differing assumptions (such as whether labor markets are competitive) that underlie alternative mechanisms for achieving efficiency, equity, and voice? Why is a balance important? These questions provide the framework for analyzing the existing processes—especially organizing, bargaining, dispute resolution, and contract administration—as well as the major issues facing these processes—particularly the need for employee involvement, labor-management partnerships, and workplace flexibility in the context of globalization and financialization. Another recurring theme is that the current processes are one option for balancing workplace objectives and rights, but that this system is under fire from many directions. The book therefore concludes with chapters to promote reflection on the strengths and weaknesses of the current system and the possibilities for reform. This material includes a comparative examination of labor relations systems in other countries and a consideration of varied U.S. reform proposals that include changes in union and corporate behavior as well as public policies.

This textbook thus replaces the tired paradigm of “labor relations equal detailed work rules” with the dynamic paradigm of “labor relations equal balancing workplace goals and rights.” This is *not* to say that the existing processes are unimportant. Labor law, union organizing, bargaining, dispute resolution, and contract administration are central topics that are thoroughly covered in the heart of this book using diverse historical and contem-

porary examples. Current and future labor relations practitioners will certainly learn the ins and outs of the traditional labor relations processes. But this is no longer sufficient for effective practice because labor relations practices are in flux. Indeed, recent movements in various states to change public sector labor relations or implement right-to-work laws, the Supreme Court's landmark *Janus* decision, and the new dynamism around teachers strikes and worker centers, highlight the unsettled nature of contemporary labor relations. As such, the labor relations processes are not presented in this textbook as self-evidently good; they are placed in the broader context of the nature of the employment relationship to foster a deep understanding of labor relations. The logic and relevance of the existing labor relations processes are more readily understood when explicitly linked to the beliefs about the employment relationship that underlie these processes. This deep understanding further provides the foundation for critically evaluating future directions for labor relations and labor policy—what labor relations strategies, policies, and practices can most effectively balance the workplace goals and rights of workers and employers in the environment of the 21st century?

## ORGANIZATION

*Labor Relations: Striking a Balance* has four parts and is written for upper-level undergraduates and professional-level graduate students. Part One provides the intellectual framework for studying labor relations. Chapter 1 sketches the major concerns in labor relations within a context explicitly rooted in the objectives of the employment relationship (efficiency, equity, and voice) and of labor relations (striking a balance). In Chapter 2, four different views of labor unions in the employment relationship are presented from the perspectives of neoliberalism, human resource management, industrial relations, and critical (or radical or Marxist) industrial relations. The industrial relations viewpoint shapes the existing U.S. policies on collective bargaining, so a thorough understanding of this school of thought is essential, and this understanding is best achieved through contrasts with the other three schools.

Part Two focuses on the New Deal industrial relations system—today's U.S. labor relations system: its historical development (Chapter 3), labor law (Chapter 4), the strategies and organizational structures used by labor and management and the environmental constraints they face (Chapter 5), how new unions are organized (Chapter 6), how contracts are negotiated (Chapter 7), how bargaining disputes are resolved (Chapter 8), and how grievances over contract administration are resolved (Chapter 9). Part Two provides a thorough understanding of these processes to help develop effective management professionals and labor advocates, as well as for thinking more critically about future directions for U.S. labor relations. Part Three focuses on four issues that are putting particular strain on the New Deal industrial relations system in the 21st century: the evolving nature of work and how it is structured (Chapter 10) as well as globalization and financialization (Chapter 11). These are important issues for business, policymakers, and labor unions and also reflect struggles with efficiency, equity, and voice and trying to balance labor rights and property rights. Consequently, these issues are critical for both policy and practice.

The goals of Parts One, Two, and Three are to develop a deep understanding of the current state of U.S. labor relations—its goals, major processes, and current pressures. But many individuals from nearly every viewpoint—pro-business or pro-union, liberal or conservative, Republican or Democrat, academic or practitioner—have called for reform of the existing U.S. labor relations system. Thus, Part Four reflects on the current state of U.S. labor relations and options for reform. Other countries wrestle with the same goal of balancing efficiency, equity, and voice, and Chapter 12 presents some comparative examples of different labor relations systems. In a global economy it is important to



understand how things work in other countries to be a better manager or labor leader, but there are also lessons for reflection and reform. The concluding chapter returns to the starting questions: What should labor relations do? What should labor relations seek to accomplish? And in light of the material in the rest of the book, what reforms are needed—in union strategies, corporate governance and social responsibility, and labor law? Chapter 13 therefore integrates the past lessons with directions for the future. Throughout the chapters, engaging historical and contemporary examples are combined with concrete issues for both practice and policy to develop a deep understanding of the past, present, and future of U.S. labor relations for managers, unionists, workers, and anyone concerned with the employment relationship. Much of the material has important implications for nonunion managers, too.

The first five editions of *Labor Relations: Striking a Balance* were well received by instructors and students alike. In fact, the first edition was recognized with a Texty excellence award from the Textbook and Academic Authors Association for the best textbook in accounting, business, economics, and management in 2005. This sixth edition continues to refine and update rather than overhaul the successful approach of the earlier editions. The fifth edition added a nonunion application to each chapter, and now the sixth edition adds a new “practically speaking” feature throughout the text in which management, labor, and neutral labor relations professionals give practical words of wisdom connected to the concepts being presented. Chapter 10 has been significantly re-written under the new title “The Evolving Nature of Work,” and includes new sections on unions in the fissured workplace, unions in the gig economy, and automation and the future of work. Elsewhere, a discussion of the landmark *Janus* decision has been incorporated, including a consideration of what this might mean for the future. Changes that the Trump NLRB has enacted or has signaled an intent to consider have also been incorporated, along with the labor rights issues embedded in the United States-Mexico-Canada Agreement that will replace NAFTA if it is ratified. Updated statistics, improved tables, and updated references appear throughout the text.

## KEY FEATURES

- Extensive supporting pedagogical materials (discussed below).
- A rich intellectual framework for understanding both the current labor relations system and possible alternatives. This framework focuses on three conceptual elements: the objectives of the employment relationship (efficiency, equity, and voice), the objectives of labor relations (striking a balance), and differing views of labor markets and conflict.
- Comprehensive, even-handed coverage of the New Deal industrial relations system—including history, law, and all the major labor relations processes—as well as current issues (workplace flexibility, labor-management partnerships, the fissured workplace, globalization, and financialization) and multiple alternative directions for union strategies, corporate behavior, and labor law. Engaging historical and contemporary examples illustrate many issues; these examples are drawn from a wide variety of industries, occupations, and demographic groups.
- Discussion of whether workers’ rights are human rights. Moreover, the clash between property rights and labor rights is highlighted as a central conflict in labor relations. This theme is used to increase the understanding of the legal doctrines that underlie the labor relations processes by seeking to balance these competing rights.
- A serious treatment of ethics integrated throughout the text. Unlike any other labor relations textbook, major ethical theories and principles are discussed (Chapter 5). Many chapters ask students to apply these principles to important labor relations issues.

## x Preface

- Contemporary management and union strategic issues integrated throughout the text, including integrative bargaining, workplace flexibility, work teams, leadership, change management, the organizing model of union representation, and social movement unionism. Nonunion applications appear in every chapter, and practical pieces of advice are included in multiple places.
- Separate chapters on globalization/financialization and comparative labor relations systems. The comparative chapter discusses labor relations in representative industrialized countries (Canada, Great Britain, Ireland, France, Germany, Sweden, Australia, and Japan) as well as in Mexico, central and eastern Europe, China, and other Asian developing countries, along with the debate over convergence of policies and practices. The globalization and financialization chapter is unique among labor relations textbooks and explores the pros and cons of globalization, debates over free or fair trade, the use of corporate codes of conduct and the International Labour Organization to promote workers' rights, transnational union collaboration, issues for international managers, multiple dimensions of financialization, and ethical concerns.
- Issues specific to public sector labor relations integrated throughout the text rather than relegated to a special topics chapter.
- Explicit discussions of four schools of thought about the employment relationship—neoliberalism, human resource management, pluralist industrial relations, and critical industrial relations—and the importance of these different perspectives in understanding conflicting views of labor unions and labor policies.
- Inclusion of diverse scholarship on labor relations incorporated throughout the text to promote a broad understanding of the subject and to create an engaging, interesting book for the reader that draws on many disciplines and perspectives.
- Appendixes including the full text of the National Labor Relations Act, the United Nations' Universal Declaration of Human Rights, and a sample NLRB decision.
- The Zinnia and Service Workers Local H-56: An accompanying online bargaining simulation for students to experience the collective bargaining process by renegotiating a hotel's union contract. The simulation is structured around websites for the hotel and the union, and all the necessary materials are online at [www.thezinnia.com](http://www.thezinnia.com).

## LEARNING AIDS

*Labor Relations: Striking a Balance* combines a rich intellectual framework and the latest issues and debates in labor relations with extensive pedagogical aids. My teaching philosophy embraces contemporary developments in learning theory by using active learning strategies that are responsive to diverse learning styles. In my own teaching of labor relations, this approach has resulted in a stimulating classroom environment as well as multiple teaching awards. Helping instructors create similar learning environments to facilitate enriched student learning is an important objective of this textbook. Significant learning aids in this textbook include the following:

- Numerous case studies to promote classroom discussion appear throughout each chapter. Tables and figures also summarize and reinforce important elements of each chapter.
- Varied active learning exercises to foster an active learning approach and increase student participation are included in the text and supplementary materials.
- Each chapter begins with an advance organizer, list of learning objectives, and outline to prepare students for the chapter's material. Each chapter concludes with a list of key terms (boldfaced in the chapter) and reflection questions.

- Visual learning aids such as diagrams, pictures, cartoons, time lines, and charts help students with diverse learning styles connect with the material. Each chapter also includes two online exploration exercises integrated into the flow of the text to help learners engage with the material.
- Ten labor law discussion cases in Chapters 4, 6, 7, 8, 10, and 11 help students apply important legal concepts. An additional 10 grievance discussion cases in Chapter 9 help students wrestle with the central elements of contract administration. A sample NLRB decision is also included in Appendix C.
- The accompanying web-based bargaining simulation at [www.thezinnia.com](http://www.thezinnia.com) also promotes active learning. Rather than reading a spoon-fed narrative, students must explore the websites of a fictitious employer and union to learn about the bargaining environment.

## TEACHING AIDS

*Labor Relations: Striking a Balance* includes and with a variety of teaching aids to help instructors create a dynamic learning environment.

### Instructor Library

The Connect Instructor Library is your repository for additional resources to improve student engagement in and out of class. You can select and use any asset that enhances your lecture.

The Library for the sixth edition includes the following resources:

- The detailed instructor's manual contains
  - Chapter outlines, learning objectives, lecture ideas, teaching tips, active learning exercises, ideas for using technology in the classroom, and suggestions for videos and other supplementary materials, along with a glossary of key terms and answers to the end-of-chapter questions.
  - Detailed teaching notes for all of the text's 20 labor law and grievance cases that appear in Chapters 4, 6, 7, 8, 9, 10, and 11.
  - Tips and hints for using the accompanying online collective bargaining simulation, The Zinnia and Service Workers Local H-56 (available at [www.thezinnia.com](http://www.thezinnia.com)).
  - A unique "Pedagogical Introduction to Teaching Labor Relations" that discusses the use of active learning techniques and other best practices to help instructors engage students with diverse learning styles.
- The revised test bank contains approximately 100 questions per chapter and consists of multiple-choice, true/false, and essay questions; correct answers are accompanied by page references and tags indicating level of difficulty.
- PowerPoint presentations outline the important concepts of each chapter and reference relevant text exhibits.



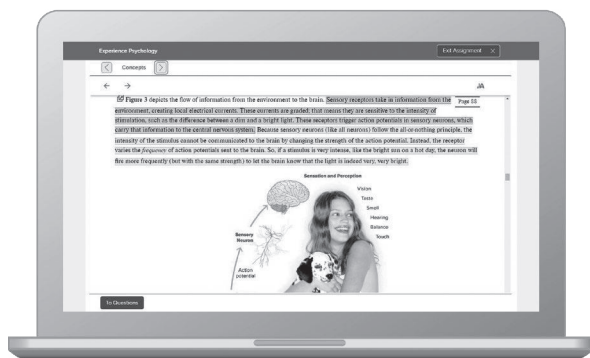
## FOR INSTRUCTORS

### You're in the driver's seat.

Want to build your own course? No problem. Prefer to use our turnkey, prebuilt course? Easy. Want to make changes throughout the semester? Sure. And you'll save time with Connect's auto-grading too.

# 65%

Less Time  
Grading



Laptop: McGraw-Hill; Woman/dog: George Doyle/Getty Images

### They'll thank you for it.

Adaptive study resources like SmartBook® 2.0 help your students be better prepared in less time. You can transform your class time from dull definitions to dynamic debates. Find out more about the powerful personalized learning experience available in SmartBook 2.0 at [www.mheducation.com/highered/connect/smartbook](http://www.mheducation.com/highered/connect/smartbook)

### Make it simple, make it affordable.



Connect makes it easy with seamless integration using any of the major Learning Management Systems—Blackboard®, Canvas, and D2L, among others—to let you organize your course in one convenient location. Give your students access to digital materials at a discount with our inclusive access program. Ask your McGraw-Hill representative for more information.

Padlock: Jobalou/Getty Images

### Solutions for your challenges.



A product isn't a solution. Real solutions are affordable, reliable, and come with training and ongoing support when you need it and how you want it. Our Customer Experience Group can also help you troubleshoot tech problems—although Connect's 99% uptime means you might not need to call them. See for yourself at **status.mheducation.com**

Checkmark: Jobalou/Getty Images

**SUPPORT** <sup>AT</sup>  
*every step*

## FOR STUDENTS

### Effective, efficient studying.

Connect helps you be more productive with your study time and get better grades using tools like SmartBook 2.0, which highlights key concepts and creates a personalized study plan. Connect sets you up for success, so you walk into class with confidence and walk out with better grades.

### Study anytime, anywhere.

Download the free ReadAnywhere app and access your online eBook or SmartBook 2.0 assignments when it's convenient, even if you're offline. And since the app automatically syncs with your eBook and SmartBook 2.0 assignments in Connect, all of your work is available every time you open it. Find out more at [www.mheducation.com/readanywhere](http://www.mheducation.com/readanywhere)

*"I really liked this app—it made it easy to study when you don't have your textbook in front of you."*

- Jordan Cunningham,  
Eastern Washington University



Calendar: owattaphotos/Getty Images

### No surprises.

The Connect Calendar and Reports tools keep you on track with the work you need to get done and your assignment scores. Life gets busy; Connect tools help you keep learning through it all.

### Learning for everyone.

McGraw-Hill works directly with Accessibility Services Departments and faculty to meet the learning needs of all students. Please contact your Accessibility Services office and ask them to email [accessibility@mheducation.com](mailto:accessibility@mheducation.com), or visit [www.mheducation.com/about/accessibility](http://www.mheducation.com/about/accessibility) for more information.

Top: Jenner Images/Getty Images, Left: Hero Images/Getty Images, Right: Hero Images/Getty Images



# Acknowledgments

I am indebted to numerous individuals for their direct and indirect assistance in the creation of all three editions of *Labor Relations: Striking a Balance*. I must first thank my family for their continued support, patience, good humor, stress relief, and occasional proofreading. We all miss Bert and his stress relief contributions. For the first edition, my colleague John Fossum was instrumental in helping me get started; since then, John Weimeister, Laura Hurst Spell, and the rest of the McGraw-Hill Education team have encouraged me to be innovative while providing the editorial support to improve and refine my ideas. The behind-the-scenes production staff who handle too many tasks to count are always helpful, supportive, and responsive. I continue to be indebted to the University of Minnesota human resources and industrial relations students who over the years have tolerated my classroom experimentation and provided feedback for improvements. I am similarly grateful to many professors at Minnesota and elsewhere, as well as numerous human resources professionals, union leaders, and neutrals for sharing their experiences, expertise, and encouragement. I give extra thanks to the professionals who took the time and care to contribute thoughtful words of wisdom for the Practically Speaking feature. The staff members of the Georgianna Herman Library deserve special thanks for their helpfulness in identifying references and sources.

Each edition has been greatly improved by the careful feedback I have received from the reviewers. For the first edition, I thank Alexander J.S. Colvin (Cornell University), Victor Devinatz (Illinois State University), Richard Hannah (Middle Tennessee State University), Michael LeRoy (University of Illinois), Barbara Rau (University of Wisconsin-Oshkosh), William Ross (University of Wisconsin-LaCrosse), Howard Stanger (Canisius College), and James E. Wanek (Boise State University). For the second edition, I thank Matthew M. Bodah (University of Rhode Island), Phillip Ettman (Westfield State College), Robert A. Figler (The University of Akron), James Randall Nutter (Geneva College), and James E. Wanek (Boise State University). For the third edition, I thank Diane Galbraith (Slippery Rock University), Toni Knechtges (Eastern Michigan University), Jonathan Monat (California State University-Long Beach), Barbara Rau (University of Wisconsin-Oshkosh), and Elizabeth Welsh (University of Minnesota). Helpful comments were also provided by Greg Saltzman (Albion College) and John Remington (University of Minnesota). For the fourth edition, I am grateful to David Nye (Athens State University), Barbara Rau (University of Wisconsin-Oshkosh), Decateur Reed (Boise State University), and Martin St. John (Westmoreland County Community College). For the fifth edition, thank you to Anne M. Fiedler (Nova Southeastern University), Bryan Kennedy (Athens State University), Roger Kubler (Embry-Riddle Aeronautical University), and Kimberly A. LaFevor (Athens State University). For the sixth edition, I am grateful to Charles Davis (Indiana University), Philip Ettman (Westfield State University), Gundars Kaupins (Boise State University), Juliana Lilly (Sam Houston State University), Bruce Nissen (Florida International University), Barbara L. Rau (University of Wisconsin Oshkosh), and Martin S. St. John (Westmoreland County Community College).

John W. Budd  
Minneapolis, Minnesota  
April 2019



# Brief Contents

Preface vii

## PART ONE

### Foundations 1

- 1 Contemporary Labor Relations: Objectives, Practices, and Challenges 3
- 2 Labor Unions: Good or Bad? 27

## PART TWO

### The U.S. New Deal Industrial Relations System 59

- 3 Historical Development 61
- 4 Labor Law 107
- 5 Labor and Management: Strategies, Structures, and Constraints 157
- 6 Union Organizing 193
- 7 Bargaining 237
- 8 Impasses, Strikes, and Dispute Resolution 273
- 9 Contract Clauses and Their Administration 309

## PART THREE

### Issues for the 21st Century 355

- 10 The Evolving Nature of Work 357
- 11 Globalization and Financialization 391

## PART FOUR

### Reflection 429

- 12 Comparative Labor Relations 431
- 13 What Should Labor Relations Do? 469

### APPENDIX A: THE NATIONAL LABOR RELATIONS ACT (1935, AS AMENDED) 503

### APPENDIX B: UNIVERSAL DECLARATION OF HUMAN RIGHTS (UNITED NATIONS, 1948) 529

### APPENDIX C: A SAMPLE NLRB DECISION 535

### APPENDIX D: COLLECTIVE BARGAINING SIMULATION: THE ZINNIA AND SERVICE WORKERS LOCAL H-56 539

### NAME INDEX 541

### SUBJECT INDEX 548

# Contents

Preface vii

## PART ONE FOUNDATIONS 1

### Chapter 1

#### Contemporary Labor Relations: Objectives, Practices, and Challenges 3

- The Objectives of Labor Relations 5
  - Isn't Efficiency Enough?* 6
- Conflicting Goals Mean Balancing Rights 9
- Contemporary U.S. Labor Relations 10
  - Contemporary Pressures: The Management Perspective* 11
  - Contemporary Pressures: The Labor Union Perspective* 13
- The Continued Relevance of Labor Relations 15
- Key Terms 18
- Reflection Questions 18
- End Notes 22

### Chapter 2

#### Labor Unions: Good or Bad? 27

- The Labor Problem 29
- Four Schools of Thought about the Employment Relationship 32
  - The Neoliberal School* 32
  - The Human Resource Management School* 33
  - The Industrial Relations School* 35
  - The Critical Industrial Relations School* 36
  - The Fundamental Assumptions of Human Resources and Industrial Relations* 38
- The Continued Relevance of the Labor Problem 41
  - Solving Labor Problems: What's Your Preferred Method?* 41
  - Solving Labor Problems: The Evolving U.S. Approach* 43
- What Do U.S. Unions Do? 46
  - Evaluating the Effects of Unionism* 46
  - Theories of the Labor Movement* 48
- Key Terms 50
- Reflection Questions 50
- End Notes 53

## PART TWO

### THE U.S. NEW DEAL INDUSTRIAL RELATIONS SYSTEM 59

### Chapter 3

#### Historical Development 61

- From Local to National Organizations 62
- The Great Uprising of 1877 64
- Uplift Unionism 65
  - The Knights of Labor: Objectives and Strategies* 66
  - The Knights of Labor: Conflicts and Demise* 68
- Pure and Simple Craft Unionism 68
  - The AFL and Its Unions: Objectives and Strategies* 69
  - The AFL and Its Unions: Conflicts with Employers* 70
- Workers of the World Unite! 72
  - The IWW: Objectives and Strategies* 75
  - The IWW: Conflicts and Demise* 77
- Staying Union-Free in the Early 1900s 78
  - The Open Shop Movement* 79
  - Welfare Capitalism* 82
- A New Deal for Workers: Legal Protection and Industrial Unions 83
  - Striking for New Labor Legislation* 84
  - The Rise of Industrial Unionism* 85
  - Sitting Down for Union Recognition* 86
  - A New Federation to Rival the AFL* 88
- Wartime and Postwar Labor Relations 90
  - Cementing the Postwar Model of Labor Relations* 90
  - A Turbulent End to the 20th Century* 92
- Labor Relations in the 21st Century 94
- Key Terms 98
- Reflection Questions 98
- End Notes 100

### Chapter 4

#### Labor Law 107

- The Common Law of Labor Relations: Conspiracies and Injunctions 110
- The Business Law of Labor Relations: Unions as Corporations 111
- Keeping Courts out of Labor Relations: The Norris-LaGuardia Act 113



Preludes to a National Policy	114
<i>Prelude 1: The National Industrial Recovery Act</i>	114
<i>Prelude 2: The Railway Labor Act</i>	115
<i>Prelude 3: The Amalgamated Clothing Workers</i>	117
Solving Labor Problems: The Wagner Act	117
<i>The Principles of the Wagner Act</i>	117
<i>Exclusive Representation and Certifying Majority Status</i>	119
<i>Unfair Labor Practices</i>	120
<i>The National Labor Relations Board</i>	122
<i>The First Years of the Wagner Act</i>	122
Rebalancing the System: The Taft-Hartley Act	124
<i>The Principles of the Taft-Hartley Act</i>	124
<i>Taft-Hartley Restrictions on Unions</i>	126
<i>Enhancing the Rights of Individuals and Employers</i>	128
<i>New Dispute Resolution Procedures</i>	128
Fighting Union Corruption: The Landrum-Griffin Act	129
<i>Regulating Unions' Political Contributions</i>	132
Extensions to Government Employees: Public Sector Labor Law	132
<i>Federal Sector Bargaining Rights</i>	133
<i>State and Local Government Bargaining Rights</i>	133
<i>Ongoing Controversies over Public Sector Unionization</i>	134
Labor Law in Practice: NLRB Decisions and Reform	136
<i>NLRB Decisions and Precedents</i>	138
<i>Debating the Need for Labor Law Reform</i>	139
Postscript: The Rise of Employment Law	140
Key Terms	143
Reflection Questions	143
End Notes	150

## Chapter 5

### Labor and Management: Strategies, Structures, and Constraints 157

Labor Union Strategies	158
<i>The Traditional Collection of U.S. Union Strategies</i>	159
<i>Alternative Union Strategies for the 21st Century</i>	160
The Structure of the U.S. Labor Movement	163
<i>Local Union Structures</i>	163
<i>National Union Structures</i>	165
<i>The Pros and Cons of General Unions</i>	166
<i>National and International Union Federations</i>	167
<i>Union Democracy</i>	168
Management Strategies	169
<i>Business Strategies</i>	169
<i>Labor Relations Strategies</i>	170

<i>Labor Relations Strategies in Practice</i>	173
The Labor Relations Environment	173
<i>The Legal Environment</i>	174
<i>The Economic Environment</i>	174
<i>The Sociopolitical Environment</i>	176
<i>The Ethical Environment</i>	176
Key Terms	180
Reflection Questions	180
End Notes	187

## Chapter 6

### Union Organizing 193

The Organizing Time Line	194
<i>Initiating an Organizing Drive</i>	194
<i>Building and Documenting Support</i>	195
<i>Alternatives to Voluntary Recognition</i>	197
NLRB Representation Elections	198
<i>Types of Elections</i>	198
<i>Getting the NLRB to Conduct an Election</i>	199
<i>Determining the Appropriate Bargaining Unit</i>	199
<i>The Supervisor Controversy</i>	200
<i>Scheduling the Election</i>	202
Individual Voting Decisions	203
NLRB Election Standards	205
Employer Campaigning	206
<i>Communicating with Employees</i>	206
<i>Employer Restrictions on Employees and Union Organizers</i>	208
<i>Union Avoidance Consultants</i>	209
<i>The Controversies over Employer Campaign Tactics</i>	210
Union Campaigning	212
<i>Communicating with Employees</i>	213
<i>Strategies to Create Worker Activism</i>	214
The Certification Election Process: Help or Hindrance?	218
<i>Criticisms of the NLRA Certification Process</i>	218
<i>Organizing Outside the NLRB Certification Process</i>	220
<i>Is the Employee Free Choice Act the Answer?</i>	221
Key Terms	225
Reflection Questions	225
End Notes	230

## Chapter 7

### Bargaining 237

Preparing to Bargain	238
Bargaining Structure	240
Bargaining Power and the Bargaining Environment	242

At the Bargaining Table	244
<i>Labor Negotiations as Theater</i>	244
<i>Negotiating Tools</i>	245
<i>Bargaining in Good Faith</i>	245
<i>Mandatory Bargaining Items</i>	247
Bargaining Subprocesses and Strategies	248
<i>Distributive Bargaining</i>	249
<i>Integrative Bargaining</i>	252
<i>Distributive versus Integrative Bargaining in Labor Relations</i>	254
<i>Attitudinal Structuring</i>	255
<i>Intraorganizational Bargaining</i>	255
Reaching Agreement	257
<i>Bargaining in the Public Sector</i>	259
The Contemporary Bargaining Process:	
Continuity and Change	260
Key Terms	262
Reflection Questions	262
End Notes	270

## Chapter 8

### Impasses, Strikes, and Dispute Resolution 273

Strikes and Lockouts	274
<i>Types of Strikes</i>	276
<i>The Legal Treatment of Strikes</i>	276
<i>National Emergency Strikes</i>	278
<i>Lockouts</i>	278
<i>Picketing</i>	279
<i>The Decline in Strike Activity</i>	279
Strike Replacements	282
<i>The Mackay Doctrine</i>	282
<i>Labor's Opposition to the Mackay Doctrine</i>	283
<i>Replacement Workers in Unfair Labor Practice Strikes</i>	283
<i>Replacement Workers in Lockouts</i>	285
Other Pressure Tactics	285
<i>Boycotts</i>	286
<i>Work Slowdowns</i>	287
<i>Corporate Campaigns and Brand Attacks</i>	288
Third-Party Dispute Resolution	289
Mediation	290
Interest Arbitration	292
Fact-Finding	295
What's Best?	297
Key Terms	298
Reflection Questions	298
End Notes	302

## Chapter 9

### Contract Clauses and Their Administration 309

U.S. Union Contracts	310
<i>The Emergence of Enforceable, Rules-Based Contracts</i>	310
<i>U.S. Union Contracts Today</i>	311
Employee Rights and Obligations	311
Job Rights and Obligations	314
Union Rights and Obligations	315
<i>Union Security Clauses</i>	316
<i>Union Obligations</i>	317
Management Rights and Obligations	318
Grievance Procedures	320
<i>Rejecting Unilateral Grievance Resolution Methods</i>	321
<i>The Typical Unionized Grievance Procedure</i>	321
<i>The Uses of the Grievance Procedure</i>	323
Grievance Arbitration	324
<i>The Legal Support for Grievance Arbitration</i>	324
<i>The Quasijudicial Nature of Grievance Arbitration</i>	325
<i>Interpreting Ambiguous Contract Language</i>	325
<i>Criticisms of Grievance Arbitration</i>	326
Employee Discipline	327
<i>Just Cause</i>	327
<i>A Right to Representation</i>	329
Do These Contract Clauses Matter?	329
Nonunion Workplace Dispute Resolution	331
<i>Nonunion Grievance Procedures</i>	331
<i>Mandatory Arbitration of Employment Law Claims</i>	332
A Different Approach to Contract Administration	333
Key Terms	334
Reflection Questions	334
End Notes	348

## PART THREE

### ISSUES FOR THE 21ST CENTURY 355

## Chapter 10

### The Evolving Nature of Work 357

Postwar Work Organization, Postwar Unionism	358
<i>20th-Century Mass Production Methods</i>	358
<i>Job Control Unionism</i>	361
Pressures for Employee Enrichment and Involvement	363
<i>The Blue Collar Blues</i>	363
<i>Employee Involvement</i>	364
<i>High-Performance Work Systems</i>	365
<i>Labor Relations Debates over Lean Production</i>	366
<i>Labor Relations Debates over Self-Directed Work Teams</i>	366

<i>Labor-Management Partnerships</i>	367
<i>Labor-Management Partnerships: Challenges for Unions</i>	369
Employee Representation: Are Unions Required?	371
<i>Employer-Dominated Nonunion Committees</i>	371
<i>Legal versus Illegal Committees and Representation Plans</i>	372
Nonunion Application: <i>What Happens in Practice?</i>	373
The Organizational Quest for Flexibility	374
<i>(In)Flexibility in the Unionized Employment Relationship</i>	374
<i>Unions in the Fissured Workplace</i>	376
<i>Unions in the Gig Economy</i>	376
Automation and the Future of Work	377
Fostering Improved Labor-Management Relationships	378
<i>Overcoming Resistance to Change</i>	378
Key Terms	381
Reflection Questions	381
End Notes	386

## Chapter 11

### Globalization and Financialization 391

The Debate over Globalization	392
<i>International Trade</i>	394
<i>Foreign Direct Investment</i>	395
<i>International Investment Portfolios</i>	396
<i>Immigration</i>	397
Governing the Global Workplace	397
Free Trade via the WTO	399
<i>The WTO Supports Free Trade, Not Fair Trade</i>	399
Global Labor Standards via the ILO	400
International Labor Standards via U.S. Free Trade Agreements	401
<i>NAFTA and Its Labor Side Agreement</i>	401
<i>The Effects of NAFTA and Its Labor Side Agreement</i>	401
<i>Moving Beyond NAFTA and Its Labor Side Agreement</i>	402
Transnational Employee Consultation in the European Union	404
<i>Policymaking in the European Union</i>	404
<i>European Works Councils: Definition and Operation</i>	405
<i>European Works Councils in Practice</i>	405
Transnational Collective Bargaining	406
<i>Institutions for Fostering International Labor Solidarity</i>	407
<i>International Labor Solidarity in Practice</i>	407
Corporate Codes of Conduct	410
<i>Why Corporate Codes of Conduct?</i>	410
<i>Do Corporate Codes of Conduct Work?</i>	412

<i>Nonunion Application: International Management</i>	413
Financialization	414
<i>Share Price Maximization</i>	415
<i>Profits via Financial Transactions</i>	416
<i>Private Equity</i>	416
<i>Public Sector Budget Austerity</i>	417
Globalization and Financialization: Economics and Ethics	417
Key Terms	419
Reflection Questions	419
End Notes	421

## PART FOUR

### REFLECTION 429

## Chapter 12

### Comparative Labor Relations 431

Canada	434
Mexico	435
Great Britain	438
Ireland	440
France	443
Germany	446
Sweden	450
Central and Eastern Europe	451
Australia and New Zealand	452
Japan	454
Asian Developing Countries	455
<i>China</i>	456
Bargaining or Legislating Labor Standards?	458
Nonunion Application: <i>Universally Mandated Benefits and Protections</i>	459
Globalization Reconsidered	460
Key Terms	461
Reflection Questions	461
End Notes	462

## Chapter 13

### What Should Labor Relations Do? 469

What Should Unions Do?	470
<i>Solidarity Unionism</i>	470
<i>Social Movement Unionism</i>	473
<i>Employee Ownership Unionism</i>	475
<i>Efficiency-Enhancing Unionism</i>	476
<i>Employee Empowerment Unionism</i>	477
<i>Associational Unionism</i>	477
What Should Employers Do?	480
<i>Maximizing Shareholder Value</i>	480

*Corporate Social Responsibility: A Broader Alternative View* 481

*A Stakeholder Model of Corporate Governance* 482

*Alternative Directions for the Public Sector* 482

The Future of U.S. Labor Relations Policy 483

*Strengthening the NLRA* 484

*Deregulating the NLRA* 486

*Loosening the NLRA* 487

*Transforming the NLRA* 488

Strategic Labor Relations and Leadership 490

Striking a Balance 492

Key Terms 495

Reflection Questions 495

End Notes 497

**Appendix A**

**The National Labor Relations Act (1935, as Amended) 503**

The Wagner Act: Findings and Policies 503

The Taft–Hartley Act: Short Title and Declaration of Policy 504

The National Labor Relations Act (as Amended) 504

Title II 518

Title III 524

Title IV 527

Title V 527

**Appendix B**

**Universal Declaration of Human Rights (United Nations, 1948) 529**

**Appendix C**

**A Sample NLRB Decision 535**

**Appendix D**

**Collective Bargaining Simulation: The Zinnia and Service Workers Local H–56 539**

**Name Index 541**

**Subject Index 548**

# Part One

## Foundations

It is tempting to study labor relations by focusing on how the key processes work, such as how union contracts are negotiated. But we cannot effectively understand these processes unless we know both what they are trying to achieve and how they fit with the employment relationship. The first two chapters therefore provide a foundation for studying labor relations by introducing the key issues and problems in contemporary labor relations within a context that emphasizes the objectives of labor relations and alternative models of the employment relationship.

Chapter 1 ~ Contemporary Labor Relations: Objectives, Practices, and Challenges 3

Chapter 2 ~ Labor Unions: Good or Bad? 27

# Chapter One

## Contemporary Labor Relations: Objectives, Practices, and Challenges

### Advance Organizer

You probably have preconceived notions about labor relations and labor unions—perhaps from your parents, from the news media, or from personal experiences. Now it is time to think more carefully about labor relations in an open-minded way. The starting point for studying labor relations is consideration of the objectives of a labor relations system. Specifically, the U.S. labor relations system attempts to balance the objectives of employees, employers, and society; but this system faces significant pressures and continues to be criticized from many directions.

### Learning Objectives

By the end of this chapter, you should be able to:

- 1. **Understand** why studying labor relations is important and how the subject can be fascinating.

- 2. **Define** the objectives of the employment relationship (efficiency, equity, and voice) and of labor relations (striking a balance).
- 3. **Describe** the basic features of the contemporary U.S. labor relations system—collective bargaining, detailed union contracts, and private sector union density decline.
- 4. **Discuss** the current pressures on the U.S. labor relations system—on the corporate side, workplace flexibility, and employment involvement (stemming at least partly from globalization); on the labor side, low union density, a representation gap, and difficulties in organizing new workers.

### Contents

The Objectives of Labor Relations	5
Conflicting Goals Mean Balancing Rights	9
Contemporary U.S. Labor Relations	10
The Continued Relevance of Labor Relations	15

On February 22, 2018, widespread frustration coalesced into 20,000 West Virginia teachers launching a statewide strike, even though West Virginia forbids them from striking. Several weeks later, statewide teacher strikes burst to life in Oklahoma and Arizona when another 30,000 teachers struck over low pay and reductions in state funding for public education. These strikes were supported by many others through tweets, re-tweets, online petitions, Facebook pages, and other social media actions. In November 2018, more than 20,000 Google employees from around the globe joined the #GoogleWalkout and demonstrated for a day in protest over Google’s handling of sexual harassment cases and to

demand change. Indeed, throughout history individuals have used collective action to voice dissatisfaction and to seek change. It is for these reasons that millions of people in all kinds of occupations—perhaps your parents, your grandparents, or even you—have joined and been represented by labor unions around the world.

Although many labor unions today are large, bureaucratic organizations, the essence of a **labor union** is a group of workers who join together to influence the nature of their employment. Perhaps they are seeking improved wages and benefits, protection against arbitrary treatment and discharge, or a greater voice in workplace decision making. Even retired managers and executives turn to collective action to redress perceived injustices, as with the formation of the Association of BellTel Retirees and other retiree organizations to challenge unilateral corporate reductions in pension cost-of-living increases and health care benefits for retirees. From the worker's perspective, this is fundamentally what labor relations are about: collective work-related protection, influence, and voice.

For employers, in contrast, labor relations are about managing relationships with employees and labor unions in ways that promote organizational goals such as profitability (in the private sector) or cost-effective service delivery (in the public sector). Non-union employers typically pursue these goals by trying to remain union-free through preventive labor relations strategies. These strategies can range from aggressive union-busting tactics that scare workers away from unions to progressive human resource management tactics that seek to make unions unnecessary. Unionized employers might also try to undermine labor unions by using these same strategies, but most deal with their unions constructively, primarily through collective bargaining, adhering to the resulting union contracts, and resolving disputes through grievance procedures. Competitive pressures are thereby transferred to the bargaining table, where managers try to keep their wage and benefit costs in line with those of their competitors, and try to negotiate for work rule changes when additional flexibility is needed.

Society, too, has an important stake in labor relations. The Occupy movement's slogan "We are the 99 percent" has raised awareness about the dramatic increase in income inequality that has occurred in recent decades.<sup>1</sup> At least part of the cause of this increase has been the weakening of labor unions, and these inequalities burden taxpayers and can destabilize society.<sup>2</sup> Strikes and other forms of labor-management conflict can deprive consumers of goods and services and can even jeopardize safety: for example, hospital strikes increase mortality rates, and defective Firestone tires that caused numerous deaths were significantly more likely to have been produced during two critical periods of labor-management conflict when managers demanded concessions and when permanent strike replacements were used.<sup>3</sup> At the other end of the spectrum, labor-management relationships that produce well-trained and motivated unionized employees produce clear benefits for society, such as the thousands of police officers, firefighters, nurses, and other unionized rescue and health care workers who work around the clock heroically protecting and saving lives in dangerous conditions. Labor relations can also serve democracy by allowing labor unions to promote the decent working and living conditions that free and equal citizens deserve, and by fostering workers' voice in the political arena.<sup>4</sup>

Employees, employers, labor unions, the public, and policymakers therefore are affected by the major processes of labor relations. Consequently, studying labor relations frequently emphasizes these processes—the union organizing process (how unions are formed), the collective-bargaining process (how contracts are negotiated), the dispute resolution process (how bargaining impasses are prevented or resolved), and the contract administration process (how grievances over the application of the contract are managed). These are important processes in U.S. labor relations, and they are the focus of the middle part of this book (for a road map to the entire book, see the "Organization" section of the



preface). But these processes are only means to deeper objectives. This book therefore also emphasizes the importance of understanding what the labor relations processes try to achieve.

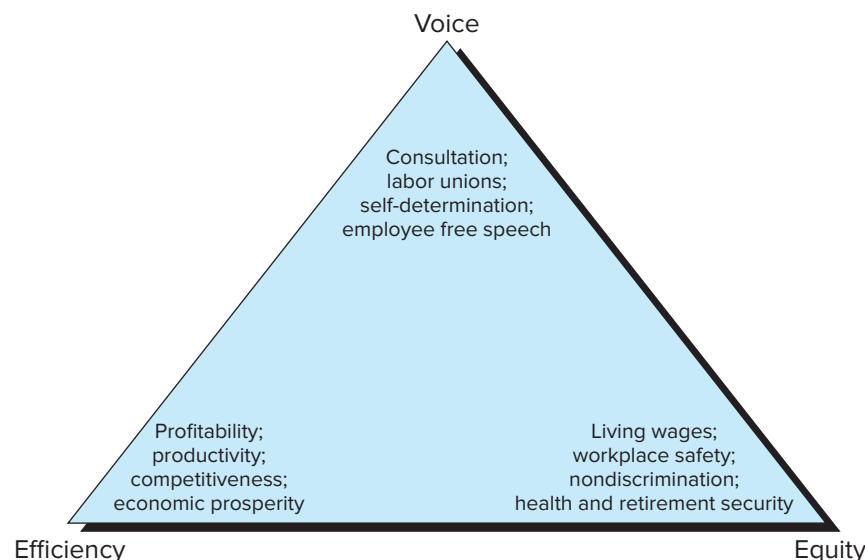
## THE OBJECTIVES OF LABOR RELATIONS

The foundation of studying any work-related subject is the objectives of the employment relationship. When you work, what do you want to get out of it? Money? Health insurance? A feeling of accomplishment? A sense of self-worth? Other things? When you work, how would you like to be treated? Like a machine? Or with dignity and respect? Would you be satisfied to always have someone else telling you how your job should be done, or would you like to have input into the nature of your job? What does your employer want? Now think about society at large. From this perspective, what should be the goals of work?

This book is based on three objectives of the employment relationship: **efficiency, equity, and voice**.<sup>5</sup> Efficiency is the productive, profit-maximizing use of labor to promote economic prosperity; equity is fairness in the distribution of economic rewards, the administration of employment policies, and the provision of employee security; and voice is the ability of employees to have meaningful input into workplace decisions. Efficiency is a standard of economic or business performance; equity is a standard of fair treatment for employees; and voice is a standard of employee participation. Equity also includes being treated in ways that respect one's desired identity, and voice includes being able to express oneself in ways consistent with a desired identity. In the public sector, efficiency can be seen as including cost-effective service delivery and other indicators of an efficient government agency. Workplace policies that promote flexibility and productivity are examples of how efficiency might be achieved; decent wage and benefit packages or policies that dismiss workers only for valid, performance-related reasons are examples of providing equity; and employee autonomy and representation by labor unions are examples of ways to pursue the voice dimension (see Figure 1.1).<sup>6</sup>

Sometimes these three objectives work together, such as when equitable treatment and employee voice increase commitment, reduce turnover, and therefore improve productivity and quality (efficiency). Unfortunately these goals often conflict: Equitable treatment might reduce flexibility and therefore efficiency, or employee voice might make decision

**FIGURE 1.1**  
Aspects of Efficiency,  
Equity, and Voice in the  
Employment  
Relationship





making more cumbersome and therefore less efficient. The sharpest conflicts are typically between efficiency on one hand and equity and voice on the other. But equity and voice can also clash, such as when unions centralize their power to better achieve equity but in the process become less responsive to individual needs and voices. Labor relations, therefore, must strike a balance between these three sometimes conflicting goals.<sup>7</sup> As a result, studying labor relations involves analyzing how employee representation through independent labor unions contributes to achieving a balance among efficiency, equity, and voice. This is the first major theme of this book.

Furthermore, it is the official policy of the United States to “encourag[e] the practice and procedure of collective bargaining” and to protect workers’ rights to join together for “negotiating the terms and conditions of their employment” and for “other mutual aid or protection.”<sup>8</sup> U.S. policy, at least as written in law, is not to *tolerate* collective bargaining but to *encourage* it. And according to the United Nations’ Universal Declaration of Human Rights, “Everyone has the right to form and to join trade unions for the protection of his interests.” But why should society encourage or discourage the formation of labor unions? This is the second major theme of this book.

Finally, what do labor unions do? U.S. unions are stereotypically associated with inflated wages and restrictive work rules.<sup>9</sup> However, an alternative perspective sees unions as securing better wages to provide decent living standards for their members and as negotiating extensive work rules to protect their members against unfair treatment by management. Moreover, unions can provide voice and representation to individual workers while the labor movement can advocate for working people in the social and political arenas. Based on these and other activities, why do some workers support unions while others oppose them? Why do employers typically oppose unions? And *if* labor unions are a good thing, how should they be structured and promoted in the 21st-century world of work? This is the third theme of this book.

### Isn’t Efficiency Enough?

For business leaders, business schools, the business press, and business-friendly politicians, the primary objective of the employment relationship is efficiency. Business is seen as best promoting economic prosperity through free-market competition. Profits, not wages, are seen as the critical barometer of economic health, and shareholder interests trump the interests of other stakeholders. In the American social imagination, we are a nation of consumers, not workers.<sup>10</sup> Debates over labor unions, minimum wage laws, and paid family or sick leave are thereby reduced to debates over their effects on labor costs and competitiveness. The old saying “What’s good for General Motors is good for the country” is perhaps more widely believed than ever, especially if it is updated to “What’s good for Walmart is good for the world.” Individuals who defraud shareholders can be sentenced to 25 years in jail, but someone who willfully violates federal workplace safety standards that results in a worker’s death faces maximum jail time of only six months—even lower than the prison sentence for harassing a wild burro. Concerns like equity and voice are seen as social issues that interfere with business. Companies, it is argued, have no obligation to provide personal and moral development, and business is not designed to be a “training ground for democracy.”<sup>11</sup> And public sector agencies should be focused on cost-effective service delivery. Managers are responsible to investors or taxpayers while workers freely choose to subordinate their interests to managerial directives in return for wages and benefits. So when studying labor relations or other work-related topics, isn’t it enough to just consider efficiency issues?

Suppose an employer believed it would be efficient to hire only African American janitors and white managers—or vice versa. Would this be acceptable? If not, there must be social and human boundaries on efficiency.<sup>12</sup> These boundaries are equity

## Labor Relations Application Take the Employment-at-Will Quiz

*Instructions:* For each of the following scenarios, indicate whether you believe a court of law would find the termination to be lawful or unlawful, *not* what you would like the result to be. In each case, the employee is *not* represented by a union and was *not* fired because of his or her race,

sex, national origin, religion, age, or disability. Except for scenario 7, there is no formal written or oral agreement between the employee and employer stating the terms of employment.

	Lawful	Unlawful
1. An organization fires an employee with satisfactory job performance in order to hire another person to do the same job at a lower wage. This termination is	_____	_____
2. An organization fires someone because their job performance is unsatisfactory. This termination is	_____	_____
3. An employee with satisfactory job performance is fired because their manager thought they had stolen money. In court, the employee is able to prove that they did not steal and that the manager was mistaken. This termination is	_____	_____
4. An employee is terminated because there is no longer enough work. This termination is	_____	_____
5. A worker with satisfactory job performance is accused of being dishonest. Their manager knows that this is untrue, but fires the employee anyway because the manager personally dislikes the employee. This termination is	_____	_____
6. An organization is violating the law by billing customers for services not performed. Upon finding out about this scheme, an employee refuses to illegally overcharge customers. As a result of this refusal, the employee is fired. This termination is	_____	_____
7. An organization's employee handbook includes the following: "Employees will be dismissed only for just and sufficient cause." Because of this, an employee quits their current job to work for this organization. After several years, this person is fired and is replaced by someone doing the same work for lower pay. The employee's job performance was satisfactory during their entire time with the organization. This termination is	_____	_____

Answers: The termination is lawful in questions 1–5 (unless you live in Montana). The termination in question 6 is unlawful. The termination in question 7 is lawful in states that have adopted broad public policy exceptions to at-will employment. Pauline T. Kim, "Bargaining with Imperfect Information: A Study of Worker Perceptions of Legal Protection in an At-Will World" *Cornell Law Review* 83 (November 1997), pp. 105–60, reports the results of a survey in which less than 20% of individuals correctly answered questions similar to numbers 1, 3, 5, and 7. So workers believe they have greater protections than they actually do.

and voice. In practice, these boundaries can often be weak. For example, the U.S. employment relationship is governed by the employment-at-will doctrine.<sup>13</sup> Although employees typically do not realize it, this means that employers can fire workers for many reasons—or no reason at all. In fact, the United States is unique among industrialized countries in the lack of just cause discharge protections that provide safeguards against being arbitrarily fired for reasons not related to job performance or business need.<sup>14</sup> There are a few exceptions to the employment-at-will doctrine in the United States, but these are limited to several legislative restrictions (especially anti-discrimination laws), contractual restrictions (most widely associated with union contracts), and a patchwork of state-by-state judicial exceptions (such as firing someone for refusing to break the law); otherwise, U.S. employers do not need a good reason to fire someone.

Although the employment-at-will doctrine treats workers as if they are nothing more than economic commodities exchanged in the marketplace, the fact that workers are human beings forces us to pay attention to equity and voice in addition to efficiency. In earlier agrarian and crafts-based societies, the quality of life for you and your family was critically linked to your property such as your farm or workshop; but in today's industrial or postindustrial society, modern workers and their families are often completely dependent on *jobs*, not property. Moreover, working adults spend much of their lives at work, and "the workplace is the single most important site of cooperative interactivity and sociability among adult citizens outside the family."<sup>15</sup> The quality of employment and the nature of the workplace are therefore important for individuals, families, and society.

Work is not simply an economic transaction; work is a fully human activity such that employees are entitled to fair treatment and opportunities to have input into decisions that affect their daily lives. The lack of at least minimal standards and nondiscriminatory treatment (equity) contradicts the basic ideals of democracy with free and equal citizens, and it violates religious and moral views on the sanctity of human life and human dignity.<sup>16</sup> Employee voice has similar justifications, ranging from moral, religious, and psychological beliefs about the importance of human self-determination to political views of liberty and democracy.<sup>17</sup> From this latter perspective, employee voice is essential for **industrial democracy**, a term that captures the belief that workers in a democratic society are entitled to the same democratic principles of participation in the workplace:

It is a fundamental doctrine of political democracy that one should have some voice in regard to matters that vitally affect him. . . . [A worker's] life is a factory life; and it is the incidents of factory life over which he needs some control. If there is an argument for giving him a vote, even more is there an argument for giving him a voice in the conditions of shop and factory.<sup>18</sup>

For some, then, work is not only about wages and other material benefits, it also involves dignity, voice, and freedom.

If we see work as more than an economic transaction, equity and voice along with efficiency must be the key objectives of the employment relationship.<sup>19</sup> Efficiency alone is not enough. This is also reflected in what workers want. It is easy to imagine that workers want decent wages and fair treatment (equity). But many workers also want a voice. Surveys of American workers consistently reveal that most workers want a say in work-related matters, including personal issues such as scheduling and how tasks are completed, employment terms such as benefits, and strategic issues.<sup>20</sup> These surveys also show that many workers want more of a voice than they are typically given. But there is also an important dichotomy between managers and employees: Managers prefer to deal with workers one-on-one, but half of workers prefer to deal with management as a group, often in the form of representation that is independent of management.<sup>21</sup> Voice can therefore take many forms within a workplace, and social media can facilitate connections across workplaces and with sympathetic outsiders. Coworker.org, for example, provides a platform for creating employee networks and building support for improving their workplaces. If you browse that site or follow their social media feeds, you will see worker-led campaigns over a wide range of issues.

The centrality of voice in contemporary labor relations is underscored by the frequency of this theme in union literature and campaigns. The American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), the umbrella federation for most U.S. labor unions, emphasizes themes such as "A Voice for America's Working Families" and "Together We Can Make Our Voice Heard" (see Figure 1.2). Thus, a number of social commentators, labor leaders, and workers themselves want workplaces that provide fairly

**FIGURE 1.2**  
AFL-CIO Palm Card  
Emphasizing Voice

Source: AFL-CIO



distributed outcomes (equity) and participation in decision making (voice), in addition to the profitable and effective production of goods and services (efficiency). Whether unionized or not, each business organization must consider how to respond to these sometimes conflicting desires.

## CONFLICTING GOALS MEAN BALANCING RIGHTS

While remembering that labor and management have many common goals, we know that the greatest challenges in labor relations arise from conflicting goals. Conceptually we can think of these clashes as conflicts between the business pursuit of efficiency and workers' pursuit of equity and voice. All else equal, companies prefer paying lower wages, but employees desire higher wages. Employees want security, but managers want flexibility. These conflicts are generally resolved privately by individuals, unions, and companies through bargaining and other means.

But at a more fundamental level, society sets the ground rules for how corporations can make profits, and therefore establishes rights and obligations for corporations, unions, and workers. A key challenge when establishing these rights is wrestling with conflicts between the property rights of employers and the workers' rights of employees. Can property rights be used by employers to restrict union organizers and therefore potentially interfere with workers' rights to organize unions? Can workers' rights be used by employees to force employers to bargain over work design issues, plant closings, or other questions related to controlling a business? Does recording a video of picketing workers support property rights by protecting the employer's property, or does it violate workers' rights by intimidating workers who are exercising their voice? Can companies restrict the use of social media in their workplaces, or does this violate freedom of speech or other individual rights?

All labor relations systems must resolve these conflicts. Proponents of voluntary, market-based economic transactions (i.e., the "neoliberal market ideology") privilege property rights over workers' rights because basic economic theory shows that competitive markets and well-defined property rights are optimal for achieving efficiency. From this perspective, the key right of workers is the ability to quit jobs they do not like, and labor unions should not enjoy any special legal protections.<sup>22</sup> From the opposite perspective, workers' rights

are seen as human rights; in this case workers' rights should trump property rights (see the "Digging Deeper" feature at the end of this chapter).<sup>23</sup> Most of the world's labor relations systems, however, are based on a compromise position: a pluralist perspective that sees the employment relationship as analogous to a pluralist political society in which multiple parties (such as employers and employees) have legitimate but sometimes conflicting interests and rights.<sup>24</sup> From this perspective, property rights and workers' rights should be balanced.

The U.S. labor relations system is therefore based on the belief that labor and management should freely interact and resolve their conflicts within a framework that appropriately respects the rights of each party involved. Operationally, U.S. labor law tries to balance property rights and workers' rights, thereby balancing efficiency, equity, and voice. This is a critical theme to remember throughout this book. When trying to understand and evaluate labor law or union contracts, ask how property rights conflict with workers' rights. Do seniority-based promotion policies strike a good balance between property rights and workers' rights? When thinking about whether the U.S. labor relations system needs to be reformed, ask whether property rights and workers' rights could be better balanced in a different system. Outside of the labor relations arena, the Occupy protests, the Fight for \$15, and many other protest movements ultimately reflect deep frustration with perceived imbalances in the promotion of corporate property rights over individual (and environmental) rights and welfare, and a belief that these imbalances lead to significant economic and social inequality.<sup>25</sup> Understanding the conflicts between property rights and workers' rights and the desire to balance them is therefore vital for understanding not only labor relations but also key societal challenges.

## CONTEMPORARY U.S. LABOR RELATIONS

The three objectives of efficiency, equity, and voice provide a rich framework for understanding labor relations. Why might society want to encourage some type of unionism, and why might workers support unionization? Because labor unions can help strike a balance between efficiency, equity, and voice. Others oppose unionization because they believe that there are better ways to achieve the desired objectives, but labor relations systems around the world are premised on the belief that neither the "invisible hand" of markets nor the visible hands of human resource managers can balance efficiency, equity, and voice by themselves. Rather, each labor law regime assumes that corporations have significantly greater bargaining power than individual, nonunion workers that can result in substandard wages and benefits, discriminatory treatment, autocratic supervision, long hours, and dangerous working conditions. These outcomes do not fulfill the desired objectives:

- Low pay and worker unrest can cause inefficiencies through lack of consumer purchasing power and economic disruptions because of strikes and other disputes.
- Long hours at low pay under dangerous and discriminatory conditions violate equity.
- Employer dictation of employment conditions as well as autocratic supervision fails to provide employee voice and are counter to democratic standards.

The specific institutional approaches to striking a balance between efficiency, equity, and voice vary widely between countries. The legal regulation of labor unions and other forms of worker representation, the scope of bargaining, and the specific nature of union contracts are therefore quite different, as we will see when we compare labor relations in North America to those in Europe and Asia in Chapter 12. But all labor relations systems strive to balance efficiency, equity, and voice in a dynamic global economy.



Compared to the labor relations systems of many other countries, U.S. labor relations processes are tightly regulated by the legal system. U.S. labor law specifies that if a majority of workers in a specific workplace want union representation, their employer has a legal obligation to bargain with the union over wages, hours, and other terms and conditions of employment. Workers cannot be fired or otherwise discriminated against because of their support for a union. Employers cannot threaten employees or undertake other actions for the sole purpose of preventing unionization. The rationale for these legal protections is to allow workers to unionize to equalize bargaining power between employees and employers and thereby strike a balance between efficiency, equity, and voice by:

- Increasing the purchasing power of workers and reducing disruptive strike activity (efficiency).
- Achieving fair labor standards and protection against worker exploitation (equity).
- Providing democracy in the workplace (voice).

These outcomes are not directly legislated, however. Rather, the legal emphasis is on regulating the processes to maintain fairness. For example, U.S. labor law specifies how the parties must act during bargaining but does not concern itself with the outcome of the bargaining process.

### Contemporary Pressures: The Management Perspective

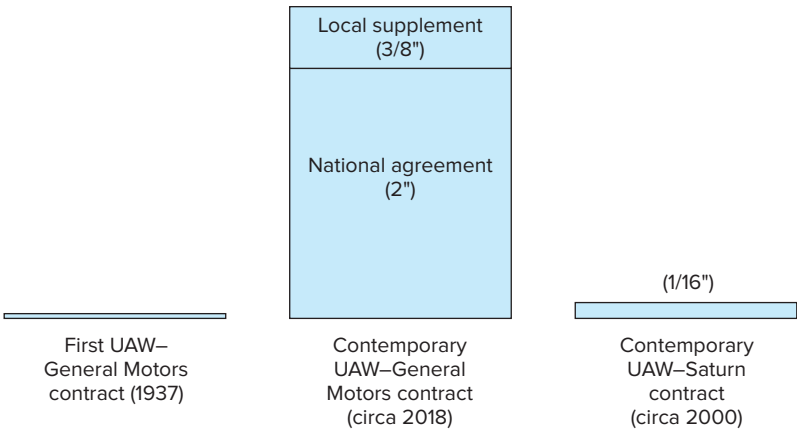
When the U.S. labor relations system works effectively, efficiency, equity, and voice are achieved through **collective bargaining** in which representatives of the employer and the employees negotiate the terms and conditions of employment that will apply to the employees. These are the major subjects of bargaining:

- *Compensation:* wages, benefits, vacations and holidays, shift premiums, profit sharing.
- *Personnel policies and procedures:* layoff, promotion, and transfer policies, overtime and vacation rules.
- *Employee rights and responsibilities:* seniority rights, job standards, workplace rules.
- *Employer rights and responsibilities:* management rights, just cause discipline and discharge, subcontracting, safety standards.
- *Union rights and responsibilities:* recognition as bargaining agent, bulletin board, union security, dues checkoff, shop stewards, no strike clauses.
- *Dispute resolution and ongoing decision making:* grievance procedures, committees, consultation, renegotiation procedures.

Note that this list includes much more than basic compensation (often called economic items) and covers a number of issues related to personnel policies and work rules (often called language issues). For all these items, the crucial feature of collective bargaining is that management's traditional authority to unilaterally establish terms and conditions of employment is replaced by bilateral negotiations. Employers cannot single-handedly dictate compensation, policies, and work rules; rather, workers have a collective voice when employment conditions are being determined.

In the United States, when the collective-bargaining process results in terms that are approved by both upper management and union members, the provisions are written down and bound into a legally enforceable collective-bargaining agreement, also called a union contract. Traditionally these contracts have been detailed and legalistic, and over the last few decades they have grown thick. As an extreme example, the first contract between the United Automobile Workers (UAW) and General Motors in 1937 was only a page long, whereas recent UAW-General Motors contracts have been hundreds of pages long and divided into several volumes.

**FIGURE 1.3**  
**The Thickness of U.S.**  
**Union Contracts**



Today, the corporate focus on competitiveness, quality, and significant financial returns pressures the collective-bargaining process in at least three major ways. First, the business need for flexibility (efficiency) clashes with lengthy contracts that spell out detailed work rules (equity). As a result, there has been experimentation with shorter, less detailed (less restrictive) contracts, such as the former UAW–Saturn agreement (see Figure 1.3). Flexible compensation systems to promote and reward highly performing employees can also clash with equity if these systems are perceived as overly subjective, competitive, or unfair. Second, the business need for cooperation and employee involvement clashes with the traditionally adversarial bargaining process in which labor and management use aggressive tactics to extract as many gains or concessions from the other side as their power allows. As a result, some advocate the mutual gains of integrative or “win–win” bargaining, which embraces a culture of joint problem solving rather than competition and conflict. Third, the need for both flexibility and involvement is not well served by a process in which contracts are renegotiated every three years or so with little productive communication (voice) between these formal negotiating periods. More bargaining relationships, therefore, are establishing mechanisms to foster ongoing communication, such as labor–management partnerships. Because of these challenges, it is imperative that students of labor relations not only study the existing processes but also consider reform possibilities.

**Online Exploration:** Search online to find a union contract (or get a copy of a contract from a friend or acquaintance). What provisions increase efficiency? Decrease efficiency? Provide equity? Provide voice?

The current legal framework in the U.S. private sector dates back to the Wagner Act (the National Labor Relations Act or NLRA) in 1935—hence the label “New Deal industrial relations system” because of its genesis during President Franklin Roosevelt’s New Deal during the Great Depression. That this framework is 85 years old further reinforces the pressures for reform. The decades around the Depression, and especially immediately after World War II, were characterized by mass manufacturing, sharp distinctions between manual (blue-collar) and managerial (white-collar) workers, and American domination of world markets. Many argue that labor law is outdated because few of these business features remain true. Rather, the business climate of the 21st century is characterized by flexible production methods, the rise of knowledge and gig workers, the blurring of traditional distinctions between brawn and brains, and intense global competition. In the 2010s, there have also been sharp attacks on labor law in the public sector, particularly by conservative political groups and politicians who see strong public sector unions not

only as political opponents but also as obstacles to reducing the size of government.<sup>26</sup> This altered environment cannot be ignored in any study of labor relations.

## Contemporary Pressures: The Labor Union Perspective

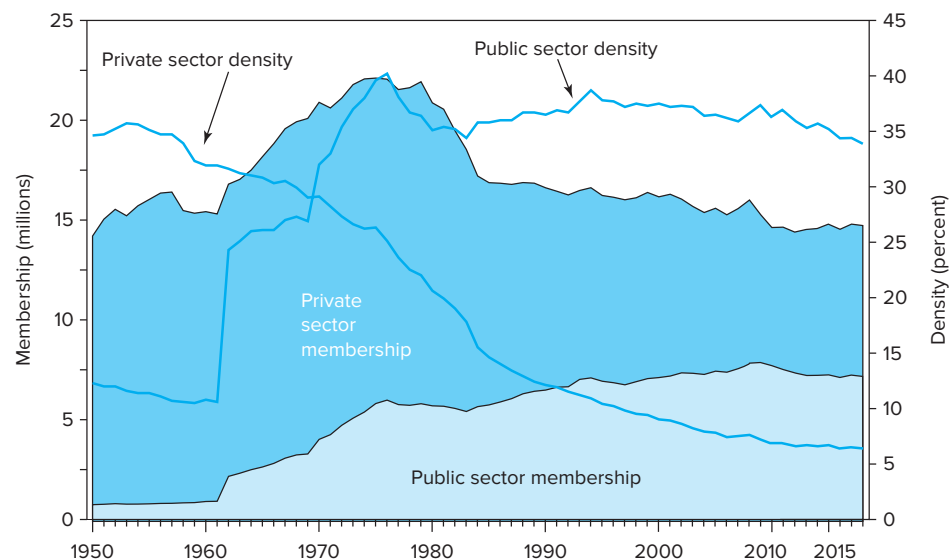
U.S. labor law is also criticized by union supporters—not so much for being outdated but rather for being too weak. This is directly related to another significant trend, which also points toward the need for reform: the weak health of the U.S. labor movement. In 2018, there were an estimated 14.7 million union members and another 1.6 million workers were covered by union contracts but were not union members.<sup>27</sup> Figure 1.4 reveals several important features of labor union membership in the postwar period. First, while the overall number of union members grew into the 1970s, it has declined since then. Moreover, much of the growth after the 1950s was in the public sector. The private sector had roughly the same number of union members in 1965 and 1980, whereas the public sector had twice as many union members in 1980 as in 1965. In recent years, total union membership has been more stable because a continued decline in private sector membership has been offset by an increase in public sector membership.

The key measure of the state of organized labor is **union density**—the percentage of workers who are union members. Overall, union density in 2018 was 10.5 percent. But private sector union density in the United States has declined since 1955 from about 35 percent to only 6.4 percent of the workforce in 2018. In sharp contrast, public sector union density jumped in the early 1960s (when the first laws protecting public sector unionizing efforts were enacted), increased steadily for 15 years, and after a slight decline has leveled off at around 34 percent.

The reasons for the 65-year decline of private sector U.S. union density are controversial. One possible explanation is that employment has declined in traditionally unionized industries such as manufacturing while employment has increased in nonunion industries such as services. Related structural, or compositional, changes include regional and demographic shifts, such as faster employment growth in southern states, more women in the labor force, and increases in education and skill levels.<sup>28</sup> These structural factors may explain part of the decline, but they also beg important questions about why certain industries, occupations, regions, or workers are more or less receptive to unionization. Similarly, it has been argued that the inability of unionized workplaces to compete in dynamic economy is a reason for the decline in private sector unionization.<sup>29</sup> But this still leaves *unanswered* questions of why and under what conditions.

**FIGURE 1.4**  
U.S. Union  
Membership,  
1950–2018

Source: U.S. Department of  
Labor.





A second possibility is that demand for union services has declined.<sup>30</sup> This explanation has three components. (1) Demand can decline because unions are not doing a good job of responding to the desires of a changing workforce and overcoming the negative stereotypes of unions that are so common in American culture.<sup>31</sup> (2) If employers have improved their responsiveness to employees' needs, this can reduce demand for union protection and advocacy. (3) Increased protective legislation may have provided a substitute for unions.<sup>32</sup> Examples include the Civil Rights Act and Equal Pay Act (and related laws pertaining to age and disability discrimination) forbidding discriminatory employment practices; the Occupational Safety and Health Act governing workplace safety standards; the Family and Medical Leave Act, which requires employers to provide unpaid leave for parental, family, and medical reasons; and the Affordable Care Act (Obamacare) expanding the availability of health insurance. In short, perhaps workers no longer need unions to win these basic protections and benefits.

The third, and most controversial, possible reason for the decline in U.S. union density is employer resistance or opposition. Compared to businesses in other industrialized countries, U.S. businesses are exceptionally hostile toward labor unions and have developed a wide range of union avoidance tactics.<sup>33</sup> For example, rather than investing in unionized plants or workplaces, U.S. companies often invest in their nonunion operations.<sup>34</sup> Moreover, it is argued that many companies actively fight union organizing drives by firing union supporters, interrogating workers about their support for a union, making threats and promises, hiring antiunion consultants, manipulating the legal system to frustrate and delay organizing campaigns, and in unionized companies, forcing strikes and then hiring replacement workers to bust unions.<sup>35</sup>

One factor that seems to support the significance of employer opposition is the existence of a **representation gap** in which more workers want workplace representation than currently have it. Evidence indicates that the representation gap is large because surveys reveal that one-third to one-half of nonunion workers would like a union in their workplace.<sup>36</sup> This implies that there are 40 million or more workers who want union representation but currently lack it, and most of them are in the private sector. A major reason that workers themselves cite in explaining this lack of representation is managerial opposition, which is reinforced by the amount of resources deployed by employers trying to defeat organizing drives.<sup>37</sup> Furthermore, even though some states have recently tried to remove bargaining rights for public sector workers, union density is significantly higher in the public sector where managerial opposition to unions is typically weaker. Some take this to indicate that private sector union busting is responsible for low union density in that sector. But others counter that public sector unions exert too much political influence that gives them an unfair advantage.<sup>38</sup> So while the evidence regarding the importance of private sector employer opposition for explaining the decline in union density is highly debated, the phenomena of employer opposition and the representation gap are significant features of U.S. labor relations.

Union membership trends might also be caught in a downward spiral. The fraction of workers who have never been unionized is increasing so there are fewer opportunities for nonunion workers to experience unionization.<sup>39</sup> Like some consumer products, however, union membership might be fully appreciated only after it is experienced.<sup>40</sup> So if workers are increasingly less likely to experience unionization, they are less likely to develop an appreciation for unions; and union membership will continue to decline. Then even fewer workers will experience unionization, and the cycle of low union experience and low union demand will build on itself. On the other hand, significantly more people experience unionism at some point in their working lives than the low union density figures at any one time might suggest. But those who do experience

## *Labor Relations Application* Continuing Pressures on the New Deal Industrial Relations System

### Management's Perspective

- Adversarial negotiations create distrust and acrimony rather than trust and cooperation.
- Need to supplement high-level, periodic negotiations with ongoing low-level communication and problem-solving mechanisms.
- Lengthy, detailed contracts inhibit flexibility and involvement.
- Labor law is outdated; bureaucratic production, American domination of world markets, and management versus labor attitudes are things of the past.

### Labor's Perspective

- Labor law is weak: penalties are minimal, delays are frequent, employers can use captive audience speeches and permanent strike replacements, and secondary boycotts are prohibited.
- Private sector union density is less than 10 percent.
- Workers need protection more than ever in the global economy.

unionism are likely to first do so at a young age (maybe you had a teen job in a unionized grocery store), so there is an opportunity for unions to do a better job of making this experience a good one.<sup>41</sup> Another possible downward spiral stems from the cost of forming unions in nonunion workplaces. As membership declines, it is difficult for unions to maintain their level of organizing because organizing drives are expensive. But less organizing likely means fewer new members, which leads to further reductions in new financial resources. So the cycle continues as there is less money to support new organizing.<sup>42</sup>

The decline in private sector union density and recent attacks on public sector unionization are central features of contemporary U.S. labor relations and serve as important backdrops to the study of labor relations. The private sector decline is likely the result of all the discussed factors, though their relative importance is debated. Remember these different factors when considering the need for labor relations reform. The explanations based on structural changes and declining demand for unionization due to improved corporate policies and employment laws imply that little reform is warranted. On the other hand, if union density has declined because of unresponsive union behavior, labor relations reform must look at transforming unions. If employer opposition is key, labor law should be reformed to close the representation gap.

## THE CONTINUED RELEVANCE OF LABOR RELATIONS

Some people are tempted to dismiss labor unions as relics from a bygone era and to consider studying labor relations unimportant for business careers in the 21st century. Yes, unions represent less than 12 percent of the U.S. workforce, but this is still a large number of workers and includes many of the country's leading companies. Contrary to popular stereotypes, unions are relevant not only to blue-collar occupations; doctors, nurses, lawyers, teachers, writers, professional athletes, college professors, and even graduate students are represented by unions. Pick up a newspaper or browse online news sources and you will be surprised by the number of union-related current events, ranging from phone companies renegotiating union contracts and retiree health benefits, to legislative proposals to suspend bargaining rights for public employees to reduce budget deficits, to debates over pay for performance for unionized teachers or whether college

athletes or teaching assistants should be allowed to unionize. Some local businesses—a Starbucks, a Target or Walmart, or a local hotel, for example—might have some employees who are thinking about unionizing, or at least some managers who are worrying about this possibility. Labor relations are therefore a relevant and dynamic area of study and practice.

**Online Exploration:** The National College Players Association was formed by college athletes “to provide the means for college athletes to voice their concerns and change NCAA rules.” Find their website and research their goals, strategies, and campaigns. How is this association like a labor union? How is it different from a union? What advantages does it have over a union? What disadvantages? Alternatively, find a website for an association of retirees and explore these same issues and questions. Some of these associations can be found on the website of the National Retiree Legislative Network.

All managers and business professionals—not just human resource managers—can benefit from learning about labor relations, whether or not they plan to work in companies where unions are present. Consider the four scenarios in the Nonunion Application “In a Nonunion Workplace, Can Managers . . . ?” Each scenario is something that a nonunion manager might do. But whether intentional or not, all these actions undermine union-like activities and therefore are illegal under U.S. labor law—even in a nonunion workplace. This is because a union does not have to be a large, formal, bureaucratic organization; a union is simply a group of workers acting together to influence their working conditions. Wage and benefit packages in union contracts can also influence nonunion compensation through a threat effect: The threat that dissatisfied workers will unionize sometimes causes nonunion firms to at least partially match union wage and benefit terms.<sup>43</sup> Studying labor relations also reveals the consequences of poorly managing a workforce. Thus, an understanding of labor relations is important for all current and future managers.

Studying labor relations can also help business leaders appreciate the broader historical, social, and political influences on business and better deal with the realities of managing a business in a complex world. Stylized economic models conveniently assume a

tidy world of rational agents interacting in perfectly competitive economic markets; most business courses consider only the objectives of businesses and consumers. In contrast, the study of labor relations considers the goals of workers and society and does not shy away from the conflicts that can arise between competing groups, especially in a real world characterized by imperfect competition. Labor relations can therefore help everyone understand and resolve conflict—in the workplace, in business relationships, and in everyday personal interactions. Studying labor relations also reveals how work and business are embedded in a complex environment—at various points in this book we will consider market forces, individual emotions, managerial strategies, forms of work organization, constitutional and legal issues, history, questions of human rights, negotiation and conflict resolution strategies, debates over globalization, pressures of financialization, ethical challenges, and much more. These topics contain

### Practically Speaking

“My very first and most foundational experience in the field of human resources was a job in labor relations in a large, unionized manufacturing facility. During this time, I groomed myself for larger and more complex assignments without realizing the important skills I was gaining. Labor relations is imperative to understanding the full context of all human resources functions. Specifically, understanding that labor laws transcend all workplaces—both union and nonunion. Knowing the art of skilled negotiations and conflict resolutions are critical for all HR professionals. Finally, seeing the impact that labor and workplace decisions can bear on the sustainability of a business. Each consecutive job I’ve held has drawn equally from the foundation and skill set gained in labor relations.”

~Faith Leicht

*Former HR Leader at General Electric  
and Honeywell International*

## Nonunion Application In a Nonunion Workplace, Can Managers. . . ?

*Scenario one:* You implement a new pay-for-performance program, and five employees together decide to refuse to work until the program is withdrawn. Can you fire the employees?

*Scenario two:* You are interviewing applicants for a web designer position in your organization. One applicant has a Graphic Communications International Union day planner and pen. Can you refuse to hire this qualified individual because you don't want any union troublemakers in your organization?

*Scenario three:* You overhear two employees discussing a union during a break in the employee cafeteria. Can you stop their conversation?

*Scenario four:* You want to change your company's health care insurance provider, but only if the employees feel that this is a positive change. Can you handpick an employee committee to represent the other employees in discussions about new health insurance options?

important lessons for all business leaders because the principles apply to many business and social issues, not just those pertaining to labor relations. For others who are interested in work and workers, labor relations offer an engaging subject for thinking about the world of work—what we want to gain from work, how work should be structured, the rights of labor, and other questions that greatly affect the type of society we live in.<sup>44</sup>

The study of labor relations is not confined to a business analysis of problems or to a description of how existing processes work. U.S. labor relations are a system in flux. Businesses, unions, and employees are confronted with diversity and experimentation in both business and human resource practices. As a result, a deeper understanding of the underlying issues—the goals of the employment relationship, how the employment relationship and labor markets operate in practice, major environmental pressures—is required to devise new business practices, union strategies, and public policies in a turbulent world with weak processes and institutions. This book not only examines current U.S. labor relations processes but also provides a rich foundation for understanding the logic of these processes and for critically evaluating them to consider possible reforms. This approach also raises vital questions about how workers should be treated and valued in society.

Even though workers are better off than in the previous recession, many problems remain. Millions of workers fail to earn enough to support a family.<sup>45</sup> Sweatshops and forms of modern slavery continue to exist, even in the United States.<sup>46</sup> The “gloves-off economy,” in which some employers avoid established labor standards and undermine more responsible employers, is growing while insecure temp and gig work proliferates.<sup>47</sup> As revealed by the #MeToo movement, appalling behavior that recalls the foreman's empire of 100 years ago continues today in the form of quid pro quo sexual harassment—demands for sexual favors in return for job-related benefits.<sup>48</sup> Workers also continue to be fired for numerous reasons unrelated to job performance: trying to form a union, their race or age, refusing to falsify medical records, and even because of whom they date or what they blog about.<sup>49</sup> Some employers have rules against using the bathroom “on company time” more than once a week.<sup>50</sup> High job demands and work–family conflict can be worse for one's health than secondhand smoke.<sup>51</sup> Although it is unfair to characterize all employers, coworkers, or jobs in such terms, it is equally inaccurate to wish away contemporary abuses. Rather, institutional checks and balances are needed. Labor relations are ultimately concerned with the analysis of such problems. Labor relations are about striking a balance between efficiency, equity, and voice.

Key Terms

labor union, 4	industrial democracy, 8	union density, 13
efficiency, equity, and voice, 5	collective bargaining, 11	representation gap, 14

Reflection Questions

1. In a concise paragraph, paraphrase what you have learned about labor relations to explain to a potential employer why studying labor relations will make you a stronger job candidate.
2. Interview workers, union officials, and managers who have been involved in a union organizing drive (or look in a newspaper or online). What issues were emphasized in the organizing drive? Are these issues examples of efficiency, equity, or voice?
3. Summarize the major facts about U.S. union density. Why has union density declined so sharply in the private sector? Is this good or bad?
4. As an employee, what kind of voice would you like on a job? Would this make you more productive? Should whether you are more productive be the only criterion for whether you should have this voice in the workplace?

# Digging Deeper Are Workers' Rights Human Rights?

The strongest advocates for workers' rights assert that workers' rights are human rights.<sup>52</sup> The foundation of human rights thought is the belief that everyone is entitled to basic rights simply by being human.<sup>53</sup> These rights are "essential to the adequate functioning of a human being" and do not depend on "varying social circumstances and degrees of merit."<sup>54</sup> Visions of human rights can be traced back to various early religious and moral philosophy traditions, including all major religions, which "share a universal interest in addressing the integrity, worth, and dignity of all persons, and, consequently, the duty toward other people."<sup>55</sup> The roots of human rights are therefore both religious and moral, Western and non-Western (see Table 1.1). What are these rights to which everyone is entitled?

At the time of the Declaration of Independence in 1776, the focus was on first-generation human rights: civil and political rights. These include private property rights, freedom of speech, religion, and assembly, and the right to due process. Agitation for these rights continued through the 19th century. First there was the fight against slavery, which also raised questions about the oppression of women.<sup>56</sup> The worldwide attention to slavery also provided the opportunity for reformers to expand awareness of other forms of economic exploitation, such as sweatshop conditions in the mills and mines of mid-19th-century Europe:

What good were civil rights such as freedom of speech or political rights for voting, asked those who suffered, to people like themselves who had no food, no home, no clothing, no medical care, or no prospect of an education? What were the benefits of freedom from slavery or serfdom if the alternative was destitution?<sup>57</sup>

From this movement grew a second generation of human rights—positive economic and social rights in which governments are responsible for ensuring adequate standards of living, including employment opportunities, income, housing, medical care, safety, and education. Workers' rights received further attention at the end of World War I, partly because of labor's sacrifices during the war and partly as a strategy to further continued peace, which led to the creation of the International Labour Organization (ILO) in 1919. The ILO is based on the following principles:

1. Labor is not a commodity.
2. Freedom of expression and of association are essential to sustained progress.

3. Poverty anywhere constitutes a danger to prosperity everywhere.
4. The war against want must be carried on with unrelenting vigor within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.<sup>58</sup>

The ILO is now a specialized agency of the United Nations and is the chief international authority on, and promoter of, labor standards pertaining to union organizing and collective bargaining, forced labor, discrimination, and other conditions of work.

The Great Depression in the 1930s increased calls for economic and social rights.<sup>59</sup> In response to the devastation of World War II and to Hitler's assertion of national sovereignty over Nazi Germany's right to commit incredible atrocities in the Holocaust, the United Nations was formed in 1945 "to save succeeding generations from the scourge of war" and to "reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women of nations large and small" (United Nations Charter). The Universal Declaration of Human Rights was adopted and proclaimed by the United Nations' General Assembly in 1948 and integrates second-generation economic and social rights with first-generation civil and political rights. The entire text of the Universal Declaration is reproduced in Appendix B at the end of this book.

With respect to workers' rights, the Universal Declaration proclaims that everyone has the right to just and favorable conditions of work, including pay sufficient for an existence worthy of human dignity, equal pay for equal work, reasonable working hours, periodic paid holidays, unemployment and disability insurance, and the ability to form labor unions. The importance of labor unions in this platform of work-related human rights is reinforced by the ILO. Specifically, of the eight ILO conventions that have been identified as fundamental to the rights of human beings at work, two pertain to the ability to organize unions and engage in collective bargaining.<sup>60</sup>

Consequently, a number of scholars and activists now argue that workers' rights are human rights.<sup>61</sup> Human dignity and freedom, it is argued, are violated if

*Continued*



**TABLE 1.1****Human Rights  
Timeline**

Adapted from Lauren, Paul Gordon. *The Evolution of International Human Rights: Visions Seen*. University of Pennsylvania Press, 1998; Burns, James MacGregor, and Stewart Burns. *A People's Charter: The Pursuit of Rights in America*. Alfred A. Knopf, 1991; Rosenbaum, Alan S, ed. *The Philosophy of Human Rights: International Perspectives*. Greenwood Press, 1980.

First generation: Civil and political rights.	1500 BC	Birth of Hinduism: sanctity of human life and noninjury to others.
	1300 BC	Birth of Judaism: sacredness of human life and equality of all.
	500 BC	Birth of Confucianism and Buddhism: harmony, compassion, and duty.
	400 BC	Greek Philosophy (Plato, Aristotle): principles of a just society.
	100 BC	Roman Philosophy (Cicero): universal, egalitarian natural law.
	AD 30	Birth of Christianity: sacredness of human life and compassion.
	600	Birth of Islam: sanctity of human life, equality, and charity.
	1215	Magna Carta: liberties of citizens, limits on rulers.
	1270	St. Thomas Aquinas: Catholic analysis of moral life and natural law.
	1690	John Locke: natural rights to preserve life, liberty, and property.
Second generation: Economic and social rights.	1776	Declaration of Independence (United States): inalienable rights to life, liberty, and the pursuit of happiness.
	1780	Immanuel Kant: universal moral law of treating people as ends in themselves, not as means; also advocated a federation of nations to punish aggressor nations.
	1789	Declaration of the Rights of Man and Citizen (France): universal natural rights to liberty, property, security, and resistance to oppression.
	1791	Bill of Rights (United States): freedom of speech, religion, assembly, from unreasonable search and seizure, and right to due process.
	1800s	Industrial Revolution: rise of wage work and factories.
	1833	Abolition Act (Great Britain): end of slavery in the British Empire.
	1841	Russia, France, Prussia, Austria, and Great Britain abolish slavery.
	1848	Seneca Falls Declaration: launched the women's rights movement.
	1864	Geneva Convention: formed the Red Cross and protected the rights of wounded and captured soldiers.
	1865	13th Amendment to the Constitution (United States): frees slaves.
Third generation: Environmental, cultural, and developmental rights	1891	<i>Rerum Novarum</i> (Pope Leo XIII): rights and justice for wage earners.
	1914–1918	World War I: 8 million killed, 20 million wounded; all were equal in death, why not in life?
	1919	Founding of the International Labour Organization (ILO): promotion of workers' rights and peace through social justice.
	1920	19th Amendment to the Constitution (United States): gave women the right to vote.
	1929–1939	Great Depression: in 1933, U.S. unemployment rate was 25 percent.
	1939–1945	World War II: 25 million military and 30 million civilian casualties (not including the Holocaust victims).
	1941–1945	Holocaust: killing of 6 million Jewish people in Nazi Germany.
	1941	President Franklin Roosevelt issues call for four freedoms worldwide—freedom of speech, of religion, from want, and from fear.
	1944	President Franklin Roosevelt calls for an economic bill of rights—rights to a useful job, earnings to obtain adequate food, clothing, shelter, and recreation, medical care, education, and protection against insecurity from old age, sickness, accidents, and unemployment.
	1944	Declaration of Philadelphia: reaffirmation of ILO principles and workers' rights to material well-being and dignity.
	1945	Founding of the United Nations (UN) by 51 countries: to promote peace, justice, social progress, and human rights.
	1948	UN Universal Declaration of Human Rights: statement of civil, political, social, and economic rights for all because of inherent human dignity.
	1950–1960	Decolonization of Asia and Africa.
	1964	Civil Rights Act (United States): forbade racial, gender, and religious discrimination.
	1976	The UN International Covenants on Civil and Political Rights and on Economic, Social, and Cultural Rights enter into force: parties to the treaties must comply with international human rights standards.
	1998	ILO Declaration of Fundamental Principles and Rights at Work: all countries have an obligation to promote freedom of association and collective bargaining, equality and nondiscrimination, and the abolition of forced and child labor.
	2007	UN Declaration on the Rights of Indigenous Peoples.
	2011	UN Guiding Principles for Business and Human Rights.
	2015	ILO launches the 50 for Freedom campaign to end modern slavery.

*Continued*

people cannot maintain a minimal standard of living and are subjected to onerous working hours in dangerous or unsanitary conditions. Due process protections against arbitrary and discriminatory discipline and discharge are essential for human dignity, as is freedom of speech. Denying workers the freedom of association “denies individuals what they need to live a fully human life”—human dignity and freedom.<sup>62</sup>

But this perspective has critics. Conservative critics emphasize the importance of individual sovereignty enshrined in classical civil and political rights, and they see legislated labor standards as a coercive violation of someone else’s liberty.<sup>63</sup> Others who support the need for workers’ rights prefer to see workers’ rights as citizenship rights rather than as human rights.<sup>64</sup> Although the differences can be subtle, citizenship rights stem from membership in a human community such as a nation, rather than from being part of overall humanity, and thereby more clearly

place obligations on the nation to provide citizenship rights.<sup>65</sup> Whereas human rights are seen as universal, citizens have obligations as well as rights; so characterizing workers’ rights as citizenship rights rather than human rights makes it easier to allow for workers’ interests such as equity and voice to be balanced with other objectives such as efficiency. Still others who support workers’ rights are wary of the individualism embedded within human rights discourse that has eroded recognition of and support for the collective action needed to counter corporate power.<sup>66</sup> From this perspective, active social movements and other community-building activities, not “rights talk,” are necessary for changing social norms and labor laws and thereby achieving dignity for workers. In this way, seeing workers’ rights as human rights can show the rich justifications for the importance of dignity for workers; but it is not nearly as helpful as determining how to make this a reality.



## End Notes

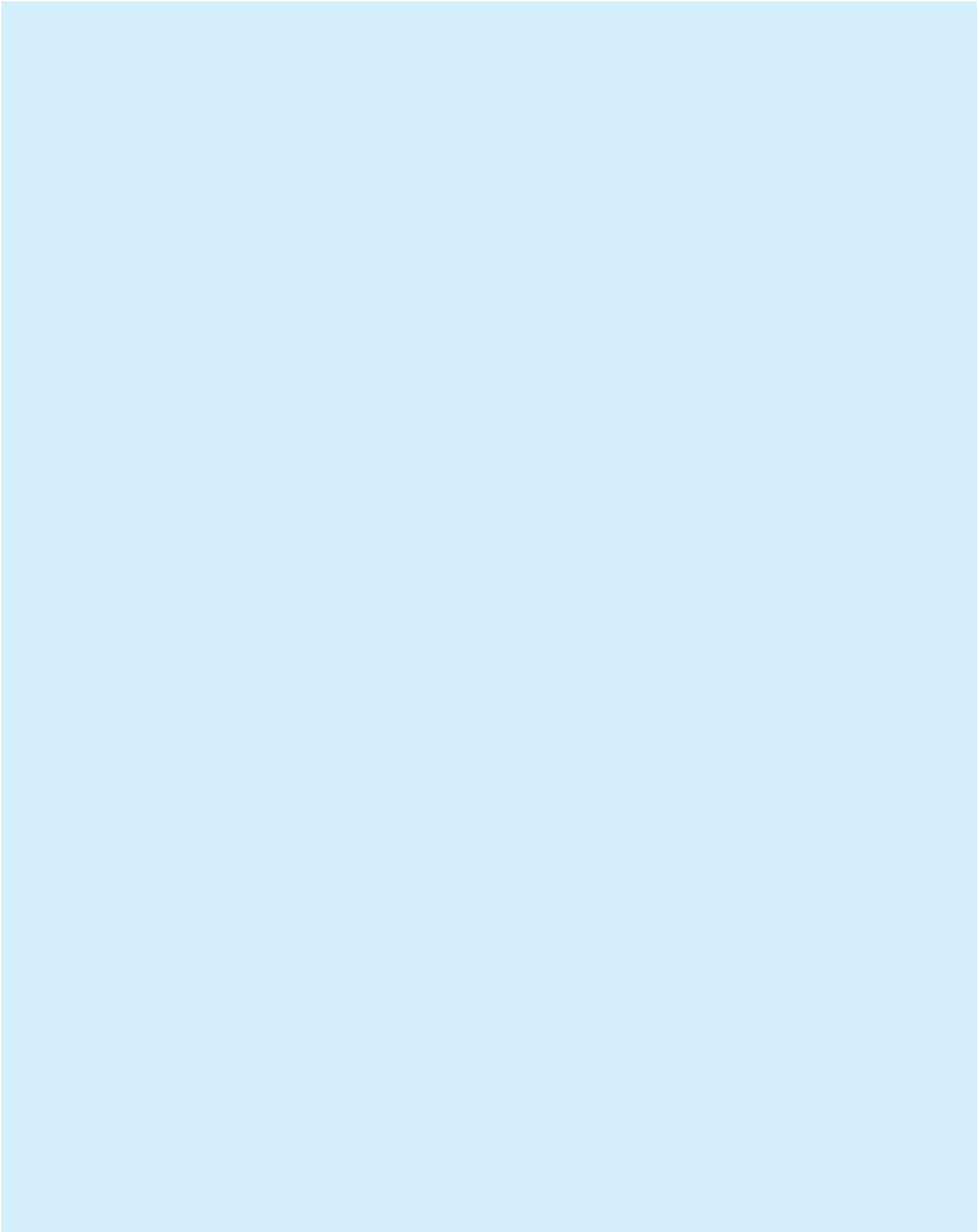
1. Thomas Piketty, *Capital in the Twenty-First Century*, trans. Arthur Goldhammer (Cambridge, MA: Harvard University Press, 2014); David Rolf, *The Fight for Fifteen: The Right Wage for a Working America* (New York: The New Press, 2016).
2. Bruce Western and Jake Rosenfeld, "Unions, Norms, and the Rise in US Wage Inequality," *American Sociological Review* 76 (August 2011), pp. 513–37; Jonas Pontusson, "Unionization, Inequality, and Redistribution," *British Journal of Industrial Relations* 51 (December 2013), pp. 797–825; Martin Behrens (ed.), *Unions Matter: Advancing Democracy, Economic Equality, and Social Justice* (Toronto: Canadian Foundation for Labour Rights, 2014).
3. Jonathan Gruber and Samuel A. Kleiner, "Do Strikes Kill? Evidence from New York State," *American Economic Journal: Economic Policy* 4 (February 2012), pp. 127–57; Alan B. Krueger and Alexandre Mas, "Strikes, Scabs, and Tread Separations: Labor Strife and the Production of Defective Bridgestone/Firestone Tires," *Journal of Political Economy* 112 (April 2004), pp. 253–89.
4. Rick Fantasia and Kim Voss, *Hard Work: Remaking the American Labor Movement* (Berkeley, CA: University of California Press, 2004); Nelson Lichtenstein, *State of the Union: A Century of American Labor* (Princeton, NJ: Princeton University Press, 2013); Emmanuel Teitelbaum, *Mobilizing Restraint: Democracy and Industrial Conflict in Post-Reform South Asia* (Ithaca, NY: Cornell University Press, 2011); Behrens, *Unions Matter*.
5. Stephen F. Befort and John W. Budd, *Invisible Hands, Invisible Objectives: Bringing Workplace Law and Public Policy into Focus* (Stanford, CA: Stanford University Press, 2009); John W. Budd, *Employment with a Human Face: Balancing Efficiency, Equity, and Voice* (Ithaca, NY: Cornell University Press, 2004).
6. Befort and Budd, *Invisible Hands, Invisible Objectives*.
7. Jack Barbash, *The Elements of Industrial Relations* (Madison, WI: University of Wisconsin Press, 1984); Befort and Budd, *Invisible Hands, Invisible Objectives*; Budd, *Employment with a Human Face*; John R. Commons, *Industrial Goodwill* (New York: McGraw-Hill, 1919); Sidney Webb and Beatrice Webb, *Industrial Democracy* (London: Longmans, Green, and Co., 1897).
8. National Labor Relations Act (1935), section 1.
9. William J. Puette, *Through Jaundiced Eyes: How the Media View Organized Labor* (Ithaca, NY: ILR Press, 1992).
10. Fantasia and Voss, *Hard Work*; Christopher R. Martin, *Framed! Labor and the Corporate Media* (Ithaca, NY: Cornell University Press, 2004).
11. Stephen M. Bainbridge, "Corporate Decision Making and the Moral Rights of Employees: Participatory Management and Natural Law," *Villanova Law Review* 43 (1998), pp. 741–828.
12. I am grateful to Alex Colvin for suggesting this example.
13. Richard A. Bales, "Explaining the Spread of At-Will Employment as an Inter-Jurisdictional Race-to-the-Bottom of Employment Standards," *Tennessee Law Review* 75 (Spring 2008), pp. 453–71.
14. Hoyt N. Wheeler, Brian S. Klaas, and Douglas M. Mahony, *Workplace Justice without Unions* (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 2004); Joseph E. Slater, "The 'American Rule' That Swallows the Exceptions," *Employee Rights and Employment Policy Journal* 11 (2007), pp. 53–110.
15. Cynthia Estlund, *Working Together: How Workplace Bonds Strengthen a Diverse Democracy* (Oxford: Oxford University Press, 2003), p. 7.
16. Budd, *Employment with a Human Face*; John Rawls, *Justice as Fairness: A Restatement* (Cambridge, MA: Harvard University Press, 2001); Dominique Peccoud (ed.), *Philosophical and Spiritual Perspectives on Decent Work* (Geneva: International Labour Office, 2004).
17. Budd, *Employment with a Human Face*; Edward L. Deci and Richard M. Ryan, *Intrinsic Motivation and Self-Determination in Human Behavior* (New York: Plenum Press, 1985); Michael J. Naughton, "Participation in the Organization: An Ethical Analysis from the Papal Social Tradition," *Journal of Business Ethics* 14 (November 1995), pp. 923–35; Marshall Sashkin, "Participative Management Is an Ethical Imperative," *Organizational Dynamics* 12 (Spring 1984), pp. 5–22.
18. J.A. Estey, *The Labor Problem* (New York: McGraw-Hill, 1928), p. 208; Milton Derber, *The American Idea of Industrial Democracy, 1865–1965* (Urbana, IL: University of Illinois Press, 1970); Nelson Lichtenstein and Howell John Harris (eds.), *Industrial Democracy in America: The Ambiguous Promise* (Washington, DC: Woodrow Wilson Center Press, 1993).
19. Befort and Budd, *Invisible Hands, Invisible Objectives*; Budd, *Employment with a Human Face*.

20. Richard B. Freeman and Joel Rogers, *What Workers Want*, updated ed. (Ithaca, NY: Cornell University Press, 2006); Richard B. Freeman, Peter Boxall, and Peter Haynes (eds.), *What Workers Say: Employee Voice in the Anglo-American World* (Ithaca, NY: Cornell University Press, 2007); Thomas A. Kochan, Duanyi Yang, William T. Kimball, Erin L. Kelly, "Worker Voice in America: Is There a Gap between What Workers Expect and What They Experience?" *ILR Review* 72 (January 2019), pp. 3–38.
21. Freeman and Rogers, *What Workers Want*.
22. Richard A. Epstein, "A Common Law for Labor Relations: A Critique of the New Deal Labor Legislation," *Yale Law Journal* 92 (July 1983), pp. 1357–408; Richard Epstein, "The Deserved Demise of EFCA (and Why the NLRB Should Share Its Fate)," in Cynthia L. Estlund and Michael L. Wachter (eds.), *Research Handbook on the Economics of Labor and Employment Law* (Northampton, MA: Edward Elgar, 2012), pp. 177–208.
23. James A. Gross, *A Shameful Business: The Case for Human Rights in the American Workplace* (Ithaca, NY: Cornell University Press, 2010); James A. Gross, *Rights, Not Interests: Resolving Value Clashes under the National Labor Relations Act* (Ithaca, NY: Cornell University Press, 2017); Hoyt N. Wheeler, "Globalization and Business Ethics in Employment Relations," in John W. Budd and James G. Scoville (eds.), *The Ethics of Human Resources and Industrial Relations* (Champaign, IL: Labor and Employment Relations Association, 2005), pp. 115–40.
24. H.A. Clegg, "Pluralism in Industrial Relations," *British Journal of Industrial Relations* 13 (November 1975), pp. 309–16; John W. Budd, Rafael Gomez, and Noah M. Meltz, "Why a Balance Is Best: The Pluralist Industrial Relations Paradigm of Balancing Competing Interests," in Bruce E. Kaufman (ed.), *Theoretical Perspectives on Work and the Employment Relationship* (Champaign, IL: Industrial Relations Research Association, 2004), pp. 195–227.
25. Marjorie Cohn, "The World Trade Organization: Elevating Property Interests above Human Rights," *Georgia Journal of International and Comparative Law* 29 (Summer 2001), pp. 427–40.
26. Lichtenstein, *State of the Union*; Richard B. Freeman and Eunice Han, "The War against Public Sector Collective Bargaining in the US," *Journal of Industrial Relations* 54 (June 2012), pp. 386–408; Robert Hebdon, Joseph E. Slater, and Marick F. Masters, "Public Sector Collective Bargaining: Tumultuous Times," in Howard R. Stanger, Paul F. Clark, and Ann C. Frost (eds.), *Collective Bargaining under Duress: Case Studies of Major North American Industries* (Champaign, IL: Labor and Employment Relations Association, 2013), pp. 255–95.
27. U.S. Bureau of Labor Statistics, "Union Members—2018" (Washington, DC: U.S. Department of Labor, 2019), [www.bls.gov/news.release/union2.nr0.htm](http://www.bls.gov/news.release/union2.nr0.htm), accessed March 14, 2019.
28. Gary N. Chaison and Joseph B. Rose, "The Macrodeterminants of Union Growth and Decline," in George Strauss, Daniel G. Gallagher, and Jack Fiorito (eds.), *The State of the Unions* (Madison, WI: Industrial Relations Research Association, 1991), pp. 3–46.
29. Barry T. Hirsch, "Unions, Dynamism, and Economic Performance," in Cynthia L. Estlund and Michael I. Wachter (eds.), *Research Handbook on the Economics of Labor and Employment Law* (Northampton, MA: Edward Elgar, 2012), pp. 107–145.
30. Henry S. Farber and Alan B. Krueger, "Union Membership in the United States: The Decline Continues," in Bruce E. Kaufman and Morris M. Kleiner (eds.), *Employee Representation: Alternatives and Future Directions* (Madison, WI: Industrial Relations Research Association, 1993), pp. 105–34; Robert Flanagan, "Has Management Strangled U.S. Unions?" in James T. Bennett and Bruce E. Kaufman (eds.), *What Do Unions Do? A Twenty-Year Perspective* (New Brunswick, NJ: Transaction Publishers, 2007), pp. 459–91.
31. Lawrence Richards, *Union-Free America: Workers and Antiunion Culture* (Urbana, IL: University of Illinois Press, 2008); Jane McAlevey with Bob Ostertag, *Raising Expectations (and Raising Hell): My Decade Fighting for the Labor Movement* (London: Verso, 2012).
32. James T. Bennett and Jason E. Taylor, "Labor Unions: Victims of Their Political Success?" *Journal of Labor Research* 22 (Spring 2001), pp. 261–73.
33. Sanford M. Jacoby, "American Exceptionalism Revisited: The Importance of Management," in Sanford M. Jacoby (ed.), *Masters to Managers: Historical and Comparative Perspectives on American Employers* (New York: Columbia University Press, 1991), pp. 173–200; Daphne Gottlieb Taras, "Collective Bargaining Regulation in Canada and the United States: Divergent Cultures, Divergent Outcomes," in Bruce E. Kaufman (ed.), *Government Regulation of the Employment Relationship* (Madison, WI: Industrial Relations Research Association, 1997), pp. 295–341; Fantasia and Voss, *Hard Work*.
34. Thomas A. Kochan, Harry C. Katz, and Robert B. McKersie, *The Transformation of American Industrial Relations* (New York: Basic Books, 1986).

35. John J. Lawler, *Unionization and Deunionization: Strategy, Tactics, and Outcomes* (Columbia, SC: University of South Carolina Press, 1990); Fantasia and Voss, *Hard Work*; John Logan, "The Union Avoidance Industry in the United States," *British Journal of Industrial Relations* 44 (December 2006), pp. 651–75.
36. Freeman and Rogers, *What Workers Want*; Kochan et al., "Worker Voice in America."
37. Freeman and Rogers, *What Workers Want*.
38. Daniel DiSalvo, *Government against Itself: Public Union Power and Its Consequences* (New York: Oxford University Press, 2015).
39. Jonathan E. Booth, John W. Budd, and Kristen M. Munday, "Never Say Never? Uncovering the Never-Unionized in the United States," *British Journal of Industrial Relations* 48 (March 2010), pp. 26–52; Alex Bryson and Rafael Gomez, "Why Have Workers Stopped Joining Unions? The Rise in Never-Membership in Britain," *British Journal of Industrial Relations* 43 (March 2005), pp. 67–92.
40. Rafael Gomez and Morley Gunderson, "The Experience Good Model of Trade Union Membership," in Phanindra V. Wunnavu (ed.), *The Changing Role of Unions: New Forms of Representation* (Armonk, NY: M. E. Sharpe, 2004), pp. 92–112.
41. Jonathan E. Booth, John W. Budd, and Kristen M. Munday, "First-Timers and Late-Bloomers: Youth-Adult Unionization Differences in a Cohort of the U.S. Labor Force," *Industrial and Labor Relations Review* 64 (October 2010), pp. 53–73; John W. Budd, "When Do U.S. Workers First Experience Unionization? Implications for Revitalizing the Labor Movement," *Industrial Relations* 49 (April 2010), pp. 209–225.
42. Alex Bryson, Richard Freeman, Rafael Gomez, and Paul Willman, "The Twin Track Model of Employee Voice: An Anglo-American Perspective on Union Decline and The Rise of Alternative Forms of Voice," in Peter Holland, Julian Teicher, and Jimmy Donaghey (eds.), *Employee Voice at Work* (Singapore: Springer, 2019), pp. 23–50.
43. Henry S. Farber, "Nonunion Wage Rates and the Threat of Unionization," *Industrial and Labor Relations Review* 58 (April 2005), pp. 335–52; Craig A. Olson, "Union Threat Effects and the Decline in Employer-Provided Health Insurance," *ILR Review* 72 (March 2019), pp. 417–45.
44. John W. Budd, *The Thought of Work* (Ithaca, NY: Cornell University Press, 2011).
45. John Iceland, *Poverty in America: A Handbook*, 3rd ed. (Berkeley, CA: University of California Press, 2013); Brian C. Thiede, Daniel T. Lichter, and Scott R. Sanders, "America's Working Poor: Conceptualization, Measurement, and New Estimates," *Work and Occupations* 42 (August 2015), pp. 267–312.
46. Jennifer Gordon, *Suburban Sweatshops: The Fight for Immigrant Rights* (Cambridge, MA: Belknap Press, 2005); David Weil, *The Fissured Workplace: Why Work Became So Bad for So Many and What Can Be Done to Improve* (Cambridge, MA: Harvard University Press, 2014); Kevin Bales and Ron Soodalter, *The Slave Next Door: Human Trafficking and Slavery in America Today*, 2nd ed. (Berkeley, CA: University of California Press, 2010); Siddharth Kara, *Sex Trafficking: Inside the Business of Modern Slavery* (New York: Columbia University Press, 2017).
47. Annette Bernhardt et al. (eds.), *The Gloves-Off Economy: Workplace Standards at the Bottom of America's Labor Market* (Champaign, IL: Labor and Employment Relations Association, 2008); Weil, *The Fissured Workplace*.
48. James Campbell Quick and M. Ann McFadyen. "Sexual Harassment: Have We Made Any Progress?" *Journal of Occupational Health Psychology* 22 (July 2017), pp. 286–98.
49. Lewis Maltby, *Can They Do That? Retaking Our Fundamental Rights in the Workplace* (New York: Portfolio, 2009); Rafael Gely and Leonard Bierman, "Social Isolation and American Workers: Employee Blogging and Legal Reform," *Harvard Journal of Law and Technology* 20 (Spring 2007), pp. 288–331.
50. Marc Linder and Ingrid Nygaard, *Void Where Prohibited: Rest Breaks and the Right to Urinate on Company Time* (Ithaca, NY: ILR Press, 1998), p. 2.
51. Jeffrey Pfeffer, *Dying for a Paycheck: How Modern Management Harms Employee Health and Company Performance—and What We Can Do about It* (New York: HarperCollins, 2018); Louis Hyman, *Temp: How American Work, American Business, and the American Dream Became Temporary* (New York: Viking, 2018); Weil, *The Fissured Workplace*.
52. Gross, *A Shameful Business*; Gross, *Rights Not Interests*; Roy J. Adams, *Labour Left Out: Canada's Failure to Protect and Promote Collective Bargaining as a Human Right* (Ottawa: Canadian Centre for Policy Alternatives, 2006).

## Chapter One Contemporary Labor Relations: Objectives, Practices, and Challenges 25

53. Jack Donnelly, *Universal Human Rights in Theory and Practice*, 3rd ed. (Ithaca, NY: Cornell University Press, 2013).
54. Michael Freedman, *Rights* (Minneapolis: University of Minnesota Press, 1991), p. 7; Jerome J. Shestack, "The Jurisprudence of Human Rights," in Theodor Meron (ed.), *Human Rights in International Law: Legal and Policy Issues* (Oxford: Oxford University Press, 1984), pp. 69–113 at 74.
55. Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen* (Philadelphia, PA: University of Pennsylvania Press, 1998), p. 5; Michael J. Perry, *The Idea of Human Rights: Four Inquiries* (New York: Oxford University Press, 1998); Shestack, "The Jurisprudence of Human Rights."
56. Lauren, *The Evolution of International Human Rights*; James MacGregor Burns and Stewart Burns, *A People's Charter: The Pursuit of Rights in America* (New York: Alfred A. Knopf, 1991).
57. Lauren, *The Evolution of International Human Rights*, p. 54.
58. International Labour Organization, "Declaration of Philadelphia" (1944); Gerry Rodgers et al., *The International Labour Organization and the Quest for Social Justice, 1919–2009* (Ithaca, NY: Cornell University Press, 2009).
59. Cass R. Sunstein, *The Second Bill of Rights: FDR's Unfinished Revolution and Why We Need It More Than Ever* (New York: Basic Books, 2004).
60. Lance A. Compa, "Workers' Freedom of Association in the United States: The Gap between Ideals and Practice," in James A. Gross (ed.), *Workers' Rights as Human Rights* (Ithaca, NY: Cornell University Press, 2003), pp. 23–52.
61. Gross, *Rights, Not Interests*; Adams, *Labour Left Out*; Human Rights Watch, *Unfair Advantage: Workers' Freedom of Association in the United States under International Human Rights Standards* (Washington, DC, 2000); Richard D. Kahlenberg and Moshe Z. Marvit, *Why Labor Organizing Should Be a Civil Right: Re-Building a Middle-Class Democracy by Enhancing Worker Voice* (New York: The Century Foundation, 2012).
62. Gross, *A Shameful Business*, p. 100.
63. Tibor R. Machan, *Private Rights and Public Illusions* (New Brunswick, NJ: Transaction Publishers, 1995).
64. Colin Crouch, "The Globalized Economy: An End to the Age of Industrial Citizenship?" in Ton Wilthagen (ed.), *Advancing Theory in Labour Law and Industrial Relations in a Global Context* (Amsterdam: North-Holland, 1998), pp. 151–64.
65. Guy Mundlak, "Industrial Citizenship, Social Citizenship, Corporate Citizenship: I Just Want My Wages," *Theoretical Inquiries in Law* 8 (July 2007), pp. 719–48.
66. Richard P. McIntyre, *Are Worker Rights Human Rights?* (Ann Arbor: University of Michigan Press, 2008).



# Chapter Two

## Labor Unions: Good or Bad?

### Advance Organizer

Stereotypes of unions are pervasive; what are yours? Understanding labor relations requires replacing these stereotypes with informed views. Employee representation through labor unions and collective bargaining is one way to pursue a balance among efficiency, equity, and voice. But how labor union representation compares to other possible ways of structuring the employment relationship—in short, whether unions are good or bad—depends on how one thinks labor markets and the employment relationship work, not on stereotypes.

### Learning Objectives

By the end of this chapter, you should be able to:

1. **Explain** the four distinct schools of thought about the employment relationship—neoliberalism, human

resource management, industrial relations, and critical or Marxist industrial relations.

2. **Understand** how different views of labor unions are fundamentally rooted in the basic assumptions of these four schools of thought.
3. **Discuss** various roles of labor unions in the employment relationship and in society.
4. **Identify** alternative methods for making workplace rules.
5. **Compare** employee representation through labor unions to other methods of workplace governance.

### Contents

The Labor Problem	29
Four Schools of Thought about the Employment Relationship	32
The Continued Relevance of the Labor Problem	41
What Do U.S. Unions Do?	46

It is not hard to find passionately held views of labor unions. Search for labor union blogs in Google, for example, and you will easily find exchanges such as the following:

*Posted by J.:* Forty years of proud union membership, excellent wages, terrific benefits, wonderful retirement, all brought to me by my union.

*Posted by R.:* J, I'm glad you have enjoyed those benefits and high wages all these years—no one's denying that a union is generally very good for its members—the problem is that they are generally very bad for everyone else. Here's how...

- Unions shift the extra cost of those wages and benefits to the consumer...
- They drive whole industries out of business and overseas, ultimately lessening the number of jobs in this country...
- They promote laziness and a sense of entitlement, which is a very dangerous thing...<sup>1</sup>

The common sentiment among Americans that unions are outdated is also often repeated in blogs and online comments:

*Posted by C.:* Hopefully no one is behind the unions anymore, unless they are pushing them the rest of the way over the cliff. They served a very good purpose 50–100 years ago when they helped push labor issues and worker treatment to the forefront. Now their bloated wage/benefit packages and refusal to compromise threaten hundreds of thousands of jobs at UAW plants and in the airline industry.<sup>2</sup>

The major TV networks and newspapers, which are themselves corporations concerned with making profits, reinforce important stereotypes of labor unions.<sup>3</sup> In general terms, the mainstream media report on issues from a consumer rather than worker perspective while emphasizing the accomplishments of business leaders and entrepreneurs. As representatives of producers rather than consumers and as proponents of collective rather than individual actions, unions are therefore devalued. Even though strikes are rare, they are the most frequent union news story in the media, and such stories often convey images of worker greed, inflation, consumer inconvenience, and violence.

Other elements of popular culture can reinforce similar stereotypes.<sup>4</sup> TV sitcoms and dramas rarely include labor unions; when such issues arise, they are often references to union corruption, strikes, or work rules. The characters on the TV shows *Monk*; *Married with Children*; *Spin City*; *WKRP in Cincinnati*; *ER*; *Trapper John, MD*; *Fraggle Rock*; and *Mona the Vampire* all had to deal with garbage strikes; on *All in the Family*, Archie Bunker was on strike for four episodes and was portrayed at the conclusion of the strike as being no better off than before the strike. In an episode of *Seinfeld*, when George wonders about becoming a movie projectionist, Jerry says, “But you gotta know how to work the projector. ... And it’s probably a union thing.” George then scoffs, “Those unions,” and gives up being a projectionist because he figures that he won’t be able to break the union’s alleged stranglehold on the occupation. Stereotypes about restrictive union work rules or the protection of lazy workers are also reinforced through jokes on sitcoms or in comic strips. One *Dilbert* comic portrays a union steward as wanting to add laptops to the list of things that employees should not be able to move because “that’s union work.” Such stereotypes perpetuate America’s antiunion culture.<sup>5</sup>

It is important for students of labor relations to recognize their own stereotypes of labor unions and to replace them with an informed understanding of the central issues

### A Comical Portrayal of Restrictive Union Work Rules Stereotypes

Copyright © CartoonStock Ltd.  
All rights reserved. Used with permission.





in labor relations and to appreciate multiple perspectives on labor relations and labor unions. Thus, this chapter presents four different schools of thought about labor unions. This provides the foundation for accurately assessing what unions do and whether they are good or bad. These schools of thought are essential for understanding, and therefore practicing, labor relations.

## THE LABOR PROBLEM

Because there is more agreement that unions were once useful, this section considers the historical example of the labor conditions of the early 20th century, which were labeled the “labor problem.” Turning then to the question of how to solve this labor problem provides the opportunity to consider four different schools of thought about the employment relationship. Understanding these four intellectual perspectives is the basis for a reasoned rather than stereotypical or naïve consideration of labor unions and labor-management relations. It is easier to tackle these perspectives in a historical context because we have fewer preconceived ideas; but at the end of the discussion, the strong relevance for contemporary labor relations should also be clear.

Today’s critical issues in human resources and industrial relations are perhaps familiar to you:

- Significant labor market disparities.
- Problems of low-wage workers trying to move out of poverty and support families.
- Corporate pressures for cost control, quality, and flexibility to compete in a global, information-rich economy.
- The need to educate individuals as lifelong learners because of ever-changing technologies.
- Problems of work–life balance, especially for working mothers and single parents.

But what about at the start of the previous century? The critical human resources and industrial relations issue in the early 1900s was the labor problem: undesirable outcomes that stem from an inequitable and contentious, or perhaps even oppressive and exploitative, employment relationship.<sup>6</sup> Many important dimensions of the labor problem are captured, in the observers’ and participants’ own words, in the testimony from around 1900 reported in Table 2.1.

The first entry in Table 2.1 highlights the long hours that were often the norm. Workweeks of between 54 and 57 hours were common. In the iron and steel industry, over 40 percent of laborers worked more than 72 hours per week and about 20 percent worked more than 84 hours per week.<sup>7</sup> These long hours were often for low pay (see the second entry in Table 2.1). At least half of working-class families had annual incomes below the \$800 that was estimated “as a reasonable minimum for healthful, efficient, and decent living.”<sup>8</sup> Households were therefore forced to resort to a patchwork of methods for earning income to survive—renting rooms to boarders, sewing garments or doing other tasks as home-based subcontractors, using children to earn wages—and yet poor living conditions were widespread (see the third entry in Table 2.1).

Conditions in the workplace were also unsanitary, if not downright dangerous. In March 1911, a fire at the Triangle Shirtwaist Company in New York City killed 146 workers because of inadequate and locked fire exits. A 1915 study in New York City found shocking rates of tuberculosis among low-paid garment workers. One source estimates that industrial accidents resulted in 25,000 deaths, 25,000 permanent disability cases, and 2,000,000 temporary disability cases per year—which implies that U.S. casualties during World War I were greater in the workplace than on the battlefield.<sup>9</sup>

# Workers' Lives circa 1900 as Reported to the U.S. Industrial Commission

## Table 2.1

### TESTIMONY OF NATIONAL ASSOCIATION OF MANUFACTURERS PRESIDENT

Ten hours [of work] has been fixed as the legal day in [Pennsylvania], and it has been very satisfactory. Many of our trades are now working 57 hours a week. More of our factory force is employed only 54 hours a week, yet in the same branches where we employ them 54 some other manufacturers keep them 60. ...

### TESTIMONY OF INTERNATIONAL TYPOGRAPHICAL UNION PRESIDENT

The capitalist who owns the factory in Massachusetts has been transferring his industry nearer to the cotton fields; and we find that, in the State of Georgia, where industrial conditions are not as good as in the State of Massachusetts, the man who has been subject in the State of Massachusetts to all these [labor, inspection, and compulsory education] laws has been living under them, has been putting rails around his machinery, has been boxing in his belting, has been refusing to employ in his factory a child under the age of 14 years, and has been putting on every floor of his factory separate closets for male and female labor, has been giving Saturday half holidays for his employees, and abolishing the company store and complying with the law of the State of Massachusetts—when he goes to the State of Georgia and transfers his business there he does not put any railing around his machinery; he does not box in his belting; he employs children 9, 10, or 12 years of age at wages as low as 15 or 20 cents per day, and works them from the time the light shines in the morning until it is dark at night; and in his factory he has no closets, no sanitary conditions, such as are required in the State of Massachusetts; he simply does as he pleases and acts in a most tyrannical and unchristian-like manner.

### TESTIMONY OF HEAD OF SOUTH END HOUSE, BOSTON

In this district there is a great lack of sanitary facilities on account of the increase of inhabitants per house; that is, these old houses which formerly were used as residences of well-to-do citizens and formerly accommodated one family, now accommodate a number of

families, and accommodate two or three or four times as many people as they were intended for; so that the bathing facilities and water closet facilities and all that are very inadequate to the present number of inhabitants. Where there are houses that have been specially built as tenement houses there appears the evil of the ventilating shaft and the dark inside rooms. ... Of course this state of things means dampness, darkness, and bad air. The crowding of the houses puts immorality and uncleanness at a premium.

### TESTIMONY OF OHIO STATE BOARD OF ARBITRATION SECRETARY

Wages did not at any time enter into [the causes of the streetcar strike in Cleveland]. There was no question of wages, no dispute whatever on that subject between the company and the men. The men claimed that for a long time the company had established unjust rules; that they were arbitrary in their dealings with the men. They would refuse men a hearing; men were suspended for very trifling causes and frequently discharged. ... They were not allowed sufficient times for meals ... in fact, they were not even allowed time for the necessities of nature.

### TESTIMONY OF BOOT AND SHOE WORKERS' UNION SECRETARY-TREASURER

There are about 100 subdivisions of labor in the manufacture of a shoe, varying more or less according to the factory and methods and the kind of shoe made. ...

*Question:* The workman only knows how to perform the labor of one particular department?

*Answer:* That is all, and he becomes a mere machine. ... Now, take the proposition of a man operating a machine to nail on 40 to 60 pairs cases of heels in a day. That is 2,400 pairs, 4,800 shoes, in a day. One not accustomed to it would wonder how a man could pick up and lay down 4,800 shoes in a day, to say nothing of putting them on a jack into a machine and having them nailed on. That is the driving method of the manufacture of shoes under the minute subdivisions.

**Source:** Laughlin, Gail. *Report of the Industrial Commission on the Relations and Conditions of Capital and Labor Employed in Manufactures and General Business*. Washington, DC: Government Printing Office, 1901.

The long hours at low pay in dangerous and unsanitary conditions were also marked by great insecurity. Many lived with constant fear of injury and unemployment. Companies might hire workers on a short-term basis, perhaps for only one day at a time with the foreman selecting the day's employees each morning from among those massed outside the factory gate. A 1909 government investigation found that only 37 percent of male workers did not have any time lost from work during a full year; half of the workers lost four or more months. And in the foreman's empire system of complete management control, there was the fear of arbitrary dismissal (see the fourth entry in Table 2.1).<sup>10</sup> Workers could be—and were—fired for any reason: poor performance, absenteeism, ethnicity, union sympathies, age, failing to provide the foreman with extra services (such as raking his leaves ... or worse), or simply as a demonstration to others of the foreman's absolute power. Discrimination was also widespread with foremen forcing workers into segregated occupations based on biases about what races or ethnic groups were suited for particular types of work.<sup>11</sup>

These important dimensions of the labor problem—long hours, low wages, unsafe conditions, and insecurity—were reinforced and worsened by the managerial mind-set of “workers as machines.” Labor was frequently viewed as just another production input no different from machines or raw materials. With mass manufacturing methods emphasizing repetitive, narrowly defined tasks by individual workers to achieve high output, workers had no contact with the final product and minimal control over the content of their jobs. The final entry in Table 2.1 describes how the production of a shoe was divided into 100 specialized operations; the worker who, for example, nailed heels to 4,800 shoes in a single day was “a mere machine.” In modern human resource management terms, employees had no ownership in their work. And if workers are simply machines, they are not entitled to equity or voice; the sole concern of the owner of a machine is efficiency.

These labor problems were widespread and not limited to manufacturing industries in urban areas.<sup>12</sup> Thousands of Mexican Americans and Mexican immigrants migrated through the Southwest and Midwest following agricultural planting and harvesting seasons, earning perhaps \$1 a day and living in appalling conditions. In the public sector, police officers regularly worked more than 70 hours per week out of vermin-infested stations.

Across the private and public sectors, the poor conditions of the labor problem were a problem for two broad reasons. First is the societal or human perspective. Put simply, people should have better lives than this. This is partly an economic issue—workers should be able to afford decent housing, clothing, food, and the like; in other words, equity is important. But as emphasized by employee voice, the labor problem is more than a material concern. In particular, one should question whether treating workers as commodities, even as valuable ones, in an autocratic relationship, even if benevolent, fulfills the standards of a democratic society.<sup>13</sup>

There is also the business perspective on the labor problem. Are the workers motivated? Loyal? Productive? Absenteeism and turnover were costly. At Ford the absenteeism rate in 1913 was 10 percent, and the annual turnover rate was 370 percent; Henry Ford offered the then-large sum of \$5 a day in 1914 as an attempt to tackle these problems.<sup>14</sup> Also, with significant numbers living below the poverty line, a second business problem was that they lacked consumer purchasing power. In the words of one union president in 1899, “as the workingman is himself the consumer, he cannot purchase unless he has that with which to purchase.”<sup>15</sup> The unskilled workers at Ford, for example, couldn't afford to buy the cars they produced until the \$5-a-day plan was implemented. Finally, strikes and other forms of industrial conflict that resulted from the labor problem in both the private and public sectors were costly to business and to society more generally.

## FOUR SCHOOLS OF THOUGHT ABOUT THE EMPLOYMENT RELATIONSHIP

The labor problem embodies the ultimate human resources and industrial relations problem: balancing efficiency, equity, and voice. To understand how to solve a problem, we need to analyze its underlying causes. But beliefs about the cause of the labor problem differ among four schools of thought: the neoliberal school, the human resource management school, the industrial relations school, and the critical industrial relations school. Understanding and appreciating the basic assumptions of these four schools are essential for understanding not only labor relations, but also the entire field of human resources and industrial relations—past, present, and future.<sup>16</sup>

### The Neoliberal School

First let's consider the **neoliberal school** of thought. This school focuses on the economic activity of self-interested agents, such as firms and workers, who interact in competitive markets.<sup>17</sup> In neoliberal thought, efficiency, equity, and voice are achieved through free-market competition. Under some assumptions (such as perfect information), competition results in the optimal allocation and pricing of resources. Prices in a competitive market reflect the value of what's being purchased, so outcomes are efficient. No one can be made better off without making someone else worse off. In the labor market, competitive outcomes are also seen as fair because the price of labor equals the value that labor contributes to the production process. In the words of a Nobel Prize-winning economist, low-paid labor is poorly paid "not because it gets less than it is worth, but because it is worth so appallingly little."<sup>18</sup> And voice is expressed through freely participating or abstaining from transactions—if you do not like your working conditions, vote with your feet and quit, and find an employer who treats workers better.<sup>19</sup>

From the perspective of the neoliberal school, then, the conditions of the labor problem are not seen as exploitation if there is sufficient labor market competition. Employees are paid their economic value and are free to quit if they feel they are being exploited. But if market failures prevent competitive markets from working properly, what should be done? Ensure competition. In neoliberalism, the best protection an employee has against his or her current employer is not the government, a lawyer, or a union, but rather other employers.<sup>20</sup> If there is insufficient labor market competition because of excess unemployment, the appropriate policy response is a macroeconomic policy to stimulate the economy and thus reduce unemployment. Or if competition is prevented because of a barrier such as government regulation, the appropriate policy response is to remove this barrier. As long as there is enough competition, employment outcomes are not seen as a "problem" (with its negative connotations) in this school of thought. Outcomes are value-free, so there may be a labor *situation* (which simply describes the outcomes) but not a labor *problem* (which implies that the outcomes are undesirable).

What is the role of labor unions in the neoliberal school of thought? Unions are seen as labor market monopolies that restrict individual freedom to decide terms and conditions of employment and interfere with the invisible hand of free-market competition.<sup>21</sup> By threatening to strike, unions use their monopoly power to raise wages above their competitive levels and thereby distort employment and output levels throughout the economic system. Moreover, work is viewed as a lousy activity endured only to earn money. As such, companies rely on the threat of unemployment to motivate otherwise disinterested workers. Unions are seen as interfering with the discipline of the market by protecting lazy workers. To those who believe in perfect competition, then, labor unions are bad because their monopoly power interferes with the efficient operation of the economy. This

**FIGURE 2.1**

**“King Debs,”** drawing  
from *Harper’s Weekly*  
(July 14, 1894)

Fotosearch/Archive Photos/  
Getty Images



neoliberal view is graphically captured by the drawing from 1894 in Figure 2.1. The drawing portrays union leader Eugene Debs as a powerful king who is able to use a strike to control the railroads and therefore shut down shipments of food, passengers, mail, coal, and freight, and by extension to close factories. In other words, labor unions are powerful monopolies that harm the economy and the public.

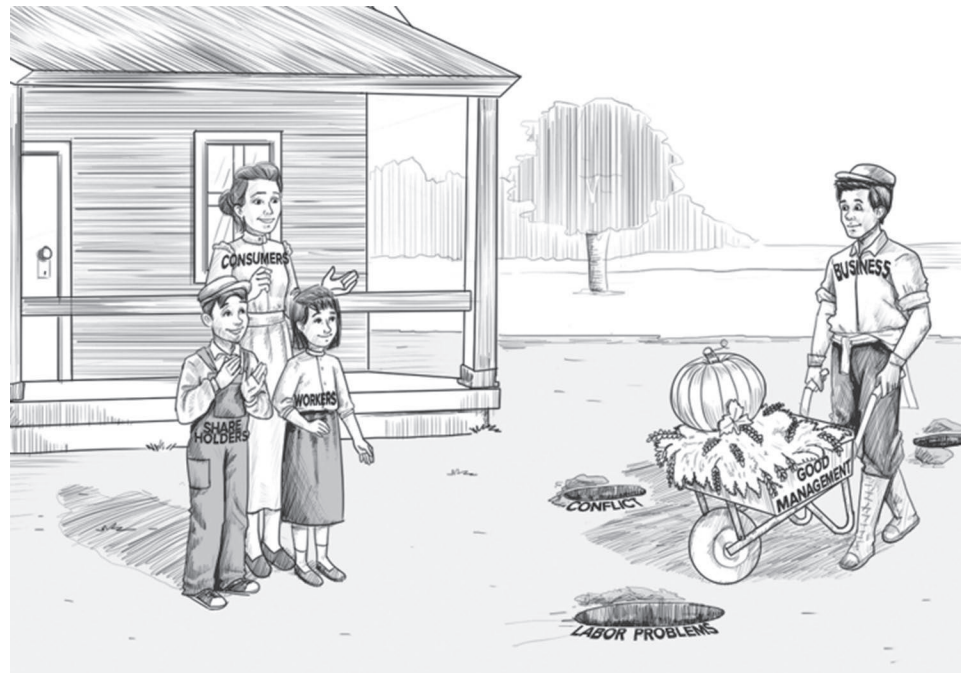
Moreover, the neoliberal embrace of competition leads to opposition not only to labor unions, but also to government interventions in the labor market, such as minimum wage policies, and to monopolies in other sectors, such as corporate monopolies. In neoliberalism, the government’s role is to promote competition, not to establish labor standards while laws should protect individual freedoms that are necessary for competition.<sup>22</sup> It is worth repeating that the neoliberal view of labor unions rests on strong assumptions about competitive markets. Relaxing these assumptions results in a more nuanced economic model in which unions might not simply be harmful monopolies that always reduce aggregate economic welfare (see the “Digging Deeper” feature at the end of this chapter). But even in this approach, labor unions have a monopoly face, and it is this monopoly face that dominates the neoliberal view of labor unions. Neoliberalism, therefore, is important for understanding arguments against labor unions and other labor market policies as solutions to historical and contemporary labor problems; but other contrasting perspectives must also be appreciated.

### The Human Resource Management School

The second school of thought to consider is the **human resource management school**.<sup>23</sup> In short, this school of thought believes that the labor problem stems from poor management. Recall from our earlier discussion that in the early 1900s, foremen used the drive system to motivate and manage workers through fear and intimidation.<sup>24</sup> This was an autocratic, authoritarian management system in which workers were viewed as a commodity or a machine, and thus were exploited. A common mindset was to drive employees to get maximum production for the least cost, and when they broke down (from exertion, age, or injury), discard them and get fresh workers to replace them—as you would with a machine. Hence there was little concern with how low the wage rates might be,



**FIGURE 2.2**  
**“Bringing Home the Harvest,”** reflecting themes from a 1928 *Forbes* drawing



how long the hours, how dangerous the conditions, or how arbitrary the hiring and firing procedures. Moreover, scientific management and the movement to large-scale mass manufacturing and assembly lines tended to reduce workers' tasks to their simplest components; this emphasis on specialization led to monotony, boredom, and de-skilling.<sup>25</sup>

This school of thought, therefore, presents a different underlying cause of the labor problem than does the neoliberal school: poor management. The resulting solution to the labor problem is simple: better management. This solution to the labor problem is reflected in today's human resource management philosophy: Align the interests of workers and the firm via better management. To create motivated and efficient workers, firms should design and implement better supervisory methods, selection procedures, training methods, compensation systems, and evaluation and promotion mechanisms. If workers want justice, security, respect, and opportunities for advancement, then design nondiscriminatory human resource management policies that are responsive to these needs because workers will then be motivated, engaged, and productive, proponents claim, and high levels of performance (efficiency) will be achieved. Because management policies are responsive to the needs of employees, equity will also be achieved. Voice is typically informal, such as in open-door dispute resolution procedures in which workers individually discuss complaints with their managers.

The human resource management philosophy is depicted in the drawing shown in Figure 2.2. The farmer, representing business, brings home the harvest to stockholders, workers, and consumers. Business is clearly depicted as the provider, while others are the grateful recipients. Business controls the practices for managing workers, and good practices allow it to avoid conflict, labor problems, and other potential problems, resulting in rewards for all stakeholders.<sup>26</sup>

To consider the role of unions in the human resource management school of thought, it is important to distinguish independent labor unions from nonindependent employee organizations. The term *union* in most Western societies today and throughout this text refers to independent labor unions—those that are legally and functionally independent of

employers and governments. Independent labor unions have the power to elect their own leaders, collect and spend their own dues money, establish their organizational objectives and strategies, and lead strikes. Nonindependent employee organizations lack such authority and are controlled by employers (like the company unions in the United States in the 1920s) or by governments (as traditionally is the case for unions in China).

In the human resource management school, independent unions are seen as adversarial and inimical to cooperation.<sup>27</sup> A popular saying in human resource management circles is that “companies get the unions they deserve.” If companies are following the human resource management school’s ideas of effective management, workers will be satisfied and will not support a union. But if a company has bad managerial practices, workers will seek unionization to combat these poor practices. In other words, unions are a fever—a sign of unhealthy human resource practices—and a healthy company shouldn’t have one. The human resource management school of thought also believes that independent unions are unnecessary “third parties” that prevent employers and employees from getting “closer together.” In fact, critics see human resource management as nothing more than a sophisticated (albeit gentle) antiunion device.<sup>28</sup>

In sum, for adherents of the human resource management school of thought, labor problems are best solved with effective management practices. Managerial strategies for creating a motivated, productive workforce can often include direct forms of employee voice and participation. In the 1920s, many in this school of thought also believed that workers should have representation which would help create cooperative, constructive relationships and foster loyalty.<sup>29</sup> Companies therefore created “company unions” in which management would meet and confer with worker representatives. But there would be no bargaining, and the representation plans had no authority outside of management so it would be more accurate to call these “nonunion representation plans” rather than some form of union. For legal reasons that will be discussed in later chapters, nonunion representation plans are rare in the United States today. In other countries, however, nonunion representation can take various forms and seems to be growing.<sup>30</sup> This is in contrast to labor unions that are independent of management (so not company unions) and independent of the government (so not Chinese unions) which are *not* part of the human resource management school because they are seen as adversarial and inimical to cooperation.

### The Industrial Relations School

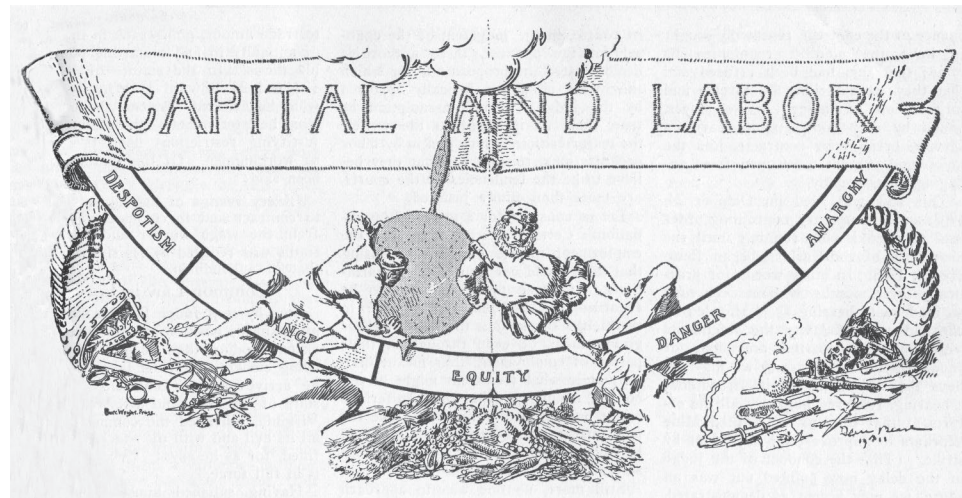
The third school of thought is the **industrial relations school**.<sup>31</sup> In this school, the labor problem is believed to stem from unequal bargaining power between corporations and individual workers. Recall that at the turn of the century in 1900, the modern economic system was still emerging. The emergence of large corporations, which separated the owners of the production process from a new wage-earning class who did the manual work, was relatively new.<sup>32</sup> The industrial relations school accepts the modern corporation as an efficient organization of mass production, but rejects the existence of perfect competition. In sharp contrast to the neoliberal school, the industrial relations school believes that “often the invisible guiding hand of competition is all thumbs.”<sup>33</sup>

Employers often have significant power advantages in markets, politics, and the legal system while households cannot survive without jobs for very long because of the absence of significant financial assets and robust safety nets. As such, individual wage earners have inferior bargaining power relative to employers. With greater bargaining power, employers can pay low wages for working long hours under dangerous working conditions. This greater bargaining power also allows managers to be autocratic and authoritarian. In short, in the industrial relations school, unequal bargaining power is the primary cause of the labor problem.<sup>34</sup> The labor market is characterized not by competition but by bargaining, and society is worse off if either side has too much power. These problems are compounded by business cycles that create additional insecurities.



**FIGURE 2.3**  
**Striking a Balance**  
**between Labor and**  
**Capital, *Survey***  
**(February 7, 1914)**

Source: *Survey Magazine*



The struggle for a balance between labor and management is richly illustrated in Figure 2.3. The laborer, clad only in shorts and a headband, is struggling with the capitalist, complete with ruffled collar and puffy pantaloons, for power, as represented by the pendulum. When there is a balance of power in the middle of the spectrum labeled “equity,” there is an abundant harvest for both to share. However, when capital has too much power, the result is despotism, and the cornucopia overflows with the weapons of dictators such as shackles. At the other end of the spectrum, when labor is too powerful, anarchy results, and the cornucopia is filled with the weapons of anarchists, such as daggers and bombs. This is a great characterization of the industrial relations school of thought—and for much of this book, and the study and practice of labor relations. This pendulum imagery will also be important in later chapters as labor law struggles to balance the rights of employers and labor.

Compared to the other schools of thought, in the industrial relations school the causes of the labor problem are very different, and so the solutions also differ. *Most important for labor relations, if the labor problem stems from unequal bargaining power, the solution is to increase workers’ bargaining power by forming independent labor unions and pursuing collective bargaining.*<sup>35</sup>

### The Critical Industrial Relations School

The fourth school of thought to consider is the **critical industrial relations school**, traditionally labeled “Marxist industrial relations” and also referred to as a radical perspective. The “critical” label comes from being critical of existing societal institutions and social orderings. The critical school emphasizes that capitalist institutions do not simply exist but are created by society (such as through laws governing market transactions or business incorporation, and through social norms governing acceptable behaviors). This school of thought focuses our attention on how dominant groups design and control institutions to serve their own interests, albeit imperfectly due to resistance from competing groups.<sup>36</sup> For example, in the 1880s railroad titan James J. Hill set up trust funds to create and manage a Catholic seminary to train local priests so that these priests could in turn Americanize Irish immigrants and preach to them about the importance of diligence and respect for authority—values that Hill wanted in his largely Irish-American Catholic workforce.<sup>37</sup> As a contemporary example, a program at George Mason University funded by corporations, wealthy individuals, and conservative foundations has provided free training for several thousand judges to help them see legal theory through the lens of neoliberal thought that prioritizes commercial and corporate interests.<sup>38</sup> Even initiatives that appear to benefit workers