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NOT JUST COLLECTIVE BARGAINING: THE ROLE OF TRADE UNIONS IN CREATING AND MAINTAINING A DEMOCRATIC SOCIETY

by Barbara J. Fick¹

–“...and so he fails – and in this he resembles many members of the propertied classes both in England and in America – to understand that trade unionism is not an disintegrating but a stabilizing force.” Rebecca West, *BLACK LAMB AND GREY FALCON* 481 (Penguin Books 1995)(1941).

– “Those who would destroy or further limit the rights of organized labor – those who cripple collective bargaining or prevent organization of the unorganized – do a disservice to the cause of democracy.” John F. Kennedy, quoted in Peter Kihss, *Labor Called Key to Nation’s Race with Communism*, N.Y. TIMES, September 5, 1960 at A-1.

Introduction

Trade unions are generally studied from the perspective of their role in organizing and representing workers in the workplace. The main focus is on the triadic relationship among workers, trade unions and employers. Such a narrow focus overlooks the key role of trade unions as the quintessential civil society organization. In this latter role trade union influence extends beyond the confines of the workplace and impacts upon society as a whole, making a key contribution to creating, maintaining and rebuilding democratic societies.

Civil Society Organizations

Most commentators and scholars agree that so-called civil society organizations (CSOs) (also described as non-governmental organizations, voluntary associations, or third sector organizations) play an important role in the creation and maintenance of democratic societies.² In their comparative

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²*See, e.g.*, ROBERT D. PUTNAM, *BOWLING ALONE* (2000); ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* (Harvey C. Mansfield & Delba Winthrop eds., Univ. of Chicago Press, 2000)(1835, 1840); Morton Kjaerum, *The Contributions of Voluntary Organisations to the Development of Democratic Governance*, in *THE ROLE OF VOLUNTARY ORGANISATIONS IN EMERGING DEMOCRACIES* (Ann McKinstry Micou & Brigit Lindsnaes eds., 1993); Ready to Govern: ANC Policy Guidelines for a Democratic South Africa, adopted at the National Conference (May 28-31, 1992)(“Our constitution shall guarantee the space for civic bodies, trade unions and the numerous other organizations which people create to deal with their every day problems and aspirations. These are the institutions of civil society which are crucial if we are to

study of the development of democracy in advanced capitalist societies, Central and South America, Rueschemeyer, Stephens and Stephens³ made the following observation about the importance of CSOs for democracy:

The more the balance of class power favors subordinate class interests and the more a dense civil society aids in giving organizational expression to these interests and at the same time constitutes a countervailing force against unrestrained and autonomous state power, the greater the chances not only of installing democratic institutions and making them stable but also of increasing the real weight of democratic decision-making.

CSOs provide a basis for citizens to compete with, and challenge the power of, both the political elite (as institutionalized in the governing structure of the state) and the economic elite (as institutionalized through market structures of the state). They provide a voice for citizens, act as a watchdog to make elites accountable, model democratic behaviors, act as a mediator between the elites and the citizenry in finding solutions to social, economic and political problems, and assist in reconciling conflicting interests between elites and citizens.

An independent trade union movement is strategically, and perhaps uniquely, placed to fulfill these functions which are so important to sustaining democratic government. Its foundation is firmly planted within the grass roots of a society (for, after all, the overwhelming majority of citizens in any country are workers) who make up the membership of the movement. Its elected leaders have access to both the economic elites (though its representation of workers in the workplace) and the political elites (both through its dealings with government Ministries of Labor as well as by virtue of its access to a constituency of citizens who can be mobilized by the union leadership).

Trade Unions and Democratization

Historically, authoritarian regimes have recognized the inchoate power of independent trade unions to contest their authority, taking action to either abolish trade unions outright or bring them under government control. One of the earliest strategic moves made by the Nazi government to consolidate its hold on power was an order for the dissolution of Germany's free trade unions. By May 2, 1933 (3 months and 3 days after Hitler was appointed Chancellor on January 30, 1933) the N.S.D.A.P. Press Service reported that the National Socialist Factory Cell Organization had

have a deep and thorough democratic order.”)

³DIETRICH RUESCHEMEYER, EVELYNE HUBER STEPHENS & JOHN D. STEPHENS, CAPITALIST DEVELOPMENT AND DEMOCRACY 297 (1992).

“eliminated the old leadership of the Free Trade Unions and taken over their leadership.”⁴ Earlier, the Fascist regime in Italy had eliminated the independent trade unions and established a trade union movement under the control of the State.⁵ The importance of controlling the trade union movement was emphasized by Alfredo Rocco, the Italian Minister of Justice, in a speech to the Chamber of Deputies on December 10, 1925:

The State, least of all the Fascist State, cannot permit the constitution of States within the State. The organization [in the 1926 laws] of the unions must be a means of disciplining the unions, not a means of creating strong, uncontrolled organisms capable of undermining the State.⁶

Similarly, Franco’s Spain proscribed trade unions, imprisoned their leaders and subsequently enacted a Labour Charter creating a syndicalist trade union organization under the control of the State.⁷ Likewise, under the old Soviet system the trade union movement was controlled by the Communist Party and acted as a “transmission belt” for the Party to control workers.

In the current political climate, authoritarian regimes continue to suppress or control trade unions. The Trade Union Law of the People’s Republic of China imposes a single trade union structure, The All-China Federation of Trade Unions, and clearly states that unions are a means to be used to strengthen the existing structure of the socialist system.⁸ Individuals who promote the

⁴III THE TRIAL OF GERMAN MAJOR WAR CRIMINALS: PROCEEDINGS OF THE INTERNATIONAL MILITARY TRIBUNAL SITTING AT NUREMBERG, GERMANY, OFFICIAL TRANSCRIPT 58-59 (London: HMSO, 1950). Similarly, within 5 weeks of winning the presidential elections, Hugo Chavez called for the replacement of independent labor groups in Venezuela by a single government-dominated union. N.Y.TIMES, Sept. 10, 2000, at Y13.

⁵“But only the syndicate which is legally recognized and subject to the control of the State has the right legally to represent the entire category of employees or workers for which it is constituted, . . .” The Charter of Labor, 21 April 1927, as reprinted in G. A. KERTESZ, ed., DOCUMENTS IN THE POLITICAL HISTORY OF THE EUROPEAN CONTINENT 1815-1939 393 (1968).

⁶Edward R. Tannenbaum, *The Goals of Italian Fascism*, 74 AM. HIST. REV. 1183, 1198 (1969).

⁷See, e.g., SIMA LIEBERMAN, THE CONTEMPORARY SPANISH ECONOMY: A HISTORICAL PERSPECTIVE 327 (1982); RAYMOND CARR & JUAN PABLO FUSI AIZPURUA, SPAIN: DICTATORSHIP TO DEMOCRACY 137-139 (1979).

⁸ IV INTERNATIONAL ENCYCLOPEDIA FOR LABOUR LAW AND INDUSTRIAL RELATIONS: CHINA 99-100 (Roger Blanpain, ed., 1997).

formation of free trade unions are imprisoned.⁹ In Sudan, the independent trade unions were dissolved after the 1989 coup and the government currently controls the trade unions.¹⁰ In Oman, Saudi Arabia and the United Arab Emirates trade unions are prohibited.¹¹

This link between democratic government (at least as exemplified by the existence of political freedom) and an independent trade union movement is acknowledged in several international instruments. Article 22 of the United Nations Covenant on Civil and Political Rights (1976) provides that “everyone shall have the rights to freedom of association . . . including the right to form and join trade unions . . .” Similarly, Article 23 of The Universal Declaration of Human Rights (1948) recognizes this same right to form and join trade unions.”¹²

Repressive governments have good reason to be concerned about the effect of independent trade unions on their ability to maintain authoritarian control. Recent work by democratization scholars has focused on the central role played by the trade union movement in building democratic societies. Rueschemeyer, Stephens and Stephens, in their comparative study of the development of democracy in advanced capitalist societies, Latin America and Central America, reached the following conclusion:

The organized working class appeared as a key actor in the development of full democracy almost everywhere, the only exception being the few cases of agrarian democracy in some of the small-holding countries. In most cases, organized workers played an important role in the development of restricted democracy as well. The Latin America cases bear out the expectations generated by the theoretical framework precisely because the working class played a lesser role in the historical events there: the relative weakness of the working class certainly contributed to the infrequency of full democracy in the region and to the instability of democracy where it

⁹See, e.g., HUMAN RIGHTS WATCH, *PAYING THE PRICE: WORKER UNREST IN NORTHEAST CHINA* (2002), available at <www.hrw.org>; *Chinese Dissident UN Pressure on China to Free Jailed Labor Activist*, AGENCE FRANCE-PRESS, January 25, 1998, available at 1998 WL 2207708.

¹⁰Fathi El-Fadl, *Ten Years On: The Arab Trade Union Movement*, 9 INT’L UNION RTS. Issue No. 2, 8 (2002); INT’L CONFEDERATION OF FREE TRADE UNIONS, *ANNUAL SURVEY OF VIOLATIONS OF TRADE UNION RIGHTS* 73 (2006) (hereinafter ICFTU, ANNUAL SURVEY).

¹¹ICFTU, ANNUAL SURVEY, supra note 10 at 367, 371 and 373.

¹²See also European Convention on Human Rights, art. II (1953); American Declaration of Human Rights, art. 22 (1948).

did emerge.¹³

Ruth Berins Collier, in her book *PATHS TOWARD DEMOCRACY*, also emphasizes the importance of the labor movement in the wave of democratization in the 1970s and '80s.¹⁴ She sees the labor movement playing two roles in the democratization process: first as a force in destabilizing and delegitimizing authoritarian regimes thereby setting in motion the transition to democracy; and second as an oppositional force during the transition process ensuring the continuing evolution toward democracy. Her analysis of Peru, Argentina and Spain indicates that the labor movement in each of these countries was one of the earliest actors in leading massive protests which destabilized the incumbent authoritarian governments and that it remained in the forefront of oppositional activity during the transition, maintaining pressure on the government through strikes and, in the case of Argentina, engaging in negotiating a transfer of power.¹⁵ She concludes her analysis by noting that

[t]his labor role was not limited to an “indirect” one, in which the government responded to labor protest focused on workplace demands. Rather, the union movement, or important parts of it, was typically one of the major actors in the political opposition, explicitly demanding a democratic regime. More than merely one component or “layer” of a resurrected civil society that moved into the interstices of political space opened by incumbents and followed the lead of many other groups, the union movement was sometimes able to create political space for anti-authoritarian, pro-democratic protest. In some cases, union-led protests for democracy contributed to a climate of delegitimation that provoked the institution of the transition; in others it helped derail the legitimation projects of authoritarian regimes. Protest continuing to the end of the transition, rather than creating an authoritarian backlash, often kept the transition moving forward. Finally, while the protest of other groups also put the regime on the offensive, labor-based organizations went further in affecting democratic transitions in two ways: in many cases labor-based parties and sometimes unions won a place in the negotiations, and they derailed the transformative projects of the authoritarian rulers to exclude any future participation of left and labor-based parties, thereby expanding the scope of consideration in successor regimes.¹⁶

¹³RUESCHEMEYER, STEPHENS & STEPHENS, *supra* note 2, at 270.

¹⁴RUTH BERINS COLLIER, *PATHS TOWARD DEMOCRACY* (1999).

¹⁵*Id.* at 114-132.

¹⁶*Id.* at 165.

Another well-known example of what Collier describes as “creat[ing] political space for anti-authoritarian, pro-democratic protest” is the role Solidarnosc played in the Polish transition. In the summer of 1980 a wave of strikes enveloped Poland, mostly related to economic issues but also entailing expressions of discontent with the representation afforded by the state-controlled trade unions. Most of the strikers were “bought off” by government promises of wage increases. When, however, a strike began at the Lenin Shipyard in Gdansk on August 14, 1980, it soon progressed beyond the narrow confines of workplace issues relating to wages and reinstatement of fired workers. Although the government also offered these strikers a wage increase, the latter remained on strike in solidarity with other workers whose demands had not been met.¹⁷ On August 16, 1980 the strike committee drew up a list of demands for ending the strike. While the first two demands were directly related to trade union issues (*i.e.* a demand for independent trade unions and a guarantee of the right to strike), the next two demands indicated the strike committee’s understanding that the workers’ concerns were not limited to their interests *qua* workers but also required addressing their concerns *qua* citizens. Thus point number three demanded freedom of expression and publication and point number four included demands to free political prisoners and “cease repression against people for their opinions.”¹⁸

Solidarity created an environment which allowed for other civil society organizations to exist. It provided space for truly independent groups to voice their opinion. Although martial law was imposed within 16 months of the signing of the Gdansk Agreement ending the strike, the “damage” had been done. “The press [had become] so free and pluralist during the Solidarity period, as well as in the underground afterward, that the authorities could either ‘carry on with their pointless propaganda or agree to real information in the mass media. They chose the latter’.”¹⁹ Interest groups also formed in the wake of Solidarity, independently expressing citizen voice and addressing the government on such issues as consumers’ interests and environment concerns. “August 1980 mobilized citizens to seize the public space that had hitherto been monopolized by the Party, and the victory has proved to be irreversible. The diverse, independent and self-assured civil society it promoted ensured that democratic reform would continue, despite martial law.”²⁰

A new wave of strikes in 1988 led to discussions between the government and independent experts, including individuals formerly associated with Solidarity, which resulted in a new law granting freedom of civic association. By February 6, 1989, the government and Solidarity began negotiations regarding the country’s future, culminating in the holding of free elections.²¹ Thus, the

¹⁷DAVID OST, SOLIDARITY AND THE POLITICS OF ANTI-POLITICS 75-81 (1990).

¹⁸The Gdansk Agreement, 31 August 1980, reprinted in DENIS MACSHANE, SOLIDARITY: POLAND’S INDEPENDENT TRADE UNION Appendix 3 (1981).

¹⁹OST, *supra* note 16, at 179.

²⁰*Id.* at 204.

²¹*Id.* at 183, 205.

Polish case also follows Collier's prescription concerning the role of trade unions in the transition to democracy: delegitimizing the regime, setting the transition in motion and actively engaging in negotiating the transfer of power.

This same pattern was most recently followed in Guinea. On January 10, 2007, trade unions representing nearly all of the country's workers led a general strike protesting President Conte's intervention in freeing from jail two political allies accused of corruption and stealing from the government. Among the unions' demands was appointment of a new government led by a civilian prime minister. The strike ended on January 27 with an agreement between President Conte and the unions requiring, *inter alia*, the nomination of a civilian prime minister to head a consensus government, strict respect for the principle of separation of powers, the independence of the Central Bank and a reduction in the price of rice and fuel. When Conte reneged on the agreement by appointing a political crony as prime minister, the unions resumed the strike on February 12. With the assistance of a team of mediators from the Economic Community of West African States, a new deal was brokered between the government and trade unions to end the stand-off. The strike ended on February 25 when President Conte agreed to appoint the new civilian prime minister from a list of five candidates submitted by the unions. The following day President Conte appointed Lansana Kouyate (one of the five candidates) who was sworn in as prime minister on March 2.²²

This democratizing influence of trade unions requires that the movement be independent of state control. It is only an independent trade union movement that can effectively challenge the *status quo* balance of power; trade unions controlled by, or subservient to, the state will support the

²²See *Guineans Strike Over President's Freeing of Those Accused of Stealing From State*, Int'l Herald Tribune, Jan. 10, 2007, <http://www.ihf.com/articles/ap/2007/01/10/africa/AF-GEN-Guinea-Strike.php>; *Guinea Strike Leaders Call for President to Hand Over Power*, Voice of America, Jan. 16, 2007, <http://www.voanews.com/english/archive/2007-01/2007-01-16-voa40.cfm>; *Guinea - ITUC Calls for Vigilance and Sends International Trade Union Mission*, International Trade Union Confederation, Jan. 28, 2007, <http://www.ituc-csi.org/spip.php?article624>; *Guinea Unions Call End to Fatal Strike*, Mail & Guardian Online, Jan. 28, 2007, <http://www.mg.co.za/articledirect.aspx?articleid=297178>; *Four Die in Guinea Violence*, Middle East Times, Feb. 10, 2007, <http://www.metimes.com/print.php?StoryID=20070210-095659-2136r>; *Guinea's Strike to End, Conte Cedes on Premier*, Reuters AlertNet, Feb. 25, 2007, <http://www.alertnet.org/thenews/newsdesk/L25495120.htm>; *Guinea President Names New Premier in Bid to End Crisis*, BBC Monitoring Africa, Feb. 27, 2007 (LEXIS, News, ALL); *Unions End Strike After Guinea President Agrees to Appoint New Prime Minister*, Int'l Herald Tribune, Feb. 25, 2007, <http://www.ihf.com/articles/ap/2007/02/25/africa/AF-GEN-Guinea.php>; *Guinea's New Prime Minister Needs Help From Inside and Outside Country as He Begins Work*, Voice of America, March 2, 2007, <http://www.voanews.com/english/archive/2007-03/2007-03-02-voa27.cfm>.

status quo from which they derive their existence.²³

Trade Unions as the Archetypal CSOs

The trade union movement appears to stand at center-stage as the CSO without which it is difficult to create and maintain democratic society. As stated by Professor Sugeno, “unions currently constitute an important attribute of any free and democratic society. It is inconceivable that existing institutions or others that might be created could take over the function of unions.”²⁴ What is it about a trade union that so uniquely positions it to fulfill the strategic democratizing functions of CSOs so effectively?

There are five attributes possessed by most independent trade unions (some of which may be found in other CSOs, but few, if any, CSOs possess all five) which are responsible for this strategic importance: democratic representativity, demographic representativity, financial independence, breadth of concerns and placement within society for access to both elites and grass roots.

Democratic Representativity

The governance structure of most independent trade unions is based on a democratic electoral model, allowing for the membership to control the organization’s agenda and actions. The leadership of the local union is elected by, and answerable to, the local membership. The national union leadership is elected as well, either directly by the union membership or indirectly through union membership election of delegates who, in turn, vote on the national officers. This democratic procedure is mandated by statute in the U.S.²⁵ The Trade Union and Labor Relations Act of the United Kingdom also requires that the leadership of the national union be directly elected by the union membership.²⁶ A requirement for internal trade union democracy is grounded in the German Federal Constitution, with the membership electing delegates to the union decision-making body.²⁷

²³See Eva Bellin, *Contingent Democrats: Industrialists, Labor, and Democratization in Late-Developing Countries*, 52 *WORLD POLITICS* 175 (2000).

²⁴Kazuo Sugeno, *Unions as Social Institutions in Democratic Market Economics*, 133 *INT’L LAB. REV.* 511, 519 (1994).

²⁵29 U.S.C. §481 (a)(b).

²⁶Sheldon Leader, *Configuring Union Democracy: The United Kingdom Experience*, in *THE INTERNAL GOVERNANCE AND ORGANIZATIONAL EFFECTIVENESS OF LABOR UNIONS* 510 (Samuel Estreicher, Harry C. Katz & Bruce E. Kaufman, eds., 2001).

²⁷Winfried Boecken, *Trade Unions in Germany: Requirements of a Democratic Organization* in *THE INTERNAL GOVERNANCE AND ORGANIZATIONAL EFFECTIVENESS OF LABOR UNIONS* 532-33 (Samuel Estreicher, Harry C. Katz & Bruce E. Kaufman, eds., 2001).

While Canadian Law does not mandate democratic procedures, such is the custom of union practice. A 1996 government task force concluded that “Canadian trade unions exhibit a high level of internal democracy and genuinely represent the interest and wishes of their membership.”²⁸ The same is true in Japan where union leaders are elected by the membership.²⁹ While internal democracy is strong within most independent trade unions, there are exception, such as France where there is a very weak democratic tradition.³⁰ The latter is, however, the exception.

Conversely, democratic decision-making within most other CSOs is the exception, not the rule. In the U.S., the CSO universe since the 1960s has evolved from membership-based organizations to special interest advocacy groups with mass adherents who do not have voice in either group leadership or policy.³¹ “Members, if any, are likely to be seen not as fellow citizens but as consumers with policy preferences.”³² The paid staff is answerable to a board of directors which is itself a self-selected group. The staff creates the agenda which it then “sells” to the membership.³³ The same is true at the international level. “With some notable exceptions, such as Amnesty International and the Sierra Club, very few international NGOs are operating on a democratic basis.”³⁴ Indeed, many NGOs are supply-side organizations concentrating on delivering

²⁸Michael Lynk, *Union Democracy and the Law in Canada* in THE INTERNAL GOVERNANCE AND ORGANIZATIONAL EFFECTIVENESS OF LABOR UNIONS 460 (Samuel Estreicher, Harry C. Katz & Bruce E. Kaufman, eds., 2001).

²⁹Kazuo Sugeno, *supra* note 22, at 514 n.10.

³⁰Antoine Lyon-Caen, *Union Democracy in France: Traditional Denial and Recent Recognition of a Majoritarian Idea in Collective Bargaining* in THE INTERNAL GOVERNANCE AND ORGANIZATIONAL EFFECTIVENESS OF LABOR UNIONS (Samuel Estreicher, Harry C. Katz & Bruce E. Kaufman, eds., 2001).

³¹See Theda Skocpol, *Recent Transformation of Civic Life* in CIVIC ENGAGEMENT IN AMERICAN DEMOCRACY 494 (Theda Skocpol & Morris P. Fiorina, eds.,1999).

³²*Id.* at 492.

³³See e.g., Robert O. Keohane, *Commentary on the Democratic Accountability of Non-Governmental Organizations*, 3 CHI. J. OF INT’L LAW 477 (2002); Rana Lehr-Lehnardt, *NGO Legitimacy: Reassessing Democracy, Accountability and Transparency*, Berkeley Electronic Press at <http://lsr.nellco.org/cornell/lps/clacp/6.>, at 14.

³⁴Karsten Nowrot, *Legal Consequences of Globalization: The Status of Non-Governmental Organizations under International Law*, 6 IND. J. GLOBAL LEG. STUD. 579, 601 (1999). See generally, Lehr-Lehnardt, *supra* note 33 at 13-26; Julie Mertus, *From Legal Transplants to Transformative Justice: Human Rights and the Promise of Transnational Civil Society*, 14 AM. U. INT’L REV. 1335, 1372-1377 (1999).

services to a constituency,³⁵ whereas trade unions are demand-side associations helping workers articulate their preferences at the workplace and within the larger community.

The democratic governance structure of trade unions allows for the union to act as a true voice of its members' concerns rather than having the members voicing the CSO's concerns (as occurs with many other CSOs). Moreover, this internal democracy acts as a model for the members in their broader civic life. In a study done to assess the effect of trade unions on electoral participation, Radcliff concludes that "living in a union household increases the probability of members of the household voting, while a greater union density increases the probability of all citizens to vote."³⁶

Demographic Representativity

The ranks of trade union membership are generally more diverse than the composition of the membership of other types of CSOs and more closely mirror the diversity of a country's population as a whole. Throughout the European Union (EU), women constitute approximately 50% of the population; averaging the available data for all trade unions within the EU, women make up approximately 41.5% of all members. Within individual countries, women constitute a majority of union members in Estonia, Latvia, Sweden and Norway; they are near 50% of the membership in Hungary and Denmark; on the other hand in Austria, Germany and the Netherlands women are no more than one-third of all union members.³⁷ In the U.S., where more complete statistical breakdowns are available, the representativeness of union membership as compared to the working population can more clearly be seen. The following table presents the data for 2005:³⁸

Demographic Characteristics	Percent of Union Membership	Percent of Civilian Labor Force
Age 16 - 34	24.9%	37.9%
Age 35 - 54	56.7%	47.1%

³⁵John Clark, *The State, Popular Participation and the Voluntary Sector*, in NGOs, STATES AND DONORS (David Hulme and Michael Edwards, eds. 2007).

³⁶Benjamin Radcliff, *Organized Labor and Electoral Participation in American National Elections*, 22 J. LAB. RES. 405, 409 (2001).

³⁷Mark Carley, TRADE UNION MEMBERSHIP 1993-2003 at <http://www.eurofund.europa.eu/eiro/2004/03/update/tn0403105u.html>. Most recent data available are for the year 2003.

³⁸The information in this table is derived from U.S. CENSUS BUREAU, U.S. DEPT. OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES, at tbl. 646 at 423 (126th ed. 2007).

Age 55 >	17.9%	14.9%
Male	56.1%	52%
Female	43.3%	47.9%
Caucasian	79.8%	81.7%
African-American	13.8%	11.4%
Hispanic	11.3%	13.6%
Asian	3.8%	4.35%

As Nelson Lichtenstein observed of U.S. unions:

[T]rade unions are the most multiracial of all institutions and the most committed to the mobilization of those at the bottom of society. They remain the republic’s largest set of voluntary organizations. Unlike church, synagogue, and mosque – or the National Rifle Association and the Sierra Club – the unions have a multifaceted character that gives them the potential to function as far more than either a religious institution or an interest group.³⁹

This membership diversity contrasts sharply with other CSOs, where associational ties are most prevalent among the educated, wealthy and those who have status. Studies indicate that “associationalism is class biased.”⁴⁰ As Skocpol states:

Even when they have hundreds of thousand of adherents, contemporary associations are heavily tilted toward upper-middle class constituencies. Whether we are talking about memberless advocacy groups, advocacy groups with some chapters, mailing-list associations, or non-profit institutions, it is hard to escape the conclusion that the wealthiest and best-educated Americans are much more privileged in the new civic world than their (less numerous) counterparts were in the pre-1960s civic world centered in cross-class membership federations.⁴¹

³⁹Nelson Lichtenstein, STATE OF THE UNION 18 (2002)

⁴⁰PUTNAM, *supra* note 1, at 340.

⁴¹Skocpol, *supra* note 29, at 500.

While, as noted earlier, many scholars view CSOs as necessary components of a democratic society, some critics have expressed concern over whether, given the current composition of CSOs (at least in the U.S.), there is a conflict between CSOs and democratic governance. Fiorina labels this the “dark side of civic engagement.”⁴² Associations can distort democratic decision-making, allowing vocal minorities to profit at the expense of societal good. As Fiorina notes:

engagement can be expected to have such salutary consequences only if those engaged are representative of the interests and values of the larger community . . . but when engagement is largely the domain of minority viewpoints, obvious problems of unrepresentativeness arise.⁴³

The diversity of trade union membership allows these organizations to avoid the “dark side” and enables them to perform the beneficial democratic functions of CSOs.

Financial Independence

Trade unions are among the few CSOs that have the ability to finance their operations without outside assistance from either government, foundations, or private philanthropy. This financial freedom results in union leadership setting the agenda and direction of their activities based upon membership needs (from whom the majority of their income is derived) rather than upon the shifting priorities of outside funders. This financial freedom also results in unions providing a more genuine voice for citizens within the polity than other CSOs which are more financially dependent on institutions and governments.

In many developing countries, CSOs rely heavily on external and extra-territorial funding,⁴⁴ which can cause these organizations to be influenced not only by non-member interests but by non-local interests as well. Many donors work with NGOs to use them as service delivery mechanisms – not to strengthen them as representative civic organizations.⁴⁵ In the U.S., associational groups rely heavily on “patron grants” — financial aid from wealthy donors, foundations, corporations, government agencies and previously established associations . . .” allowing such organizations to

⁴²Morris P. Fiorina, *Extreme Voices: A Dark Side of Civic Engagement* in CIVIC ENGAGEMENT IN AMERICAN DEMOCRACY (Theda Skocpol & Morris P. Fiorina, eds., 1999).

⁴³*Id.* at 403.

⁴⁴*See*, THE ROLE OF VOLUNTARY ORGANIZATIONS IN EMERGING DEMOCRACIES, *supra* note 1, at 53, 63, 68-9 and 74.

⁴⁵Anthony Bebbington and Roger Riddell, *Heavy Hands, Hidden Hands, Holding Hands? Donors, Intermediary NGOs and Civil Society Organizations*, in NGOs, STATES AND DONORS (David Hulme and Michael Edwards, eds. 1997).

set their agendas without the necessity of listening to their members.⁴⁶

“Some of the largest NGOs, such as the International Committee of the Red Cross and CARE, rely on contributions from governments of rich countries for most of their operating funds. As much as 90% of financing emanates from governments.”⁴⁷ For example, in fiscal year 2005, 53% of the revenue for Human Rights First came from foundations;⁴⁸ 50.5% of the Carter Center revenues came from corporations,⁴⁹ and 34% of Catholic Relief Services revenue came from the United States government.⁵⁰ In fiscal year 2006, 37% of the revenue for Save the Children came from U.S. government grants and contracts.⁵¹ In fiscal year 2004, 69% of World Vision Inc. revenue came from government contributions.⁵²

This reliance on external funding not only limits the members’ ability (such as it is) to influence the agenda, but it can also cause CSOs to “chase the money” by creating programs that respond to foundation or government priorities.

Breadth of Concerns

The range of issues addressed by unions is extremely broad-based, extending beyond the narrow confines of the workplace. Moreover, even within the workplace, unions often advocate on behalf of *all* workers, not just union members. Clearly, when acting as collective bargaining agents unions are focused on obtaining workplace benefits for those workers it represents. But unions often act outside of their collective bargaining roles. For example, in the Enron debacle, although unions

⁴⁶Skocpol, *supra* note 29, at 492-93.

⁴⁷Leon Gordenecker and Thomas G. Weiss, *Pluralizing Global Governance: Analytical Approaches and Dimensions* at 31 in *NGOS, THE UN AND GLOBAL GOVERNANCE* (Thomas G. Weiss and Leon Gordenecker eds. 1996).

⁴⁸HUMAN RIGHTS FIRST, 2005/2006 ANNUAL REPORT 30.

⁴⁹THE CARTER CENTER, ANNUAL REPORT 2005-2006 36.

⁵⁰CATHOLIC RELIEF SERVICES, FINANCIAL STATEMENT 2005 (2006) 3.

⁵¹SAVE THE CHILDREN, ANNUAL REPORT 2006 43.

⁵²World Vision Inc., Return of organization Exempt from Income Tax, Form 990, Part I, available at <http://www.guidestar.org/FinDocuments/2005/951/922/2005-951922279-02236ddc-9.pdf> (last visited July 17, 2007).

only represented approximately 1,500 workers,⁵³ the AFL-CIO appeared in bankruptcy court on behalf of 4,200 laid off Enron workers to ensure that they received equitable severance payments.⁵⁴ Trade unions actively lobbied on behalf of minimum wage and safety and health legislation which inures to the benefit of all workers. Indeed, one could argue that such legislation almost exclusively benefits non-union workers, since the collective bargaining process enables unions to obtain above minimum wage salaries and ensure safe workplaces for the workers they represent. As Dubofksy notes, “when labor demanded improvements in social security, or endorsed raising the minimum wage, or favored public programs for improved health care and education, it addressed the needs of nonunion members and expressed the interest of masses of citizens and voters outside its immediate constituency.”⁵⁵

Union voice in the polity is not limited to workplace issues, however. Indeed, when Samuel Gompers, the first president of the AFL, was asked what labor wanted, he replied:

Labor wants more school houses and less jails; more books and less arsenals; more learning and less vice; more constant work and less crime; more leisure and less greed; more justice and less revenge; in fact, more of the opportunities to cultivate our better natures.⁵⁶

Trade unions, along with civil rights groups, have been at the forefront of the movement demanding a more equitable distribution of wealth and power. As noted by Coleman, “organized labor embraced the civil rights cause, advancing racial equality in both the workplace and through congressional legislation. Later in the [1960s], union leaders devoted a considerable amount of time and resources toward the passage of legislation designed to reduce poverty, redistribute income, and extend opportunity to many disadvantaged segments of American society, not just blacks.”⁵⁷ Labor supported voting rights, fair housing, compensatory education and urban renewal.⁵⁸

The breadth of union concerns is evident not only in the U.S. but in the trade union movement worldwide. As discussed earlier in this paper, the trade union movement has been a key

⁵³John M. Biers, *Labor Group to Meet in N.O.*, NEW ORLEANS TIMES-PICAYUNE, Feb. 16, 2002 at Money 1.

⁵⁴*Deal Boosts Enron Severance Payouts*, CHI. TRIB., June 13, 2002, §3 at 3.

⁵⁵MELVYN DUBOFSKY, *THE STATE & LABOR IN MODERN AMERICA* 208-09 (1994).

⁵⁶Quoted in Gregory Mantsios, *What Does Labor Stand For?* in *A NEW LABOR MOVEMENT FOR THE NEW CENTURY* 51 (Gregory Mantsios, ed., 1998).

⁵⁷Vernon Coleman, *Labor Power and Social Equality: Union Politics in a Changing Economy*, 103 POL. SCI. Q. 687, 696 (1988).

⁵⁸*Id.* at 696-97.

element in transitioning authoritarian regimes to democracy. In large part this is due to the recognition by movement leaders that trade union rights cannot exist except in a political democracy. This linkage has been expressed in the preamble to the International Labour Organization Resolution Concerning Trade Union Rights and Their Relation to Civil Liberties:

Considering that without national independence and political liberty full and genuine trade union rights could not exist, considering that trade unions, provided they enjoy their full rights, are an essential factor for the attainment of the objective of economic, social and cultural progress . . .⁵⁹

The 1994 Nigerian oil workers strike, with its nation-wide impact, was mainly precipitated by the military take-over and abrogation of the results of the June 12, 1993 election.⁶⁰ Since the mid-1980s the Zimbabwean Congress of Trade Unions has confronted the state on a broad range of social and political issues.⁶¹

In contrast to this expansive range of concerns voiced by trade unions, other CSOs are commonly organized around single theme issues, e.g. gun rights, the environment, drunk driving, consumer goods or right to life. This narrow focus can be attributed at least, in part, to the non-democratic, homogeneous nature of the organizations. These CSOs create the agenda for which the membership signs on. In the trade union movement the membership, through its democratic control of the organization, creates the agenda for which the institution becomes the voice. These members, while workers, are also citizens who have concerns not only related to the workplace but to society as a whole as e.g., voters, consumers of health care or providers for families. The worker does not leave these other concerns behind when s/he joins the union and, therefore pushes the union to advocate for all his/her concerns.

Placement Within Society

Lederach, in his work on conflict transformation and peace-building, speaks of an intermediate level of actors within a societal pyramid who are strategically placed to provide an infrastructure for resolving conflict. He identifies three levels of players: the top-level which is composed of the elite political, military and economic leaders; the bottom level which is the grass-roots of society with local leadership; and the mid-range leadership of primary networks of groups

⁵⁹Resolution Concerning Trade Union Rights and Their Relation to Civil Liberties, adopted by The International Labor Conference of the International Labor Organization on June 25, 1970.

⁶⁰See, Julius O. Ihonwhere, *Organized Labor and The Struggle for Democracy in Nigeria*, 40 AFR. ST. REV. 77 (1997).

⁶¹See, Lucien van der Walt, *Trade Unions in Zimbabwe: For Democracy, Against Neo-Liberalism*, 66 CAPITAL & CLASS 85 (1998).

and institutions which exist within the society, such as heads of national religious institutions, academic institutions or highly visible CSOs.⁶²

In attempting to reconcile differences and resolve conflict, working solely with the top-level leadership presents the problem of implementation: they many agree to a solution but can they ensure implementation or acceptance at the grass roots level? Focusing on the grass roots can be problematic as there is no systematic means for grass roots work to impact the top level and there is rarely a connection between different grass roots organizations to ensure wide-spread coherent agreement at the local level. Lederach views the top and grass-roots level initiatives as occurring largely in isolation from each other and identified a need to link these two levels.

[I]f one relied exclusively on the highest level of actor, the peace process often was not able to translate itself downward in the society with a sense of broad-based support and the potential for implementation. On the other had, if the process remained completely local, it was often incapable of generating change beyond local concerns. The “middle-out” idea, adding an intermediate level in the pyramid, emerged as a way of locating a set of actors that was able to link vertically (up and down the society through one or another form of network) and horizontally (across the lines of division in the conflict).⁶³

While Lederach’s work is mainly concerned with resolving violent conflict, his paradigm is useful for dealing with any type of societal conflict. In terms of identifying potential mid-level “mediators,” national trade unions and trade union federations clearly fit the role. The leaders of these organizations have access to both governmental elites (certainly via the Ministry of Labor but also by virtue of their ability to mobilize grass roots members as voters as well as strikers) and economic elites (via their collective bargaining role with business leaders). Having assumed their leadership positions through either a direct or indirect democratic process, they have access to, and influence on, their grass roots constituency. Finally, they cut across the potential isolation of groups at the grass roots level. The local union affiliates of a national trade union are geographically located throughout a society and the union affiliates of national federations cut across demographic lines. Thus trade unions have the capacity for both horizontal and vertical interaction, fulfilling Lederach’s requirement of actors “who connect both levels of leadership and bridge the divisions. These are considered to be strategic agents of change withing the society.”⁶⁴

Bosnia provides an example of trade union ability to bridge the divisions and implement

⁶²JOHN PAUL LEDERACH, *BUILDING PEACE* (1997).

⁶³John Paul Lederach, *From Resolution to Transformative Peacebuilding* in *FROM THE GROUND UP* 53(Cynthia Sampson & John Paul Lederach, eds., 2000).

⁶⁴LEDERACH, *supra* note 55, at 117.

change. In an attempt to begin healing the ethnic divisions caused by the war, the Trade Union Federation of the Republika Srpska and the Trade Union Federation of Bosnia-Herzegovina created a multi-ethnic trade union in the Brcko district.⁶⁵ Similarly, in Cyprus, the Greek Cypriot Trade Union and the Turkish Cypriot Trade Union have been working together in support of a federal democratic system and to improve the day-to-day situation for workers on both sides of the island.⁶⁶ Northern Ireland provides a final example, where the majority Protestant trade union movement played a key role in ensuring passage of the Fair Employment (Northern Ireland) Act, 1976, which outlawed public and private sector employment discrimination based on religion and political opinion, offering much needed protection for minority Catholic workers.⁶⁷

Thus, trade unions, as strategic mid-level actors, can genuinely voice the interests of its grass roots constituency to the high level actors and, by virtue of their societal position, effectively influence those actors, as well as mediate between conflicting positions within a society both horizontally and vertically.

Union Voice: Worker Voice: Citizen Voice

This essay posits that trade unions are a key element for sustaining a stable democracy. They provide a voice not only for workers within the workplace but for worker-citizens within the polity. This essay also suggests that trade unions are one of the best mechanisms for providing an authentic and effective voice for worker-citizens. A society concerned about maintaining a vibrant democracy should be concerned about maintaining the conditions necessary for a vibrant trade union movement.

As the U.S. has experienced the decline in union density over the last 30 years, it has witnessed a widening economic gap between the haves and have-nots. Union density peaked in 1955 at 37%.⁶⁸ From 1940 to 1970, union density remained at 25% or higher.⁶⁹ Beginning with the

⁶⁵ ADVISORY COMMITTEE ON LABOR DIPLOMACY, *Labor Diplomacy: In the Service of Democracy and Security* 6 (2001), <http://www.state.gov/g/drl/rls/10043.htm>. Agreement of May 23, 2000 between the Trade Union Federation of the Republika Srpska and the Trade Union Federation of Bosnia-Herzegovina regarding the Brcko district, on file with author.

⁶⁶ICFTU ONLINE available at <http://www.icftu.org/displaydocument.asp?Index=991216346&Language=EN>.

⁶⁷Terry Craden, *Trade Unionism, Social Justice and Religious Discrimination in Northern Ireland*, 46 IND. & LAB. REL. REV. 480 (1993).

⁶⁸Richard B. Freeman, AMERICA WORKS 77 (2007).

⁶⁹Hoover Institution, Facts on Policy: Union Membership Rates, <http://www.hoover.org/research/factsonpolicy/facts/5166532.html> (last visited July 19, 2007).

mid-70s, the decline of union density accelerated, reaching its current low of 12%.⁷⁰ Concurrently, the income inequality gap remained relatively stable during the period from World War II to the 1970s – the income share of the top 10% leveled at 31 to 32%. By the mid 1970s, inequality began to increase, by the mid 1990s it had reached the 40% level, and by 2005 it was near 44%.⁷¹ Similarly, the growth of CEO compensation remained relatively stable from the 1950s to the 1970s, and began a gradual increase from the ‘70s to the ‘80s, followed by a steep increase thereafter.⁷² CEO compensation as a ratio of worker pay jumped from 42 to 1 in 1982 to 431 to 1 in 2004.⁷³ From the period 1990 to 2004, average worker pay increased 4.5% while average CEO pay increased 319.2%.⁷⁴ Perceived economic unfairness may lead to alienation among citizens, creating a source of tension and instability within the polity. The role of trade unions in helping to ensure a more equitable allocation of resources strengthens societal stability.

With the founding of The Moral Majority of 1979, the U.S. has seen a resurgence in the level of influence of religious organizations in public life.⁷⁵ As suggested by Verba, Schlozman and Brady in their book *VOICE AND EQUALITY*, churches are filling the void left by unions in providing skills and opportunities for workers to participate in political activity.⁷⁶ To the extent that one is concerned about the rise of the religious right in national and local politics, one should be concerned about the decline in union density. As observed by Verba, Schlozman and Brady:

⁷⁰*Id.* News Release, Bureau of Labor Statistics, U.S. Dep’t of Labor, Union Members in 2006 (Jan. 25, 2007) available at <http://www.bls.gov/news.release/union2.nr0.htm>.

⁷¹Thomas Piketty and Emmanuel Saez, *Income Inequality in the United States 1913-1998*, 68 Q. J. OF ECON. 1, 7-8 (2003) and updated fig. 1, <http://emlab.berkeley.edu/~saez/index/html> (last visited July 20, 2007).

⁷²Carola Frydman and Raven E. Saks, *Executive Compensation: A New View from a Long-Term Perspective, 1936-2005*, 7 and fig. 1 at 46, http://web.mit.edu/frydman/www/frydmansaks_trends_0707.pdf (last visited July 19, 2007).

⁷³Roel Campos, Commissioner, U.S. Securities and Exchange Comm’n, Remarks at the Australian Securities and Investments Comm’n Summer School (Feb. 13, 2006), <http://www.sec.gov/news/speech/spch021306rcc.htm>.

⁷⁴Sarah Anderson, et al., Institute for Policy Studies, United for a Fair Economy, *Executive Excess 2005*, fig. 4 at 14, <http://www.faireconomy.org/press/2005/EE2005.pdf>.

⁷⁵*See e.g.*, David Domke and Kevin Coe, *The God Strategy: The Rise of Religious Politics in America*, 42 J. OF ECUMENICAL STUD. 53, 55 (2007); Geoffrey C. Layman, *Religion and Political Behavior in the United States*, 61 PUB. OPINION Q. 288 (1997).

⁷⁶Sidney Verba, Kay Lehman Schlozman and Henry E. Brady, *VOICE AND EQUALITY* 520-21 (1995).

[T]he center of gravity of the religious agenda in politics is a conservative concern with social issues. . . . While the particular issue bias generated by religious institutions is not inevitable and is likely to continue to change over time, churches are unlikely to substitute for unions in bringing the economic needs and preferences of the less advantaged to the attention of public officials.⁷⁷

The low union density figures in the U.S. should constitute a wake-up call for all those concerned with maintaining stability and democracy. The vitality of the trade union movement is a concern not just for the United States, however, but also for many countries throughout the world. As recognized by the Advisory Committee on Labor Diplomacy (which acts in an advisory capacity to the U.S. Secretary of State), trade unions can bridge ethnic and sectarian divisions within societies, “providing a venue for groups to recognize and strengthen their common interests, air their grievances, and work together in a democratic process to build understanding and consensus.”⁷⁸ The Committee also noted that “where free unions are allowed to operate, political extremism is less likely to flourish.”⁷⁹

This essay does not suggest that trade unions are the answer to all society’s ills. Rather it is intended to emphasize a point often overlooked – that trade unions have a role to play (one may argue a key role) in helping to create and maintain democratic societies.

⁷⁷*Id.* at 521.

⁷⁸ADVISORY COMMITTEE ON LABOR DIPLOMACY, *Labor Diplomacy: In the Service of Democracy and Security* 6 (2001), <http://www.state.gov/g/drl/rls/10043.htm>.

⁷⁹*Id.*