

ARE UNIONS DEMOCRATIC?

The Internal Politics of Labor Unions and Their Implications

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EXECUTIVE SUMMARY

Labor unions in the United States are supposed to be democratically governed. Federal law mandates that private-sector union elections be conducted by secret ballot and that elections be held for choosing officers, setting dues, defining membership requirements, and approving a union's constitution. Public-sector unions, though governed by a patchwork of state laws, generally must adhere to similar requirements.

Such rules are important bulwarks against corruption in any union. Even more important, for public-sector unions—now more than half the labor movement—democratic processes are the guarantee that their influence in politics genuinely represents their members. This is vital because these unions influence political decisions in governments whose workers they represent: their bargaining and lobbying activities directly affect taxes, government spending, and public policy. Therefore, the processes by which these organizations represent their members have an impact on all citizens in a way that the activities of private-sector unions do not.

Unfortunately, much evidence suggests that unions are, in the vast majority of cases, only superficially democratic. A review of the existing literature shows that:

- Very few members vote in standard union-leadership elections (turnout is often below 20 percent; in one recent New York City public-sector union election, turnout was 4 percent).
- Those who do vote are not representative of the membership as a whole (with older workers voting at higher rates, thus skewing, for example, union policies on the importance of pensions relative to wages).
- Incumbent leaders often go unchallenged for long periods, sometimes “anointing” chosen successors (who then anoint another generation) instead of fostering genuine contests.
- Unions, especially at the state and national level, often take political positions with which a substantial number of members disagree (thus forcing those members to pay, with their dues, for the advocacy of policies that they do not support).

All these factors are signs of a gap between union democracy as a theory and its actual practice. This paper examines that gap and locates its cause in the incentives that union leaders face.

Indeed, those incentives push leaders toward the maintenance of an effective organization and toward keen attention to the overall satisfaction of a majority of their members—but away from the potentially boat-rocking effects of real debate, truly contested elections, and widespread participation by members in choosing leaders and policies for their organization. In short, leaders' incentives, combined with widespread apathy about union politics among the rank and file, conspire to keep democracy at bay in most unions.

This paper closes by pointing to reforms that could, and should, bring the practice of union democracy in line with the values of American society and the spirit of the law. Specifically, it recommends that Federal, state, and local governments:

1. Require unions to **publicize electoral procedures and report election returns**. In particular, unions should report the names of the candidates for various offices; whether members voted in person, by phone, electronically, or postal mail; and the number of members who voted, both in absolute numbers and as a percentage.
2. Require unions to **adopt online voting systems**, thereby eliminating cumbersome barriers to voting (such as traveling to the union hall to cast a ballot); improving transparency; speeding the dissemination of election results; and reducing the costs of holding elections.
3. Stop requiring union members to pay for **advocacy that they do not support**. Specifically, public-sector unions need to formalize their political decision-making by holding referenda to gauge their members' policy preferences more precisely. The results of these referenda should be made public.

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ARE UNIONS DEMOCRATIC? THE INTERNAL POLITICS OF LABOR UNIONS AND THEIR IMPLICATIONS

Daniel DiSalvo INTRODUCTION

For reasons that run deep in law and culture, American labor unions are supposed to be democratically governed. On paper, the unions *are* democratically governed: at the local, state, and federal levels of their organizations, union members elect officers for specified terms and vote on contracts and important policy matters.

Despite their adherence to democratic forms, though, many unions do not have genuine leadership contests or consequential elections of any sort. Some have been accused of operating oligarchically, if not corruptly. Often, election after election, the same leaders persist at the top of their organizations for years, with few internal challenges. More than one has ended up being nicknamed “boss.” And a few have been carted off to prison. The table below lists the terms of service of the leaders of some of the largest and most powerful public-sector unions in America. Many leaders spent 15 years or longer at the top of their union. Some stayed on for the majority of their working lives.

Member turnout in union elections is often below 20 percent and sometimes falls below 10 percent. And those who vote are not representative of all members, as they tend to be older workers. For example, in the 2011 United Teachers of Los Angeles leadership election, less than 23 percent of the 40,000 union members voted. And less than 15 percent voted in the preliminary round that determined the final candidates.¹ Only 17 percent of New York City schoolteachers voted in the last United Federation of Teachers (UFT) elections—and more than half of that turnout came from retirees, many of whom now live in Florida.² In short, less than 8 percent of active teachers voted. In another example, elections for officers of a local of New York City’s AFSCME District Council 37, held in June 2011, saw just 4 percent of 24,000 members voting. The union had recently given up on balloting

Tenure of Select Union Leaders

SERVICE EMPLOYEES INTERNATIONAL UNION (SEIU)

Leaders	Years in Office	Number of Years
William McFetridge	1940–1960	20
David Sullivan	1960–1971	11
George Hardy	1971–1980	9
John Sweeney	1980–1995	15
Richard Cordtz	1995–1996	1
Andy Stern	1996–2010	14
Mary Kay Henry	2010–present	4

AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES (AFSCME)

Leaders	Years in Office	Number of Years
Arnold Zander	1936–1964	28
Jerry Wurf	1964–1981	17
Gerald McEntee	1981–present	33

AFSCME DISTRICT COUNCIL 37 (New York City)

Leaders	Years in Office	Number of Years
Jeremy Wurf	1952–1964	12
Calogero Taibi	1964–1987	23
Stanley Hill	1987–1998	11
AFSCME Trusteeship (Hill fully retired in 1999)	1998–2002	4
Lillian Roberts	2002–present	12

UNITED FEDERATION OF TEACHERS (UFT) (New York City)

Leaders	Years in Office	Number of Years
Charles Cogen	1960–1964	4
Albert Shanker	1964–1986	22
Sandra Feldman	1986–1998	12
Randi Weingarten	1998–2009	11
Michael Mulgrew	2009–present	5

AMERICAN FEDERATION OF TEACHERS (AFT)

Leaders	Years in Office	Number of Years
Charles Cogen	1964–1968	4
Albert Shanker	1968–1997	29
Sandra Feldman	1997–2004	7
Edward J. McElroy	2004–2008	4
Randi Weingarten	2008–present	6

NATIONAL EDUCATION ASSOCIATION (NEA)

Leaders	Years in Office	Number of Years
Elizabeth Koontz	1968–1970	2
George Fischer	1970–1972	2
Catherine Barrett	1972–1974	2
Helen Wise	1974–1975	1
John Ryor	1975–1982	7

Willard McGuire	1982–1983	1
Mary Hatwood Futrell	1983–1989	6
Keith Geiger	1989–1996	7
Bob Chase	1996–2002	6
Reg Weaver	2002–2008	6
Dennis Van Roekel	2008–present	6
CALIFORNIA TEACHERS ASSOCIATION (CTA)		
Leaders	Years in Office	Number of Years
Ralph J. Flynn	1976–1995	19
Carolyn Doggett	1995–2013	18
Joe Nunez	2013–present	1
CALIFORNIA CORRECTIONS OFFICERS PEACE ASSOCIATION (CCOPA)		
Leaders	Years in Office	Number of Years
Don Novey	1980–2002	22
Mike Jimenez	2002–present	12
LOCAL 1199 SEIU HEALTHCARE WORKERS EAST		
Leaders	Years in Office	Number of Years
Dennis Rivera (post–major reorganization)	1989–2007	18
George Gresham	2007–present	7
Source: Data compiled by author from publicly available sources		

by postal mail, instead asking members to come to the union’s headquarters in lower Manhattan to cast a vote.³ Clearly, the costs of the trip outweighed what most members perceived as the benefit.

The lack of democracy in the labor movement is ironic. Most unions regularly criticize American democracy in the name of greater democracy. The third resolution of the AFL-CIO’s 2013 convention held that the federation “supports reforms of our democracy that include voting rights, Senate rules reforms and campaign finance reform.” These measures were needed to fight back against “corporations” that “direct their political allies to use the antiquated and undemocratic rules of the U.S. Senate to block votes and even debate on progressive legislation.”⁴ Other unions seek to employ participatory democracy as a means to ensure better representation of workers. As the American Federation of State, County and Municipal Employees (AFSCME) puts it: “We elect our bosses, so we’ve got to elect politicians who support us and then hold them accountable on our issues.”⁵ Arguments for worker participation in American democratic life and concomitant calls to hold elected officials responsible

are staples of union rhetoric. In addition, labor unions have become increasingly active in seeking to democratize corporations through shareholder activism.⁶ However, within unions, there is far less enthusiasm for democratic practices.

These facts have spurred critics to call union democracy, as it is actually practiced, a chimera. Those on the right claim that democracy in name only is yet another sign that unionism has failed; those on the left see it as a sign that today’s American labor movement is stodgy, moribund, and ineffective. Thus relegated to the status of myth or talking point, union election procedures do not receive the attention they deserve, and needed reforms go unimplemented. Given the growing importance of public-sector employees’ unions to both the labor movement and American politics, assuring the quality of their democratic procedures should be a policy priority.

WHY UNION DEMOCRACY MATTERS

Why does society expect—and legally require—unions to adhere to democratic norms, while other kinds of groups may organize themselves as they

please? We don't expect employers to run their workplaces as democracies, after all, even though those entities have at least as much impact on workers' lives as do unions.⁷ The classic answer is that unions, for their members, resemble government in many ways, and therefore should be held to the standards that we apply to any local, state, or federal authority. Unions govern an individual's life in the workplace, both by bargaining for wages and working conditions, and by representing them in grievance procedures and inquiries into misconduct.

This was lucidly explained in the 1940s by an American Civil Liberties Union report on the role of democracy in unions: "[The union] speaks for [the worker], makes choices of policy that vitally affects him and negotiates a contract which binds him. The union in bargaining helps make laws; in processing grievances acts to enforce those laws; and in settling grievances, helps interpret and apply those laws. It is the workers' economic legislature, policeman, and judge. The union in short is the worker's industrial government."⁸ Other mass membership organizations—such as the American Association of Retired Persons, the National Rifle Association, or the Sierra Club—have no such relationship with their members. Unions represent their members in a more governmental sense than other organizations, which is why specific democratic procedures are required for unions by federal and state law.

Elections, of course, are one of the core justifications for these "industrial governments" and their claim to represent their members. It is by participating in debate, and then voting, that (in theory, at least) workers express their preferences about wages, hours, benefits, and working conditions, as well as their union's political activities. Moreover, the absence of leadership turnover, open debate, and widespread participation increases the risk of corruption, even among well-intentioned leaders alert to their members' needs.

Society's interest in encouraging democracy in unions is not based only on general principles. The actions of unions have an impact on the rest of society, too. This is especially true of unions representing public-sector employees: such unions have more direct impact on other citizens than do unions of private-sector workers. For example, even an issue as parochial and seemingly nonideological as pay rates for a particular job will affect government's allocation of tax dollars, because money spent on employee salaries is money unspent on other priorities. So when public-sector union leaders press for higher pay for members—one of their most basic objectives—they are actually taking an important political position. Furthermore, when public-sector union leaders lobby state legislatures to enhance pension benefits for government workers, they are arguing that states pay higher annual contributions to pension funds rather than fund other pressing problems. In short, whether they work bottom-up, through collective bargaining, or top-down, through lobbying and electioneering,

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ing, public-employee unions seek to fundamentally alter government policy. As such, seemingly small union victories—say, on salary schedules or pension formulas—impose heavy costs on government.

In this way, public-sector union leaders, whenever they influence government to act in ways that best serve their interests and those of fellow union members, have policymaking power that their private-sector counterparts lack. This is what makes public-sector unions' democratic processes a matter of serious public concern. Indeed, such processes are of far greater concern than the processes of private-sector unions, whose collective bargaining activities have no immediate effect on government policy.

Furthermore, the policy positions, strategies, and tactics adopted by public-sector union leaders should hew very closely to the preferences of their members. Otherwise, members end up paying—

through union dues or agency fees—for political advocacy that they do not support. The recently negotiated contract between New York City and its teachers, represented by UFT, is a good example of the former. The contract, which includes back pay, provides teachers with 18 percent raises over nine years and sets the pattern for bargaining with the city's other unions. A reduction of a single-percent-age-point increase in the contract could have freed up nearly all the \$550 million that Mayor Bill de Blasio argued was needed to fund an expansion of prekindergarten in the Big Apple.⁹ Perhaps some teachers, probably a small minority, would have been willing to forgo a 1 percent salary increase for the sake of the mayor's signature policy initiative. As events transpired, the majority of union members favored a maximal salary increase—a view that UFT president Michael Mulgrew successfully brought to the bargaining table. Nonetheless, with public-employee unionism's prominence in state and local government, examples abound of union leadership taking political positions at odds with significant numbers of their membership.

Given the history of American unionism, many people still remember a time when unions were widespread and concentrated mostly in the private sector, with blue-collar workers in manufacturing and the building trades predominating. The reality is now quite different: today, only 11.3 percent of the nation's nonagricultural workforce belong to unions.¹⁰ This decline in private-sector union membership has not been paralleled in the public sector. In fact, a majority of union members now work in the public sector. In 2009, for instance, 7.9 million union members were government employees, while 7.4 million worked in private industry.¹¹ Hence, even though there are five times as many private-sector workers as public ones,¹² the typical union member today is more likely to be a teacher, a police officer, or a firefighter than a carpenter, an autoworker, or a coal miner.¹³ Across the country, some 35 percent of all state and local government workers now belong to unions.

In 2014, the (public-sector) AFSCME has approximately 1.5 million members, and the National Edu-

cation Association (NEA) has 2.5 million members. By contrast, the (private-sector) United Automobile Workers (UAW) has 380,000 members, and U.S. Steel Workers has 860,000 members. Moreover, many unions associated with private-sector work have reached into the public sector as well. The Teamsters, for example, are commonly known for representing truckers, but about one-third of the union's members are public employees. The nation's fastest-growing union, the Service Employees International Union (SEIU), has about as many public-sector workers in its membership as private-sector employees. And many of the nominally private workers who belong to SEIU are heavily dependent on government policies: they are employed in hospitals, which depend, in turn, on Medicaid and Medicare dollars.

As these numbers suggest, ensuring sufficient levels of public-sector union democracy is increasingly vital, for such unions make up a greater share of the entire labor movement. And insofar as public-employee unions are far more fundamentally political organizations than their private-sector counterparts, their internal practices assume rising importance to the functioning of American democracy, especially at the state and local levels.

DEFINING UNION DEMOCRACY

State and federal laws govern the internal organization of unions precisely because governments require unions to be democratic, especially in the selection of their officers. For private-sector unions (and those representing federal government employees), the controlling statute is the Labor-Management Reporting and Disclosure Act of 1959 (known as the Landrum-Griffin Act). It mandates that elections be conducted by secret ballot and that elections be held for choosing officers, setting dues, defining membership requirements, and approving a union's constitution. Under that law, disputes over officer elections in private-sector unions are heard by the National Labor Relations Board (NLRB) or in federal court.¹⁴

The internal organizational structures of public-sector unions, on the other hand, are governed by

state law. In most states, disputes over elections are appealed to a state labor board. For example, New York State's Public Employees Fair Employment Act, commonly known as the Taylor Law, provides for the creation of the Public Employment Relations Board (PERB) that hears cases related to improper union practices.¹⁵ As a general matter, state provisions for public-employee unions hew roughly to the standards set by the Landrum-Griffin Act for private-sector unions.

Unions have different modes of elections. Some favor direct leadership elections; others employ a regional model. Some use referenda for policy matters; others hold convention meetings to decide them. One study found that only 19 percent of unions elect national officers by member referendum rather than convention. Only 15 percent of unions hold an annual convention, while 25 percent wait the maximum five years permitted under the Landrum-Griffin

Act to hold their conventions. Just over 50 percent of unions elect executive board members by district.¹⁶ Furthermore, some unions require members to turn up at a particular polling place, such as union headquarters, to cast their ballots. Others use paper ballots that must be sent in by postal mail. Still others have adopted electronic voting systems allowing members to vote online or by phone.

All told, there are at least four different ways in which labor unions can be considered democratic. The first, most obviously, is the existence of formal constitutional, legal, or procedural requirements for elections and protections for expression of members' views. Second is the amount of leadership turnover.¹⁷ Third is the existence (or absence) of an active opposition to existing leadership. And fourth is the rate at which members participate in voting.¹⁸

On these measures of internal democracy, some unions invariably do better than others. All have democratic procedures, as required by law. Some have regularized turnover among the leadership. A

few have competitive elections. Almost none have high worker-participation rates at election time. Others, of course, have little turnover among the leadership: powerful bosses rule the roost, elections are uncompetitive, and worker participation is dismal.¹⁹

Where American labor unions come closest to the democratic ideal is in the selection of broad goals, such as an overall target for collective bargaining on benefits or wages, or general support for a policy concept. Once these policy aims are selected, the union bureaucracy has the authority to pursue them—face-to-face in collective bargaining and more broadly in politics. Of course, for public-sector unions, the employer with whom they bargain and the government they wish to influence are the same entity. In bureaucratic parlance, they get “two bites of the apple” in their efforts to influence policy.

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With broadly defined objectives in place, union leadership has a

strong argument for excluding its strategy and tactics from the imperatives of democratic debate and voting. Unions, like nations, are stronger against their adversaries if discord is not open and leaders are empowered to act without having to obtain authorization for every move. Moreover, the technical knowledge required for collective bargaining gives the leadership huge informational advantages over the rank and file when it comes to making decisions.²⁰

UNION DEMOCRACY IN THEORY AND PRACTICE

The economist Albert O. Hirschman famously pointed out that unsatisfied members of an organization have two means available to effect change from within: they can exit—simply leave the group; or they can exercise “voice”—speak up and participate within the organization, making their arguments known to others within it.²¹ Hirschman's “exit” tactic is not possible for public-sector workers in many states, where state laws mandate that all workers in a bargaining unit be represented by a

single union.²² (Roughly 93 percent of union members belong to unions that were organized before they were hired.²³) Under those laws, accepting a government job entails joining a union or paying the equivalent of union dues in “fair share” fees. So exercising their “voice” is workers’ only means to influence union leadership.

Such is the theory. In practice, the democratic exercise of “voice” can be quite scarce. For example, in a national survey of 3,328 teachers who were asked about their participation in union affairs, about half said that they were “not at all active” or “not very active.”²⁴ Other research shows that the typical union member hardly participates in union activities. Teachers, perhaps because they are well educated, tend to participate more than their blue-collar counterparts.²⁵ Such evidence suggests that few public employees exert pressure on their organizations in any significant way.

Why do such circumstances persist? One important reason is that a union may be undemocratically run but nevertheless satisfy its members’ expectations. Indeed, many unions illustrate how an organization can achieve goals that many members want, without using democratic processes to achieve those ends. Even in the absence of democratic practices, it is not obvious that union members are ill served by their leaders.

Representation Without Democracy

Most unions are not corrupt, and most leaders have their members’ interests at heart. Union leaders, then, are not dictators—they are not and cannot be indifferent to the long-term needs of their members. But their strongest incentives are not to promote democratic processes. Rather, they are motivated to maintain their organizations, to ensure that money keeps flowing into union coffers, and to see that this money is spent on goals that their members share. Making the union powerful can often come at the expense of making it democratic.

Union leaders must make important trade-offs, too. It is they who decide between investing resources in trying to secure salary or benefit increases; between

salary increases or work rules that improve workers’ experience on the job; between organizing new workers and political spending; and, in the public sector, between increasing compensation for existing workers or hiring more workers. Sometimes, the union leadership’s incentives can diverge from the preferences of the union’s membership. Yet much of the time, there *are* incentives for officers to roughly reflect the preferences of their membership. In other words, the absence of democracy—contested elections, vigorous dissenters, high participation in balloting—does not signal a complete lack of responsiveness. Simply put, union leaders have incentives to satisfy their members without engaging them in democratic processes.

Consider teachers. Recent surveys conducted by the Harvard Program on Education Policy and Governance and the journal *Education Next* suggest that large majorities of teachers oppose merit pay, weakening of licensing and tenure requirements, the introduction of vouchers, and a host of other education-reform ideas. When some 76 percent of teachers oppose efforts to connect pay to student performance (rather than seniority and educational credentials), it is no surprise that union leaders also oppose such efforts. Similarly, only 35 percent of teachers support the elimination of teacher tenure. As a consequence, teachers’ union leaders strongly defend the tenure system and its associated job protections. Conversely, 71 percent of teachers believe that more money should be spent on schools.²⁶ Not surprisingly, teachers’ unions regularly advocate for greater education spending.

In general, leaders share the convictions of their members. For leaders to be truly effective—bolstering their reputations, acquiring positions of power, and increasing the resources they can deploy—they also need their unions to be healthy. Corrupt union officials either end up in charge of feeble unions or in jail. In short, organizational maintenance is a key part of a union leader’s job. Ultimately, only sound money management allows union leaders to exercise power over the long haul. Without money, union officials cannot call strikes, run political ads, run get-out-the-vote drives, endorse politicians, and hire sufficient staff to bargain collectively in an effective

way. The money comes from members. Therefore, to lead a union well, those at the top must pay close attention to those in the rank and file. They need to keep members happy—or sufficiently satisfied.

Maria Elena Durazo, head of the Los Angeles County Federations of Labor, which coordinates 300 locals, is one example of an attentive and effective union leader. She has even been called the “single most influential individual” in Los Angeles politics.²⁷ Durazo has earned such influence thanks to her exceptional organizational savvy, running a tight ship with a \$3 million annual budget and staff of 15. She is paid a modest (by union leadership standards) \$158,000 a year in base salary. Many observers report that workers—at Los Angeles International Airport, in public schools, and elsewhere in the public and private Los Angeles economy—revere her.²⁸

Of course, even union leaders accustomed to pro-forma elections know that they can be challenged if they proceed too far out of step with their members. In this, they are not unlike members of Congress. Today, incumbents in the House and Senate are re-elected more than 90 percent of the time. Yet few Americans would describe their congressperson as indifferent to public opinion in their state or district. Indeed, as political scientists have shown, the typical congressional representative is as eager as a “deer in headlights” to spot danger and jump in whatever direction seems safest.²⁹ Even seemingly distant threats of a primary challenge keep members of Congress on their toes and responsive to their constituents. Union leaders have similar incentives.

Take the New York State United Teachers (NYSUT), the umbrella organization for teachers’ unions in New York state. The organization’s recent president, Richard Iannuzzi, faced a serious electoral challenge this year—and was ultimately unseated. Many locals and teachers within the state federation believe that the leadership had not done enough to oppose the

Empire State’s adoption of the federal Common Core curricular standards, which many teachers believe overemphasizes tests and rigid measures of teacher effectiveness. They were also unsatisfied with how Iannuzzi approached a series of other controversial issues, including a new law capping property taxes (and thus potentially reducing local school budgets) and a state-mandated teacher-evaluation system. Karen Magee, a local Westchester union leader, led a slate opposed to the current leadership. She formed an alliance with Andrew Pallotta, the NYSUT executive vice president, a well-known Albany insider who refused to endorse Iannuzzi during the election.³⁰ With Iannuzzi unseated, the state teachers’ union is now likely to oppose Governor Cuomo’s education policies and the Common Core more stridently.

So while contested elections do, at times, occur, the quest for consistently competitive, democratic elections remains elusive. Far too often, union leaders provide representation without democracy.

Gaps Between Leaders and Led

Given the incentives to satisfy their members’ needs, one might ask why leaders do not do more to promote democratic processes in their unions. The answer is that incentives to maintain a strong union do not necessarily overlap with incentives to promote democracy.

A union leader is called to act simultaneously as military commander and chairman of the debating society. To pressure employers, the leader must be able to command the rank and file to strike, stage sit-downs and slowdowns, and “work to code.” Workers must be willing to follow orders to aid political campaigns, appear at protests, or offer special donations to union coffers.³¹ This requires a leadership hierarchy and a loyal rank and file that follows instructions.

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At the same time, union leaders must facilitate a deliberative body. They must take steps to enlist their members in the union's broader strategy. To do this, they need to conduct democratic meetings with their members, where they listen to workers' concerns, complaints, and ideas—and discuss the details of contracts, work rules, and grievance procedures.

As time passes, maintaining the union puts the priorities of a commander ahead of those of a debate facilitator. Scholars who have studied unions have found that unions tend to obey sociologist Robert Michels's "iron law of oligarchy."³² According to Michels, as democratic organizations are established and formalized, power becomes increasingly concentrated in a few sets of hands in order to maintain a successful organization. No matter how popular their origins, public-sector unions soon become oligarchies with a democratic veneer. Hierarchy largely wins out over deliberation.

The wide compensation gap between members and union officials is suggestive of such oligarchic tendencies. In 2012, for instance, the average nationwide salary for teachers was \$44,000 a year. By contrast, nearly 600 staffers at the National Education Association (NEA) and the American Federation of Teachers (AFT) make six-figure salaries.³³ Top officials, such as AFT president Randi Weingarten and NEA executive director Dennis Van Roekel, earn nearly \$500,000 a year in base salary. The head of AFSCME, Gerald McEntee, was paid \$1.2 million in 2012.³⁴ In one survey, some 22 percent of union members said that their dues were spent primarily on "big salaries and perks [for] people in the union bureaucracy."³⁵

Of course, the skills required at the top of these national organizations—management ability, technical knowledge of collective bargaining, and the running of political campaigns—come at a premium. Still, in tilting so hard toward the hierarchy aspect of leadership and away from the deliberative aspect, unions undermine their claims to be democratically run. It is even common for leaders of these organizations to "anoint" chosen successors: the presidency of the UFT, based in New York City and considered one of the top teachers' union jobs in the country, is but one prominent example. Albert Shanker, who

ascended to UFT chief in 1964, selected Sandra Feldman in 1986, who, in turn, picked Randi Weingarten in 1998, who then tapped Michael Mulgrew to run the UFT in 2009. (The traditional trajectory is for the head of the UFT to go on to serve as president of the American Federation of Teachers, as Shanker, Feldman, and Weingarten have all done.) Such smooth successions have more in common with the practices of businesses that hire their CEOs internally than they do with the deliberative rough-and-tumble of democratic elections.

Thanks to such oligarchic habits and the electoral predictability that stems from low turnout, some union leaders are well insulated from challenges at the ballot box. This, as previously mentioned, increases the risk of corruption. For example, in the 1990s, Charles Hughes, president of Local 372 of AFSCME District Council 37 in New York City, which represents school lunchroom workers, crossing guards, and family paraprofessionals, appropriated some \$2 million in union funds for his own expenses, including a cocaine habit. Hughes received some \$700,000 in "overtime" pay in 1997 alone. Hughes's son and son-in-law also spent some \$670,000 of union funds on Super Bowl tickets and strip clubs.³⁶ Or consider Barbara Bullock, president of the Washington, D.C., teachers' union. From 1995 to 2002, she and several others stole some \$5 million from their union to buy designer clothing, jewelry, fur coats, season tickets to professional sports, and other indulgences.³⁷ This was at a time when Bullock's union owed money to the national AFT and was unable to pay its rent and phone bills.

In light of such stories, some conservative critics are apt to make a value-laden distinction between union leaders (bad) and rank-and-file workers (good). They argue that "bosses" run unions and many average members dislike the leadership, do not believe that they are getting sufficient return for their dues, or are otherwise dissatisfied. According to this view, union bosses manipulate workers, mispend their dues, and are frequently corrupt.³⁸ The truth is more complex: union leaders often adequately reflect the general preferences and views of their members, despite the fact that their actions take place without many of the checks and balances essential to the

legitimacy of democratic institutions. As discussed, checks and balances are especially vital for public-sector unions because of their significant influence on government policy, which affects all citizens.

It is important to recognize that being responsive to political winds is not the same thing as being democratic in a formal, or legal, sense. Most leaders manage to stay on the good side of their members; but disconnects, large and small, between member preferences and their leadership persist nevertheless. For instance, only 23 percent of union members in one survey ranked engaging in political activities as one of the top three responsibilities of a labor union. Bargaining for better wages and working conditions, as well as improving job security, ranked much higher for most union members. And 34 percent of union members surveyed believed that the union spent too much on politics, compared with 42 percent who thought that the union spent the right amount.³⁹

Generally, at the level of bargaining units (locals), the gaps between the preferences of membership and leadership are typically small on issues of collective bargaining and politics. However, gaps between members' and leaders' preferences often emerge as one moves up within the union federation. For instance, Republican teachers like their locals and their collective bargaining activities but dislike the national federations' participation in the larger liberal coalition that supports the Democratic Party. These sorts of gaps can be even more pronounced in unions representing police officers, firefighters, and corrections officers, who tend to be more politically conservative.

Why would union leaders take the risk of letting their policy positions diverge from those of a significant number of their members? One reason is psychological: like-minded people, in groups with little opposition, tend to radicalize one another.⁴⁰ The other reason is political: joining coalitions of liberal interest groups has long helped public-sector unions "punch above their weight" in the political arena. To do that, union leaders work closely with the American Civil Liberties Union, NAACP, Association of Trial Lawyers of America, Americans for Demo-

cratic Action, and other groups on the left. Though this is effective in achieving leaders' political goals, it means that union members who are conservative Democrats, independents, or Republicans are likely to be dissatisfied with many of the political stands taken by the state and national federation to which their local union belongs.

Consider the nation's teachers. Though they tend to be, as previously discussed, strongly united by their interests in better pay, benefits, and working conditions, teachers are hardly a political monolith. The results of opinion surveys over the last decade show that teachers fall into distinct groupings: geographically, politically, and by age, among others. So even as they strongly support both collective bargaining in principle and the conduct of collective bargaining by their local union leaders, Republican (and some independent) teachers dislike the close alignment of the AFT and NEA with the Democratic Party—as Stanford University political scientist Terry Moe, a leading scholar of teachers' unions, has shown.⁴¹ This disapproval from a sizable number of members creates tension between local unions and state and national organizations, which are more politically oriented.

For instance, though a Harris poll of American teachers found that 84 percent were satisfied with what their union was doing in collective bargaining, only 66 percent reported themselves satisfied with what it was doing in politics. Hence a large proportion of teachers are less sanguine about paying dues to state and national federations than they are about paying dues to their local one—which helps explain why almost all unions adopt a "unitary dues" structure, funneling a percentage of members' dues up the chain of the federation.

More democratic behavior would allow such views to be heard within unions, rather than ignored. However, it must be conceded that when unions manage to ignore the democratic process, it is often because the majority are satisfied with the union's behavior. The majority of teachers are Democrats, and, of that majority, a striking 76 percent see their national unions as ideologically representative of them. Only some 11 percent see the national unions

as more liberal than they are, while another 13 percent see them as too conservative. Adding to the impression that unions are largely in sync with most members' beliefs is the fact that Democratic union members tend to be far more involved in union matters. For the bulk of their members, national teachers' union leaders are succeeding in representing their members—even if those members are not much involved in the democratic processes that *should* run their unions.

Broadly speaking, the teachers' unions' alliance with the Democratic Party and the broader liberal coalition makes sense from the unions' point of view. In adopting this strategy, union leaders are satisfying their overwhelmingly Democratic members and lining up with the party that is favorable to collective bargaining and unions. A slice of Republican teachers may feel marginalized. Yet their inability to exit, along with their general satisfaction with their local union, gives the higher-level leaders few incentives to heed this minority. If anything, the teachers' unions are more pressured by marginal left-wing members—who think that the unions are not liberal enough in politics—than they are by the Republicans and independents in their ranks. It is not just preferences that matter in shaping what leaders can and will do; it is also the intensity of those preferences. Members who are satisfied with their local union—and with the bread-and-butter stances of their organization on job issues—are not as likely to rock the boat as members who are highly displeased.

Conservatives often criticize the teachers' unions for their alliance with the Democratic Party and support for liberal causes, which do not reflect the diversity of views held by teachers. However, as we have seen, the incentives facing these organizations clearly offer them few other choices. After all, the core of what unions do in collective bargaining and politics is to try to secure the best deal for their members when it comes to their occupational in-

terests on the job. Support, say, for gay marriage, expansive immigration, or abortion rights are beyond the unions' main remit. Union officials can thus satisfy members who do not agree with such positions by winning on issues central to the union's existence (and about which members care far more): better pay, better benefits, more autonomy from management, more job protections, and so on. If union leaders are doing a good job on bread-and-butter issues, that record gives them a wider margin of maneuver wherever their support from members is less than unanimous.

This state of affairs—unions that thrive and stay stable by keeping members satisfied on major issues while largely ignoring democratic processes—is perfectly acceptable for those concerned with keeping these organizations in business. For those who wish

to see unions run democratically—with real internal debate, contested elections, and recognition of political differences among members—the current situation cries out for reform. And for

those concerned about the character of democratic politics in American society at large, making clear where union members stand on policy positions taken by their leaders is enormously important.

Gaps between members' and leaders' preferences often emerge as one moves up within the union federation.

FUTURE REFORM

As previously argued, the state of public-sector union democracy has significant implications for the functioning of democracy in the wider society, especially at the state and local levels. Union members who dissent from the collective bargaining and political activities of their unions are funding—through their dues or “fair share” fees—political speech with which they disagree. Those who publicize this problem often cite marquee political issues (same-sex marriage, immigration) that mark union alliances with political parties or interest groups. However, for a public-sector union, even the most basic issues of collective bargaining are political, in that they require advocating for a particular allocation of scarce government

resources and affect the prerogatives of managers appointed by governors and mayors. Therefore, public-sector unions are more fundamentally political organizations than their private-sector counterparts, and the precise registration and reflection of the membership's views take on greater importance.

In a recent case, *Harris v. Quinn*, the Supreme Court took up the question of whether public-employee union dues, when used for collective bargaining, could violate the Constitution's protections for freedom of speech and association. The case began as a challenge to an Illinois law requiring home health-care workers to be represented by a public-sector union (and to pay dues or agency fees for that representation). The plaintiffs in the case objected that this forces them to pay to promote an allocation of government resources that they do not support.⁴²

In oral argument, Justice Anthony Kennedy appeared sympathetic to the plaintiffs' argument. The activities of public-employee unions in collective bargaining and politics unavoidably affect the size of government, which, he remarked, involves "a fundamental issue of political belief."⁴³ In the plaintiffs' view, all activities by public-employee unions are efforts to influence or "petition the government" on matters of "public concern." This should, consequently, prohibit them from extracting dues from workers who oppose the unions' policy advocacy.⁴⁴

The Court is slowly chipping away at a powerful precedent: *Abood v. Detroit Board of Education*, a 1977 case in which the Court held that a single public-sector union could represent everyone in a bargaining unit of employees—regardless of whether those people had joined the union. As beneficiaries of the bargaining done on their behalf, workers who didn't join the union would nonetheless pay dues or "fair share" fees. Of course, in a typical public-sector workplace, the relevant union-certification election (that empowers collective bargaining) often

took place years before today's workers were hired, meaning that the latter did not participate. Hence, critics have argued that union fees are a constriction on those workers' individual liberty.

The *Harris* case builds on a 2012 case, *Knox v. SEIU*. In his majority opinion, Justice Samuel Alito noted: "The primary purpose of permitting unions to collect fees from non-members ... is to prevent nonmembers from free-riding on the union's efforts, sharing the employment benefits obtained by the union's collective bargaining without sharing the costs incurred." Alito, however, held that that such arguments in favor of fair-share fees do not sit well with the First Amendment rights of workers who choose not to join the union. As he noted: "Such free-rider arguments ... are generally insufficient to overcome First Amendment objections."⁴⁵

For those who wish to see unions run democratically—with real internal debate, contested elections, and recognition of political differences among members—the current situation cries out for reform.

ally insufficient to overcome First Amendment objections."⁴⁵

Therefore, even where unions are, broadly speaking, reflective and responsive to the preferences of their members, there is a compelling public-interest case

for greater openness about union officer elections. Indeed, unions owe the public a level of democratic transparency that they themselves demand from other institutions in American society. This is especially the case when unions comprise public servants charged with carrying out the will of the people. Three major areas for reform stand out:

1. Require unions to publicize electoral procedures and report election returns.

Today, there are no requirements that labor unions disclose information about their leadership elections—or other proposals that unions or their boards vote upon.⁴⁶ (This stands in sharp contrast with the extensive and increasing disclosure requirements for corporate governance.) If internal union democracy is an important register of workers' preferences, members need to be better equipped to evaluate the internal politics of their organizations. In that respect, unions should be required to record

and publicize their electoral procedures and the membership turnout to vote. Only then can members and the concerned public evaluate the quality and effectiveness of the union's commitment to democratic governance.

Such a judgment can be based only on information that unions now can (and often do) obscure: whether union elections have a high, or low, turnout; whether election results are close, or whether they end in landslides; whether turnout is robust, respectable, or anemic; and whether voters represent the membership as a whole, or are skewed toward older workers, or other particular categories of workers. In the case of public-sector unions, transparent and fair elections are a good way to show that members of such unions are not paying for what are, at bottom, political activities that they do not support; along with the right that public sector unions enjoy to collect agency fees from non-members (as well as to have those fees and member dues deducted directly from workers' paychecks), there should come a duty of greater reporting requirements about the operation of the unions democratic procedures.

The Landrum-Griffin Act should be updated to require that private sector unions report election and referendum results. States, which govern public sector unions, should adopt more standardized election requirements modeled on Landrum-Griffin and augment those requirements with reporting on all election results. Once adopted, public sector unions should then be required to report, to state labor oversight bodies (such as New York's Public Employee Relations Board), vote totals for individual officer candidates and overall member turnout—thereby ensuring a publicly available record of the percentage of active members (and retirees, where permitted) who voted in a given leadership election.

2. Adopt online voting systems.

The guidelines for using electronic voting systems in officer elections for private-sector unions are currently under consideration at the U.S. Department of Labor.⁴⁷ Using online voting systems might in-

crease turnout. It will decrease barriers to voting, as union members would no longer have to travel to the union hall to vote or mail their ballots via post. Online voting would also greatly increase the efficiency of election record keeping, smoothing the dissemination of results. Whatever guidelines the federal government adopts, states and localities should adopt such online systems, too.

3. Stop requiring union members to pay for advocacy that they do not support.

Another reform that would make unions more democratic is an end to the ability of these organizations to ignore differences in the views of their members. As mentioned, public-sector union members often report themselves satisfied with their local's bread-and-butter activities but less supportive of the state and federal union's political moves. Current laws effectively require that supporting the local financially also entails supporting the higher-level units.

As noted, this status quo may soon be upended by the U.S. Supreme Court. Nevertheless, states and cities should adopt measures requiring unions to more regularly and formally seek guidance from their members on the basic positions of their terms and conditions of employment (wages, benefits, and work rules). Publicly reported referenda—or surveys of public-employee union members—on these important questions will reduce the degree to which union leaders can push for things that all members do not support in collective bargaining proceedings.

CONCLUSION

Unions today—especially public-sector unions—have a significant impact on political decisions about taxes, spending, and government priorities. In exercising their powers, those unions should represent their members—not in the rough-and-ready way of a “boss” but in the way that leaders of democracies operate. Unions that do not work this way are participating in democratic institutions while not practicing democracy themselves. For anyone who cares about self-government, this state of affairs should be a spur to change.

ENDNOTES

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- ² See <http://nyceducator.com/2013/07/retirees-should-not-vote-in-uft.html>. The UFT is almost unique in allowing retired union members to vote. However, the total percentage of retirees allowed to vote is capped. See <http://ny.chalkbeat.org/2013/04/29/in-uft-presidential-election-retirees-cast-more-than-half-of-votes>; and <http://ny.chalkbeat.org/2013/03/12/in-retirees-uft-leadership-finds-loyal-and-unusual-support>.
- ³ Richard Steier, *Enough Blame to Go Around: The Labor Pains of New York City's Public Employee Unions* (Albany: State University of New York Press, 2014), p. xvii.
- ⁴ See <http://www.aflcio.org/About/Exec-Council/Conventions/2013/Resolutions-and-Amendments/Resolution-3-Exercising-Our-Civic-Rights-to-Rebuild-Our-Democracy-Expand-Workers-Rights-and-Strengthen-Workers-Organizations>.
- ⁵ See <http://www.afscme.org/news/publications/newsletters/works/september-2006/bold-action-big-change-the-power-to-win-plan>.
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- ¹⁰ See <http://www.bls.gov/news.release/pdf/union2.pdf>.
- ¹¹ See http://www.bls.gov/news.release/archives/union2_01222010.pdf.
- ¹² "Union Members—2009," news release, Bureau of Labor Statistics, January 22, 2010.
- ¹³ These changes have also altered the demographic profile of the workers that unions represent, with women, minorities, and college-degree holders far more prevalent.
- ¹⁴ See <http://www.dol.gov/compliance/topics/unions-elections.htm>. The LMRDA likewise does not displace state laws governing unions' relations with their members, except to the extent that those state laws would conflict with federal law.
- ¹⁵ See <http://www.perb.ny.gov/stat.asp>.
- ¹⁶ Sara Gamm, "The Election Base of National Union Executive Boards," *Industrial and Labor Relations Review* 32, no. 3 (1979); Stephen J. Frenkel and Alice Coolican, *Unions Against Capitalism?: Sociological Comparison of the Australian Building and Metal Workers' Union* (New York: HarperCollins, 1985); Margaret Mevi, David Olson, Jon Agnone, and Devin Kelly, "Union Democracy Reexamined," *Politics & Society* 37:2 (June 2009), 203-228. For compliance issues, see the Department of Labor's Office of Labor-Management Standards.
- ¹⁷ The most overtly symbolic person is usually the union president, and a key sign is how often that office changes hands. Also important is the range of deputies and secretaries positioned at the top of the union, as well as the degree of turnover for such offices. As a general matter, however, there is usually little turnover at the top, and union presidents tend to serve long terms. See David Edelstein and Malcolm Warner, *Comparative Union Democracy: Organization and Opposition in British and American Unions* (New York: Wiley, 1976).
- ¹⁸ Paul Jarley, Jack Fiorito, and John T. Delany, "National Union Governance: An Empirically Grounded Systems Approach," *Journal of Labor Research* 21, no. 2 (spring 2000); Levi et al., "Union Democracy Reexamined"; George Strauss, "Union Democracy," in *The State of the Unions*, ed. George Strauss, Daniel G. Gallagher, and Jack Fiorito (Madison, Wisc.: Industrial Relations Research Association, 1991), pp. 201-36; and Judith Stepan-Norris and Maurice Zeitlin, "Insurgency, Radicalism, and Democracy in America's Unions," *Social Forces*, 75:1-32 (1996).

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- ³³ See <http://www.foxnews.com/us/2012/07/14/teacher-union-bigs-rake-in-dough-despite-budget-cuts-across-education-sector>.
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- ³⁵ Lehman, "Union Members' Attitudes Toward Their Unions' Performance," p. 3.
- ³⁶ Richard Steier, "Delusions of Entitlement," *The Chief*, May 14, 1999.
- ³⁷ See Carol D. Leonnig, "Bullock Brazenly Recounts Embezzling," *Washington Post*, June 17, 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/16/AR2005061601538.html>. Or consider that after heading the Miami teachers' union for 40 years, Pat Tornillo was found to have embezzled \$650,000 between 1998 and 2001 to pay for lavish vacations, gifts, meals, and other consumer goods. This, too, was during a period when his union owed the national AFT \$2 million and owed another \$2 million to various banks. See Anita Kumar, "Was Lavish Life Built on Backs of Teachers?," *St. Petersburg Times*, June 7, 2003, http://www.sptimes.com/2003/06/07/State/Was_lavish_life_built.shtml.
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⁴² *Harris v. Quinn* 11-681, January 2014; and Lyle Denniston, *Argument Recap: Public Employee Unionism Under Fire*, SCOTUSblog (January 21, 2014), <http://www.scotusblog.com/2014/01/argument-recap-public-employee-unionism-under-fire>. See also <http://www.cato.org/publications/legal-briefs/harris-v-quinn>.

⁴³ See http://www.oyez.org/cases/2010-2019/2013/2013_11_681.

⁴⁴ The argument against the claim that public-sector collective bargaining is inherently political and violates freedom of speech is, as the Supreme Court put it in *Garcetti v. Ceballos* (2006): “When a citizen enters government service, the citizen by necessity must accept certain limitations on his or her freedom.” Therefore, “the government as employer indeed has far broader powers than does the government as sovereign.” The Court’s construction of First Amendment rights involving public employees is distinct from its construction of such rights for citizens in their confrontation with government. In short, public employees generally lack free-speech protections when that speech is related to the government programs they administer. See also *Picking v. U.S. Board of Education* (1968) and *Engquist v. Oregon Department of Agriculture* (2008).

⁴⁵ *Knox v. SEIU Local 1000*, 567 U.S. (2012).

⁴⁶ The only exception would be if there were charges of irregularity in the conduct of the election. In such a case, a private-sector union would have to provide documentation to the Department of Labor about how it managed its election processes.

⁴⁷ See Request for Information, Federal Register, vol. 76, no. 7, January 11, 2011, <http://www.dol.gov/olms/regs/compliance/RFIVoting.htm>.

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