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The Real Reason for the Decline of American Unions

By Kris Warner - Jan 23, 2013

Today, the Bureau of Labor Statistics released its annual summary of unionization in the U.S. It reports that in 2012, the union-membership rate of wage and salary workers was 11.3 percent, compared with 11.8 percent in 2011. The trend has been downward for some time: Fifty years ago, the figure was almost 30 percent.

It's conventional wisdom that the post-industrial workforce doesn't want to be unionized. But [survey data](#) show that workers' desire to join unions has been growing since the 1980s, and a majority of nonunion workers would now vote for union representation if given the opportunity. So if workers want unions, why is unionization falling?

Commentators have also blamed the decline on everything from globalization to technological advances to the hollowing-out of American manufacturing. But those factors are only part of the story.

[Canada's](#) experience offers another answer. Canada has gone through many of the same economic and social changes as the U.S. since the middle of the 20th century, yet it hasn't seen the same precipitous decline in unionization. The unionization rate in the U.S. and Canada followed fairly similar paths from 1920 to the mid-1960s, at which point they began to diverge drastically.

Differences in labor law and public policy are at the root of this disparity.

Union-Friendly

First, Canadian law is simply far more hospitable to unions. Several provinces have bans on temporary or permanent striker replacement, which don't exist in the U.S. And there is no Canadian equivalent of the "right-to-work" laws that have been enacted in [24 U.S. states](#), which prohibit unions and employers from requiring employees covered by union contracts to pay for representation.

A second distinction is the manner in which Canada enables unions to be formed. In the U.S., most private-sector workers who wish to unionize must sign authorization cards, petition the [National Labor Relations Board](#) and then vote in an election. The time between the petition and the election often stretches to months, and sometimes for longer than a year. In Canada, the process is relatively quick. Card-check authorization, which is used in almost half of Canadian provinces, allows a majority of employees to form a union at their workplace simply by signing cards stating that they would like to do so. The other provinces have a system similar to the U.S.'s, where cards are signed, a petition is submitted to

the labor board and then an election is held. In Canada, however, the election is typically required to occur within five to 10 days after the petition, which allows for far less anti-union campaigning by employers.

Similarly, there is an important difference in how the two countries deal with charges of illegal obstruction of union drives. In general, Canada handles such charges much more quickly than the U.S., where they often aren't resolved until long after a union drive is over. This helps to ensure an atmosphere free of coercion and intimidation.

Finally, Canada has a process called first-contract arbitration. This provides a means to resolve a bargaining impasse between unions and employers during initial contract negotiations after a union has been formed. The first step after either the employer or union applies to the process is mediation and conciliation. If this fails to result in a voluntarily agreed-upon contract, an arbitrator or panel will impose one. Although this process is rarely sought (and a contract even more rarely imposed), its primary benefit is to encourage the negotiation process.

In the U.S., card-check authorization, quicker handling of illegal-obstruction charges and first-contract arbitration were all incorporated into the Employee Free Choice Act, which organized labor and its advocates hoped would be passed after President [Barack Obama](#) was elected in 2008. Although Obama supported this act while campaigning, his administration has so far shown little interest in promoting it, making it all the more likely that American unions will continue their long, slow decline.

But as Canadian unions make abundantly clear, there is nothing inevitable -- nor irreversible -- about this process.

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