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Demographic Evidence: Forced Unionism Is Bad For People of All Races, Ethnicities

By Stacy Swimp

As I have already contended in a number of different forums, the monopolistic type of unionism now authorized and promoted by federal labor policy for more than three quarters of a century is detrimental to the interests of Americans of all races and ethnicities. The evidence actually suggests that black Americans, the racial group Big Labor propagandists especially like to depict as the supposed beneficiaries of monopolistic unions, suffer disproportionately severe damage.[1]

The fact that a labor-law system empowering a single union to act as the "exclusive" bargaining agent for all of the front-line employees in a business, regardless of whether they wanted to join that union or not, would turn out to have a negative impact on the black community wouldn't have surprised the vast majority of the black leaders who were around when this system was forged.

Herbert Hill, an industrial-relations professor and the labor director of the NAACP from 1951 to 1977, pointed out in his history of black workers and American laws and courts that the pro-union monopoly and pro-forced unionism National Labor Relations Act of 1935 (NLRA) was adopted despite the "intense opposition of the NAACP, the National Urban League, and other Negro interest groups."

Section 9 of the NLRA, which Hill regarded as the law's "most important feature," was taken from Section 7(a) of the National Recovery Act (NRA), rubber-stamped in the early days of the Franklin Delano Roosevelt Administration in 1933. Hill explained that Section 7(a)

> established labor unions as exclusive collective bargaining agents through a process of governmental certification by the National Labor Relations Board. Because most of the unions affiliated with the American Federation of Labor [or AFL, a precursor to today's AFL-CIO] either excluded Negro workers from membership . . . , thus preventing their employment in union-controlled jobs, or engaged in other discriminatory practices, spokesmen for the black community vigorously opposed Section 7a.[2]

W.E.B. Du Bois (pronounced *du boyz*), cofounder of the NAACP in 1909, editor of the NAACP's journal, and intellectual father of the Civil Rights Act of 1964, forthrightly laid out the basis of his opposition to any legislation or law granting special privileges to AFL union officials in a late 1933 commentary:

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[1] See, e.g., "Right to Work Works For Black Americans," Flint *Journal*, January 21, 2013 op-ed column.
[2] Herbert Hill, *Black Labor and the American Legal System*, University of Wisconsin Press, Madison, Wisc., 1977, vol. 1, pp. 101-2.

> The A.F. of L. has from the beginning of its organization stood up and lied brazenly about its attitude toward Negro labor. They have affirmed and still affirm that they wish to organize Negro labor when this is a flat and proven falsehood. They do not wish to organize Negroes. They keep Negroes out of every single organization where they can. They allow any organization under the Federation to exclude Negroes and make no protest. . . . Whenever any trade union within the A.F. of L. does receive Negro laborers, it does so against the policy of the A.F. of L. leaders, and it is encouraged to discriminate against the Negroes even if they are in the ranks of union labor.[3]

Du Bois was a socialist who harbored little sympathy toward businessmen, especially the owners and managers of large businesses. Therefore, it is especially noteworthy that he recognized that employers, regardless of their motivation, typically did far more than union officials to promote the economic advancement of black workers.

Organized Labor 'Tried to Achieve Freedom at the Expense of the Negro'

Writing a few years before the NRA and then the NLRA made the promotion of monopolistic unionism in virtually all types of businesses federal policy, but at a time when many union officials were already avidly seeking monopoly privileges, Du Bois couldn't help commending employers who, whatever their reasons, steadfastly refused to grant them:

> The white employers, North and South, literally gave the Negroes work when white men refused to work with them; when he "scabbed" for bread and butter the employers defended him against mob violence of white laborers; . . . and even when the full-fledged socialist movement came, the socialists were afraid to make a direct appeal to the Negro vote because such an appeal would have militated against their chances of attracting white labor, North and South.
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> . . . [I]nstead of taking the part of the Negro and helping him toward physical and economic freedom, the American labor movement from the beginning tried to achieve freedom at the expense of the Negro.[4]

Of course, union officials ultimately ceased excluding blacks and other minorities from membership and defending segregation in the workplace as a result of a combination of factors, not the least of which were legal sanctions and social pressure. However, the strait-jacket work rules and cookie-cutter compensation schemes which union officials wielding legal monopoly-bargaining privileges are normally able to impose on employers and employees often have the effect of hurting blacks and other minorities, even though they are not overtly discriminatory.

In 1977, for example, well after the end of the Civil Rights Era, Big Labor and its lawyers went all the way to the U.S. Supreme Court to defend union boss-negotiated seniority systems that are often discriminatory in effect as well as unconducive to advancing any legitimate business purpose. Concurring with the union brass, the high court found that "intentional discrimination must be proved before the courts would view seniority systems as discriminatory," even though such systems often hurt

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[3] "The A.F. of L.," published in *The Crisis* (the NAACP journal), December 1933, p. 292.
[4] "The Denial of Economic Justice to Negroes," *The New Leader*, February 9, 1929, pp. 43-46. Quoted by Walter Williams in "Freedom to Contract: Blacks and Labor Organizations," published in Walter Williams, Loren Smith and Wendell Gunn, *Black America and Organized Labor: A Fair Deal?* Lincoln Institute for Research and Education, Washington, D.C., 1980, p. 31.

blacks and other minorities "because they were often recently hired and were thus usually the first workers laid off during downturns." In the view of Herbert Hill, the AFL-CIO had "used the Nixon court to get the heart out of Title VII" of the 1964 Civil Rights Act.[5]

Blacks Nicknamed the Pro-Union Monopoly National Recovery Act the 'Negro Removal Act'

The opposition of 1930's black thinkers and writers who coined the sarcastic nicknames "Negro Removal Act," "Negroes Ruined Again," and "Negroes Robbed Again" for the pro-union monopoly NRA and the agency implementing it, the National Recovery Administration,[6] has been vindicated time and again since NRA Section 7a became an entrenched fixture of U.S. law as NLRA Section 9. Hill amply documented the harm inflicted on black employees by the NLRA over the course of the first four decades after it was upheld by the Supreme Court in his two-volume 1977 book *Black Labor and the American Legal System*.

Nevertheless, with the passage of time more and more black leaders became reconciled to the NLRA and monopoly unionism generally. They opted to form a coalition, as economist and syndicated columnist Walter Williams once put it, "with the very people in whose interest it is to restrict employment opportunities," especially for blacks and other minorities.[7] Williams caustically charged:

> Unfortunately, for blacks, particularly those most disadvantaged, black leadership today has formed an association with, and does the bidding of, the very people who are most responsible for narrowing the job opportunities of those whom this black leadership claims to represent.[8]

In the final analysis, who is right about the economic impact of monopolistic unionism on black and other minority employees? W.E.B. Du Bois and other black leaders of the 1930's who decried the enactment of the NRA and the NLRA? NAACP labor director Herbert Hill, who bitterly charged in 1977 that the union hierarchy had used the NLRA to gut the core of the Civil Rights Act of 1964? Or black leaders who are so closely allied with Big Labor that they rarely, if ever, say anything critical about union officials or laws that grant them special privileges?

The U.S. tradition of federalism in policymaking provides us with an extraordinarily large "field test" to answer this question. Today 24 states have on their books Right to Work laws prohibiting the termination of employees for refusal to pay union dues or fees as a condition of employment. Absent a state Right to Work law, private-sector union officials and employers are authorized and encouraged by NLRA Section 8(a)(3) to cut deals to fire employees who decline either to join or bankroll a union.

State Right to Work laws do not protect the individual employee who does not wish to join a particular union from being forced to accept that union as his or her "exclusive" representative with the employer with regard to matters of pay, benefits, and work rules. Under NLRA Section 9, monopoly

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[5] Steven Greenhouse, "Herbert Hill, a Voice Against Discrimination, Dies at 80," New York *Times*, August 21, 2004.
[6] See Ken Kersch, "Blacks and Labor – the Untold Story," *Public Interest*, Summer 2002, pagination unavailable.
[7] "Freedom to Contract: Blacks and Labor Organizations," p. 31.
[8] *Ibid*, pp. 31-2.

bargaining may legally be imposed on the more than 90% of private-sector employees and employers in all 50 states who are covered by the statute.

However, Right to Work laws do loosen substantially the control Big Labor exercises over dissenting employees by empowering such employees to cut off all financial support for the union. Therefore, relocating from a forced-unionism state to a Right to Work state may properly be regarded as "foot voting" against monopolistic unionism, while relocating from a Right to Work state to a forced-unionism state may be regarded as "foot voting" in favor of it.

Of course, any individual mover may be motivated by any number of reasons. At the same time, a large and ongoing net migration out of one jurisdiction and into another, especially of working-age people and their children, is a clear indicator that the latter jurisdiction is regarded as offering greater economic opportunities. [9] By this standard, black Americans have for decades been expressing a strong preference for Right to Work states.

From 2000 to 2011, Right to Work States' Percentage Growth in Black Population Was Nearly Triple That of Forced-Unionism States

For example, from 2000 to 2011, the black population of the U.S. increased by 13.1%, or 4.53 million. But 74.0% of the overall increase occurred in the 22 states that had Right to Work laws on the books at the time, even though slightly fewer than half of all black people in America resided in them in 2000.[10] (Since Indiana and Michigan became the 23rd and 24th Right to Work states in 2012 and early this year, respectively, they are counted as forced-unionism states in this analysis.)

In other words, from 2000 to 2011, Right to Work states' black population increased by 19.4%, nearly triple the 7.1% increase for forced-unionism states as a group. Had forced-unionism states' black population grown as fast as the national average, there would have been more than a million additional black Americans living in those states in 2011. And the 12.3 percentage point advantage in black population growth Right to Work states enjoyed over forced-unionism states from 2000 to 2011 was actually wider by two percentage points than the edge Right to Work states registered in white population growth.[11]

In an article published roughly two years ago regarding the massive out-migration from Big Labor strongholds that is behind the data seen above, New York *Times* reporter Dan Bilefsky noted that the black migrants fleeing big cities in numerous forced-unionism states and heading for the Right to Work South are largely "young and college educated."

Bilefsky quoted the Rev. Floyd Flake, a former U.S. congressman and now the pastor of a large African Methodist Episcopal church in Queens, who said he was "losing hundreds of congregants yearly

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[9] See, e.g., D'Vera Cohn, "American Mobility: Who Moves? Who Stays Put? Where's Home?" Pew Research Center, December 29, 2008.
[10] See the U.S. Commerce Department's *Statistical Abstract of the United States*, 2002 (Table 22) and the " 2011 American Community Survey 1-Year Estimates, Detailed Race," found on the website of the Commerce Department's Bureau of Economic Analysis.
[11] *Ibid*.

to [Right to Work] Florida, Georgia, North Carolina and Virginia." In the 21st Century, Flake explained, it is easier for the "African-American middle class . . . to buy their first home and raise a family" in the South than it is in Queens.[12]

Brushing aside all such evidence, some critics of my previous analyses of "foot voting" against forced unionism by black Americans have suggested that the recent migration I documented was basically a result not of economics, but of blacks in the Northeast and Midwest and along the Pacific Coast (particularly California) harboring an atavistic cultural affinity for the South.

Stating the obvious, my critics have observed that the South is where the ancestors of the vast majority of blacks across the country once lived. Of course, it is equally obvious that the conditions under which their ancestors lived in the South 50, 100, or 150 years ago were far from ideal, and not apt to be the subject of much nostalgia among black Americans today!

Moreover, Hispanic and Asian Americans have no similar historical/cultural ties to the Right to Work South, and yet the data indicate that both these minority groups are even more apt to move from forced-unionism to Right to Work states than are black Americans.

As of 2000, Census statistics show that 38.2% of the U.S. population was residing in the 21 states that then had Right to Work laws on the books, plus Oklahoma, which became a Right to Work state the following year. Over the course of 2000 to 2009, it's estimated that 38.5% of the net legal and illegal immigration to the U.S. originally settled in one of the 22 Right to Work states.[13] In other words, Right to Work states took in immigrants (who are predominantly either Hispanic or Asian) in near-exact proportion to their 2000 population share.

Hispanic and Asian Americans
Alike Show a Strong Preference
For Right to Work States

But once they settle in a U.S. state, Hispanic and Asian immigrants are evidently even more apt to make an interstate move in pursuit of economic advancement than are native-born Americans. And despite the wide educational and other cultural differences between Hispanic/Latinos and Asians, both groups show a strong preference for Right to Work states.

From 2000 to 2011, the aggregate Hispanic/Latino population in the 22 Right to Work states grew by 61.6% or 22.6 percentage points more than in forced-unionism states. <u>While just 38.6% of Hispanic/Latinos lived in a Right to Work state (including Oklahoma) as of 2000, more than half of all Hispanic/Latino population growth over the next 11 years occurred in Right to Work states</u>.[14]

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[12] "For New Life, Blacks in City Head to South," June 21, 2011.
[13] *Statistical Abstract of the United States*, 2012 (Table 15).
[14] See the U.S. Commerce Department's *Statistical Abstract of the United States*, 2002 (Table 23) and the " 2011 American Community Survey 1-Year Estimates, Demographic and Housing Estimates," found on the website of the Commerce Department's Bureau of Economic Analysis.

Since the Asian American population has historically been heavily concentrated in just two states, California and Hawaii, neither of which has a Right to Work law, Right to Work states are home to a relatively small share of Americans of Asian descent. But the migration trend towards Right to Work states is even more powerful with Asian Americans than with blacks or Hispanics.

From 2000 to 2011, Right to Work states' total Asian population grew by 75.3%, nearly double the 39.3% increase for forced-unionism states. Nearly a third of the total U.S. Asian population increase over the period occurred in Right to Work states, although they accounted for under 20% of all Asians in the country as of 2000.[15]

Does the fact that Right to Work states are superior at furnishing economic opportunities for racial and ethnic minorities mean they are bad places for the white majority? Of course not. From 2000 to 2011, the white population of Right to Work states grew by 15.7%, nearly triple the 5.4% increase for forced-unionism states. [16] It is perhaps noteworthy, however, that the percentage-point population-growth gap for whites is smaller than for blacks, Hispanics or Asians.

'Local 35 Argued That It Had Not Violated the Law Because It Discriminated Against All Races!'

In *The War on the Poor*, a fine book explaining how government policies interfering with the free market hurt impose innumerable hardships on those least able to carry the load, [17] historian Clarence Carson recalled an extraordinary inadvertent admission by union officials:

> In the early 1950's, the International Brotherhood of Electrical Workers Local 35 was hauled before the Connecticut Civil Rights Commission to answer charges that it discriminated against Negro workers. The Union denied the charge in one of the most revealing statements ever made by such an organization. As one writer summarizes the position of the Union, "Local 35 argued that it had not violated the law because it discriminated against all races!" The union attempted to defend itself against a particular charge of discrimination by proclaiming that by its nature it discriminated against workers of all races. The Commission did not entertain the generic allegation; it brushed it aside. More's the pity, for had it delved into this claim, it might have discovered something relevant to the civil rights of all men, not just the Negroes.[18]

Carson added that union bosses seeking to preserve and/or expand their monopoly privileges often do more than simply "*discriminate* [emphasis Carson's] against workers of all races . . . ; when the occasion arises, they actually subject them to harassment and violence and, if they meet resistance, engage them in combat."

Like many other critiques of compulsory unionism, Chapter 5 of *The War on the Poor* focused on Big Labor's exercise of coercion of various kinds to prevent willing employees from working for less

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[15] See Footnote 10.
[16] *Ibid*.
[17] Arlington House, New Rochelle, N.Y., 1969. See esp. p. 117.
[18] The "writer" quoted by Carson was Ray Marshall (later U.S. labor secretary), in *The Negro Worker*, Random House, New York, N.Y., 1967, p. 75.

than union scale. As the National Institute for Labor Relations Research has previously pointed out, union bosses also often fight ferociously employer efforts to reward with pay that is above union scale employees who are especially hard-working or talented or have skills that are in short supply.[19]

The compulsory-unionism system thus effectively reduces economic opportunities for employees of all skill levels and all amounts of work experience. It is only common sense that this system, regardless of its original intent, would also turn out eventually to be an "equal-opportunity destroyer" for employees of all races and ethnicities.

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Nothing here is to be construed as an attempt to aid or hinder the passage of any bill before Congress or any state legislature.

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[19] See, e.g., "Union Monopoly Bargaining Harms Millions of American Workers," a fact sheet published December 24, 2011.