

the national lawyers guild

# NEWSLETTER of the Labor & Employment Committee

<http://www.nlg-laboremploy-comm.org>



April 2014

**JOIN US** *at the*



**Tuesday, April 22nd**  
**Committee Meeting**

*At the offices of Altshuler Berzon*  
177 Post Street, Suite 300  
San Francisco  
**3:00 p.m.**

**Tuesday, April 22nd**  
**Post-Party Formation**

*Join us for the After Party*  
*(after the LCC reception)*  
at the home of Fran Schreiber  
353 Vallejo Street  
San Francisco  
**9:00 p.m.**

**Thursday, April 24th**  
**NLG L&EC breakfast**  
**at the LCC**

*Alt Organizing—New Ideas, New*  
*Strategies, New Challenges*  
Golden Gate 1 Room  
See page 10 for more on  
our speakers  
**6:50 a.m.** (yes in the morning)

## **Food Fight—A report from the field on the fight against sweatshop conditions in the food industry**

BY URSULA LEVELT

On October 31, the Labor and Employment Committee organized a forum on lawyering and organizing in the fast food showdown, together with the Labor and Employment Law Society at New York Law School. Yes, it was the eve of Halloween but this did not keep about fifty lawyers, legal workers, and law students from listening to some real-life horror stories about the fast food industry.

First in focus was the current avalanche of short fast food strikes, supported by the SEIU and New York Communities for Change. We heard from Kendall Fells, President of the Fast Food Workers Union, about the amazing growth from a walk out by 127 workers in NYC last November to actions in 62 cities this past August.

But the fast food workers are not the only workers who are stepping out of the shadows. Earlier the Starbucks baristas fought a long battle, supported by the NLRB. Burt Pearlstone, Board Attorney NLRB Region 2, related how their actions gave rise to a possible revision of the *Atlantic Steel* doctrine, which sets limits on when protected activity under the NLRA crosses the line and becomes unprotected (for example, because a worker curses during a confrontation with management in front of customers—a favorite tactic of the new crop of worker activists).

Another victory was recently won by Domino's Pizza delivery workers. Together with NMASS (Nat'l Mobilization Against Sweatshop Labor), these workers decided not to organize shop by shop but to target the largest franchisee in the NY area, David Melton of DPNY. We may think of franchisees as small Mom & Pop stores but this one was big bucks. Nevertheless, this did not stop DPNY from filing for bankruptcy when a wage & hours lawsuit brought by the Legal Aid Society on behalf of the workers put them under pressure.

The franchise relationship turned out to be one of two major themes in current low-wage worker struggles. Large brands try to hide behind franchises to circumvent the responsibilities that come with being an employer. But, as Gwynne Wilcox from Levy Ratner, who represents the fast food workers, pointed out, workers will not succeed in raising their wages to \$15 per hour by targeting the franchises only. Such a raise needs to come from the brand name corporation where most of the profits made on the backs of workers go. (The same strategy is manifest in the recent massive litigation filed against McDonalds).

This is not so hard to do because franchisors tend to be control freaks when it comes to brand standards and often poke their noses

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## Food Fight *(continued)*

in staffing matters. For example, in the Domino's case, data on delivery times collected by the brand were used to prove hours worked in the wage & hour lawsuit. Domino's also had access to all payroll records of its franchisees to make sure they were getting all royalties: as a result it could not claim that it did not know that workers were underpaid. Under the broad FLSA definition of employer, this is sufficient to bring the franchisor into the lawsuit because it permitted the workers to work under these conditions. At this point, Domino's put DPNY under pressure to settle the lawsuit, reported Ricky Blum and Hollis Pfitsch of the Legal Aid Society who brought the suit. The NLRB also broke new ground on joint employer theories recently in the *Massey Energy* decision. Establishing the brand as a joint employer creates a handy defense against any secondary boycott allegations, another scourge of traditional union organizing.

And if the franchise subterfuge does not work, there is always bankruptcy law to shed your liabilities, the other theme. David Melton in Domino's did not succeed with this ploy because the brand became involved but, according to David Tieu of NMASS, another of their targets, Pactiv, used this tactic successfully after workers filed for unionization. As harsh as recent bankruptcy reform has been on individuals, bankruptcy is still a godsend for corporations, which are persons under bankruptcy law just as under the First Amendment. A corporation just dissolves itself in the bankruptcy process and the principals can start a new corporation, fresh like the snow. Wish a real flesh-and-blood person could do that! Not even on Halloween.



*From left to right: David Tieu, Ricky Blum (in costume), Ruth Milkman, Kendall Fells, Burt Pearlstone, and Gwynne Wilcox (Hollis Pfitsch had left).*

As Ruth Milkman of the Murphy Institute pointed out, the Fast Food struggle is a good example of the new synergy that may come to pass by bringing together traditional unions and alt-labor, non-traditional organizing by workers' centers and community organizations. Is this going to be a true Halloween specter for employers?

**Note:** The Domino's settlement was approved by the judge on November 14. Now we are all waiting for, in lead attorney Ricky Blum's words, the "Domino effect."

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*Ursula Levelt has been counsel for TWU Local 100 for many years. She is starting a new career as a free lance labor lawyer/educator on or about May 1 this year.*

## The Legal Services NYC Strike: Neoliberalism, Austerity & Resistance

TYLER KASPEREK SOMES

In the summer of 2013, the Legal Services Staff Association (LSSA) launched a six-week strike to conclude a protracted round of contract negotiations with their employer, Legal Services NYC (LSNYC). The strike effectively shut down LSNYC, the nation's largest provider of civil legal services to low-income individuals.

On May 1, 2013 the LSSA's bargaining team rose from their seats, collected their belongings and descended 31 stories to the street in Times Square without a deal. They would be back soon enough, but not to negotiate.

In a town with three-quarters of a million union members, every single one of New York City's 153 municipal labor contracts stood expired as they left the building. Most union members had been without a raise since at least 2009, even as the cost of living increased every year.

This is the story of a small movement, but one bursting with ambition. The 240 members of LSSA represent a mere drop in the bucket of the local labor union membership. Yet, they were able to build a campaign of rank and file mobilization that defeated concessionary demands and secured new workplace protections, even in the presence of anticipated budget deficits and wage freezes across the city.

In many ways, the progressive movement is approaching a crossroads. In the last several decades the country's economic elites have succeeded in consolidating their control over the political process and weakening working class institutions under a banner of neoliberalism. Only by contributing to campaigns to build power relative to corporate actors will progressive groups be effective in advancing structural solutions to the problem of poverty. The LSSA's success demonstrates how this can be done.

The strike at Legal Services NYC shows that the people working in these agencies are already capable of successful movement-building. It suggests an alternative approach to civil legal services, one where representation is only the beginning of a relationship that leads into issue-based community organizing and strategic campaigning for progressive reform.

### Austerity and Authority

After several decades of political dominance, the neoliberal movement has largely succeeded at transforming the American political system to protect and advance the interests of wealthy individuals and corporations. This project has paid off: the wealthiest one percent of Americans now controls about 34 percent of the nation's wealth, up from a low of about 20 percent in the late 1970s.

The consequences of this transformation are not limited to economic and political indicators. According to political scientist Wendy Brown, a neoliberal rationale now permeates mainstream discourses on every facet of American society, from education to familial relations to the justice system. Building on Foucault's concept of "governmentality," Brown argues that these discourses mold neoliberal subjects who apply entrepreneurial values as a determinative factor even in spaces traditionally separate from the logic of capitalism.

In the 2013 contract negotiations at Legal Services NYC, management presented dramatic deficit projections as the reason for demanding concessions from union negotiators on wages, retirement contributions and healthcare coverage. Among other cutbacks, these changes would have interrupted physical therapy and mental health treatments midstream for a number of union members. They would have removed fertility procedures as an affordable treatment option; imposing a heteronormative condition on gay, lesbian, transgender and gender non-conforming couples which had not existed previously.



As in all unionized workplaces, the employer faced an obligation to bargain for these demands, rather than impose them unilaterally. The workers had time to investigate management's financial projections and fight back against concessions. Over the course of bargaining, union negotiators neutralized the economic rationale for management's preferred form of concessions, exposing the authoritarian impulse that constitutes a critical, if sublimated, part of neoliberal rationality.

Management's demands were predicated on a "fiscal crisis" resulting from the reallocation of LSC appropriations away from New York City. Although poverty is increasing throughout the United States, it is increasing fastest in the Southwest, which will receive a larger proportion of LSC funding in the coming years. As a result, LSNYC management projected revenue losses of \$5 million over two years, out of a \$46 million annual budget. This was exacerbated by the "sequester" cuts, which took an additional five percent from the annual LSC appropriation.

The union's negotiating team immediately contested these projections. They pointed out that even using management's estimates, LSNYC could expect a working capital surplus of nearly \$7 million at the end of 2014. Based on this, they pivoted to a two-year contract, which would expire in June 2014 (one year would be retroactive), when management anticipated \$10.75 million in working capital reserves. This would provide an opportunity to delay cost-cutting measures to see whether the budget forecast would improve, as the union argued that it would.

In the final hours before the strike vote, the two main issues separating the union and management concerned questions of

authority rather than finances. On healthcare, the union agreed to approximately the same financial savings as management's proposal, but proposed to structure the cost burden in a way that would protect people undergoing expensive procedures. On job security, the union demanded that the ratio of managers to bargaining unit staff would not increase in the event of significant layoffs. On neither issue was the board of directors willing to concede to avoid a strike, despite the largely non-economic nature of the two principle disagreements.

During the contract negotiations, the LSSA bargaining team met with LSNYC management in the Times Square office of Seyfarth Shaw, an infamous union-busting law firm retained by LSNYC to advise them on the bargaining process. Marshall Babson, a partner at the firm, provided this advice, drawing on his experience as a Reagan appointee to the National Labor Relations Board and a board member of the U.S. Chamber of Commerce's public policy law firm. By contracting with Mr. Babson, the Board of Directors signaled its readiness to use aggressive anti-union tactics typically employed only by for-profit corporations.

Fortunately for the union membership, rank and file activists initiated a campaign of education, mobilization and escalation several months before the strike. Early in the bargaining process, members designed eye-catching posters that enumerated the extent of management's demands for givebacks, explained the funding situation, and illustrated the class divide between the board and the employees. On citywide days of action, all union members displayed these posters in their offices, an early test of their ability to conduct collective action.

Over the winter, activists from different neighborhood offices convened the Activism Committee. The Committee charted a course of escalating actions that would peak in the spring ahead of a possible strike vote. In response to "bargaining updates" disseminated by management, the Activism Committee improvised an "e-mail action" whereby members sent a short message to executive leadership at the exact same time, effectively flooding their inboxes. Small actions such as this helped build a culture of resistance, in which people felt increasingly comfortable in their ability to confront authority and to express their perspective on the negotiations.

Street demonstrations were also a crucial part of the pre-strike mobilization. The union organized a traditional rally outside a board meeting, a cacerolazo inside a board meeting, a day of lunchtime pickets and even a one-day strike. Each protest built on the previous one by escalating the level of subversion of the normal workplaces roles and routines required to participate. They also benefited from the participation of community allies, such as workers at MFY Legal Services and the Rude Mechanical Orchestra. In the end, every single union member participated in the one-day strike, the product of targeted one-on-one conversations between co-workers.

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## **LSNYC Strike** *(continued)*

By capturing each of these actions on camera, the union produced an impressive amount of independent media. The union was able to build an audience and solidarity network in advance of the strike by promoting these actions on Facebook and Twitter. This created a feedback loop, where members could share the actions with each other, friends, family members and community allies. LSSA also registered a new domain name and built the website [www.savelegalservices.com](http://www.savelegalservices.com), a visually appealing landing page for all strike related materials. All of this occurred largely outside the official infrastructure of the parent union, the United Auto Workers, and the local union, the National Organization of Legal Service Workers Local 2320. While union staff was accommodating and encouraging, they did not assign any full time organizers or communicators to the contract campaign. As the strike deadline approached, however, the union lent increasing support in bargaining and political outreach. This may be a helpful refrain for rank and file activists looking for support from their union staff in the future: build the campaign and they will come.

On May 1, as May Day demonstrations continued throughout Manhattan, the two bargaining teams met in the glass-walled office space of Seyfarth Shaw. The membership assigned this date as the bargaining deadline in an intentional acknowledgment of the history of working class struggle in which they shared. Management's lead negotiator obliquely referred to it as "Law Day." Two weeks later, the union voted to strike by an overwhelming 88 percent.

The decision to shift citywide protests to the Milbank office reflected an understanding of the power dynamics at play within Legal Services NYC's management. Full-time middle managers had much in common with the union members (although disproportionately white and attorneys) and held little formal influence over the bargaining process. Some members of the executive leadership sat on management's bargaining team, but similarly held little formal authority vis-à-vis the board of directors.

By observing board meetings, the union learned that the vast majority of board members were disengaged from their responsibilities and likely to defer to a small group of decision makers. Thus, the union developed a "corporate campaign" that attempted to engage absent board members and disincentivize the decision makers from prolonging the strike. By identifying areas of personal liability for the board members behind management's position and gradually escalating along those lines, the union was able to significantly increase the pressure for a settlement, much more so than they would have been able to with simple picketing outside the neighborhood offices.

On May 30, the *New York Law Journal* ran a front-page article covering the protests outside of Milbank, Tweed, Hadley and McCloy, the corporate law firm where the chairman of the Legal Services board of directors, Joseph Genova, is one of the equity partners, undoubtedly embarrassing the firm. While

marching outside the Milbank offices, union members talked to as many of Mr. Genova's co-workers as possible, knowing that word would filter up. The Research Committee pulled the e-mail addresses of Milbank's New York partners and sent them updates on the strike, prompting Mr. Genova to write an office-wide defense of his conduct, which subsequently leaked out of the firm. Finally, the union identified the recurring corporate clients of Milbank Tweed. The Research Committee collected the contact information of attorneys in their General Counsel's office and sent letters asking them to question Milbank about the strike. The Milbank partners in charge of those relationships were copied in on these communications, creating additional pressure within the firm on Mr. Genova.

At the height of the strike, the board of directors retaliated against the union by terminating the strikers' healthcare without sending individual notices to the employees. Decades-long employees were denied regular medications at pharmacies, sending at least one member across the picket line in a desperate attempt to regain coverage. In one instance, a member's spouse was denied a chemotherapy treatment in the midst of a hospital visit. In comprehensive research following the strike, the union was not able to identify any recent labor dispute in which management adopted this tactic; even Verizon mailed individual notices to employees providing two weeks notice of warning when it terminated healthcare benefits during the 2011 Communication Workers of America strike.

Although the board of directors held formal decision-making authority with respect to negotiations, the various organizations that provide funding to Legal Services NYC could offer significant leverage by threatening to withhold that money. The City Council budget approval process provided the most immediate opportunity to do this, so the union members began regular lobbying on the steps of City Hall. These efforts culminated in a rally at City Hall entitled "Community Voices: Save Legal Services," which featured testimony from clients, partner organizations and politicians about the importance of high-quality civil legal services in their neighborhoods. Over half a dozen City Council members attended the rally as management watched from the lawn.

With a standing threat to transfer City Council funding to another provider, daily rallies outside key board members' offices and residences, an expanding list of Milbank clients receiving information about the strike, and a barrage of independent and traditional media coverage, management finally relented. From their pre-strike position, management dropped demands for reduced retirement contributions, increases to healthcare deductibles, increases to healthcare coinsurance and cutbacks across a variety of specific provisions of the healthcare plan. The union secured zero layoffs through the term of the contract and strict ratios in layoffs between management and bargaining unit positions in the event of significant layoffs.

## Conclusion: Beyond services

Civil legal services providers are potentially very well positioned to build power with progressive social movements, as the community members who approach them for representation could also receive political education and integration into campaigns of collective action. Who would be better positioned to organize homeowners against foreclosure practices, for example, than the legal services attorneys and housing counselors to whom they turn for assistance by the thousands?

Most CLS providers have abandoned the goal of organizing for power and are instead focused on resolving as many individual cases as possible, perhaps with an occasional attempt at “impact litigation.” This approach has come under sustained criticism for providing only survival-level services to a fraction of the populations in need, enabling the long term diminution of social services, reproducing oppressive social relationships, siphoning potentially radical challenges into reformist initiatives and failing to challenge the structural systems that perpetuate poverty. For Ruth Gilmore Wilson and others, these service providers comprise a “non-profit industrial complex” that addresses expectations of professional progressives more than the needs of their clients.

For providers accepting Legal Services Corporation funding, the restrictions placed on their activities present statutory roadblocks to a “services + movement” model. Ultimately, only repealing the prohibitions on community organizing and other activities will enable them to fully join the progressive movement. They can begin building a movement culture by taking small steps, such as referring clients with closed cases to strategic organizing campaigns in relevant practice areas. In the short term, the prospect of moving beyond services is much clearer for CLS providers who do not accept LSC funding, which is the majority of providers in New York City and in many metro areas.

The boards of directors of these non-profit agencies are an obvious starting point for building better anti-poverty programs. Proactively recruiting board members who share a critical analysis of capitalism and come from diverse professional backgrounds would be a positive first step. Genuinely incorporating former clients into decision-making roles in ways that move beyond tokenism would increase accountability to the communities that these organizations serve. While corporate lawyers are often favored for their presumed ability to bring in donations, individuals with experience in grassroots fundraising may also be effective in building a long-term donor base which builds ties to communities, rather than corporations.

In order for any organization to participate in an emancipatory movement for social justice, it must question

and address internal systems of oppression. Prior to the strike, Legal Services NYC hosted four sessions of two-day anti-racism trainings, which were mandatory for all employees. The sessions opened a dialogue about racism within the organization and the organization’s role in supporting structural racism in society at-large. By supporting anti-racist (and, more broadly, anti-oppression) education on an ongoing basis and beginning to incorporate these practices into their operations, legal services providers can begin confronting the dilemmas mentioned above.

Finally, legal services providers should embrace the roles of unions within their organizations, as the goals of the two types of institutions are broadly overlapping. As just one example, the success of organized labor’s efforts to elect liberal Democrats is in the direct self-interest of legal services groups, since only progressive politicians will be willing to increase their funding in an era of austerity. There is considerable

potential between these groups for strategic partnerships in campaigns to build political, economic and legal power to advance the interests of poor and working people.

At other times, unions will come into conflict with program management, an inevitable result of workplace democracy, but one that the leadership of legal services agencies should embrace as a valuable second opinion and check on their authority. In the case of Legal

Services NYC, the union showed that the leadership was dramatically out of step with the majority of employees. Indeed, the funding shortfall proved nowhere as calamitous as predicted and the organization will likely be able to avoid many of the concessions demanded by management before the strike. As a result, Legal Services NYC will preserve a comprehensive benefits package that will allow talented staff members to build career-level expertise advocating for low-income New Yorkers.

Moving beyond services will take time, but there are plenty of encouraging signals even in the narrow history recounted here. Campaigning and movement building are solidly rooted in the experiences of MFY Legal Services and many other agencies, showing that the potential for political empowerment shared between clients and advocates is not an unrealistic proposition. Moreover, the people employed by these agencies already have the skills to build campaigns that challenge corporate behavior and change public policy, as the strike unmistakably demonstrated.

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*Tyler Kasperk Somes is an organizer with the Service Employees International Union in New York City. He previously worked as a paralegal in the Homeowner Defense Project at Legal Services NYC and served on the union’s bargaining team during the strike described in this article. This is an extract from a longer and more analytical article being published in the NATIONAL LAWYERS GUILD REVIEW this spring.*



# Workers, Communities, and the Clean Energy Economy: Working Together For a Future that Works

BY DEAN HUBBARD

**T**he need to create an economy based on clean energy has never been more urgent, as the demands of the fossil fuel economy does more damage to the directly impacted communities, the workers in those industries and the planet's health. We need to work together to ensure a fair and just transition to a clean, renewable energy economy in which all people have access to good jobs on a healthy planet. To get there, we need to immediately engage workers and communities, especially those affected by fossil fuel transitions, in developing and implementing a bold vision and strategy that decisively addresses the causes of the exploitation and abuse of our planet and its people.

## **Why we must act now: Climate disruption destroys jobs and harms workers**

We are pouring greenhouse gases into the atmosphere at a rate that is causing an unprecedented and potentially devastating threat to life on this planet. Scientists agree that we must drastically reduce fossil fuel emissions and transition to a clean, renewable energy economy immediately, in order to prevent the effects of climate disruption on the planet and human life from becoming irreversible, with crop failures, water shortages, sea-level rises, species extinctions and increased disease. If we fail to act boldly now, hundreds of millions of workers around the world will suffer permanent job losses as a result of damage to infrastructure for water, energy, transportation and public health, as well as important economic sectors such as manufacturing, agriculture, and tourism. A landmark 2007 study on the economics of climate disruption, known as the Stern Review, concluded that global warming, if left unchecked, would lead to a massive economic downturn comparable to the combined effects of the two world wars and the Great Depression of the 20th century.

While climate disruption is a long-term phenomenon, with short-term variations in temperature, in the United States we have recently suffered through consecutive years of record heat, devastating hurricanes and forest fires, which scientists agree have been made much worse by the climate crisis. Among other workers who already may have been victimized by extreme weather exacerbated by human-caused climate disruption, nineteen firefighters lost their lives fighting a wildfire near Prescott, Arizona in the summer of 2013. When it comes to the future of the planet, we all have "skin in the game."

As AFL-CIO President Richard Trumka recently said, "we have to act to cut those emissions, and act now." Indeed, the world's working people, acting through the International

Trade Union Confederation, have unanimously adopted a resolution calling for a fair, ambitious and binding international climate change agreement and just transition policy aimed at reducing greenhouse gases and dependence on fossil fuels while improving people's living standards. The ITUC expressed "strong support" for precisely the dramatic emissions reductions called for by the world's scientists. The carbon pollution standards that President Obama's EPA is proposing for new and existing power plants are an essential step in this direction.

## **We must protect workers and communities in the transition**

However, as we respond to the profound opportunities and challenges presented by the clean energy transition, we must simultaneously protect miners, power plant workers and others who are already being affected by the transition, as well as the communities that depend on those industries. For example, federal data show that employment among U.S. coal miners fell by 19% in the first quarter of 2013 compared to the end of 2012, with job losses accelerating nationwide.

Collective hesitation to act rapidly and decisively to ramp up the clean energy economy means workers are hurting in the short run, especially in already economically distressed parts of the country such as Appalachia.

This hesitance to act is creating "stranded workers and communities" who could lose everything and recover little to nothing in the transition if we do not act promptly. Sadly, this is not the first time that changes in the market and technology have caused tragic upheavals for our country's working families. For example, our economy has yet to recover from the blow of the large-scale deindustrialization and offshoring of our country's unionized manufacturing sector that began in the late

1970s. On the other hand, it was also during the late 20th century that the federal government marshaled the will and resources to help tobacco farmers in the south and timber workers in the Northwest through transitions of their own. Surely we can take care of the workers and communities in Appalachia and elsewhere who have powered our country for the past century.

We must get it right this time, for the sake of all of our futures. It is no consolation to families and communities that have lost their sole means of livelihood to say we created some new jobs making solar panels in China, or even in the next state over. If we resign ourselves to structural economic changes running roughshod over people, we all will lose.



## **A vision for change scaled to the magnitude of the crisis**

To prevent irreparable disruption to our climate and human civilization, we must make the transition to a clean energy economy, and we must do it quickly. This is a very tall order, but the transition is already well under way. Economic forces, activism and competition from clean energy are all nudging economies around the globe away from fossil fuels, including coal, oil and natural gas, and towards renewable sources of energy such as wind, solar and geothermal. Utilities, such as Xcel in Colorado, are ramping up solar and wind because it is cost-competitive not only with coal and oil but with natural gas. The U.S. will burn 943 million tons of coal this year, with levels declining to what was used in 1993. And China, which burns as much coal as the rest of the world combined, is taking steps to slow its coal consumption — what some analysts have “the beginning of the end of coal.” New higher efficiency light duty and soon to come heavy duty vehicle standards are reducing oil consumption.

Regardless of the causes of the transition, we can only do it fairly and justly if we make a profound change, beginning right now, from a global economy dominated by those who defy any consideration of the public good, towards a more sustainable economic future based upon fairer, more equitable, healthier societies. Clean energy is a great place to begin, as renewable energy and energy efficiency investments create far more jobs per dollar spent than fossil fuels, including natural gas. Specifically, a clean-energy investment agenda generates more than three times the number of jobs within the United States as does spending the same amount of money within the fossil fuel sectors.

The clean energy sector is growing at a rate of 8.3 percent, nearly double the growth rate of the overall economy. Solar thermal energy expanded by 18.4 percent annually from 2003 to 2010, and solar photovoltaic power grew by 10.7 percent over the same period. Meanwhile, the U.S. wind energy industry saw 35 percent average annual growth over the past five years, according to the 2010 U.S. Wind Industry Annual Market Report.

A study performed by the Brookings Institution and Battelle found that as long ago as 2010, 2.7 million people were directly employed in the “clean economy,” already more than the 2.4 million employed in the fossil fuel industry. These numbers will only increase as the clean energy economy grows.

Median wages are 13 percent higher in green energy careers than the economy on average. As an added benefit, nearly half of these jobs employ workers with a less than a four-year college degree, which accounts for a full 70 percent of our workforce.

Thus, if done properly, the clean energy retooling of our economy will lead to a massive expansion of good jobs,

providing one of the biggest opportunities for growth of the labor movement over the next generation.

## **Affected communities should lead in developing solutions**

In the meantime, however, people in front line communities, including workers in fossil fuel industries, are hurting. We must seek and accept leadership from those communities in developing a transition to local clean energy economies that work for everybody. Ultimately, to save people and the planet, we must build a global movement with the power to generate policies and funding for the millions of “climate jobs” that will help us make the transition to a low carbon economy. This provides a historic growth opportunity for the labor movement. New jobs in solar manufacturing and installation, offshore and onshore wind power, railroad and pipeline repair,



public transit, bridge construction and repair, energy conservation and efficiency, upgrading the grid, and developing alternative fuels and energy sources, among others, will save the economy and help us mitigate climate disruption by reducing greenhouse gas emissions. But, in order for it to be fair and just, organized workers and so-called front line communities must both lead and benefit from this transition.

In some cases, jobs in mining and coal-fired power plant operations are virtually the only revenue source for entire counties. The challenge of implementing this ambitious and vital vision is made more profound by the destructive tactics of an anti-union, climate science denying faction, well funded by the fossil fuel industry. Workers’ rights have been eroded, manufacturing has been moved offshore, U.S. union density is at an historic low, the middle class is shrinking, and the gap between the wealthiest and the rest of us continues to widen.

However, these interconnected challenges are precisely what call us to press for bold action. We must lengthen our vision and ramp up our expectations, not only because decisive action is needed to end climate disruption and build a clean energy economy with good jobs for all, but because it is often darkest before the dawn.

To take just two examples, the greatest policy achievements of the 20th century, the Great Society and the New Deal, which transformed our society in the direction of racial and economic equality respectively, arose from great social crises in which the proponents of change faced fierce and often violent resistance from intransigent proponents of the institutionalized status quo. The Flint sit-down strikers and the marchers across the Edmund Pettis Bridge did not turn away in the face of the magnitude of the challenge. Who are we to ignore the sacrifices of those who came before us? Who are we to fail our children and grandchildren because we are

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# Workers *(continued)*

challenged by the tactics of today's well-funded, anti-union climate science deniers? Yes, this is a big lift, but as a country, we've become stronger by solving seemingly insurmountable crises when we faced them unflinchingly and acted boldly and wisely.

## **Our shared responsibility to develop solutions**

The impacts of the transition are the products of policy choices. The people affected by transitions are in the best position to identify solutions that work. Thus, the process of involving affected workers and community members in developing solutions is key—policies that have been developed without the active participation of those affected are simply not likely to work.

Many unions, even those with members in the fossil fuel industries, have courageously joined the fight to save humanity from irreversible climate disruption, reflecting the highest and best traditions of trade union solidarity. Others, however, have rebuffed all outreach efforts, joining in the denial of climate science, or advocating projects that are destructive to the climate and the survival of civilization despite being aware of the validity of the science.

Ultimately, the problem of how to make a fair and just transition to a clean energy economy that works for working people is one we all share. We all have a core responsibility for both mitigating climate disruption and creating healthy communities without causing needless suffering and hardship.

The scale and complexity of the challenge means there is no single simple silver bullet solution. Carbon and other greenhouse gases have astronomic social and economic costs, in the trillions of dollars, but these costs are far outweighed by the benefits of climate mitigation.

Mitigating the cost of climate disruption must include providing for the continued economic health of workers and communities formerly engaged in the production of energy via fossil fuels. The questions of who pays and who benefits and how are difficult, to say the least, but the reality of climate science tells us the days of denial and delay are over. We must answer these questions now.

In short, we need a wide-ranging and diverse policy menu: We need bold federal action. We need state and local governments to step up. We need global cooperation and community organizing. We need corporations to treat their workers and the environment with greater respect. We need coordinated strategic action across the broad majority represented by the labor, environmental, consumer, racial and gender justice movements. And we need financing mechanisms.

We understand, however, that those solutions can only be developed through a process in which union-represented workers, through their unions, as well as members of affected communities, are genuine participants. This process stalled

after the failure of comprehensive climate legislation in 2009. Since then, the IPCC has amplified the imminent nature of the climate crisis, structural changes away from a fossil fuel driven energy economy have gained momentum, and the Administration is pursuing an ambitious climate mitigation agenda. It is therefore time to begin again to make a concerted effort to work for a just transition to a clean energy economy.

## **Fair and just transition: Working together, getting it right**

Coal plant retirements can be structured in ways that take care of affected workers and the local economy. For example, in Washington State, environmentalists worked with unions and communities to ensure that a multi-million dollar transition plan for the workers was included in the plans to retire the Centralia coal plant. The Sierra Club also worked with the Moapa Band of Paiutes in Nevada to build the largest tribal solar plant in the nation, with union allies for the City of Los Angeles to buy power from that plant, and with both allies supported a bill that would close the Reid Gardner coal plant and build at least 350 MW of new renewable energy. Through the Los Angeles Alliance for a New Economy (LAANE), we joined forces with local community members and the IBEW to build RePower LA, a program in which low income residents lower their neighbors' utility bills and receive a living wage as they make businesses and homes buildings more energy efficient, train for jobs with the local utility, and get on a path to union membership. We know what it looks like when workers and communities are part of the plan.

A "fair and just transition" means that the affected workers, their unions, and the communities they support are equal partners in a managed transition, not pawns in a corporate profit-making scheme they learn about after the fact. It means that impacted workers receive job security and livelihood guarantees as part of the transition. It means that every level of government and business is directly engaged in an all-out effort to maximize investments in economic development, provide workforce training, and create lasting, good jobs that strengthen the economy and sustain working families. A just transition means the corporations responsible for harmful pollution are accountable for cleaning it up so that communities are left with usable land and clean water. It means environmental groups and unions don't let themselves be divided by our common opponents, and continue to work together through national partnerships like the Blue Green Alliance and local and regional partnerships like the Los Angeles Alliance for a New Economy and the Blue Green Waterfront Coalition of Whatcom County (Washington). Ultimately, in order for our movements to transform the global economy in the direction of genuine democracy and sustainability, we must articulate and carry out a bold shared vision and strategy for a future that works for all.

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*Dean Hubbard is the Sierra Club's Labor Director. This article was taken from the Sierra Club's position statement "Workers, Communities, and the Clean Energy Economy: Working Together for a Future that Works."*

# Cuba Report

“To be human is something more than to be awkwardly alive: it’s to understand a mission, to ennoble it and complete it. . . People go into two camps: those who love and build, and those who hate and destroy.” —José Martí

In March 2014, one of the smallest L&E Cuba research delegations became one of the most honored, as three veterans of the exchanges (Joan Hill, Dean Hubbard and Mark Schneider) were formally recognized by the Cuban trade union movement’s central body (CTC) for “your solidarity with the people and the trade union movement, your valiant support over more than 15 years in combating media policies against Cuba, and in divulging the reality of Cuban workers and unions.”



The small but seasoned group of labor lawyers, spurred by curiosity about all aspects of the ongoing economic reforms and increase in non-state employment in non-strategic sectors such as tourism and gastronomy, brought the work of the delegation to a new level. These changes, which are spurring dynamic growth in everything from the taxi system to the quality of the “paladares” (non-state restaurants), have been accompanied by a spirited national debate, led by the trade union movement, on the rights of workers in the growing non-state sector. Only those who had been on the trip previously, and for many years, could truly appreciate the scope of the changes happening in the name of economic reforms.

Staying in Havana, the group began its research by meeting with Cuban lawyers and learning about their daily life and the practice of law representing workers and trade unions. Meetings with the General Secretary of the CTC, labor court judges, representatives of the progressive organization Cenexex (the Center for Sex Education, which advocates gender and sexual identity and orientation equality), as well as the obligatory visit to an organic urban agricultural coop (where we enjoyed arguably the best meal of the trip) kept the group on the constant go.

The two-day international conference on the defense of labor rights brought together around 300 lawyers from South, Central and North America, as well as Europe. Members of the U.S. delegation presented papers on labor and climate justice, the future of card-check/neutrality, just cause, and the rights of unions organizing in the South—highlighting the recent election at Volkswagen in Chattanooga, Tennessee. The other international delegates were as keenly interested as we were in debating and discussing the meaning of the ongoing economic reforms in Cuba. The international conference continues to be sponsored by the American Association of Jurists (AAJ) and the Latin American Association of Labor Lawyers (ALAL), with the endorsement of the Labor Law Society of the National Union of Jurists of Cuba (UNJC), the NLG L&E Committee, and the CTC. The conference, which was co-founded by the NLG L&E and the UNJC seven years ago, has grown to become a major international event.

The L&E delegation will continue its study of the realities of workers in Cuba next year. Contact Dean Hubbard at deanhub@gmail.com, or Joan Hill, at johill@usw.org to get on the list for 2015. A copy of the full 2014 Report will be posted to the L&E Committee’s website, <http://www.nlg-laboremploy-comm.org/>.



# ALT ORGANIZING

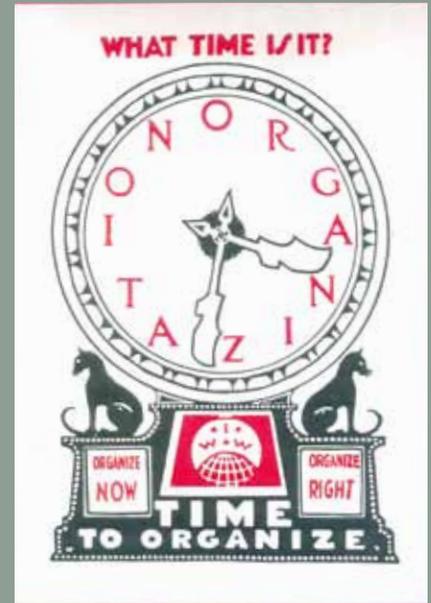
## NEW IDEAS, NEW STRATEGIES, NEW CHALLENGES

Organizing has always been hard work and organizing workers in the the 21st Century workplace has not gotten any easier. A new generation of organizers is rising to the challenge by taking lessons learned by movements as diverse as the immigrants rights movement and Occupy to develop new strategies for building power.

Join us for breakfast with two activists who have been at the forefront of these campaigns:

Saru Jayaraman, the Co-Founder and Co-Director of the Restaurant Opportunities Centers United (ROC-United), and Chloe Osmer, currently a Senior Organizer with the AFL-CIO and formerly the Acting Director for the CLEAN Carwash Campaign.

Bring your ideas and questions for what should be a stimulating discussion of the future of our movement.



**THURSDAY APRIL 24 - 6:50 A.M.** (yes, a.m.)

### **Breakfast & panel discussion**

**SF Hilton Union Square, 333 O'Farrell St., Golden Gate 1 Room**

**Please RSVP to [fschreiberg@kazanlaw.com](mailto:fschreiberg@kazanlaw.com)**

Come to our table at the convention for more info or visit: [nlg-laboremploy-comm.org/LEC\\_Events\\_at\\_AFL-CIO.php](http://nlg-laboremploy-comm.org/LEC_Events_at_AFL-CIO.php)

**Presented by the NLG Labor & Employment Committee**



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