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Despite Surge in Organizing, Union Membership Rates Dropped in 2022

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The American labor movement is experiencing a reawakening. Across a breadth of employers and sectors—from Starbucks¹ to Amazon,² the New York Times³ to the University of California⁴—workers are standing up for a voice on the job, better working conditions, and improved pay and benefits. Despite the surge⁵ in union organizing activity in 2022, union membership unfortunately decreased last year to 10.1 percent, down from 10.3 percent in 2021, according to this week’s U.S. Bureau of Labor Statistics report.⁶ The share of workers represented by a union and covered by a union contract also decreased from 11.6 percent in 2021 to 11.3 percent in 2022. The inability of workers to translate union organizing campaigns into union representation is a direct result of our broken and outdated labor laws — laws that favor employers while curtailing workers’ rights.

A Surge in Union Activity

Worker organizing activity increased for the third year in a row in 2022. According to a CLASP analysis, union certification petitions filed with the National Labor Relations Board (NLRB) increased by 48 percent over 2021 filings. Unfair labor practice (ULP) charges, asserting violations of the National Labor Relations Act (NLRA), increased 19.8 percent for the same period.

Union Certification Petitions Filed with the NLRB, 2020-2022

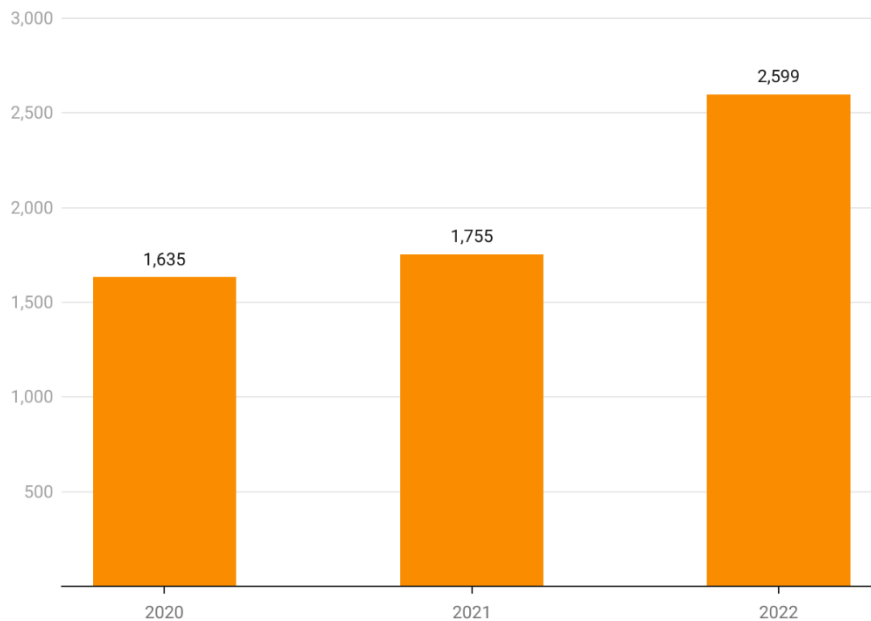
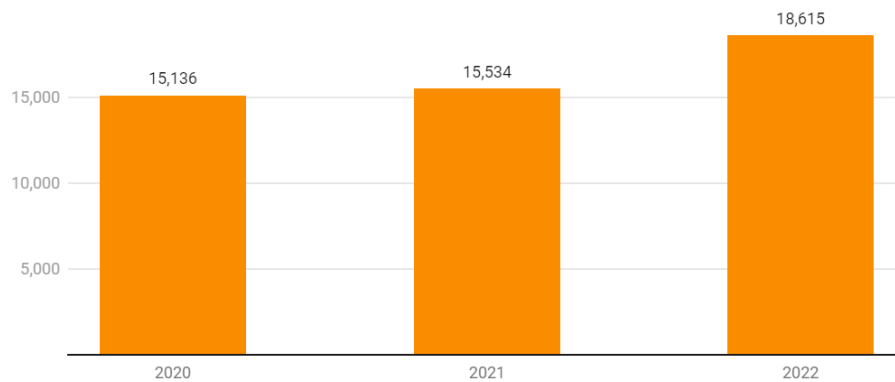


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Unfair Labor Practice Charges Filed with the NLRB, 2020-2022



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The number of strikes called by union members also increased in 2022, with Cornell's Industrial Labor Relations School tracking 406 strikes in 626 locations, a 50.4 percent increase over 2021 numbers.⁷ In addition to formal strikes, Cornell tracked 500 labor protests in 591 locations in 2022 where workers took collective action to express a grievance or enforce a demand.

Worker Rights in Peril

Unionbusting During Organizing Drives

When workers take the brave steps to organize a union and file for a representation election with the NLRB, employers can act with near impunity to discourage unionization under our current labor law. During union organizing drives 57 percent of employers threaten workers with closing their worksite, 47 percent threaten to cut wages and benefits, and 34 percent fire workers in retaliation for union activity.⁸ Holding to this pattern, Starbucks reportedly closed 16 stores in 2022 as a form of retaliation for organizing activity and was found guilty of firing seven Memphis employees who were actively organizing a union.^{9,10}

It can take months, or even years, to hold companies accountable for their illegal anti-union tactics. Even when companies are found guilty of violating the law the penalties are nominal, historically limited to paying back the wages a worker would have made had they not been fired, minus any wages they earned at other jobs after their illegal termination. In a December 2022 win for workers' rights, the NLRB ruled that employer penalties and fees for violating labor law can now include all financial harms inflicted, including the loss of housing, health care, and child care, as well as financial hits like credit card late fees.¹¹ While an important step in making employees whole after suffering at the hands of their employer, much steeper penalties are needed to actually deter employers from violating the law.

Delaying Contract Negotiations

Organizing a union is a perilous task, where workers face employer intimidation, harassment, and possible termination – but it is only the first step to winning workplace improvements. The next – and often more harrowing – battle is to win a first contract. For those workers who manage to win their union election, 52 percent will fail to settle a contract with their employer in the first year, and 37 percent will still not have a contract within two years of winning a union election.¹² The latest wave of union activity has borne out these statistics: of the more than 250 Starbucks stores that have won union elections, none have secured a first contract.¹³ Starbucks, and their legal representatives, have been so egregious in their delay tactics that in November 2022, the NLRB found Starbucks in violation of the law for refusing to bargain with union representatives in Seattle, ordering the company back to the bargaining table.¹⁴

Undermining the Right to Strike

Workers' right to strike, one of the most fundamental pillars of labor union power and an essential tool in encouraging companies to negotiate, is currently under threat by an activist Supreme Court. This month, the Supreme Court heard oral arguments in the case of *Glacier Northwest Inc. v International Brotherhood of Teamsters*. The cement company, Glacier Northwest Inc., sued the Teamsters union for damages inflicted when cement drivers went on strike in 2017 to protest contract negotiation delays. Although the union reported that drivers were careful in returning the trucks and leaving engines running so as not to damage company equipment, Glacier argues that this was not sufficient to protect it from financial damages. The company has appealed the Washington Supreme Court ruling in favor of the union and is now asking the U.S. Supreme Court to upend 60 years of legal precedent that protected unions from lawsuits when exercising their right to strike.¹⁵ A ruling against the union will have ripple effects throughout the labor

movement, kneecapping a fundamental union right, discouraging strike activity, and weakening workers’ ability to secure contracts and hold companies accountable.

Unions Are a Critical Tool to Realize Racial, Gender & Economic Justice

Despite the difficulties in organizing unions and winning contracts, workers have been undeterred, and the general public’s opinion of unions is steadily increasing. Gallup’s annual poll on the issue found that 71 percent of the public supports labor unions– a high not seen since 1965.

Workers’ view of unions as a solution to workplace problems, including the pervasive issues of stagnating wages and meager benefits, bears out in the data. Nonunion workers had median weekly earnings that were just 84.6 percent of the earnings for workers who were union members (\$1,216 versus \$1,029). In 2022, union members in the private sector were 27 percent more likely to have access to health care benefits, 26 percent more likely to have access to retirement plans, and 11 percent more likely to have paid sick days.¹⁶

Union representation and the ability to collectively bargain with employers is a critical tool in addressing racial and gender justice.¹⁷ Black workers continue to have a higher union membership rate (11.6 percent) than white workers (10 percent), Latinx workers (8.8 percent), and Asian workers (8.3 percent), a trend that has held constant for the past 40 years, since the federal government started capturing such data. Indeed, the decline in union membership has disproportionately harmed Black workers, who have lost the greatest percentage of union density when compared to other demographics.

Union Membership by Race, 2022

Union Affiliation by Race, 2022

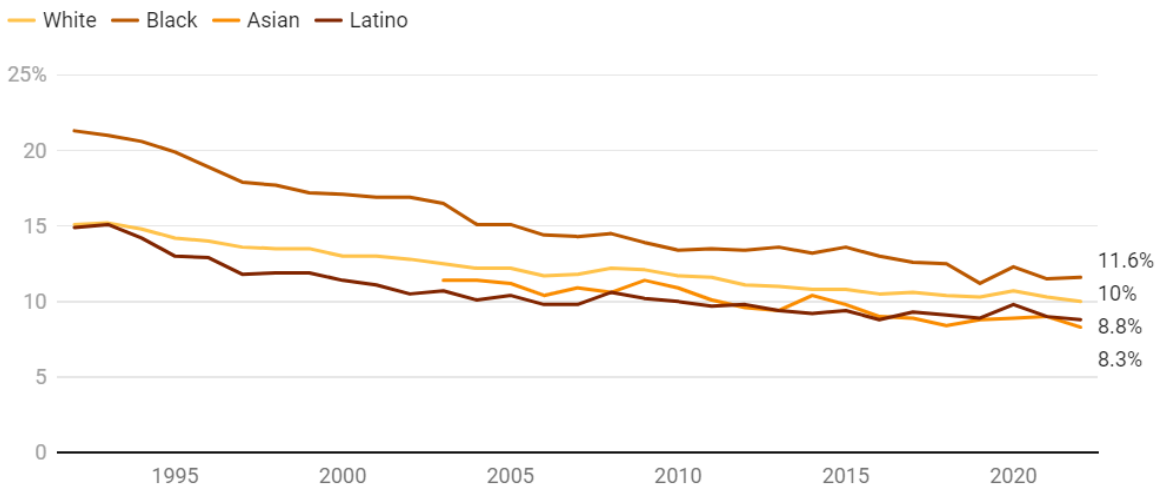


Chart: Center for Law and Social Policy analysis • Source: Bureau of Labor Statistics, 2022. Union Membership Annual Survey. Table 1. • Get the data • Created with Datawrapper



Unions play a direct role in reducing racial and gender wage disparities by establishing baseline wages and structures for pay increases. Moreover, Black, Latinx, and women union members experience significant wage premiums with union membership. In median weekly earnings, Black union members earn 16.9 percent more than their nonunion counterparts, women union members earn 18.6 percent more, and Latinx workers earn 25.8 percent more.

Median Weekly Earnings of Full-time Workers by Union Affiliation, 2022

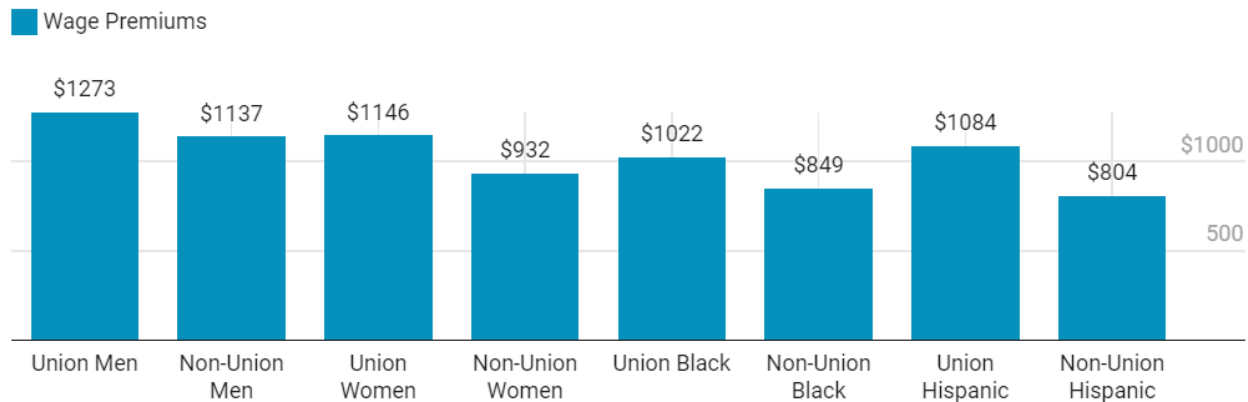


Chart: Center for Law and Social Policy Analysis • Source: Bureau of Labor Statistics, Union Membership Survey 2022, Table 2. • [Get the data](#) • Created with [Datawrapper](#)

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Advances Made at the NLRB, But More Is Needed to Protect Workers

Under the leadership of NLRB General Counsel Jennifer Abruzzo, a Biden appointee, the Board has made strides in strengthening workers' rights and holding employers who violate labor law accountable. In addition to the ruling sought by Abruzzo to increase penalties for employers who violate labor law, Abruzzo issued a memorandum in April 2022 to all NLRB field offices announcing her request that the Board find captive audience meetings – mandatory meetings held by employers to dissuade, and often threaten and intimidate, employees from forming a union – a violation of the National Labor Relations Act.¹⁸

General Counsel Abruzzo has also set her sights on reinstating the *Joy Silk* doctrine for union recognition. *Joy Silk*, abandoned in 1969, requires employers to recognize unions without the time-consuming process of a secret ballot election, which employers have successfully manipulated to their advantage to delay and pressure workers into voting against union representation. Under *Joy Silk*, workers would simply need to express their interest in the union by signing a confidential union card. This is a much simpler process that

reduces the likelihood that workers will face an employer-led antiunion campaign or employer retaliation tactics.¹⁹

In addition to advances made at the NLRB, Congress took a minor step to support workers last year in the omnibus bill by increasing the NLRB budget for the first time since 2014. While the much-needed funding increase will likely avert a crisis at the Board by halting planned furloughs, further investments are needed to meet the current surge in labor organizing activity.²⁰ Workers need the NLRB to ensure elections and labor law violations are handled in a timely manner. In addition, they need a proactive Board that prioritizes strategic education, enforcement, and outreach measures to industries that face a high amount of labor violations paired with a low level of reporting those violations.²¹ A fully funded and proactive Board is essential to protecting workers’ rights and reducing labor law violations.

Reversing the Trend

While the Biden Administration and the current NLRB have made minor advances, only Congressional action can fix the foundational issues with our broken labor laws. Congress must pass the Protecting the Right to Organize (PRO) Act to ensure workers can organize free from fear and intimidation and to hold employers accountable for their violations of labor law.²² The PRO Act includes much-needed measures like increased penalties for NLRA violations, immediate reinstatement of workers who have been fired for union activity, and timelines for contract negotiating that would prevent employers from delaying workers reaching a contract agreement.

Union Membership and Wealth Inequality in 2022

Union membership and Share of Net Worth Held by the Top 1 Percent of Earners

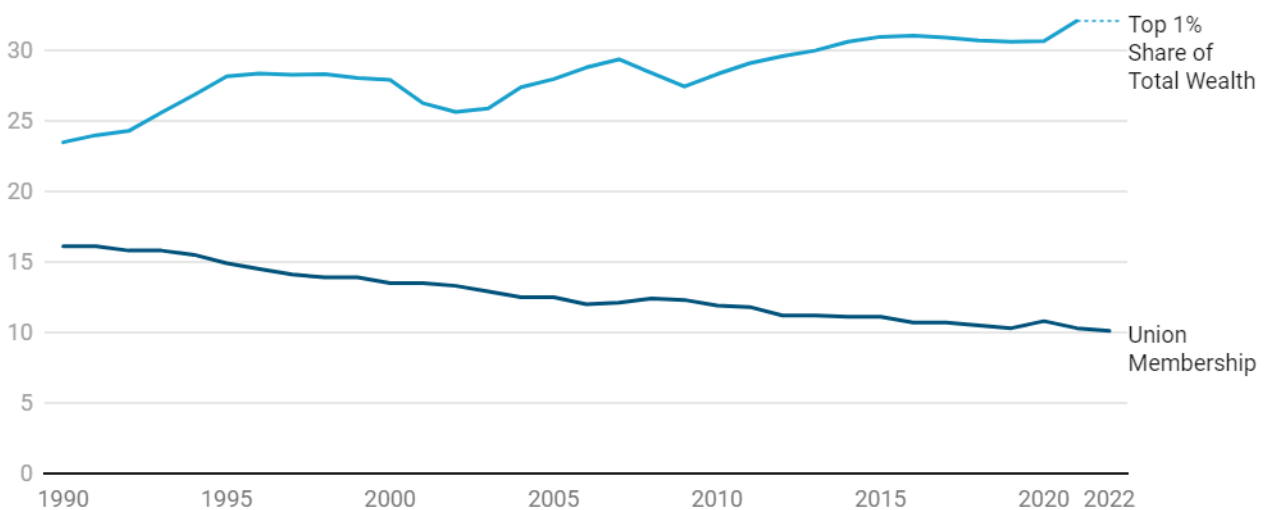


Chart: Center for Law and Social Policy analysis • Source: Board of Governors of the Federal Reserve System, Distributional Financial Accounts 1990-2022. Bureau of Labor Statistics, Union Membership Survey 2022. • Get the data • Created with Datawrapper



Declining union membership in the face of surging worker organizing only underscores the need for systemic, meaningful changes to our labor law to address this broken system. The decline of union membership increases economic, racial, and gender inequality; weakens workers' ability to improve their working conditions; and ultimately undermines our democracy. Workers are doing their best to push for change, but this downward trend will continue without a shift in the law. Congress must act by passing the PRO Act.

Endnotes

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