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New challenges, new alliances: union politicization in a post-NAFTA era

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The ascendancy of neoliberalism, anti-state ideologies, and increased corporate power has taken its toll on labor movements around the globe. Today, the proportion of unionized workers in Organization for Economic Co-operation and Development countries is half what it was in the 1970s. I argue that unions are dealing with the crises presented by neoliberal economic integration by entering new political coalitions and nontraditional advocacy areas – particularly relating to immigration, environment, and trade – in an effort to increase their relevance, influence, and allies. I examine how the North American Free Trade Agreement helped politicize unions to move beyond traditional workplace-centered struggles and engage in broader and more diverse political struggles linked at the domestic and the transnational level. Union positions vis-à-vis immigrants have shifted dramatically from supporting draconian legislation to leading a broad-based movement for immigrants' rights. Key unions joined with environmental organizations to advocate for environmental and worker protections through a green economy and green jobs; unions continue their fair trade advocacy, fighting the Tran-Pacific Partnership and the Trans-Atlantic Free Trade Agreements and investor–state enforcement mechanisms. In an interesting and important twist, unions' foray into these new arenas in part results directly from the privatization of governance practices, which has undermined democratic processes across the continent.

Keywords: international trade; transnational labor movements; North America; alliance-building

Introduction

The first of January 2015 marked the twenty-first anniversary of the implementation of the most contested transnational public policy in North American history, the North American Free Trade Agreement (NAFTA). Two decades after its passage, NAFTA, the manifestation of regional neoliberal integration, continues to be a lightning rod of controversy and contention across the continent. NGOs and think-tanks mark its anniversaries with reports (e.g. *NAFTA at 20*),¹ and activists still take to the streets to protest its effects. On 1 January 2008, when all tariffs on corn and beans were finally eliminated under the trade deal, protesters marched on both sides of the U.S.–Mexican border.

Although scholars have devoted a significant amount of attention to NAFTA's economic effects, its political effects are arguably even more critical to understanding the impact of

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regional economic policies around the world. And yet scholars have devoted less attention to examining the larger political dimensions of NAFTA's negotiation and implementation for labor movements and labor unions across the continent. This article examines how NAFTA helped politicize unions to move beyond traditional workplace-centered struggles to engage in broader and more diverse political struggles linked at the domestic and the transnational level. I argue that unions are dealing with the crises presented by neoliberal economic integration by entering new political coalitions and nontraditional advocacy areas in an effort to increase their relevance, influence, and allies. In an interesting and important twist, unions' foray into these new arenas is in part a direct result of the privatization of governance practices, which has undermined democratic processes across the continent.

Here, I discuss three nontraditional areas around which North American unions are building new alliances: trade, environment, and immigrant rights. Although individual unions historically engaged in struggles in these areas, I argue that the post-NAFTA engagement is qualitatively different in scale and scope: it includes multiple unions working in broad coalitions on long-term goals through institutionalized relationships with their allies. Together with a plethora of civil society organizations, unions have continued their fair trade advocacy into the post-NAFTA era, fighting the Trans-Pacific Partnership Agreement (TPP) and the Trans-Atlantic Free Trade Agreement (TAFTA),² as well as investor-to-state dispute settlement (ISDS) and World Trade Organization (WTO) loan conditions. Key unions institutionalized their NAFTA-era relationships with environmental organizations by forming the BlueGreen Alliance in 2006 to advocate for protection of the environment and workers through a green economy and green jobs. And North American unions have dramatically shifted to the left on immigration and are leading a broad-based movement for immigrants' rights with a diverse array of religious, student, and immigrant rights organizations. In an unprecedented move, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) even considered offering membership to the members of environmental, immigrant, and civil rights organizations.

These nascent political coalitions have borne some fruit, as evidenced by their ability to thwart new free trade agreements [Free Trade Agreement of the Americas (FTAA)], mobilize large numbers of activists (1999 Seattle WTO protests), and resist some anti-democratic governance policies [ISDS mechanisms in the Multilateral Agreement on Investment (MAI)]. Unions' foray into alliance building across these new advocacy areas also highlights the linkages between mobilization and politicization at local and transnational levels. Analyzing how labor activists bridge this divide provides an opportunity to theorize the relationship between national and transnational arenas or fields. Historically, North American unions' inability to deal effectively with immigration and environmental protection has been a major obstacle to labor transnationalism. However, their advocacy on these issues and their continued struggles against free trade could provide fertile ground for transnational collaboration and cooperation with unions and other civil society organizations engaged in similar struggles across the globe.

What did activists accomplish?

The ascendancy of neoliberalism and anti-state ideologies, the increase in corporate power, and the global financial crisis have taken their toll on labor movements around the globe. Today, the proportion of unionized workers in member countries of the Organization for Economic Co-operation and Development (OECD) is half what it was in the 1970s. In North

America, NAFTA was the vehicle that turned neoliberal trends into enshrined policy across the continent, shifting the balance of power between corporate interests and workers even further. NAFTA's introduction shocked the political landscape; labor activists, frequently criticized for being reactive rather than proactive, were quick to recognize and respond to NAFTA's threat. Canadian labor unions sounded the initial alarm, rallying their U.S. and Mexican counterparts to try to kill the trade agreement. As I have discussed in previous analyses,³ the broad-based coalitions in which unions participated were unprecedented – they included environmental, health, consumers', farmers', religious, women's, indigenous, and human rights organizations, among many others. Together, activists created a fair trade movement that engaged simultaneously in outsider grassroots organizing and insider political advocacy.

In November 1993, when NAFTA passed by a small margin, labor and other activists that opposed it were devastated. The vote was close, and up until the final hour they had expected to win. Those I interviewed found no silver lining in the loss and could point to little that they had concretely accomplished. Many pundits and scholars shared this view. Beginning in 1994, a steady stream of scholarship emerged, highlighting the failures of NAFTA and its labor and environmental side agreements, the continued assault on labor rights, and the ever-diminishing power of workers across the continent.⁴ I generally agree with these assessments; as I have emphasized repeatedly,⁵ NAFTA's side agreements are relatively weak, have led to few victories for workers' rights, and have generally not improved the conditions of workers across the North American continent. Indeed, on NAFTA's twenty-first anniversary, workers across the continent are arguably facing one of the worst political and economic crises of the last century.⁶

I want to emphasize, however, that I view as divisive and unproductive the dichotomous way – as either wholly positive or wholly negative – that labor scholars assess the outcomes of various forms of international labor rights mechanisms (labor rights protections in free trade agreements, social clauses in global governance institutions, codes of conduct, and global framework agreements). Our collective work shows that these mechanisms generally lack teeth and have translated into few organizing victories and few improvements of workers' living and working conditions; skepticism is warranted.⁷ Our work also illuminates, however, how transnational mechanisms can, under certain circumstances, provide new opportunities for transnational relationship and movement building,⁸ organizing and mobilization,⁹ and alliance building across issue areas.¹⁰ Dividing ourselves into glass half full and glass half empty camps is counterproductive to our collective goal of understanding union politics and success in an era of globalization. As Jamie K. McCallum persuasively argues in his attempt to redirect the polarized labor transnationalism debate, "Struggles such as these remind us that victory is not as simple as winning; it is about building the power to fight in the first place."¹¹

Shifting to a dual measure of success as "power-over" and "power-to"

I suggest, therefore, that we adopt a multifaceted measure of success that incorporates an assessment of both "power-over" and "power-to." These ideas emerge from Bernard Loomer's articulation of two kinds of power: unilateral versus relational.¹² As Marshall Ganz explains, the former reflects a claims-making strategy that "requires creating the power to alter relations of dependency and domination."¹³ The latter reflects a collaborative strategy "to generate more power to achieve common interests by creating

more interdependency among the actors who share those interests.”¹⁴ Power-to includes the ability to politicize and reframe issues (e.g., the link between trade and environmental protections); this can build larger constituencies across organizations and movements, increasing the likelihood that activists can eventually change social facts and achieve power-over. Shifting to a dual measure of success furthers labor transnationalism scholarship in three ways. First, it allows us to understand and evaluate how different types of power are utilized in different stages of a labor struggle (periods of development, peak, and decline as articulated by social movement scholars). Building and deploying different kinds of power may be more effective at different moments of struggle.

Second, a dual measure of success illuminates the relationship between achieving goals (i.e., winning) and utilizing particular strategies at key moments that build common interests and interdependencies. Understanding both kinds of power is critical because they often operate interdependently. As Ganz explains, early union efforts to build power-to included providing services that benefited the community:

One key to successful organizing is understanding that generating the power to successfully challenge ‘power over’ may require creating lots of ‘power to’ first. Many unions, for example, began with death benefit societies, sickness funds, and credit unions. On the other hand, many efforts that begin generating ‘power-to’ wind up challenging ‘power over’ as the conflicts of interest that were not apparent begin to surface. The strongest opposition to a recent effort to create a community credit union in New York came from some actors no one had considered – the loan sharks and their political allies.¹⁵

Power-to can develop during a labor struggle even when a campaign is ultimately lost and power-over not achieved. Labor activists built power-to during the NAFTA negotiations but did not achieve power-over when they lost their struggle and the agreement passed. However, they subsequently redeployed their transnational networks to successfully achieve power-over to defeat the FTAA and the MAI. Analyzing the ability of unions to build common interests and identities (power-to) is particularly important transnationally where developing them can be more challenging than at the national level.

And finally, a more nuanced measure of success allows us to more accurately assess the real impact of transnational labor movements, particularly when they do not achieve material improvements or protections for workers, or even their stated goals.

In the case of NAFTA, activists did not win, and the side agreements by any objective measure were not a success if evaluated *solely* in terms of unions advancing their agenda against all odds and providing adjudicative mechanisms with teeth (success as power-over). However, North American unions did accomplish much if measured in terms of politicizing trade, expanding and reframing the trade debate, building a coalition that spanned issue areas, and forming transnational relationships (success as power-to).

Amidst the fervent and justified reaction to NAFTA’s shortcomings, how activists built power to fight during its negotiation is usually missed or ignored. This omission is problematic both historically and intellectually. The current historiography does not adequately trace the origins of (long-term organized) labor–environmental cooperation and the BlueGreen Alliance to NAFTA’s negotiation. Nor does it locate the shift in unions’ immigration policies, at least in part, in unions’ response to NAFTA – the effects on labor activists of working in progressive transnational anti-NAFTA coalitions that spurned racism and anti-immigrant rhetoric.¹⁶ From a scholarly perspective, activists’ ability to build power-to during NAFTA’s negotiation reveals the linkages between

processes of politicization and mobilization at the local and the transnational level. These linkages are not well understood, and are under-analyzed and under-theorized. The NAFTA case illuminates these connections in very concrete ways.

Activists changed the free trade debate

What, then, did labor and other fair trade activists accomplish during their almost four-year struggle against NAFTA? They completely changed the terms and stakes of the free trade debate, first in North America and then across the globe. NAFTA's negotiation was about big macro-level changes in culture, both political culture and a more general shift in how North Americans viewed trade. Trade went from being an esoteric technical issue with little political resonance before NAFTA, to being, as many activists I interviewed argued, "dinner table conversation" during NAFTA's negotiation and beyond. This cultural shift resulted largely from the new framing that activists explicitly pushed in response to NAFTA's potential extra-economic effects – linking all kinds of rights issues (labor, environmental, human rights, indigenous rights, and so on) to trade.

Activists' new framing emerged directly from their recognition in the mid-1980s that trade policy was beginning to blur distinctions between domestic and international policy issues. Economic integration through the Canadian–U.S. Free Trade Agreement and the Mexican maquiladora program encouraged manufacturing plant movement to the areas with the lowest labor costs and least regulation on the continent.¹⁷ In addition, General Agreement on Tariff and Trade rounds oriented toward decreasing nontariff trade barriers made domestic regulatory laws in each of the three countries vulnerable to the scrutiny of trade lawyers and dispute mechanisms. Activists realized that the inability of nation states to completely regulate industries and markets meant that regional and global integration would have economic *and* social consequences. Thus, North American trade would affect not only jobs and working conditions, but also the environment, consumer goods and services, health and safety, and human rights.¹⁸ NAFTA, then, ushered in a new kind of trade policy debate that linked economic and social rights, and national and international arenas; domestic issues now had an international component.¹⁹

The expansion of the trade arena to include health, safety, consumer, and environmental standards laid the groundwork for a whole new group of actors to define their interests as entwined with the international trade system. Although the fair trade movement did not always function as a single coherent entity, and its members did not always view strategic and tactical goals identically, they united to build power to fight for a trade system that would support domestic efforts to promote labor and environmental and social welfare broadly defined, and encourage economic integration to the highest level of regulatory protection.

Activists constructed new transnational strategies

The new trade debate required new strategies and a new kind of struggle. At the level of macro-political culture, NAFTA changed how labor activists and key civil society organizations strategized and organized. It provided a huge incentive for them to find common ground, work together, and begin to frame their issues in relationship with one another. They constructed a fair trade movement that included organizations with seemingly opposing interests, particularly labor unions and environmental organizations

whose interests did not always coincide historically. Rather than mobilizing as independent national movements, they organized as a trinational fair trade coalition. Labor leaders realized that it would be difficult to combat the forces of global capital as individual and isolated labor unions. The struggle against NAFTA was therefore a collaborative, uniquely North American one. Prior to NAFTA, North American unions saw their struggles as isolated and particular to their own nations, but NAFTA's negotiation and subsequent passage created new transnational arenas that helped them to see their interests and futures as inextricably linked.

This shift to the transnational was unprecedented, particularly for North American labor unions. Although many of the largest unions had contact with one another through various institutions and organizations prior to NAFTA, their interactions were not equitable, primarily involved union leaders and elites, and did not prioritize constructing long-term programs based on mutual interests. In addition, the AFL-CIO's questionable anti-communist activities and many unions' tendency to blame foreign workers and immigrants for the loss of "American" jobs tainted relations among North American unions.

As I have argued previously, NAFTA catalyzed labor transnationalism in two ways.²⁰ First, between 1990 and 1993, it stimulated unions to mobilize politically in order to prevent its passage. In so doing, it constituted North American unions as transnational actors with common interests and had a political mobilization effect. Second, between 1994 and 2001, NAFTA had an institutional effect because it created new institutions (e.g., the labor side agreement) through which labor activists could nurture transnational relationships. These new institutions define and recognize transnational rights, and adjudicate violations of these rights at the transnational level. It is important to emphasize that both effects serve a constitutive function: during the political mobilization period because new interests are created, and during the institutionalization period because actors are legitimized. Thus, power was constituted at the transnational level during both periods, but in different ways.

Key U.S./Canadian unions' efforts to build equitable relationships with Mexican unions, particularly independent unions not affiliated with the government's ruling party, were quite historic. They benefited the former by increasing the legitimacy of the fair trade message and allowing them to more effectively combat critiques of protectionism, and they enabled smaller independent Mexican unionists to build status and significance that belied their smaller numbers.

Activists changed state preferences and negotiating strategies

Activists' pressure helped to alter the positions of legislators on NAFTA. Activists mobilized and lobbied in Washington DC and in home regions to threaten loss of votes and loss of organizational support for recalcitrant congress members. They were so successful that, on the eve of its signing, it appeared that NAFTA would not pass given its weaknesses on labor and environmental issues. Pro-NAFTA leaders expressed skepticism that the supplemental negotiations would overcome legislative divisions. The private view of most senior officials in the administration was that the president should jettison the accord and "cover his tracks" (*The New York Times*, November 18, 1993). Activists' ability to put the NAFTA vote in jeopardy was a considerable victory. Although President Clinton's final hour horse-trading secured the votes needed to pass NAFTA, the result of labor and

environmental activists' political mobilization was historic. Their opposition to NAFTA actually changed state preferences; in response to the threat, Clinton adopted a suggestion made by key environmental leaders to negotiate for additional protections as a means to secure passage.²¹ Activists helped ratchet up the protections in the side agreements, resulting in the first multilateral trade treaty to include a mechanism for the enforcement, however weak, of labor and environmental laws.²² Without activists' political mobilization, NAFTA would likely have had no protections at all.

Activists changed the parameters and cultural stakes of free trade – it was not simply about losing jobs, but about destroying the environment, undermining consumer protection, threatening indigenous people, and so forth. And that cultural reframing stuck – we cannot now uncouple trade from labor, the environment, and all these issues. This is how North Americans *think* about trade today, and that framing diffused across the globe, with labor and environmental organizations around the world adopting it and demanding labor and environmental protections in trade agreements that their governments negotiate. As Pharis Harvey of the International Labor Rights Fund (ILRF) explained in 2001:

Even though the mechanisms achieved under NAFTA were inadequate, it was an important turning point. The debate on labor and environmental conditions brought legitimacy to the concept of international environmental and labor standards and rationally looking at the incentives to trade. It is interesting, because we have held up the Europeans as a model for economic integration. But when I was speaking in Geneva last year, I discovered that the Europeans had been looking to the enforcement mechanisms under NAFTA, since it is the only agreement that includes a trade-related enforcement mechanism.²³

That the environmental–trade linkage marked such a strong cultural shift is evidenced by how much resonance it has today. The current debates about labor, environmental, and other protections in the TPP and TAFTA started with NAFTA, and it is critical historically to trace that cultural shift back to NAFTA.

The enormous contention over the TPP and TAFTA proves how successful this shift in political culture was, but it also highlights how successful activists were in their struggle *even though they failed to kill NAFTA* – because they *changed* state trade negotiating strategies. The Clinton and future administrations adjusted to the new politicization of trade by trying to thwart opposition. Between 1995 and 1997, the Clinton administration conducted secret negotiations of the MAI. In 1998, an OECD insider leaked a draft copy to a Canadian NGO that revealed that it would create international investment rules that would supersede national laws and “gave corporations a right to sue governments if national health, labor or environment legislation threatened their interests.”²⁴ Later that year, the negotiations failed, largely as a result of pressure from unions and organizations that spearheaded anti-NAFTA coalitions.²⁵ That concrete victory can be clearly traced back to NAFTA and the framing that activists constructed, the public opinion they changed, and the alliances they built and re-ignited.

The Obama administration's entire political strategy around trade also seeks to avoid and destroy the kind of opposition mounted during NAFTA's negotiation. Whereas many draft trade documents, negotiating positions, and so forth were made public during NAFTA negotiations, the Obama administration conducts negotiations in private, prohibiting public access to draft documents and negotiating positions, and forbidding public forums with administration officials. As critics note: “The U.S. government treats trade negotiation texts as classified information.”²⁶ The administration's refusal to provide congress members access to draft documents blatantly violates a 2002 law that labor and

environmental organizations helped pass, requiring the executive branch to share trade documents with all congress members. The lack of transparency and participation that characterizes the government's current negotiating strategy is embittering to many unions, environmental organizations, and other civil society organizations (and ironically even conservative Republicans). As reported in the press:

Democrats in the House and Senate have complained for years about the secrecy standards the Obama administration has applied to the TPP, forcing members to jump over hurdles to see negotiation texts, and blocking staffer involvement. In 2012, Sen. Ron Wyden (D-Ore.) complained that corporate lobbyists were given easy access while his office was being stymied, and even introduced protest legislation requiring more congressional input.²⁷

On 15 May [2012], House Oversight Committee Chairman Darrell Issa (R-Calif.) called for more transparency in the negotiation process and leaked the entire draft intellectual property chapter from the Trans-Pacific deal to the public on his website. Although the document previously was available over the Internet through legally ambiguous channels, Issa's move dramatically increased political pressure on the administration to share more information about the deal with the public.²⁸

The Obama administration's effort to maintain secrecy, however, is also a testament to the impact of activists' mobilization against NAFTA – it was so effective that the state responded by undermining democratic practices around trade. That is a huge shift in the post-NAFTA political culture, albeit one detrimental to civil society and democracy.

NAFTA's political lessons: rules, institutions, and alliances matter

In the face of the loss of the NAFTA battle, North American unions committed to soldier on to win the larger war against neoliberalism. Their struggle against NAFTA, however, politicized them in new ways and provided political lessons that changed how they engaged in future battles against neoliberal and conservative policies. The first, and perhaps most salient, political lesson from NAFTA is the importance of engaging in broad political coalitions and building alliances that span issue areas, or building power-to. The alliances that emerged between labor unions and environmental organizations at the time of NAFTA's negotiation strengthened the positions of each while simultaneously securing the legitimacy of the larger fair trade coalition.

As the NAFTA struggle unfolded, labor and environmental activists fought the general protectionist label that had been attached to opposition to NAFTA by twinning their concerns in a new labor–environmental standards frame. The rhetorical linking of labor and environmental arguments undercut this label in two ways. First, the linkage helped broaden and unite the fair trade coalition by expanding the pool of potential supporters of a new oppositional frame and increasing the constituencies for whom the coalition claimed to speak. The broadened trade discourse enabled activists to appeal to an extensive swathe of national and local organizations that had not previously participated in trade policy debates. Such widespread appeal was crucial to activists' efforts to mobilize grassroots activity to pressure legislators. Moreover, the concordance between the labor and the environmental discourse enabled legislators with different constituencies to take a stand in opposition to the agreement. This was particularly important for generally pro-labor congress members whose constituents might lose jobs to NAFTA; appropriating a greening discourse enabled them to avoid a protectionist slant to their arguments as they tried to derail or modify the agreement.

Second, the weakness of environmentalists politically became a substantial benefit to labor advocates rhetorically. The simultaneous bane and strength of the environmental movement lies in the moral authority that comes from addressing issues that affect all citizens broadly without representing specific constituents. The vulnerability of labor activists to the charge of self-interest was moderated by the inclusion of environmental elements that transcended the traditional trade constituencies: environmental framing took the debate outside the realm of the purely economic. Suddenly, the bounds between who wins and who loses under liberalized trade became blurred. As then secretary-treasurer and future president of the AFL-CIO Tom Donahue emphasized, wage and labor rights concerns are more vulnerable to criticism of relativism, whereas environmental issues can clearly be measured with one yardstick: "When people look at wages in other countries, it's difficult to convey how low these wages actually are. Encephalitis horror stories people understand, because it's not relative. Environmental issues found greater resonance, even though I hate to admit that."²⁹

Environmental activists who had worked internationally provided greater legitimacy to the new frame, as activist Mark Ritchie explained:

The bottom line was it took people who were very comfortable with their life's work in the international arena, who felt very comfortable about their commitment to international solidarity, internationalism in general, and who were known in that arena, who could then stand up and say, 'and anyone who cares about the poor people in the Third World ought to be opposed to this agreement for these reasons.' So you had people who were self-conscious and self-confident about their internationalist perspective, able to confront the orthodoxy that said if you're for the poor, you should be for free trade; if you're pro-South, you should be for free trade. And we often said – that's bullshit. Have you read this agreement? Obviously you haven't read this agreement, nor have you listened to the people from the South who've read this agreement, who've experienced structural adjustment, and who've been through this.³⁰

Working with progressive environmental organizations also helped to temper the rhetoric of less progressive union leaders who may have been tempted to push nationalistic, anti-immigrant, and racist themes; and it allowed unions to benefit from environmental organizations' grassroots networks across the country, connections with local politicians, and infrastructure in different states.

Another key political lesson from NAFTA was that how governance institutions are structured *matters* for activists and their ability to maneuver in dynamic regional and global economies. The NAFTA story shows that governance institutions that have concrete mechanisms to engage and enable activists to participate are much more useful for transnational movement building.³¹ By providing some of these mechanisms in North America, NAFTA galvanized resistance to globalization processes in different ways than global governance institutions that lack these functions. For example, activists usually stage large transnational demonstrations to protest against WTO and World Bank policies because the institutions provide no concrete public adjudicative mechanisms to engage. The kind of governance mechanism that a regional or global governance institution offers therefore profoundly affects social movements' ability to challenge and resist policies that undermine rights.

The nature of these mechanisms, however, is also critical to the processes of movement building, as NAFTA demonstrates. Legal mechanisms that require transnational contact and collaboration through procedural rules can be essential for the stimulation of transnationalism. The very different effects of NAFTA's labor and

environmental side agreements on transnational social movement building provide a strong case for the importance of institutional structure. The labor side agreement requires submitters to file complaints outside their home country, creating significant incentives for cross-border collaboration. In contrast, the environmental side agreement requires complaints to be filed with one entity located in Canada. As I have discussed in earlier work, although the evidence suggests that few, if any, transnational relationships among environmental organizations emerged in response to the environmental side agreement, the labor side agreement catalyzed relationships among key North American unions.³² The very different outcomes of the two NAFTA side agreements suggest that the construction of transnational governance institutions has effects on transnational movement building; mechanisms that facilitate collective adjudication help stimulate it.

As I have also argued previously, I am not suggesting that the passage of neoliberal trade agreements such as NAFTA is positive: NAFTA undermined labor's bargaining power, stimulated capital flight across the continent, and did little to improve labor standards and conditions. However, as labor activists realized during the NAFTA struggle, free trade agreements have significant consequences both internationally and domestically: they dictate the rules governing the global economy, force changes in national legislative protections, and constrain strategic options for citizens and activists. Because neoliberal policies (particularly free trade agreements) are going to be constructed and negotiated, it is crucial that unions remain engaged and try to thwart or improve them. Perhaps the most important lesson from NAFTA, then, is that even governance institutions with weak enforcement and policy outcomes can have strong movement outcomes.

Union politicization post-NAFTA

Expanding the free trade struggle

NAFTA indelibly changed North American labor unions' understanding of, and engagement in, trade policy. It was a watershed agreement that laid the foundation for all future trade policy debates and political struggles around trade. NAFTA was not simply about import controls and wage differentials; it was primarily and fundamentally about changing the rules of the global economy. Unions realized that trade policy linked domestic and international issues in critical new ways, and that the stakes of trade policy were therefore incredibly high. In NAFTA's wake, unions re-evaluated key domestic policies and made significant changes to their internal structures to deal with the restructuring of the regional economy. For example, the AFL-CIO created the Task Force on Trade, restructured its international and public policy departments, and hired economists and lawyers to focus on trade issues.

NAFTA spurred unions to be proactive on U.S. trade policy advocacy. After NAFTA's passage, labor unions and their congressional allies successfully revoked congressional fast-track voting status when it came up for renewal in 1997 and 1998.³³ Of the fast-track defeat, Destler writes:

Still, social issues had suddenly become the '800-pound gorilla' of trade policy. The main players and institutions were ill-equipped to deal with them. Their pre-1990 exclusion from the central trade debate had helped facilitate bipartisan consensus. But now they had forced their way to the trade policy table, presumably to stay.³⁴

Since 1997, fast-track has continued to be a controversial mechanism in Congress and the source of ongoing frustration for fair trade activists who see it as an anti-democratic tool for

promoting flawed trade agreements. In 2002, Congress renewed fast-track (newly renamed trade promotion authority) by only two votes after holding a late-night vote. As of this writing, Congress has refused to re-authorize trade promotion authority for the TPP and TAFTA.

Labor unions working with their environmental allies also helped to formulate and support new trade legislation. They continuously worked to try to raise the bar and improve agreements, and ensure that the floor was not lowered. Congress established a trade negotiation framework of principal negotiating objectives as part of fast-track renewal with the Trade Act of 2002. The act required that all U.S. free trade negotiations seek to include environmental and labor provisions, and try to ensure that domestic environmental and labor standards are not relaxed to encourage trade and are effectively enforced. Core labor standards include the right to organize and bargain collectively.

Unions and environmental organizations helped to craft the Trade Reform, Accountability, Development and Employment (TRADE) Act, which was reintroduced in the 2009–2010 congressional session as a “progressive path to a new trade and globalization policy.”³⁵ The proposed TRADE Act required the Government Accountability Office to review existing free trade agreements on a variety of economic, human rights, social, and environmental indicators, required that the gaps between new rules and existing agreements be remedied, and established rules that must be included in the main text of all trade agreements, including: core labor standards, human rights, and environmental and consumer protection rights. Most significantly, labor and environmental activists demanded that the act require dispute resolution and enforcement mechanisms to be at least as stringent as those that cover the commercial provisions of the trade agreement. With insufficient votes for passage, the bill was never put to a vote. Over 350 civil society organizations, however, pushed for the legislation.

In addition to trade policy advocacy, labor unions continued their resistance to new trade agreements that proliferated in NAFTA’s wake. NAFTA galvanized a broad anti-globalization movement that has arguably been the most active and sustained international social movement of the last 40 years. The coalitions that NAFTA catalyzed reformed and broadened as new agreements emerged on the political horizon. Although activists did not kill the vast majority of agreements, they had key successes. In addition to killing the MAI, labor unions and their allies waged a decade-long battle against the FTAA, which was introduced in December 1994 to extend free trade across the Americas. In 1997, the anti-NAFTA coalition regrouped, and new South American organizations joined to create the Hemispheric Social Alliance to oppose the FTAA. They flocked to protest against the negotiations in April 2001 in Quebec City and in 2003 in Miami. By 2005, the ceaseless pressure from large labor federations and environmental organizations and from disgruntled governments stalled the negotiations indefinitely, effectively killing the FTAA.

Unions recognize, however, that, even when they lose their struggles against free trade agreements, their opposition tends to improve and strengthen labor and environmental protections, as it did with NAFTA. AFL-CIO leaders’ language is measured; they admit that their vigilance has paid off but that their successes are partial and extremely limited:

Since NAFTA, all U.S. trade agreements have required both parties to make commitments regarding labor rights. Although the commitments in many of the agreements are minimal, due to the work of the AFL-CIO and its allies, the commitments have been getting stronger from agreement to agreement.³⁶

The trade agreement between the USA and five Central American countries and the Dominican Republic (known as CAFTA-DR) was hotly contested across the region. Unlike NAFTA, the labor rights section was included as a chapter of the agreement and not as a side agreement. In Costa Rica, where passage required a national referendum vote, unions, labor federations, and civil society organizations launched a massive campaign against it with support from the AFL-CIO, the Canadian Labour Congress (CLC), and the International Trade Union Confederation (ITUC). Although they lost the struggle, activists pressured the Bush (George W.) administration to include an environmental cooperation agreement implemented by the U.S. Environmental Protection Agency, and to contribute millions of dollars to hire and train new labor inspectors in Central America.³⁷

U.S. and Colombian unions' collective and coordinated opposition to the U.S.–Colombia Free Trade Agreement delayed the vote for years and forced President Obama to negotiate a labor action plan with Colombian President Juan Manuel Santos prior to the congressional vote to address labor rights issues, including the high rate of assassinations of Colombian unionists. Although unions derided the plan for not going far enough, they acknowledged that it did have “several meaningful provisions”³⁸ and that “limited progress has been made in some areas.”³⁹

It is important to emphasize that the privatization of governance mechanisms through trade agreements that undermine democratic procedures has spurred unions to remain engaged in the trade policy arena and build new alliances to fight against them. North American unions have forged alliances with a broad array of civil society organizations to fight ISDS mechanisms that appeared in NAFTA's Chapter 11 and have been replicated in trade pacts between the USA and Colombia, Peru, Oman, Korea, Panama, and in CAFTA-DR. ISDS mechanisms allow foreign investors to sue governments through extrajudicial private tribunals if they believe a government law, regulation, or policy violates their right to “fair and equitable treatment” or lowers their expected profits.

ISDS mechanisms irrefutably undermine democratic practices: the tribunals and their proceedings, findings, and decisions are secret and not subject to public disclosure. The public cannot participate even though the laws being challenged were created democratically. Moreover, they are final and binding, bypassing other domestic court systems such as the U.S. Supreme Court; and taxpayers bear the burden if the government being sued loses to an investor or corporation. In practice, ISDS mechanisms are used to undermine domestic labor, environmental, health and safety, and consumer protections laws. Under NAFTA's ISDS mechanisms, Metaclad Corporation sued and won 15 million dollars from the Mexican federal government when a local government denied it a permit to operate a toxic waste dump. ISDS cases are proliferating across the globe: Germany's decision to phase out nuclear power resulted in a suit by a Swedish corporation, and a French company initiated a suit against Egypt when it increased its minimum wage. One of the most recent brouhahas, however, is in North America: as reported by Canada's *Financial Post* and *The Globe and Mail*, the Canadian government and TransCanada Corporation are considering using NAFTA's ISDS mechanisms to sue the U.S. government for not approving the controversial Keystone XL pipeline.⁴⁰

ISDS mechanisms incense North American labor unions not only because they threaten labor and environmental rights and protections, but also because they undermine democratic processes, as the AFL-CIO explains:

Are these the kind of cases we want European companies (in the case of TTIP) or Pacific Rim companies (in the case of TPP) to bring against U.S. laws and regulations? The American people should be deciding what our policies should be, rather than letting foreign companies and their investors hold us up for ransom every time they don't like our laws.⁴¹

Unions have lobbied and worked with congress members, filed lawsuits, and engaged in grassroots organizing to try to eliminate these mechanisms from trade agreements.

In 2011, the AFL-CIO and the Institute for Policy Studies organized a protest against a CAFTA-DR tribunal in Washington DC, adjudicating a case brought against the El Salvadoran government by a gold mining company whose permit was denied because of the likelihood that mining would contaminate the drinking water. A plethora of organizations involved in the anti-NAFTA coalition participated, including the Sierra Club and Citizens Trade Campaign; but the AFL-CIO and its partners also sought out new allies such as Central American solidarity organizations and religious and farmers' groups. Activists broadcast the protest live via radio into the El Salvadoran gold region where a local protest was held. They also presented a letter to the tribunal and the WTO signed by 240 labor unions and civil society organizations that demanded an "end to the trampling of democracy" and insisted that the case be thrown out.⁴²

In 2013, over 160 U.S. and European labor, environmental, and other civil society organizations wrote a letter to the United States Trade Representative (USTR) and the European Union Commissioner for Trade, opposing ISDS provisions in TAFTA and demanding their removal from the agreement. In July 2014, the AFL-CIO and the European Trade Union Confederation (ETUC) crafted a Declaration of Joint Principles on TAFTA/Transatlantic Trade and Investment Partnership (TTIP) that states: "We envision a people- and planet-centered agreement that respects democracy, ensures state sovereignty, protects fundamental labor, economic, social and cultural rights, and addresses climate change and other environmental challenges."⁴³ The struggle against TAFTA has galvanized transnational mobilizations across Europe (though actions with North American unions have not occurred as of this writing). On 11 October 2014, labor unions and other civil society organizations coordinated marches and protests to oppose TAFTA in 21 European countries, and the Stop TAFTA coalition organized a global day of action against free trade on 18 April 2015. Others have called for coordinated large-scale actions with U.S. and Canadian movements.⁴⁴ The mobilizations are likely to broaden as negotiations intensify.

Institutionalizing environmental alliances and the greening of labor

Unions' ability to overcome differences and work in coalitions with environmental organizations during the NAFTA struggle was a game changer for the North American labor movement. Environmental and labor activists' achievements in greening trade were not simply rhetorical: their efforts generated broad institutional changes within national government agencies and global governance institutions. The USTR's Trade and Environment Policy Advisory Committee – created in NAFTA's wake – provides policy advice to the USTR and includes participants from environmental organizations such as Audubon, the Environmental Defense Fund, Consumers Union, and the Center for International Environmental Law. Also, in response to activist pressure during NAFTA negotiations, the USTR created the Office of Environment and Natural Resources (ENR) to "leverage trade negotiations and relationships to pursue environmental achievements."⁴⁵ The ENR is responsible for negotiating and implementing trade

agreement environmental provisions. A 1999 Executive Order signed by Bill Clinton made the ENR responsible for determining the environmental impact of all trade agreements and conducting written environmental reviews in most cases.

At the international level, pressure from labor and other civil society activists resulted in small, but not insignificant, changes to institutions such as the WTO. The WTO has specialized agreements, such as the Agreement on Technical Barriers to Trade and the Agreement on Sanitary and Phytosanitary Measures, which provide guidelines for environmental objectives within a trade-promotion context. The WTO has created a dedicated Committee on Trade and Environment to oversee environmental issues.⁴⁶ There is, however, currently no comparable WTO committee that handles labor rights issues.

As discussed in earlier work,⁴⁷ the relationships constructed between labor and environmental organizations during NAFTA's negotiation were not effortless. Post-NAFTA relationships, however, were subject to less division because leaders recognized that it was critical to overcome differences in order to deal with the vagaries of an ever-expanding global economy (and build power-to). Even environmental organizations that supported some aspects of NAFTA were disappointed with the implementation of the environmental side agreement; and, on the labor side, AFL-CIO leaders increasingly acknowledged their need for coalition partners in trade struggles. Even with their access to decision makers and substantial political resources, labor unions are not sufficiently influential to transform trade policies through advocacy politics alone.

Labor and environmental activists' recognition of the importance of cooperation in a complex and volatile global economy led them to institutionalize their relationship. In 2006, the United Steelworkers (USW) and the Sierra Club created the BlueGreen Alliance to advocate for environmental and worker protections through a green economy and green jobs. Pushing for environmentally and socially responsible free trade agreements is a core BlueGreen initiative. Since its founding, the BlueGreen Alliance has expanded to include 14 of the largest labor unions and environmental organizations in the USA, including the Natural Resources Defense Council/NRDC Action Fund, the National Wildlife Federation, and a range of unions across the service, manufacturing, and industrial sectors. Membership even spans the union spectrum, with members from both the AFL-CIO and the Change to Win union federation.

The BlueGreen Alliance engages in advocacy and lobbying, research, education, and training, and campaigns on a wide range of areas that affect labor and environmental rights and protections, from climate change and clean energy to occupational and public health. Through its nonprofit BlueGreen Alliance Foundation, it supports the Clean Energy Manufacturing Center and the Apollo Alliance. The former develops policies and strategies to create jobs in clean energy industries. The latter, formed in 2001, brings together a coalition of environmental organizations, businesses, and over 30 labor unions to push for U.S. energy independence and cleaner alternative energy options while stimulating new green jobs. The Apollo Alliance helped to craft the American Recovery and Reinvestment Act of 2009 and developed a public education campaign to garner support for it. It has active grassroots coalitions at state and local levels that have achieved significant victories across the country, from winning renewable energy and fuel standards to creating green collar job-training programs.

In 2008, the CLC initiated the Green Jobs Roundtable which brought together labor unions and environmental organizations to look for points of unity. This led to the creation of the Green Economy Network (GEN), a coalition of over 24 labor, environmental, and civil society organizations committed to pursuing a green economy and green jobs in Canada. GEN crafts legislation and strategies, organizes community meetings and public

education campaigns, and fights against the passage of harmful laws. In 2012, GEN and its allies fought against the passage of a federal government omnibus bill that undermined environmental protections across Canada, and offered an alternative plan for creating over 400,000 new “climate jobs” in Canada and reducing the country’s total carbon emissions by more than one hundred million tons a year by 2022.⁴⁸

Since NAFTA’s passage, many North American labor unions have shifted their position on climate change and forged strategic alliances with environmental organizations to deal with the crisis. The Teamsters ended their longstanding support for drilling in Alaska’s Arctic National Wildlife Refuge, and the AFL-CIO shifted its position on climate change and created a new Energy Task Force in 2006. North American unions also work at the international level to influence environmental and climate change policies, often through the ITUC. The year 2007 marked the first time a strong trade union delegation attended the UN climate change conference. Twenty U.S. labor unionists and 70 others from around the world demanded global action on climate change as part of the ITUC delegation in Bali. North American unions have participated in all subsequent climate change meetings and in the ITUC’s Climate Change Working Group.

Ironically, the privatization of governance mechanisms through trade agreements and international institutions increases the need to broaden and consolidate labor and environmental struggles. In the post-NAFTA era, labor unions extended their environmental alliances beyond trade to increase their relevance and strength, but they have also expanded their labor–environmental frame beyond the confines of a fair trade agenda. Their expanded frame incorporates issues that have become politicized in the post-NAFTA era, including climate change, renewable energy, and green jobs creation. Comments by USW President Leo Gerard at a 2012 green jobs conference illuminate the expanded post-NAFTA labor–environmental frame: “It’s not a choice between good jobs and the environment; we can and must have both . . . If we don’t achieve both, neither will occur, climate change is a reality.”⁴⁹ Democracy is at the center of the framing, as the Sierra Club’s Executive Director’s comments reveal: “We have to fight together as union members and environmentalists to protect our rights, to protect our families and to protect our environment. These rights are fundamental to our democracy.”⁵⁰

The longevity of labor–environmental alliances demonstrates that activists can come together around a broad goal while differing substantially on membership, organizational mission, and secondary goals. Perhaps more significantly, however, it suggests that, although partners’ differences can cause friction, this dynamic vibrancy is also a source of strength. Differences in networks, resources, and broad framings create a much richer and more diverse array of leverage points for labor and environmental activists to draw upon. The post-NAFTA politicization of climate change and other environmental issues provided a unique opportunity for labor unions to institutionalize their ties to environmental organizations and broaden the labor–environmental frame, thereby strengthening the position and relevance of each and building power-to.

Immigrant rights advocacy

In addition to trade and the environment, North American unions are building new nontraditional alliances around immigrant rights. U.S. unions’ position on immigration changed drastically after NAFTA. The AFL-CIO and most U.S. unions historically supported the enforcement of draconian immigration laws that prevented Mexican

immigrants from entering the U.S. labor market, including the Immigration Reform and Control Act of 1986 (IRCA), which required employers to verify that employees were not “illegal” immigrants. For years, the AFL-CIO backed IRCA even though critics argued that employer sanctions led to discrimination against immigrants. In the years after NAFTA’s passage however, the AFL-CIO began to re-evaluate its position on immigration. A year after NAFTA went into effect, the AFL-CIO Executive Council issued a statement denouncing the scapegoating of immigrant workers for job loss and declining wages, and in 2000 the federation reversed its previous support for IRCA and urged lawmakers to repeal major parts of the legislation.

The AFL-CIO’s turn toward a more progressive position on immigration emerged from a constellation of forces, including a drastic decline in union density, pressure from individual local leaders and progressive affiliates, the influx of immigrants into key jobs and industries, and key successes in organizing immigrant workers, such as the Service Employees International Union’s (SEIU) Justice for Janitors campaign. Many of the labor activists that I interviewed argued that NAFTA also helped change the AFL-CIO’s immigration policy by catalyzing relationships among U.S., Canadian, and Mexican unions, laying bare the economic and political connections between North American workers in a regional economy.⁵¹ The current CLC president argued that NAFTA helped push the Canadian labor movement to launch an anti-racism campaign in 1998 and develop new strategies to organize and create space in the Canadian labor movement for immigrant and minority workers.

The politicization of immigration reform was heightened in the USA after the terrorist attacks of 9/11. As North American unions moved left on immigration policy, 9/11 produced a vociferous anti-immigrant response from conservatives who backed a border fence between the USA and Mexico, supported anti-immigrant militias that patrolled the border, and fought efforts to reform immigration laws. Unions responded by becoming more deeply entrenched in the struggle for immigrant rights. They sought out new allies such as immigrant and human rights groups, and religious and student organizations. As public contestation exploded around immigration in the fall of 2003, North American unions worked with their new allies to organize an immigrant workers’ freedom ride (modeled on the 1960s’ civil rights freedom rides). Hundreds of thousands of supporters rallied to support them as they traveled across the country.

The AFL-CIO also worked with an old ally, the Confederation of Mexican Workers (CTM). The two labor federations had a long history as Cold War allies, but the relationship became strained during the NAFTA negotiations when the CTM supported the agreement. Almost a decade after NAFTA’s passage, when the opportunity to collaborate on immigrants’ rights arose, the AFL-CIO embraced it.⁵² The federation filed a lawsuit on the Hoffman Plastics case that involved an undocumented worker from Mexico who was fired for union organizing in the USA.⁵³ In addition to solidifying alliances with immigrant rights, religious, civil liberty, and student organizations, the federation sought the assistance of the CTM, which submitted an amicus brief to the U.S. Supreme Court supporting the AFL-CIO’s position. The Supreme Court affirmed in a five–four ruling on 27 March 2002 that an undocumented worker illegally fired for union organizing is not entitled to back pay for lost wages.⁵⁴

The Hoffman decision caused uproar not only in the USA, but also in Mexico where politicians, labor activists, and scholars expressed concern that the decision would lead to even more discrimination against migrants in the USA. Mexican members of Congress from each of the nation’s three major parties issued a censure of the U.S. Supreme Court,

criticizing the decision. Under extreme pressure, Mexican President Vicente Fox declared that he would file complaints with the International Labor Organization (ILO), NAFTA's labor side agreement, and the Inter-American Court of Human Rights (IACHR).⁵⁵ The Mexican government's IACHR complaint in 2002 stated:

[The unauthorized workers'] vulnerability makes them an easy target for violations of their human rights, based, above all, on criteria of discrimination and, consequently, places them in a situation of inequality before the law as regards the effective enjoyment and exercise of these rights.

In 2003, the IACHR agreed with Mexico, ruling in an advisory opinion that:

If undocumented workers are contracted to work, they immediately are entitled to the same rights as all workers . . . This is of maximum importance, since one of the major problems that come from lack of immigration status is that workers without work permits are hired in unfavorable conditions, compared to other workers.⁵⁶

In a surprising show of solidarity that came on the heels of the IACHR complaint, the AFL-CIO and CTM requested another global governance organization – the ILO – to review the Hoffman decision. The labor federations “discussed joint language that was used in filing separate complaints to the International Labor Organization concerning how the Hoffman decision violates universal worker rights.”⁵⁷ The ILO Committee on Freedom of Association ruled in November 2003 that the Hoffman decision violated international standards and obligations that protect workers' right to organize unions and urged Congress to pass legislation bringing U.S. law “into conformity with freedom of association principles, in full consultation with the social partners concerned, with the aim of ensuring effective protection for all workers against acts of anti-union discrimination in the wake of the Hoffman decision.”⁵⁸

Although the ILO ruling is not legally binding, and there has been no congressional action to change U.S. law, in the wake of the Hoffman decision U.S. unions stepped up their efforts to protect undocumented workers. At the local level, they tried to thwart deportations and workplace raids by U.S. Immigration and Customs Enforcement (ICE). In March 2006, the ICE raided a New Bedford, Massachusetts, leather manufacturer – not because it was operating a sweatshop, which it was, but because it employed poor immigrant workers, many of them women from Central America. The ICE arrived with a team of 300 federal immigration agents and took 350 workers into custody. Most of those arrested were sent to detention centers in Texas and New Mexico and forced to leave their children behind. The ICE then pressured Massachusetts to put those children in permanent foster homes. SEIU Local 509 was one among many unions to condemn the raids. It also provided services for the children and legal assistance for the workers.

The United Food and Commercial Workers International Union (UFCW) also took action in December 2006 after the ICE raided five Swift meatpacking plants, where the union represents workers across the Midwest. The union created a national commission to investigate claims of ICE misconduct and constitutional violations during immigration raids. The commission includes academics, politicians, and labor and immigrant activists. On 12 September 2008, the UFCW filed a lawsuit against the ICE and the U.S. Department of Homeland Security “to protect the 4th amendment rights of all Americans and enjoin the government from illegally arresting and detaining workers, including U.S. citizens and legal residents, while at their workplace” (*Standard Times*, April 8, 2008).

Unions and their allies also worked to defend undocumented workers by supporting Development, Relief, and Education for Alien Minors Act (DREAM) Act legislation granting permanent residency status to immigrants who arrived in the USA as children and served in the military or attended college.⁵⁹ And in 2006, when the U.S. House of Representatives passed legislation that would have imposed severe penalties on illegal immigrants, classifying them and anyone who helped them enter or stay in the United States as felons, unions and their allies organized marches and protests across the country that drew millions of protesters.

The labor movement's ability to work collaboratively and build alliances with immigrant rights and religious organizations increased its relevance, as it did with environmental organizations. In an unprecedented move in 2013, AFL-CIO president Richard Trumka launched a campaign to change the federation's bylaws to offer membership to allies in environmental, immigrant, civil rights, and other civil society organizations. At its 2013 annual convention, the federation ultimately adopted a modified version of Trumka's proposal as Resolution 16, Building Enduring Labor–Community Partnerships. As Resolution 16 states:

The AFL-CIO and our affiliates pledge to build ongoing partnerships with our community allies on issues of mutual interest, including but not limited to the civil rights and social justice community, the religious community, the environmental community, women's rights organizations, worker centers, immigrant rights advocates, the LGBTQ community, retiree organizations and the student and young worker community.⁶⁰

Although the resolution does not offer membership to allied organizations, it takes steps toward solidifying alliances as part of a "broader progressive convergence."⁶¹

Conclusion: reconceptualizing success and building power-to across fields

Unions' foray into new advocacy areas and their efforts to build alliances with diverse civil society organizations is in large part a response to their decline in numbers and political power in recent decades. It is, however, also a recognition that the rules of the global economy are reconfiguring domestic and international policy issues, requiring different forms of politicization and mobilization. Perhaps most importantly, new international rules go well beyond what have historically delineated their boundaries: the market and employer relations. Indeed, the new rules undermine a diverse array of rights, democratic practices and procedures, state obligations and responsibilities, and citizens' ability to contest and resist the rules themselves.

Unions and civil society organizations across the globe therefore face a quite new kind of adversary that often cannot be controlled or sanctioned by nation states or international institutions. Unions are not simply battling companies – either domestically or internationally – against job loss, wage deterioration, declining wages, or working conditions, and the governments that refuse to protect them. Rather, they confront corporations that collude with governments to take away the democratic tools that make resistance possible. The ability of unions to achieve power-over is arguably more difficult than it has ever been. Focusing solely on unions' success as power-over is therefore problematic because it misses the real impact of transnational labor movements, particularly when their efforts do not result in improved conditions or protections for workers. Analysis of transnational labor movements' efforts to build power-to by changing the parameters of struggles and expanding constituencies reveals their real

impact. It is critical that the labor movement continues to resist, prioritizes organizing and union democracy, engages in domestic and international policymaking, builds new alliances and engages in broad issues, and involves rank-and-file workers in its efforts; but it also crucial that we realize that the conditions unions face in a globalizing economy are drastically different than those countenanced by even the most radical and active unions historically.

The rules of the globalizing economy are now enshrined at both local and transnational level. Successful union resistance will therefore almost always need to bridge this divide and engage strategically at both levels. Unions' alliance building across the new advocacy areas described here highlights the linkages between politicization and mobilization, and therefore provides a unique opportunity to examine the relationship between national and transnational arenas, or what organizational scholars refer to as fields. In previous work, I define a field as a "local social order"⁶² of actors "who take one another into account as they carry out interrelated activities"⁶³ and *that is characterized by an orienting principle or goal.*⁶⁴

Despite extensive scholarship on internal field dynamics, there has been little work on inter-field dynamics, or the points of overlap and intersection among multiple fields.⁶⁵ These points of overlap are critically important because they can be leveraged strategically in order to mobilize and achieve specific policy outcomes and build both power-to and power-over. For example, unions can improve their chances of success by looking for places where there is significant penetration or overlap with other fields, exploiting key points of leverage, and utilizing strategies that take advantage of them. It is at intersections where structural contradictions or strains are highest that key allies, powerful new frames, and resources are most likely to be exploited and rallied. Successful politicization and mobilization result in large part from activists' ability to skillfully leverage and broker across fields.

As the global economy expands, it will become even more critical for unions and their allies to identify the areas where national and international fields overlap and the points of leverage that can be the most useful for political mobilization across them. A focus on inter-field dynamics, then, places strategy at the center of analysis. The international scope of any given policy issue – including the environment, trade, and immigrant rights – increases the number of domestic and international fields involved, and therefore the number of areas of overlap and levers for transformation. In the case of TAFTA, North American and European unions apply pressure on legislators in national fields who can affect the rules, resources, or framing in international fields. For example, U.S. activists have worked with congressional allies to derail the fast-track vote, which undermines the negotiating position of U.S. trade negotiators with their European counterparts and creates incentives for them to make concessions.

The NAFTA struggle also illustrates how inter-field dynamics matter for the pursuit of political goals. Although the ground rules were designed to minimize their input, activists multiplied the points of access available by pinpointing the most vulnerable points of field overlap across national and transnational fields and were able to legitimize and link labor and environmental protections to trade policy. Leverage across fields, however, is facilitated or constrained by the structure of global governance institutions. In the case of the WTO, for example, the disjunction between its actions and the domestic state mechanisms of its members limits the leverage of constituents within national legislatures. Activists can try to influence negotiating objectives through mobilization at national level,

or they can organize mass mobilization that targets the legitimacy of the WTO itself, but the lack of overlap between national and international fields in the WTO's structure limits leverage possibilities for activists.

The overlapping field framework means that we understand labor and environmental activists to be causal agents who are not merely trapped, waiting for windows of political opportunity to open and close. Unions can build power-to succeed within hostile fields because they can draw on strengths constituted outside those fields. This can result in rapid and unexpected disruption, such as with NAFTA, where new issues seem to come out of nowhere and scramble the debate; or they can emerge gradually, as network alliances expand over time and new framing processes develop, as in the case of union alliance building around environmental and immigrant rights.

Despite critics' many legitimate complaints about NAFTA's final form, it is indisputable that activists succeeded in shaping how the rules governing the global economy are made and in changing the debate about what matters in trade policy. Environmental and labor activists forced citizens to question *how* we globalize. As a result of their efforts to build power-to, the question of what kind of globalization we want to foster has cemented itself in trade discourse and beyond trade. It can be debated, but not ignored. Although activists have not won the war, they have changed the terrain in ways that facilitate and solidify their position in the ongoing struggle against the forces of globalization.

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Notes

1. See <http://www.citizen.org/documents/NAFTA-at-20.pdf>; <http://www.epi.org/blog/nafta-twenty-years-disaster/>.
2. Corporate supporters and governments have rebranded the agreement the TTIP.
3. Kay, *NAFTA and the Politics*; Kay, "Labor Transnationalism and Global Governance;" Kay, "Legal Transnationalism;" and Evans and Kay, "How Environmentalists 'Greened' Trade Policy."

4. See [Bronfenbrenner](#), *Global Unions* and [Caulfield](#), *NAFTA and Labor*.
5. [Kay](#), *NAFTA and the Politics*; [Kay](#), "Labor Transnationalism and Global Governance;" and [Kay](#), "Legal Transnationalism."
6. Unionization in the USA is now at rates not seen in over one hundred years and, as scholars such as Francisco Fernando Herrera Lima have argued, Mexican unions are now in their worst crisis since before the Mexican revolution, see [Herrera Lima](#), "El Aislamiento Internacional."
7. [Caulfield](#), *NAFTA and Labor*.
8. [Ozarow](#), "Pitching for Each Others' Team."
9. [Erne](#), *European Unions* and [McCallum](#), *Global Unions*.
10. See note 3 above.
11. [McCallum](#), *Global Unions*, 159.
12. [Loomer](#), "Two Conceptions of Power."
13. These ideas come from Marshall Ganz's notes for his course "Practicing Democracy: Leadership, Community and Power," 17 and [Ganz](#) "Leading Change."
14. [Ganz](#), "Practicing Democracy," course notes, 17.
15. *Ibid.*, 18.
16. Although the impetus for many policy and strategy changes in the AFL-CIO began during NAFTA's negotiations in the early 1990s, John Sweeney's 1995 election as AFL-CIO president contributed to, and facilitated, those changes. Sweeney focused on organizing, brought in new staffers with activist backgrounds, reorganized the international department, and eliminated the controversial American Institute for Free Labor Development in 1997. Many Cold War era staffers were replaced or left the federation, undermining its Cold War strategy.
17. The maquiladora program was designed to attract foreign investment and reduce unemployment, primarily along Mexico's northern border.
18. [Kay and Evans](#), Trade Battles.
19. [Howell and Wolff](#), "Introduction" and [Preeg](#), *Traders* argue that trade policy becomes increasingly politicized as it moves from a focus on border regulation (through tariff policy) to greater emphasis on the integration of economies through capital mobility and changes in domestic law.
20. See note 5 above.
21. Labor leaders did not support this option. The AFL-CIO called for Clinton to renegotiate the agreement instead.
22. The EEC/EU Treaties included mechanisms for the enforcement of labor laws since 1957. However, they did not create adjudicatory bodies dedicated solely to their enforcement, and they do not cover key basic labor rights. As [Compa](#), "Labor Rights," 2, explains:

Directives setting Europe-wide labor standards are few, and they cover less thorny issues like health and safety, parental leave, and employee 'works councils' entitled to information and consultation, but not to collective bargaining. Indeed, the Treaty of Amsterdam specifically excludes collective bargaining, union organizing and the right to strike from Europe-wide standard setting because these issues are so embedded in national institutions, histories, cultures and class struggles. No European country is willing to hand these over to supranational rule. Various European social charters broadly address labor rights and labor standards, most recently the *Charter of Fundamental Rights of the European Union* adopted at a summit meeting in Nice in December 2000. But these have always been non-binding 'side agreements' to the EU treaty. They are important as guiding principles and a point of reference for EU institutions, but they do not yield enforceable rights.
23. Interview with Pharis Harvey of ILRF, 2 March 2001. Interview conducted by co-author Rhonda Evans.
24. <https://www.globalpolicy.org/globalization/globalization-of-the-economy-2-1/multilateral-agreement-on-investment-2-5.html>.
25. For a critique of the MAI see [Erne](#), [Agathonos-Mähr](#), and [Gauper](#), "Social Democracy."
26. http://www.huffingtonpost.com/2014/05/19/trade-fracking_n_5340420.html.
27. http://www.huffingtonpost.com/2014/01/11/fast-track-trade-democrats_n_4580720.html.

28. http://www.huffingtonpost.com/2012/05/23/trans-pacific-partnership-ron-wyden_n_1540984.html.
29. Interview with Tom Donahue of the AFL-CIO, 23 May 2001. Interview conducted by co-author Rhonda Evans.
30. Interview with Mark Ritchie of the Institute for Agriculture and Trade Policy, 11 June 2001. Interview conducted by co-author Rhonda Evans.
31. See note 5 above.
32. Ibid.
33. Destler, *American Trade Politics*.
34. Ibid., 269.
35. <https://www.citizen.org/documents/TRADEActFactSheet-HILL020210.pdf>.
36. <http://www.aflcio.org/Issues/Trade/Recent-Trade-Agreements>.
37. Activists argued that lack of labor law enforcement was the primary problem in the area.
38. <http://www.aflcio.org/Issues/Trade/Colombia/Colombia>.
39. AFL-CIO Memorandum on “Ineffectiveness of Colombia’s Labor Action Plan,” 4 October 2011.
40. http://business.financialpost.com/2014/04/30/keystone-xl-nafta-challenge/?__lsa=36dd-a6b4; <http://www.theglobeandmail.com/globe-debate/time-for-keystones-nafta-option/article23232598/>
41. <http://www.aflcio.org/Issues/Trade/What-Is-ISDS>.
42. <http://www.yesmagazine.org/blogs/john-cavanagh-and-robin-broad/taking-on-the-trade-laws-of-the-1-percent>.
43. “Declaration of Joint Principles ETUC/AFL-CIO.” http://www.aflcio.org/content/download/132421/3553131/AFL-CIO+TTIP+Report_6+%282%29.pdf.
44. <http://www.euractiv.com/sections/trade-society/anti-ttip-demonstrations-seize-european-capitals-309119>.
45. <http://www.ustr.gov/about-us/human-resources/organization>.
46. The same cannot be said for labor issues and the WTO, where there is ongoing debate about whether labor rights should be part of WTO mandates. The WTO presently states that there is consensus among members for the following labor rights: freedom of association, no forced labor, no child labor, and no discrimination at work. However, in 1996, members identified the ILO as the appropriate body to handle these issues.
47. Evans and Kay, “How Environmentalists ‘Greened’ Trade Policy.”
48. <http://www.canadianlabour.ca/national/news/green-economy-network-denounces-bill-c-38-outlines-counter-plan-creating-climate-jobs>. The bill ultimately passed in spring 2012.
49. <http://www.peoplesworld.org/good-jobs-green-jobs-the-only-way-forward/>.
50. <http://www.bluegreenalliance.org/members/sierra-club>.
51. Kay, *NAFTA and the Politics*.
52. The CTM, independent Mexican unions, and progressive U.S. and Canadian activists supported the inclusion of migration as part of the NAFTA negotiations. The AFL-CIO leadership balked and thereby squandered an opportunity to build transnationalism around immigration reform during the NAFTA negotiations.
53. *Hoffman Plastic Compounds, Inc. v. National Labor Relations Board (NLRB)*, 535 U.S. 137 (2002).
54. *Hoffman Plastic Compounds, Inc. v. NLRB*, __F3d__, No. 98-1570 (D.C. Cir. 16 January 2001).
55. <http://www.ueinternational.org/Vol7no4.html>.
56. See IACHR, Legal Condition and Rights of Undocumented Migrant Workers, Consultative Opinion OC-18/03 (17 September 2003). The Court based its decision on non-discrimination and equal protection provisions of the Organization of American States (OAS) Charter, and it specifically bound all OAS members to abide by the decision even if they had not signed the conventions upon which it was based.
57. Watts, *Mexico-U.S. Migration*, 28.
58. Human Rights Watch, *Blood, Sweat and Fear*, 125. Also: See ILO Committee on Freedom of Association, Complaints against the Government of the United States presented by the AFL-CIO and the CTM, Case No. 2227: Report in which the committee requests to be kept informed of developments (20 November 2003).

59. *Development, Relief, and Education for Alien Minors*. Various versions have been introduced since 2001.
60. <http://www.afcio.org/About/Exec-Council/Conventions/2013/Resolutions-and-Amendments/Resolution-16-Building-Enduring-Labor-Community-Partnerships>.
61. *Ibid.*
62. Fligstein, *Architecture of Markets*, 5.
63. McAdam and Scott, "Organizations and Social Movements," 10.
64. Evans and Kay, "How Environmentalists 'Greened' Trade Policy," 973.
65. For exceptions see Evans and Kay, "How Environmentalists 'Greened' Trade Policy" and Asad and Kay, "Theorizing the Relationship."

References

- Asad, L., and T. Kay. "Theorizing the Relationship Between NGOs and the State in Medical Humanitarian Development Projects." *Social Science & Medicine* 120 (2014): 325–333.
- Bronfenbrenner, K. ed. *Global Unions: Challenging Transnational Capital Through Cross-Border Campaigns*. Ithaca, NY: Cornell University Press, 2007.
- Caulfield, N. *NAFTA and Labor in North America*. Champaign: University of Illinois Press, 2010.
- Compa, L. "Labor Rights in the FTAA." Paper presented at Latin American Studies Association meeting, Dallas, March 28 2003.
- Destler, I. M. *American Trade Politics*. 4th ed. Washington, DC: Institute for International Economics, 2005.
- Erne, R. *European Unions: Labor's Quest for a Transnational Democracy*. Ithaca, NY: Cornell University Press, 2008.
- Erne, R., B. Agathonos-Mähr, and O. Gauper. "Social Democracy in the Age of Internationalisation Transfer." *European Review of Labour and Research* 4, no. 2 (1998): 371–375.
- Evans, R., and T. Kay. "How Environmentalists 'Greened' Trade Policy: Strategic Action and the Architecture of Field Overlap." *American Sociological Review* 73 (2008): 970–991.
- Fligstein, N. *The Architecture of Markets: An Economic Sociology of Twenty-First-Century Capitalist Societies*. Princeton, NJ: Princeton University Press, 2001.
- Ganz, M. "Leading Change: Leadership, Organization and Social Movements." In *Handbook of Leadership Theory and Practice*, edited by N. Nohria and R. Khurana, 509–550. Danvers, MA: Harvard Business School Press, 2010.
- Herrera Lima, F. "El Aislamiento Internacional del Sindicalismo en su Crisis Actual [Mexican Unionism: Crisis and International Isolation]." Paper presented at the Latin America Studies Association meeting, Chicago, May 24 2014.
- Howell, T., and A. Wolff. "Introduction." In *Conflict Among Nations: Trade Policies in the 1990s*, edited by T. Howell, R. M. Gadbaw, A. W. Wolff, and W. A. Noellert, 1–43. Boulder, CO: Westview Press, 1992.
- Human Rights Watch. *Blood, Sweat and Fear: Workers' Rights in U.S. Meat and Poultry Plants*. Accessed December 13, 2014. <http://www.hrw.org/reports/2005/01/24/blood-sweat-and-fear> 2004.
- Kay, T. "Labor Transnationalism and Global Governance: The Impact of NAFTA on Transnational Labor Relationships in North America." *American Journal of Sociology* 111 (2005): 715–756.
- Kay, T. "Legal Transnationalism: The Relationship Between Transnational Social Movement Building and International Law." *Law & Social Inquiry* 36 (2011): 419–454.
- Kay, T. *NAFTA and the Politics of Labor Transnationalism*. New York: Cambridge University Press, 2011.
- Kay, T., and R. Evans. *Trade Battles: The Politicization of International Trade Policy*. Book manuscript in progress.
- Loomer, B. "Two Conceptions of Power." *Process Studies* 6, no. 1 (1976): 5–32.
- McAdam, D., and W. R. Scott. "Organizations and Social Movements." In *Social Movements and Organization Theory*, edited by G. F. Davis, D. McAdam, W. Richard Scott, and M. N. Zald, 4–40. New York: Cambridge University Press, 2005.
- McCallum, J. K. *Global Unions, Local Power: The New Spirit of Transnational Labor Organizing*. Ithaca, NY: Cornell University Press, 2013.
- Ozarow, D. "Pitching for Each Others' Team: The North American Free Trade Agreement and Labor Transnationalism." *Labor History* 54, no. 5 (2013): 512–526.

- Preeg, E. *Traders in a Brave New World*. Chicago, IL: University of Chicago Press, 1995.
- Watts, J. *Mexico-U.S. Migration and Labor Unions: Obstacles to Building Cross-Border Solidarity*. Working Paper 79. Center for Comparative Immigration Studies, University of California, San Diego, 2003. Accessed December 13, 2014. <http://ccis.ucsd.edu/wp-content/uploads/2012/07/wrkg79.pdf>