

APSA LABOR PROJECT NEWSLETTER

Vol 3

Summer 2009

www.apsanet.org/~new/laborproject.htm

The Labor Project was launched at the 2004 APSA annual meeting. Our aim is to harness the efforts of a working group of political scientists to encourage the study and research of labor issues and to promote labor research to the public at large particularly in relation to pressing policy issues.

We would like to thank The Caucus for New Political Science, of which the Labor Project is an affiliated group, for its continued support of this project and for providing web space, resources, and members.

Please note our **business meeting** will be Saturday, Sep 5, 12:15 PM.

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From the Editors:

Teri Caraway and Susan Orr

The Labor Project will celebrate its fifth anniversary this year. We would like to send out a special thank you to all those who were integral to the group's founding. The Labor Project has provided many of us with a "home" within APSA and has in its short life already secured a labor friendly accommodation policy for our annual meetings and increased the opportunities to present labor related work at the annual meeting. Those are just a few of the projects many successes so far. We hope we can join with fellow group members to ensure that the Labor Project continues to serve the mission of encouraging scholarship on labor issues and supporting scholars focused on labor through the next five years.

As this is our first newsletter as co-chairs, we would like to publicly thank the outgoing team of Maggie Gray and Peter Francia for their hard work in co-chairing the Labor Project the last couple of years. Your past efforts and continuing involvement are greatly appreciated.

For this edition of the newsletter we return to an issue that has been a focus of the group since its inception - labor law reform. Our feature article was contributed by Nancy Wiefek of American Rights at Work and provides the latest news on the Employee Free Choice Act as well as pertinent background information. Nancy will be attending APSA as a participant in one of the Labor Project's roundtables. Thanks Nancy for your contribution. We also include in this issue some updates on new research by academics on the Employee Free Choice Act and call for group members to think of new ways that we might demonstrate support for the legislation.

APSA 2009:

Our business meeting will be Saturday, September 5 at 12:15. We do not have a room allocation yet. There is space on the agenda for new business; please let us know if you have any issues or ideas you would like us to add.

We are very pleased to announce that thanks to the high level of interest and attendance at Labor Project sponsored panels at last year's meeting, our panel allocation was increased to two for 2009. That means that this year we will be co-sponsoring a panel with Comparative Politics and a roundtable with New Political Science. We will also have our own roundtable that will bring together academics and practitioners to discuss the fortunes of organized labor in the new Obama administration.

The roundtable we are co-sponsoring with New Political Science will celebrate the work of the late J. David Greenstone. Participants will use his seminal book *Labor in American Politics* as a starting point for discussion on issues of labor, race and politics. Time will be given to participants to reflect on how academics have studied such issues in the past and how we might further scholarship in these areas in the future. If you have any questions or topics that you would like to see included in this roundtable please e-mail sorr@brockport.edu

The panel we are co-sponsoring with Comparative Politics focuses on labor and economic change. It includes papers from a wide variety of regions and features scholars who are just emerging in the field as well as those who have been actively working on labor issues for some time.

We hope the panels spark your interest. We tried hard to include scholars from various fields and methodological persuasions in political science as well as bring in some practitioners working within the labor movement. We are hoping for a great meeting and look forward to seeing you at the panels.

Roundtable: Reversing the Tide? The Election of Barack Obama and the Future of Organized Labor in the US)

Date: Thursday, Sep 3, 4:15 PM.

Location: TBA

Chair: **Gordon Lafer**, University of Oregon, glafer@uoregon.edu

Participant(s):

Neil Kwatra, UNITE-HERE, nkwatra@unitehere.org

Tracy Roof, University of Richmond, troof@richmond.edu

Taylor E. Dark, California State University, Los Angeles, td@taylordark.com

Nancy Wiefek, American Rights At Work, nwiefek@sbcglobal.net

George Faraday, Change to Win, george.faraday@changetowin.org

Thea M. Lee, AFL-CIO, tlee@aflcio.org

APSA 2009 cont:

Roundtable: 40 Years Since J David Greenstone's "Labor in American Politics": Reflections on Where We've Been, Where We Are, and Where We Should Go

Co-sponsored by New Political Science

Date: Friday, Sep 4, 2:00 PM. Location: TBA

Chair: Susan E. Orr, SUNY College at Brockport, sorr@brockport.edu

Participant(s):

Michael Goldfield, Wayne State University, m.goldfield@wayne.edu

Paul Frymer, Princeton University, pfrymer@princeton.edu

Janice Fine, Rutgers University, fine@smlr.rutgers.edu

Peter L. Francia, East Carolina University, franciap@ecu.edu

Dorian T. Warren, Columbia University, dw2288@columbia.edu

Ira Katznelson, Columbia University, iik1@columbia.edu

Panel: Varieties of Economic Change?

Co-sponsored by Comparative Politics Section

Date: Saturday, Sep 5, 4:15 PM Location:

Chair: **Matthew E. Carnes**, Georgetown University, carnes.matthew@gmail.com

“The Politics of Labor Reform: The Enduring Effects of Labor Relations Systems”

Teri L. Caraway, University of Minnesota, caraway@umn.edu

“Corporatism 2.0? Understanding the Rebirth of Labor Politics in Latin America”

Matthew E. Carnes, Georgetown University, carnes.matthew@gmail.com

“Putting Postcommunist Labor in Comparative Perspective”

Stephen F. Crowley, Oberlin College, steve.crowley@oberlin.edu

“Political Origins of Anti-Labor Institutions”

Alexander Kuo, Stanford University, agkuo@stanford.edu and **Connor Raso**, Stanford University, raso@stanford.edu

“The Politics of Labor Market Deregulation in Japan and Korea”

Jiyeoun Song, Harvard University, song7@fas.harvard.edu

Discussant(s): **Katrina Burgess**, Katrina.Burgess@tufts.edu

Graeme Robertson, University of North Carolina, Chapel Hill, graeme@email.unc.edu

The following panels are not sponsored by the Labor Project but should be of interest to group members.

Panel 14-6 sponsored by Advanced Industrial Societies division: “The New Politics of Labor”

Date: Thursday, Sep 3, 10:15 AM

Panel 24-3 sponsored by Public Administration Division: “Labor Relations in the Public Sector: Changing Paradigms, Structures, and Measurement

Date: Sunday, Sep 6, 8:00 AM

Feature Article:**Labor Law Reform - A Status Report and Background
From Nancy Wiefek of American Rights at Work**

While the debate has largely been portrayed as narrowly focused, many of those working on the Employee Free Choice Act, including American Rights at Work, see this as a debate that goes beyond specific legislation and speaks to fundamental questions about what kind of country America wants to be. Labor unions are critical to an America where work is valued. Over the last century, we have seen working people and their unions in each of the biggest battles for justice and equality: aid to education, civil rights, housing programs, the minimum wage, high road economic development and most recently green jobs. As this country faces a critical crossroads in its history, whether or not workers are at the table will fundamentally shape the future of the United States.

I include below some recent developments on the research and legislative front, as well as some history and context. Please visit us at www.americanrightsatwork.org or feel free contact me for help with resources on specific issues, *Nancy Wiefek, Ph.D., Research Associate*, at 202 822 2127 x105 or nwiefek@americanrightsatwork.org.

The latest developments on the Employee Free Choice Act

- ❖ At a gathering in his honor at the AFL-CIO last week, Senator Franken announced that he became the co-sponsor of the Employee Free Choice Act, his first piece of legislation in the Senate upon finally being seated.
- ❖ Senator Harkin continues his strong leadership on this issue, recently pledging that if a solid compromise cannot be found, "it is my intent that we will put the original bill on the floor and make people vote on it."
- ❖ Recent and ongoing [research](#) being conducted by American Rights at Work, is finding that first contract arbitration provisions in Canada, which have been in place for decades, are very rarely used and result in wage increases that are nearly identical to those reached through voluntary collective bargaining.
- ❖ In June, Former Secretaries of Labor Robert Reich and Ray Marshall authored an [op-ed](#) in the Chicago Tribune calling for real labor law reform through the Employee Free Choice Act.
- ❖ In May, Dr. Kate Bronfenbrenner, Director of Labor Education Research at the Cornell School of Industrial and Labor Relations presented her sobering findings to the Senate. Her recent exhaustive [study](#) builds on her ground-breaking research of representation elections supervised by the National Labor Relations Board. She conducted a comprehensive analysis of primary NLRB documents for a random sample of 1,004 NLRB campaigns taken from the full population of all certification elections in units with 50 or more eligible voters between January 1, 1999 and December 31, 2003.

Feature Article cont:

Using in-depth surveys with the lead organizer conducted by mail, phone, or email, personal interviews, documentary evidence, and electronic databases, Bronfenbrenner and her research team compiled detailed data on election background, organizing environment, bargaining unit demographics, company and union characteristics and tactics, and election and first contract outcomes. Employer behavior data from prior studies conducted over the last 20 years are used for purposes of comparison.

They find that compared to the 1990s, employers are now more than twice as likely to use 10 or more tactics in their anti-union campaigns, with a greater focus on more coercive and punitive tactics designed to intensely monitor and punish union activity.

- 63% of employers interrogate workers in mandatory one-on-one meetings with their supervisors about support for the union;
 - 54% of employers threaten workers in such meetings;
 - 57% of employers threaten to close the worksite;
 - 47% of employers threaten to cut wages and benefits; and
 - 34% of employers fire workers.
 - In February, leading economists, including Nobel Prize laureates, from every region of the country signed a [letter](#) endorsing the legislation as a “critically important step in rebuilding our economy and strengthening our democracy by enhancing the voice of working people in the workplace.”
- ❖ The Chamber of Commerce continues its unrelenting attack on the Employee Free Choice Act. The irony of the Chamber’s massive opposition to this legislation is that they are defending a system that rewards cheaters, and forces responsible businesses who are struggling to do right by their employees to compete against those who violate the letter and the spirit of the law to stymie workers’ efforts to organize. Furthermore, the Chamber has actively blocked efforts to address the health care crisis and help those small businesses struggling to afford health insurance for themselves and their workers. In fact, many small businesses see a real benefit from unionization that allows them to pool with other employers through a local union.
- ❖ In March, Dr. John DiNardo, Professor of Economics and Public Policy at the University of Michigan and research associate at the National Bureau of Economic Research, presented a strong [case](#) countering claims that being organized is a death knell for businesses. His study uses a quasi experimental design that compares close winners and close losers of NLRB elections during 1984 to 2001. This randomization helps ensure that these are comparable firms and then looks at their probability of failing. i.e., firms that lost by 1% are similar to firms that won by 1%. He finds that firms that become unionized are no more likely to fail than comparable firms that remain nonunion.

Feature Article cont

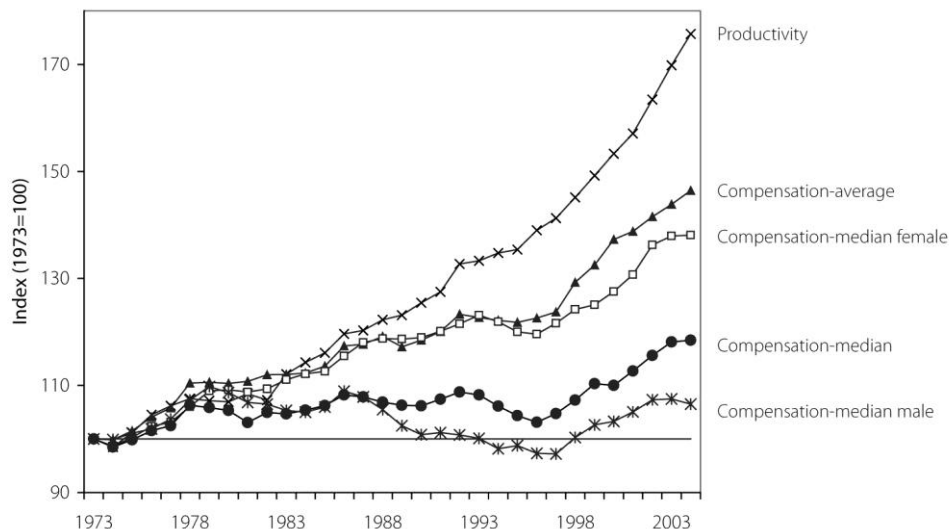
As momentum on this issue continues to build, we expect the inevitable debate and that the legislative process will take its course. The labor movement and its allies remain committed to the key principles of:

- Workers having a free choice and a fair path to choose to form a union, free from intimidation;
- Real penalties for employers who break the law;
- Companies should not be able to engage in endless delays and stalling tactics to deny workers a collective bargaining agreement.

The Context

Between 1947 and 1973 both productivity and median family income in the United States roughly doubled. In the decades following, workers' wages have failed to keep up with the continuous increase in productivity. From 2000 to 2007, income for the median working-age household actually dropped by \$2,000 after inflation. The top 1% of wage earners now hold 23% of all income—the highest inequality in income since 1928. As the table from the latest State of Working America report produced by the Economic Policy Institute makes clear - workers are not sharing in the productivity they produce.

Productivity and hourly compensation growth, 1973-2004



Source: Authors' analysis of NIPA, CPS ORG, and BLS productivity data.

Figure 3N from: Mishel, Lawrence, Jared Bernstein, and Sylvia Allegretto, *The State of Working America 2006/2007*. An Economic Policy Institute Book. Ithaca, N.Y.: ILR Press, an imprint of Cornell University Press, 2007.



Feature Article cont:

The path from egalitarian and steady growth to a low-wage, high-debt economy is a layered and complex story. Neither pattern was accidental: policies designed to foster equality were replaced by policies designed to foster inequality. Both worked very well toward their objectives. One key piece in this story is the decimation of trade unions and other “equalizing institutions” as termed by MIT economist Frank Levy (along with the quality of education, the welfare state, international trade regulations, and the other political structures). And as Harvard economist Richard Freeman has argued labor is necessary to serve as a stabilizing macro force. The current financial “crisis” can be read as simply strong evidence of how well the inequality policy agenda has worked and will continue to work without decisive policy action to restore balance to American society.

In 1960, private sector union membership was 30%; by 2007, it had dropped to 7.5%. As unions declined, both union and non-union workers lost the economic benefits of collective bargaining. According to the research of Professor Henry Farber at Princeton, more than half of the decline in the average wage of workers with no more than a high school education is attributed to the decline in union density.

The decline in collective bargaining is also linked to the erosion of employer-provided benefits. According to data collected by the U.S. Census Department, the percentage of all American workers with employer-provided health benefits dropped from 69% in 1979 to 55% in 2006. The percentage of private sector workers with vastly superior defined benefit retirement plans (as opposed to defined contribution plans) decreased from roughly 50% to less than 20%. Unlike other countries, U.S. workers do not have a “just cause” provision in their employment contracts unless their union negotiates it. U.S. workers do not have access to universal health insurance. And U.S. workers face the world’s most developed and aggressive union-avoidance consultant industry.

It is conceivable that the decline in unionization is not the result of a systematic policy agenda but rather represents the preferences of American workers, as the opponents of unions and the Employee Free Choice Act theorize. Yet, the actual data on American workers’ preferences tell a different story. One consistent survey finding in particular belies the assertion that Americans embrace the “on your own” philosophy: when American workers think about the economy, they express a strong preference for economic security over economic opportunity. An August 2008 survey of non-supervisory workers conducted by Lake Research Partners on behalf of Change to Win confirms these sentiments with 75% preferring economic security over 25% judging economic opportunity more important to them personally.

Analyzing several decades of polling data, Harvard economist, Richard Freeman, finds that workers want a voice at work now more than ever. And in recent national polling conducted by Hart Research Associates, 53% of non-union workers say they would form a union if they could—a percentage that has steadily risen since the 1980s—yet far fewer workers belong to unions. As labor scholar Harley Shaiken asserts, “The yawning gap between the robust demand to join unions and the anemic membership numbers reflects the fact that, for many Americans, joining a union has become a risk rather than a right.”

Feature Article cont:

The American Labor Law System

The National Labor Relations Act of 1935 (NLRA) or the Wagner Act as it is commonly known, gives private sector workers in America the right to join or form a labor union and to bargain collectively over wages, hours, and other working conditions. Over the years this basic right has been eroded by amendments and lax enforcement within an overarching socio-political culture of increasing corporate power.

We are left with a labor law system that allows employers to veto the will of the workers, violate the rule as well as the spirit of the law with relative impunity, and systematically delay negotiating a first contract even after a union victory. This imbalance is superimposed upon the inherent and compelling authority of employers: they can hire and fire. This reality was highlighted back in a 1941 decision by Judge Learned Hand: "Language may serve to enlighten a hearer... but the light it sheds will in some degree be clouded if the hearer has no power ... What to an outsider will be no more than the vigorous presentation of a conviction, to an employee may be the manifestation of a determination which is not safe to thwart."

Until the late 1960s, employers were required to recognize unions when presented with cards or other evidence of majority support, unless they had a "good faith doubt" as to the union's majority status. The Board and the courts specifically held that where a refusal to recognize was designed to gain time so that the employer could attempt to dissipate the union's support or reflected basic opposition by the employer to unionization, that refusal was unlawful.

The change to the law giving employer's the right to refuse a request for recognition and force the union to petition for an election, no matter how strong the evidence of majority support or what the employer's motive is for refusing, came about as a result of a series of Board decisions in the late 1960's that were eventually upheld by the Supreme Court in 1974. Employers can still choose to voluntarily recognize a union. However, many employers and their union avoidance advisers use the veto as a strategic method to delay the process which in turn dilutes union support.

Efforts to ensure the free speech rights of employers tipped the scale even farther in their favor. American law recognizes that free and fair elections require certain ground rules: equal access to voters by the two major parties; equal access to the media; free speech for both candidates and voters; protection of voters from economic coercion; and secret ballots. As a study commissioned by American Rights at Work and conducted by Professor Gordon Lafer's outlines, with the partial exception of the secret ballot, the NLRB system fails every single one of these tests for basic fairness. In 2002, the State Department condemned elections in Ukraine because employees of state-owned enterprises were pressured to support the ruling party and the governing party enjoyed one-sided media coverage, while the opposition was largely shut out of state-run television. These practices are legal under the NLRB election system.

Feature Article cont:

The union campaigns examined in the research of Kate Bronfenbrenner at Cornell University and work by Chirag Mehta and Nik Theodore demonstrate widespread actions that thwart union efforts: 49% threaten to close a worksite when workers try to form a union, but only 2% actually do; 51% coerce workers into opposing unions with bribery or favoritism; 82% hire high-priced unionbusting consultants to fight union organizing drives; and 91% force employees to attend one-on-one anti-union meetings with their supervisors.

According to a new report from the Center for Economic and Policy Research, more than one-fourth of all union representation elections in the 2000s have been marred by an illegal firing of a pro-union worker. The paper finds that pro-union workers were fired in 26 percent of union election campaigns over the period 2001-2007 (most recent available data), up from estimated 16% in the last half of the 1990s.

When a worker is fired for union activity, the impact of that firing extends not only to the worker fired, but to all her coworkers. According to estimates compiled by American Rights at Work, for every pro-union worker who is fired, 395 others get the message: they could be next.

As soon as workers file a petition with the National Labor Relations Board (NLRB) to hold an election, employers often try to prevent the vote from ever taking place; in four out of 10 cases, workers who ask for an NLRB-supervised election don't ever get a chance to vote according to research compiled by American Rights at Work. Analysis of the 22,000 petitions for an election filed with the NLRB between 1999 and 2004 conducted by John-Paul Ferguson and Thomas Kochan at MIT shows that even after a majority votes for a union, many units fail to get a contract. Only 56% of units in which a majority of employees voted for a union and were certified for bargaining by the NLRB were successful in reaching a first contract. Only 38% of such units reached a contract within one year.

With weak enforcement of an already toothless labor law, it's not surprising employer lawlessness is pervasive. Behavior by Wal-Mart provides a glaring but not exceptional example of what workers and their unions face in America. In 2000, Wal-Mart illegally thwarted an organizing effort in Nevada; workers were interrogated, threatened, harassed, and denied promotions. Seven years, two months, and seven days after the first charge was filed, the NLRB ruled that Wal-Mart acted illegally, forcing the company to pay meager lost wages to one employee and to post notices in three stores stating that it will not break the law.

Put your PS in Action: Academic Research on the Employee Free Choice Act

For Labor Project members interested in the Employee Free Choice Act here is a round-up of some recent research by academics.

As Nancy Wiefek mentions in our feature article, **Kate Bronfrenbrenner** of Cornell has a new report “NO HOLDS BARRED: The Intensification of Employer Opposition to Organizing” which can be downloaded from the Economic Policy Institute web page http://epi.3cdn.net/edc3b3dc172dd1094f_0ym6ii96d.pdf

Former Labor Project co-chair **Gordon Lafer** has a new paper, “What’s More Democratic than a Secret Ballot? The Case for Majority Sign-Up.” *Working USA* (2008). The paper refutes the claim that EFCA is undemocratic. It can be downloaded from the EFCA website hosted by UMass Amherst’s Political Economy Research Institute that has many other good EFCA resources: <http://www.peri.umass.edu/462/>

John Logan of UC Berkley Labor Center has put together a collection of essays from California Academics on the proposed legislation, “Employee Free Choice: Multidisciplinary Approaches to Labor Law Reform.” The centers web page where the report can be downloaded <http://laborcenter.berkeley.edu/laborlaw/efca09.pdf>, describes it in this way.

This report includes 13 essays on the Employee Free Choice Act, labor law, and unionization by professors and experts at nine universities and colleges throughout California. It addresses such topics as problems with current U.S. labor law; the potential impact of labor law reform on the economy; and how unionization affects such industries as the long-term care sector. Its contributors hail from UC Berkeley, UC Davis, University of Southern California, UC Irvine, UCLA, UC Santa Barbara, UC Riverside, UC Santa Cruz, and Occidental College.

A new article by **Bruce Nissen**, “Would the Employee Free Choice Act Effectively Protect the Right to Unionize? Evidence from a South Florida Nursing Home Case.” *Labor Studies Journal* (2009), offers great insights about how EFCA would aide organizing and particularly first contract negotiation.

Legal scholar **Richard A. Epstein** has written an essay in opposition to EFCA; “*The Case Against the Employee Free Choice Act*” The 125-page study to be published by The Hoover Institute at Stanford University, is “an extensive analysis and critique of the legislation.” It has been promoted by the Chamber of Commerce and is available for download at their web page <http://www.chamberpost.com/2009/02/new-academic-study-debunks-efca.html>

Group members who read Epstein’s piece in the Wall Street Journal arguing that EFCA was unconstitutional might be interested in this rebuttal “The Improbable Claim That EFCA Is Unconstitutional” by **Michael H. Gottesman**, Professor of Law, Georgetown University Law. It can be found at the American Constitution Society <http://www.acslaw.org/node/12895>

Put your PS in Action:

Historians, involved with the Labor and Working Class History Association are very active on EFCA and have a great web-page full of research, opinion pieces, and a petition. Here is the web address: <http://www.lawcha.org/tls.php>

Economists have also been engaged in the EFCA debate, you can read their latest statement and review the impressive list of scholars who have signed their petition at the Economic Policy Institute web-page here:

http://www.epi.org/publications/entry/statement_on_efca/

We hope you find this research round-up useful. It is surely not exhaustive but captures some of the latest scholarship. If you have ideas about how **Political Scientists** might contribute more to the policy debate please forward them to Teri Caraway caraway@umn.edu, or Susan Orr sorr@brockport.edu.

Member Updates and News:

Kim Geron asks Labor Project Members to consider attending the WPSA 2010
Call to Contribute labor papers for the 2010 Western Political Science Association (WPSA) conference.

At the 2009 WPSA in Vancouver, several members of the APSA Labor project held a successful panel discussion on domestic and comparative issues related to the topic of workers and organized labor's role in the political process. I would like to encourage everyone on the labor project to consider submitting a paper to the upcoming 2010 WPSA conference in San Francisco, April 1-3rd. This location is also a major center of labor activism and progressive pro-labor legislation and if enough of us are interested, I would be happy to facilitate meeting with local labor leaders and activists as a separate project.

The theme for the 2010 Meeting is POLITICS IN THE MAELSTROM OF GLOBAL ECONOMIC CRISIS is a fitting conference theme to frame the challenges and opportunities confronting labor movements in the U.S. and internationally. I will be heading up the Parties, Interest Groups, and Social Movements section and anticipate being able to create a panel of labor related papers as part of this section. To submit a paper proposal go to the website of : <http://www.csus.edu/org/wpsa/call.stm> Paper proposals should be submitted by September 18, 2009.

If you have any questions, or to participate please contact Kim Geron, kim.geron@csueastbay.edu

PUBLICATIONS

Labor Project member **Stephen Haggard** and co author Robert Kaufman recently published; *Development, Democracy, and Welfare States: Latin America, East Asia, and Eastern Europe* with Princeton Press.

Here is the publishers brief description of the book: *This is the first book to compare the distinctive welfare states of Latin America, East Asia, and Eastern Europe. Stephen Haggard and Robert Kaufman trace the historical origins of social policy in these regions to crucial political changes in the mid-twentieth century, and show how the legacies of these early choices are influencing welfare reform following democratization and globalization.*

Labor Project founder and member **Margaret Levi** (along with co-authors) published an article that offers a new model of internal union governance using the International Longshore and Warehouse Union as a case study. Margaret Levi, David Olson, Jon Agnone and Devin Kelly. 2009. "Union Democracy Reexamined." *Politics & Society*, 37: 203-228.

Mark Anner, Assistant Professor of Labor Studies and Political Science at Penn State University, explores transnational activism and the radical flank mechanism in his forthcoming article, "Two Logics of Labor Organizing in the Global Apparel Industry." The article is due out in *International Studies Quarterly* in September 2009.

Teri Caraway's work on legacy unions, "Explaining the Dominance of Legacy Unions in New Democracies: Comparative Insights from Indonesia," was recently published in *Comparative Political Studies* 41:10 (October 2008). Teri Caraway is Labor Project Co-Chair and Associate Professor at the Department of Political Science at the University of Minnesota, Twin Cities.

Please keep us informed of your publications so that we can include them in the next installment of the newsletter. Email details to Teri Caraway caraway@umn.edu or Susan Orr sorr@brockport.edu

APSA LABOR PROJECT

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