

---

Upjohn Institute Press

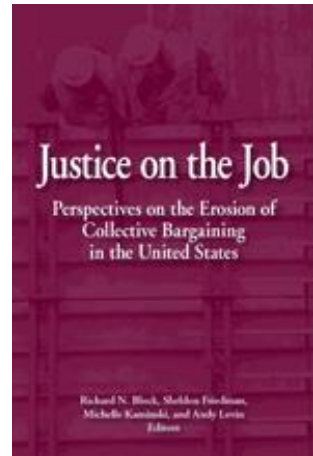
---

# Significant Victories: An Analysis of Union First Contracts

Tom Juravich  
*University of Massachusetts Amherst*

Kate Bronfenbrenner  
*Cornell University*

Robert Hickey  
*Queen's University*



Chapter 5 (pp. 87-114) in:

**Justice on the Job: Perspectives on the Erosion of Collective Bargaining  
in the United States**

Richard N. Block, Sheldon Friedman, Michelle Kaminski, Andy Levin, eds.  
Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 2006  
DOI: 10.17848/9781429454827.ch5

# 5

## Significant Victories

### An Analysis of Union First Contracts

Tom Juravich  
*University of Massachusetts, Amherst*

Kate Bronfenbrenner  
*Cornell University*

Robert Hickey  
*Queen's University*

After two decades of massive employment losses in heavily unionized sectors of the economy and exponential growth of the largely unorganized service sector, the U.S. labor movement is struggling to remain relevant. Despite new organizing initiatives and practices, union organizing today remains a tremendously arduous endeavor, particularly in the private sector, as workers and their unions are routinely confronted with an arsenal of aggressive legal and illegal antiunion employer tactics. This vigorous opposition to unions in the private sector does not stop once an election is won, but continues throughout bargaining for an initial union agreement, all too often turning organizing victories into devastating first-contract defeats (Bronfenbrenner 1997b, 2001).

Despite these overwhelming obstacles, workers still organize and win—through certification elections and voluntary recognition campaigns in both the private and public sectors. And each year unions successfully negotiate thousands of first contracts in the United States, providing union representation for the first time to hundreds of thousands of new workers. This research takes an in-depth look at what unions achieve in these initial union contracts. Why, when confronted with such powerful opposition, do unorganized workers continue to want to belong to unions and newly organized workers want to stay union? What do these first contracts provide that makes the struggle worthwhile?

To explore these questions, we analyze and evaluate union first contracts along four primary dimensions. First, we inventory the basic workers' rights provided by these contracts, which go beyond the very limited rights provided by federal and state labor law under the "employment at will" system. Second, we evaluate how first contracts provide workers and their unions with the institutional power to shape work and the labor process on a day-to-day basis. Third, we explore how first contracts codify the presence and power of unions in daily work life, and we evaluate which institutional arrangements provide a meaningful role for workers and their unions in their workplaces. Fourth, we examine the kinds of workplace benefits that are codified and supplemented in first contracts, gaining important insights into the types of human resource practices that exist in newly unionized workplaces. Finally, by examining the interactions among these four dimensions, we explore the limitations of what first contracts have been able to achieve in the current organizing environment, and what it would take for unions to improve the quality of first contracts.

## **PREVIOUS RESEARCH ON FIRST CONTRACTS**

There is a growing body of literature on organizing in both the private and public sectors (Bronfenbrenner et al. 1998; Milkman and Voss 2004). However, only a small portion of this research extends to first-contract campaigns (Bronfenbrenner 1996, 2001; Hickey 2002; Hurd 1996). Collective bargaining agreements are regularly evaluated for patterns, outcomes, and emerging basic language, yet this work rarely distinguishes between first and subsequent agreements (Bureau of National Affairs 1995; Kumar 1989). A series of studies evaluates the financial impact of unionization and first contracts on employers (DiNardo and Lee 2004; Freeman 1981).

The U.S. Bureau of Labor Statistics (BLS) regularly gathers data on the wage differential between the union and nonunion sectors of the economy (BLS 2003a,b). But, here too, little effort has been made to look specifically at the impact of union first contracts. Furthermore, it is inadequate to focus only on the financial rewards of unionization. Nonfinancial issues such as dignity, fairness, and workplace control are

often the key issues in organizing campaigns and remain central in the development of initial union contracts (Bronfenbrenner 1996; Bronfenbrenner and Hickey 2004). Comparing firms where organizing did or did not take place, Freeman and Kleiner (1990, S8) found only moderate wage gains through unionization but suggest that “newly organized workers made significant gains in the areas of grievance procedures, job posting and bidding, and seniority protection.” To date, however, there is no detailed quantitative assessment of these nonfinancial yet crucially important aspects of first agreements.

## RESEARCH METHODS

This research is based on a content analysis of 175 union first contracts in both the public and private sectors. The contracts were assembled as part of Bronfenbrenner’s previous research on private sector first-contract campaigns (1997a) and on research on public sector first-contract campaigns by Bronfenbrenner and Juravich (1995) and Juravich and Bronfenbrenner (1998).<sup>1</sup> We recognize that these contracts from 1987 through 1996 are less than current, but they draw from the only existing national random samples of first contract campaigns in both the public and private sectors. A review of first contracts collected as part of Bronfenbrenner’s most recent first-contract study (2001) suggests no major changes in the nature and extent of first contracts in the last decade.

Because of the lack of prior research on first-contract content, we were forced to develop an entirely new research typology to evaluate the multiple dimensions of first-contract gains.<sup>2</sup> For all 175 first contracts, we evaluated each contract along 296 parameters, measuring the extent and nature of various contract provisions.<sup>3</sup> Unfortunately, due to the absence of previous research in this area, there are no analogous earlier data to which our findings can be compared. Thus, our hope is that this research typology will provide a baseline upon which future union contracts can be compared and will encourage further research in this area.

Table 5.1 provides baseline information on our sample. The first contracts are almost equally divided between the private and public

**Table 5.1 Characteristics of the Sample**

	All contracts		Private sector		Public sector	
	Number	Mean or proportion	Number	Mean or proportion	Number	Mean or proportion
Number of contracts	175	1.00	94	0.54	81	0.46
Average contract duration (in months)	—	28.50	—	30.30	—	26.30
Signatories						
Local	144	0.82	82	0.87	62	0.78
Region/district	4	0.02	2	0.02	2	0.03
International	3	0.02	2	0.02	1	0.01
Unit scope						
All employees	25	0.14	11	0.12	14	0.17
Regular full-time employees only	19	0.11	15	0.16	4	0.05
Regular full-time and all part-time employees	63	0.36	37	0.39	26	0.32
Regular full-time plus some part-time	35	0.20	22	0.23	13	0.16
Part-time, per-diem, and/or temporary	5	0.03	1	0.01	4	0.05
Number of workers covered under contracts	27,651	159	11,453	123	16,198	200
Unit type						
Blue collar	45	0.26	37	0.39	8	0.10
White collar	10	0.06	4	0.04	6	0.07
Professional/technical	21	0.12	7	0.07	14	0.17
Professional/technical	21	0.12	7	0.07	14	0.17
Service and maintenance	54	0.31	19	0.20	35	0.43

Wall-to-wall	26	0.15	15	0.16	11	0.14
Other	18	0.10	11	0.12	7	0.09
Industry						
Manufacturing	32	0.19	32	0.34	0	—
Communications and utilities	5	0.03	5	0.05	0	—
Construction	2	0.01	2	0.02	0	—
Retail	5	0.03	5	0.05	0	—
Transportation	6	0.04	6	0.06	0	—
Health care (both public and private)	31	0.18	29	0.31	2	0.03
Social, business and other services	13	0.08	13	0.14	0	—
City/county government	36	0.21	0	—	36	0.44
Public education (including higher education)	43	0.25	0	—	43	0.53
Bargaining unit demographics						
At least 50% workers of color	57	0.33	44	0.47	13	0.16
No workers of color in the unit	37	0.21	12	0.13	25	0.31
Proportion of workers of color in the unit	—	0.31	—	0.43	—	0.18
At least 50% women workers	104	0.59	38	0.40	66	0.82
No female workers	10	0.06	10	0.11	0	—
Proportion female workers in unit	—	0.52	—	0.38	—	0.67
At least 25% part-time workers	42	0.24	18	0.19	24	0.30
No part-time workers	91	0.52	49	0.52	35	0.43

---

sectors. The vast majority (82 percent) of the contracts were negotiated on a local level, with an average duration of slightly more than two years. In the private sector the major industries represented include manufacturing (34 percent) and health care (31 percent). Blue-collar units represent the largest proportion (39 percent) of the private sector contracts, followed by service and maintenance units, wall-to-wall units, and professional/technical and white-collar units. In the public sector the contracts are concentrated in service and maintenance units (43 percent) and professional/technical units (17 percent), primarily in education (53 percent) and municipalities (44 percent).

A majority of the workers covered under these agreements are women. This is especially true in the public sector, where women average 67 percent of the unit compared to 38 percent in the private sector. Workers of color are more concentrated in private sector units, where they represent the majority in almost half the units.

## **BEYOND EMPLOYMENT AT WILL**

Table 5.2 summarizes the basic workplace rights provided for in first contracts. Most of these protections are already “guaranteed” by federal and state legislation. Yet, contractual antidiscrimination language is important for two reasons. First, it demonstrates to the employer, union members, and the broader community that the union is concerned about these issues. But equally important, it provides an enforcement mechanism that involves significantly less effort, cost, and time than claims filed under state or federal law.

As we can see from Table 5.2, nearly three-quarters of the contracts in our sample contained a discrimination clause, with about two-thirds covering a range of types of discrimination including race, gender, national origin, religion, age, and disability. Of the units with at least 25 percent women, 63 percent had gender discrimination language, while 73 percent of the units with at least 25 percent workers of color had language covering race discrimination. Fewer than 25 percent of the contracts cover other types of discrimination, such as sexual orientation, political affiliation, and veteran status. Only 6 percent had sepa-

rate sexual harassment language, and 1 percent had separate pay equity language.

For nearly all the most common antidiscrimination protections, the percentage of public sector contracts including these protections was 10–20 percent lower than the private sector contracts. This may result from the fact that many public sector workers may be covered by state and local discrimination laws that provide them a more streamlined process for filing antidiscrimination suits than federal protections.

Seventeen percent of the first contracts go beyond basic workplace rights to include specific contract language that requires management to treat employees with respect and dignity. Respect and dignity issues are often core elements of successful organizing campaigns, and these clauses provide an opportunity for the union to file grievances and publicly question management's reputation, even when other contract clauses have not been violated.

As is clear in Table 5.2, in a significant departure from the nonunion employment-at-will environment, nearly three-quarters of the contracts we examined require discipline and discharge to be based on just cause, thus constraining management's ability to play favorites or to intimidate and threaten workers who challenge them. Nearly 40 percent of first contracts also codify *Weingarten* rights for union members to obtain union representation when they believe that they will be disciplined, and 13 percent expand on those rights by requiring the employer to notify the employee of his or her right to union representation before the disciplinary meeting begins.

Virtually all the contracts in our sample (96 percent) create a grievance procedure with third-party arbitration. Employers, who before the first contract was settled retained sole authority to make decisions in the workplace, become bound by a system that allows for independent third-party review of disputes between management and employees. This due process language is the most widespread provision in this study, and provides the enforcement mechanism that guarantees all the other clauses in the first agreement. A quarter of the contracts permit class-action grievances where the remedies apply to all those affected by the violation.



**Table 5.2 Workplace Rights Provided by First Contracts**

	All contracts		Private sector		Public sector	
	Number	Mean or proportion	Number	Mean or proportion	Number	Mean or proportion
Antidiscrimination protections	128	0.730	80	0.85	48	0.59
Union activity	101	0.58	51	0.54	50	0.62
Race <sup>a</sup>	123	0.70 (0.73)	75	0.80 (0.78)	48	0.59 (0.62)
Gender <sup>b</sup>	122	0.70 (0.63)	74	0.79 (0.74)	48	0.59 (0.54)
Age	112	0.64	66	0.70	46	0.57
Disability	92	0.53	52	0.55	40	0.49
National origin	118	0.67	72	0.77	46	0.57
Family status	8	0.05	2	0.02	6	0.07
Marital status	48	0.27	17	0.18	31	0.38
Sexual orientation	31	0.18	19	0.20	12	0.15
Political affiliation	38	0.22	14	0.15	24	0.30
Religion	115	0.66	68	0.72	47	0.58
Veteran status	26	0.15	20	0.21	6	0.07
Separate sexual harassment clause	10	0.06	5	0.05	5	0.06
Pay equity	2	0.01	1	0.01	1	0.01
Compliance with all state, local, and federal laws	9	0.05	9	0.10	0	—
Respect and dignity clause	29	0.17	25	0.27	4	0.05
Discipline and discharge						
Just cause	122	0.70	67	0.71	55	0.68

Specified progressive discipline procedure	48	0.27	19	0.20	29	0.36
Grievable <i>Weingarten</i> rights (notification)	22	0.13	14	0.15	8	0.10
Grievable <i>Weingarten</i> rights (no notification)	42	0.24	16	0.17	26	0.32
Grievance procedure						
Grievance procedure with 3rd party arbitration	168	0.96	93	0.99	75	0.93
Expedited grievance procedures	50	0.29	25	0.27	25	0.31
Class-action grievances permitted	47	0.27	11	0.12	36	0.44

<sup>a</sup>Numbers in parentheses report the proportion of units with 25% or more workers of color that have no race discrimination language.

<sup>b</sup>Numbers in parentheses report the proportions of units with 25% or more female workers that have gender discrimination language.

## UNION RESTRICTIONS ON MANAGEMENT RIGHTS

In addition to these basic rights, first contracts contain language outlining a system of rational and equitable rules and procedures for workplace practices, restraining unilateral decisions by management. As we can see in Table 5.3, seniority plays a key role in developing consistent, nonarbitrary procedures for promotions, layoffs, recall, transfers, and vacation and overtime scheduling. However, seniority is less of a feature in public than in private sector agreements because in many cases it is already codified in civil service law.

It is important to note that none of the seniority clauses in the first contracts in our sample include affirmative action language to protect women and workers of color from being “last hired, first fired.” This is a relevant issue for the labor movement, particularly since women and workers of color continue to make up the majority of new workers organized. This lack of language on affirmative action may not just be the result of bargaining. Over the past decade we have seen an increasing number of legal challenges to affirmative action, which has made many public entities hesitant to sign on to these types of provisions.

The first contracts we examined also contain language laying out the process for promotions and the filling of vacancies beyond basic seniority rights. More than three-quarters of agreements in both sectors provide for the posting of vacancies. In 40 percent of the contracts internal candidates are given priority in hiring. More than one-third of the contracts provide for provisional transfer to newly posted positions. However, very few contracts provide opportunities for part-time employees to bid on full-time work.

Thirty-eight percent of the contracts go beyond state and federal wage and hour laws to require overtime pay after 8 hours and 6 percent provide overtime for work beyond an employee’s regularly scheduled hours. This is particularly important for part-time workers, who otherwise are frequently asked to work additional hours but not enough to reach the legislated threshold of 40 hours a week.

While expanded hours and mandatory overtime are an increasing problem in today’s workplaces, virtually none of the contracts set limits on mandatory overtime. These provisions mirror contract negotiations in general, where even after long strikes few unions have succeeded

in eliminating 12-hour days or cutting back on mandatory overtime (Franklin 2001).

A number of contracts in our sample, particularly those in the private sector, where weekend and evening shifts are more common, have clauses that codify and/or expand upon shift differentials (supplemental pay) for those employees who work outside of the regular workday or workweek. Nearly one-half of private sector first contracts guarantee a shift differential for evening work, while a smaller percentage establish differentials for weekend work.

One-third of private sector contracts and 51 percent of public sector contracts have language outlining work schedules and hours. Many contracts also require the posting of schedules and notice of, or protection from, changes outside workers' regularly scheduled hours. These clauses are important because they provide workers predictability and control over their work schedules. Workload and minimum staffing, serious issues in almost every workplace, are addressed in only 7 percent of first agreements. This reflects the fact that most employers aggressively oppose any inclusion of staff and workload protections in the contract and frequently argue that these are absolute management rights.

Health and safety is another area that dramatically distinguishes union from nonunion workplaces. Forty-two percent of all contracts and 55 percent of private sector contracts have grievable health and safety clauses. Thirty-one percent include language requiring employers to provide protective equipment, and 30 percent establish a joint health and safety committee. Only a small number (6 percent) give workers the right to refuse unsafe work, and only 5 percent guarantee workers and unions the right to health and safety information.

Unions have not been very successful in gaining significant job security protections in first contracts, despite the increasing importance of such language in a climate of corporate restructuring, technological change, privatization, and capital mobility. As described in Table 5.3, approximately one-third of private sector first agreements include some language governing restrictions on successorship, restricting the use of temporary workers, subcontracting, and supervisors doing bargaining-unit work. Much less common are provisions relating to new owners honoring the agreement, union notification of closure, and technological change.

**Table 5.3 Union Restrictions on Management Rights**

	All contracts		Private sector		Public sector	
	Number	Mean or proportion	Number	Mean or proportion	Number	Mean or proportion
Seniority						
Overtime	36	0.21	27	0.29	9	0.11
Layoff	132	0.75	79	0.84	53	0.65
Recall	116	0.66	70	0.75	46	0.37
Transfer	48	0.27	35	0.37	13	0.16
Promotions where minimum qualifications are met	16	0.09	10	0.11	6	0.07
Promotions where equally qualified	72	0.41	51	0.54	21	0.26
Shift assignments	10	0.06	6	0.06	4	0.05
Holidays	3	0.02	3	0.03	0	—
Vacation	63	0.36	46	0.49	17	0.21
Prorated for part-time employees <sup>a</sup>	18	0.10 (0.07)	7	0.07 (0.11)	11	0.14 (0.04)
Full seniority for part-time employees <sup>a</sup>	7	0.04 (0.05)	4	0.04 (0.06)	3	0.04 (0.04)
Layoffs or reduction of hours						
Long-term layoff notice	74	0.42	41	0.44	33	0.41
Average minimum number of days notice	—	17	—	9.9	—	23.7
Short-term layoff without seniority consideration	9	0.05	8	0.09	1	0.01
Bumping rights	81	0.46	46	0.49	35	0.43
Severance pay	7	0.04	6	0.06	1	0.01
Retraining	4	0.02	4	0.04	0	—
Recall rights	142	0.81	82	0.87	60	0.74

Promotions and filling of vacancies						
Posting of vacancies	140	0.80	75	0.80	65	0.80
Internal candidates first priority	70	0.40	40	0.43	30	0.37
Opportunity of temporary trial/return	65	0.37	42	0.45	23	0.28
Part-timers can bid for full-time <sup>a</sup>	7	0.04 (0.10)	5	0.05 (0.11)	2	0.03 (0.08)
Overtime						
Overtime for over regularly scheduled hours	10	0.06	6	0.06	4	0.05
Overtime pay for over 40 hours per week	24	0.19	22	0.23	2	0.03
Overtime pay for over 8 hours	67	0.38	43	0.46	24	0.30
Overtime equalization	32	0.18	21	0.22	11	0.14
No mandatory overtime	3	0.02	0	—	3	0.04
Limits on mandatory overtime	9	0.05	8	0.09	1	0.01
Premium pay for over 12 hours work	6	0.03	6	0.06	0	—
Premium pay for over 6 days a week	4	0.02	3	0.03	1	0.01
Shift and other pay differentials						
Evening differential	60	0.34	46	0.49	14	0.17
Saturday differential	24	0.14	15	0.16	9	0.11
Sunday differential	35	0.20	25	0.27	10	0.12
Relief in higher classification	63	0.36	33	0.35	30	0.37
Schedules, hours of work, and minimum staffing/workload						
Hours and scheduling specified in the contract	72	0.41	31	0.33	41	0.51
Posting of schedules required	39	0.22	29	0.31	10	0.12
Minimum staffing/workload	13	0.07	8	0.09	5	0.06

**Table 5.3 (continued)**

	All contracts		All contracts		All contracts	
	Number	Mean or proportion	Number	Mean or proportion	Number	Mean or proportion
Health and safety						
Right to refuse unsafe work	10	0.06	7	0.07	3	0.04
Employer provided protective equipment	54	0.31	33	0.35	21	0.26
Health and safety committee	52	0.30	36	0.38	16	0.20
Right to information	8	0.05	7	0.07	1	0.01
Grievable health and safety language	73	0.42	52	0.55	21	0.26
Employees will alert employer of safety concerns	7	0.04	5	0.05	2	0.03
Job security and protecting bargaining unit work						
Subcontracting rules	40	0.23	21	0.22	19	0.24
Restrictions on the use of temporary workers	28	0.16	25	0.27	3	0.04
Restrictions on supervisors doing bargaining unit work	41	0.23	33	0.35	8	0.10
Successorship language	35	0.20	30	0.32	5	0.06
Purchaser must honor contract	11	0.06	7	0.07	4	0.05
Union notified, request purchaser to honor agreement	6	0.03	6	0.06	0	—
New technology language	8	0.05	8	0.09	0	—

<sup>a</sup>Numbers in parentheses report the proportion of units with at least 25% part-time workers.

## UNION RIGHTS AND PRACTICES UNDER FIRST CONTRACTS

Table 5.4 presents data on how union rights and practices become codified and institutionalized after the signing of an initial union agreement. First contracts lay out the parameters by which unions operate on a day-to-day basis. Nearly two-thirds of all the first contracts in our sample have an agency or union shop, thereby laying a foundation upon which the union can more easily establish and maintain its presence in the workplace. For those with open shops, 91 percent of the private sector contracts and 69 percent of the public sector contracts were in right-to-work states, where open shops are required. Union security is further strengthened in the three quarters of the first contracts that allow for dues check-off—where union dues and/or agency fees are automatically deducted from workers' paychecks.

Another essential element of union representation is language guaranteeing staff and officers access to the workplace and to bargaining-unit members. Forty-five percent of private sector first contracts and 25 percent of public sector first contracts have liberal union access policies allowing union representatives to meet with employees in the workplace without having prior authorization from the employer or being restricted to certain times and certain areas. This is less of an issue in the public sector, however, because a combination of open meeting and public access laws provides union representatives, as members of the public, equal access to any public areas or public meetings.

Nearly one-half of first contracts provide stewards release time to investigate grievances, although this is more prevalent in the private sector than in the public sector. Approximately one-third grant stewards paid release time to investigate grievances on company time. Fifty-eight percent of first contracts grant stewards release time for grievance processing, and almost half allow this to take place on paid company time. Less than 10 percent of the contracts in both sectors have contract language allowing for new member orientation, despite the importance of such language in recently organized units, where everyone is new to the union.

More than one-third of the contracts provide union leave for officers and 25 percent provide union leave for members to attend union



**Table 5.4 Union Practice after First Contracts**

	All contracts		Private sector		Public sector	
	Number	Mean or proportion	Number	Mean or proportion	Number	Mean or proportion
Type of shop						
Union	61	0.35	57	0.61	4	0.05
Agency	51	0.29	12	0.13	39	0.48
Open	34	0.19	21	0.22	13	0.16
Proportion of open shops in right-to-work states	28	0.82	19	0.91	9	0.69
Dues check-off	128	0.73	67	0.71	61	0.75
Union staff access to workplace						
Liberal	62	0.35	42	0.45	20	0.25
Restricted	50	0.29	33	0.35	17	0.21
No access specified in contract	63	0.36	19	0.20	44	0.54
Union access						
Union bulletin board for union postings	142	0.81	82	0.87	60	0.74
Union right to information	17	0.10	12	0.13	5	0.06
Officer/steward rights						
Stewards' time to investigate grievances	78	0.45	53	0.56	25	0.31
Paid release time to investigate grievances	56	0.32	32	0.34	24	0.30
Stewards' time to process grievances	102	0.58	62	0.66	40	0.49
Paid release time to process grievances	83	0.47	44	0.47	39	0.48
Paid release time for other meetings with management	44	0.25	13	0.14	31	0.38
Union orientation	14	0.08	7	0.07	7	0.09
Union leave for officers to conduct union business	15	0.09	6	0.06	9	0.11

Union leave for officers to attend meetings conventions	64	0.37	28	0.30	36	0.42
Paid union leave to attend meetings/conventions	29	0.17	5	0.05	24	0.30
Unpaid leave for officers to take higher union office	33	0.19	22	0.23	11	0.14
Paid leave for members to process grievances	11	0.06	10	0.11	1	0.01
Union leave for members to attend meetings/conventions	43	0.25	21	0.22	22	0.27
Paid leave to attend meetings/conventions	18	0.10	3	0.03	15	0.19

---

meetings and conventions. Only a few of the contracts in our sample (9 percent) provide union leave for officers to conduct union business outside the workplace, while 19 percent provide for union leaders to take union-funded positions, protecting their right to return to the bargaining unit.

## **BENEFITS IN NEWLY ORGANIZED WORKPLACES**

Table 5.5 summarizes the workplace benefits provided by the first contracts in our sample. Health insurance, pension plans, leaves of absence, pay systems, training, and continuing education are fundamental concerns for unorganized workers, and are areas that have shown a substantial differential between union and nonunion workplaces. For example, according to BLS data, 72 percent of unionized workers are covered by defined benefit pension funds compared to only 15 percent of nonunion workers, while 60 percent of unionized workers have medical care benefits compared to 44 percent of nonunion workers (BLS 2003a,b). Beyond ensuring basic rights, fair and equitable standards, and an institutional presence already discussed, these workplace benefits help to create and protect a certain quality of life for workers and their families. The extent and nature of these contract clauses also inform us about the kinds of human resources practices in operation in newly organized workplaces, some of which existed before the organizing campaign but then were codified and guaranteed in the first agreement.

Overall, 89 percent of the first contracts provide contractual guarantees for some form of health insurance. Yet, reflecting the spiraling costs of health care that had begun to escalate during the period these contracts were negotiated, only 10 percent provide fully paid health insurance for workers and dependents. This is a significant departure from union contracts a generation ago, when many newly organized workers were brought into master agreements, which provided fully paid family health insurance and union health and welfare plans.

Pension plans are provided for in only 39 percent of first agreements, with employer-sponsored saving plans offered in an additional 12 percent and retiree health benefits offered in only 8 percent. Here,

too, we see a significant departure from the kinds of retirement benefits that once were a common element of large industrial and public sector agreements reflecting, in part, the growing efforts by U.S. employers to cut costs and long-term liabilities by shifting to a more contingent and less costly workforce.

Nearly three-quarters of the first contracts provide for some sick leave benefits. Sick leave benefits are much more prevalent in the public sector than in the private sector, but are more likely to be prorated for part-time workers in private sector units with significant numbers of part-time workers. In approximately one-third of the contracts, sick leave may be taken for sick children and other sick dependents.

Unlike sick leave, vacation and holiday benefits are slightly less common in the public sector, partly because most public sector holidays are set by law and, for public school employees, vacations are often taken outside of the nine-month employment period. Seventy-two percent of private sector contracts provide at least five paid holidays and 83 percent provide at least one week of vacation, while only 42 percent of public sector contracts provide a minimum of five paid holidays and 62 percent provide at least one week's vacation. A variety of other leaves are provided for in first contracts as well, with the majority of contracts including leaves for jury duty, bereavement, military service, and personal days.

Table 5.5 also presents data on the kinds of pay systems established by first contracts. Almost two-thirds of agreements provide for step systems. Given the arbitrariness of most nonunion pay systems that frequently involve wages being negotiated on a person-by-person basis, step systems are a significant accomplishment. In contrast, only 2 percent of the contracts had merit pay systems, which are the systems that dominate the nonunion environment. At the same time, cost-of-living adjustments are provided in only 2 percent of first contracts.

Training benefits are limited, with only one-quarter of agreements specifying job training or in-service training provided for by the employer. Finally, employee involvement clauses were included in 28 percent of the first contracts we examined. However, most of these clauses lack union protections. Particularly with the growing management interest in joint programs, unions clearly need bargaining language that ensures that these programs are indeed joint and do not undermine the union or the contract.

**Table 5.5 Benefits in Newly Organized Workplaces**

	All contracts		Private sector		Public sector	
	Number	Mean or proportion	Number	Mean or proportion	Number	Mean or proportion
<b>Health and other insurance</b>						
Health insurance	156	0.89	85	0.90	71	0.88
Full individual only	12	0.07	8	0.09	4	0.05
Full individual plus full family	17	0.10	4	0.04	13	0.16
Full individual and part family	24	0.14	14	0.15	10	0.12
Dental insurance	90	0.51	45	0.48	45	0.56
Short-term disability	38	0.22	27	0.29	11	0.14
Long-term disability	31	0.18	14	0.15	17	0.21
Employer contribute to union health and welfare plan	11	0.06	8	0.09	3	0.04
Life insurance	106	0.61	59	0.63	47	0.58
Vision insurance	18	0.10	6	0.06	12	0.15
Drug insurance	22	0.13	8	0.09	14	0.17
Workers compensation provision	55	0.31	24	0.26	31	0.38
<b>Retirement benefits</b>						
Pension plan	68	0.39	36	0.38	32	0.40
Employer-sponsored savings plan	21	0.12	20	0.21	1	0.01
Retirement health plan	14	0.08	5	0.05	9	0.11
<b>Leaves of absence</b>						
Sick leave	122	0.70	50	0.53	72	0.89
At least 10 sick days a year	72	0.41	14	0.15	58	0.72

Average number of days veteran employees	—	11.61	—	9.71	—	12.44
Prorated for part-time workers <sup>a</sup>	43	0.25 (0.29)	21	0.22 (0.44)	22	0.27 (0.17)
Apply to sick children	63	0.36	13	0.14	50	0.61
Apply to other sick dependents	57	0.33	9	0.10	48	0.59
Sick bank	84	0.48	27	0.29	57	0.70
Vacation	132	0.75	82	0.87	50	0.62
At least one week vacation shutdown a year	128	0.73	78	0.83	50	0.62
Average number of days new employees	—	6.60	—	6.60	—	6.59
Average number of days veteran employees	—	19.84	—	18.53	—	22.02
Prorated for part-time workers <sup>a</sup>	47	0.27 (0.26)	31	0.33 (0.44)	16	0.20 (0.13)
Mandatory vacation for plant shutdown	9	0.05	9	0.10	0	0
Holidays	152	0.87	92	0.98	60	0.74
At least five holidays a year	102	0.58	68	0.72	34	0.42
Average number of days new employees	—	7.83	—	7.89	—	7.77
Average number of days veteran employees	—	10.52	—	9.44	—	11.33
Prorated for part-time workers <sup>a</sup>	33	0.19 (0.17)	16	0.17 (0.28)	17	0.21 (0.08)
Premium pay	106	0.61	71	0.76	35	0.43
Parental leave	50	0.29	9	0.10	41	0.51
Bereavement leave	137	0.78	80	0.85	57	0.70
Education leave	27	0.15	11	0.12	16	0.20
Medical/disability leave	76	0.43	48	0.51	28	0.35
Personal leave of absence	114	0.65	65	0.69	49	0.61
Military leave	106	0.61	54	0.57	52	0.64
Jury leave	142	0.81	76	0.81	66	0.82

**Table 5.5 (continued)**

	All contracts		Private sector		Public sector	
	Number	Mean or proportion	Number	Mean or proportion	Number	Mean or proportion
<b>Pay system</b>						
Step	106	0.61	57	0.61	48	0.61
Merit	3	0.02	1	0.01	2	0.03
Combination of step and merit	5	0.03	4	0.04	1	0.01
COLA step	3	0.02	0	—	3	0.04
Rate set in contract, not necessarily step	48	0.27	30	0.32	18	0.22
Regular bonuses granted	15	0.09	11	0.12	4	0.05
Profit or gain-sharing	5	0.03	5	0.05	0	—
<b>Training</b>						
Job training/in-service training paid by employer	40	0.23	19	0.20	21	0.26
Continuing education	30	0.17	9	0.10	21	0.26
Tuition paid	45	0.26	15	0.16	30	0.37
Tuition for children/spouse	5	0.03	0	—	5	0.06
<b>Employee involvement</b>						
Labor/management committee	49	0.28	25	0.27	24	0.30
Equal number of union and management	27	0.15	13	0.14	14	0.17 (0.58)
No discussion of contractual issues	9	0.05	8	0.09	1	0.01 (0.04)
Service/product quality committee	5	0.03	4	0.04	1	0.01
Drug insurance	22	0.13	8	0.09	14	0.17
Workers compensation provision	55	0.31	24	0.26	31	0.38

<sup>a</sup>Numbers in parentheses represent proportion of units with at least 25% part-time workers.

## HOW COMPREHENSIVE ARE FIRST CONTRACTS?

In order to assess just how comprehensive these first contracts are, we also examined whether and how these individual provisions cluster together. While there are a number of methods that could be used to evaluate the comprehensiveness of initial union agreements, we evaluated the contracts in our sample based on whether they contained what we would consider a core set of provisions. This core includes anti-discrimination clauses, grievance and arbitration, steward rights in investigating and processing grievances, union access, and seniority for layoff.<sup>4</sup> While many contracts include important individual contract clauses, only 14 percent of the contracts in our sample contain all five of these core provisions. These data suggest that, while unions have made important strides in first contracts, considerably more work is necessary to achieve strong basic agreements.

We need to recognize that good contracts, like organizing victories, don't just happen. Given the increasing level of employer opposition to unions, extending all the way through the first-contract process, winning first contract requires much more than simply good bargaining skills. As previous research has shown, unions can win first contracts only when they utilize a comprehensive, multifaceted, union-building strategy throughout both the organizing and the first-contract campaign (Bronfenbrenner 1996; Bronfenbrenner and Hickey 2004).

In the final analysis, the quality of the first contract that a union achieves is a direct product of their power—the power to stop or slow production, to interfere with companies' profit centers, growth strategies, or key relationships, or to bring influence to bear on the key decision makers of a larger employer. In the context of growing employer opposition, it is not enough to infer this power at the bargaining tables. Instead, unions that have successfully achieved stronger first agreements have continued to use the same kind of comprehensive grassroots tactics inside and outside the workplace and in the broader community that helped them first achieve a union victory in the certification election or card check recognition process and then throughout the first-contract bargaining campaign that follows. These direct expressions of members support and activism—whether it be wearing union buttons or t-shirts, or holding solidarity days, community events, or mini-job ac-



tions—combined with more indirect but still member-intensive leverage strategies involving customers, suppliers, regulators, or investors, are clear reminders to management of union power and are fundamental in achieving positive results.

Indeed, a cursory analysis of the data here suggest that, in those units where the union runs a moderately aggressive organizing campaign, the likelihood that any of the five core elements will be included in a first contract rises between 5 and 20 percentage points. More aggressive and strategic organizing and first-contract campaigns not only increase the probability of winning the organizing campaign and settling the first contract, but also improves the quality and strength of the first contracts themselves.

Clearly, more energy and attention need to be devoted to developing and implementing more comprehensive and strategic first-contract campaigns. In addition to running more aggressive first-contract campaigns, unions need to work together to share hallmark first-contract language and to explore creative contract language. One of the discouraging findings of this research is that few contracts contained language addressing job loss, staffing, mandatory overtime, technological change, privatization, and plant closing—crucial issues facing workers today. While these are difficult issues to take on even in mature bargaining relationships, unions need to begin addressing these issues in first agreements.

It is also important to recognize that first-contract language is simply that—language—until and unless the union does what it takes to implement and enforce what it has negotiated in the agreement. Anti-discrimination language is worthless if members of a local union are too intimidated to file and follow through on grievances, or the local leadership fails to take discrimination violations seriously. Seniority and bidding language are meaningless if the union turns a blind eye when less senior workers are moved into higher-paying jobs.

While we have not gathered data on the operation and effectiveness of the local unions where these first contracts were negotiated, we suggest that the shape and scope of the organizing and first-contract campaign is a major predictor of a local's ability to use and enforce a first contract to its fullest. Campaigns that develop and utilize representative rank-and-file leadership, and that start acting like a union long before the first contract is reached, are much more likely to already have in

place the leadership structure and membership involvement necessary to make the most of the first-contract language they negotiate. When both organizing and first-contract campaigns are weak, it not only leads to weaker first-contract language, but also to less capacity to utilize and enforce that language once the first contract is won.

## CONCLUSIONS

As we have seen, first contracts constitute significant victories for workers and their unions. These contracts provide important basic rights that go far beyond employment-at-will and institute a grievance procedure that allows for the enforcement of these rights. They also contain important restrictions on management rights, substituting seniority and equitable systems for the assignment of work, promotions, and layoffs, for arbitrary employer control. In addition, they establish an institutional presence for the union and the rank-and-file leadership in the workplace. Finally, first contracts establish, codify, and expand health insurance, pensions, and substantial paid leave benefits.

While some unions are more successful in some areas than others, clearly these contracts provide the foundation for a fundamentally different employment relationship than that which existed prior to the union organizing campaign. We must remember that these agreements are only the first in what typically become stronger agreements over time. The establishment of a grievance system, just cause, union access, and stewards' rights is an enormous accomplishment for workers and unions confronting employers who for decades clung to their absolute "right to manage" and who fought the union organizing effort with everything they could. Even if less than comprehensive, these agreements make significant inroads into management prerogatives and, in future negotiations, leave room to strengthen and expand these inroads into management control.

Our findings also suggest that union first contracts could be more comprehensive. While this does not diminish the significant victories that the first contracts we studied represent, it reminds us of the promise and potential for strong first contracts and the strong unions that go with them. Workers risk so much to bring a union into their workplace; it is

imperative that the labor movement do everything in its power to ensure that the contracts they achieve, and the unions they build, make those risks worthwhile.

## Notes

Funding for this project was provided by the AFL-CIO. The authors would like to thank Ian Campbell, Chad Apaliski, David Turner, and Robert Glase for research assistance. We would also like to acknowledge the editorial assistance of Beth Berry.

1. The 55 contracts in the first private sector study were based on the 119 elections won in a random sample of 261 organizing campaigns that took place between July 1986 and June 1987. Copies of the first contracts were collected from 55 (69 percent) of the 80 negotiators who returned surveys in units where the first contract was reached (Bronfenbrenner 1996). The 39 contracts collected in the second private sector study were based on 155 elections and 18 voluntary recognitions won from a random sample of 525 NLRB organizing campaigns that took place from 1993 to 1995 (Bronfenbrenner 1997b). First contracts were collected for 39 (59 percent) of the 69 returned surveys from campaigns where a first contract was won. The 81 contracts collected in the third study were based on the 149 elections won from a random sample of 250 state and local certification elections in 1991 and 1992. First contracts were collected in 81 (63 percent) of the 129 cases in our sample where the election or voluntary recognition was won (Juravich and Bronfenbrenner 1998).
2. Anyone interested in a copy of the instrument we developed to conduct the content analysis should contact the authors at [juravich@lrrc.umass.edu](mailto:juravich@lrrc.umass.edu) or [klb23@cornell.edu](mailto:klb23@cornell.edu).
3. We did not include wage gains in these data because we were unable to obtain reliable information on the pre-organizing campaign base wage rate, since so few unorganized workplaces had established wage scales and employers frequently grant illegal wages increases during the course of the union campaign (Bronfenbrenner 2001).
4. These five fundamentals are defined as follows: race and gender discrimination plus at least one of the following antidiscrimination clauses: union activity, age, sexual harassment, sexual orientation, family status, handicap, or national origin; just cause; steward release time to investigate and process grievances (paid or unpaid); at least some union access (liberal or restricted); and seniority for layoffs.

## References

- Bronfenbrenner, Kate. 1996. "Lasting Victories: Successful Union Strategies for Winning First Contracts." *Proceedings of the Forty-Ninth Annual Meetings*. Madison, WI: IRRRA, pp. 161–167.
- . 1997a. "The Role of Union Strategies in NLRB Certification Elections." *Industrial and Labor Relations Review* 50(2): 195–221.
- . 1997b. "The Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize." Supplement to Plant Closings and Workers Rights: *A Report to the Council of Ministers by the Secretariat of the Commission for Labor Cooperation*. Dallas, TX: Bernan Press, pp. 1–56.
- . 2001. "Uneasy Terrain: The Impact of Capital Mobility on Workers, Wages, and Union Organizing." Commissioned research paper and supplement to *The U.S. Trade Deficit: Causes, Consequences and Recommendations for Action*. Washington, DC: U.S. Trade Deficit Review Commission.
- Bronfenbrenner, Kate, Sheldon Friedman, Richard W. Hurd, Rudolph A. Oswald, and Ronald G. Seeber, eds. 1998. *Organizing to Win: New Research on Union Strategies*. Ithaca, NY: ILR Press.
- Bronfenbrenner, Kate, and Robert Hickey. 2004. "Changing to Organize: A National Assessment of Union Organizing Strategies." In *Rebuilding Labor: Organizing and Organizers in the New Union Movement*, Ruth Milkman and Kim Voss, eds. Ithaca, NY: Cornell University Press/ILR Press, 17–61.
- Bronfenbrenner, Kate, and Tom Juravich. 1995. *Union Organizing in the Public Sector: An Analysis of State and Local Elections*. Ithaca, NY: ILR Press.
- Bureau of National Affairs. 1995. *Basic Patterns in Union Contracts*. Washington DC: Bureau of National Affairs Books.
- . 2003b. "Employee Benefits in Private Industry, 2003." <http://www.bls.gov/news.release/pdf/ebs2.pdf> (accessed April 14, 2005).
- DiNardo, John, and David S. Lee. 2004. "Unionism in California and the United States: Using Representation Elections to Evaluate Its Impact on Business Establishments." In *Rebuilding Labor: Organizing and Organizers in the New Union Movement*, Ruth Milkman and Kim Voss, eds. Ithaca, NY: Cornell University Press, pp. 251–270.
- Franklin, Steve. 2001. *Three Strikes: Labor's Heartland Losses and What They Mean for Working Americans*. New York, NY: Guildford Press.
- Freeman, Richard B. 1981. "The Effect of Unionism on Fringe Benefits." *Industrial and Labor Relations Review* 34(4): 489–510.
- Freeman, Richard B., and Morris M. Kleiner. 1990. "The Impact of New Unionization on Wages and Working Conditions." *Journal of Labor Economics* 8(1): S8–S25.

- Hickey, Robert. 2002. "Strategic Contract Campaigns at Multinational Corporations." *Labor Studies Journal* 27(1): 71–91.
- Hurd, Richard W. 1996. "Union-Free Bargaining Strategies and First Contract Failures." *Proceedings of the Forty-Ninth Annual Meetings*. Madison, WI: IRRA, pp. 145–152.
- Juravich, Tom, and Kate Bronfenbrenner. 1998. "Preparing for the Worst: Organizing and Staying Organized in the Public Sector." In *Organizing to Win: New Research on Union Strategies*, Kate Bronfenbrenner, Sheldon Friedman, Richard W. Hurd, Rudolph A. Oswald, and Ronald G. Seeber, eds. Ithaca, NY: ILR Press, pp. 261–282.
- Kumar, Pradeep. 1989. *Wage and Non-Wage Provisions in Labour Contracts of Different Lengths*. Kingston, Ontario: Industrial Relations Centre, Queen's University.
- Milkman, Ruth, and Kim Voss. 2004. *Rebuilding Labor: Organizing and Organizers in the New Union Movement*. Ithaca, NY: Cornell University Press.
- U.S. Bureau of Labor Statistics (BLS). 2003a. "Relative Pay Rates among Census Divisions and Occupational Groups." <http://www.bls.gov/opub/cwc/cm20030814ar01p1.htm> (accessed April 14, 2005).
- . 2003b. "Employee Benefits in Private Industry, 2003." <http://www.bls.gov/news.release/pdf/ebs2.pdf> (accessed April 14, 2005).

**Justice on the Job**

**Perspectives on the Erosion  
of Collective Bargaining  
in the United States**

Richard N. Block  
Sheldon Friedman  
Michelle Kaminski  
Andy Levin  
*Editors*

2006

W.E. Upjohn Institute for Employment Research  
Kalamazoo, Michigan

## Library of Congress Cataloging-in-Publication Data

Justice on the job : perspectives on the erosion of collective bargaining in the United States / Richard N. Block . . . [et al.].

p. cm.

Includes bibliographical references and index.

ISBN-13: 978-0-88099-278-7 (pbk. : alk. paper)

ISBN-10: 0 88099-278-6 (pbk. : alk. paper)

ISBN-13: 978-0-88099-279-4 (hardcover : alk. paper)

ISBN-10: 0-88099-279-4 (hardcover : alk. paper)

1. Collective bargaining—United States. 2. Labor unions—United States. 3. Job security—United States. 4. Employee rights—United States. 5. Industrial relations—United States. I. Block, Richard N.

HD6508.J87 2006

331.890973—dc22

2005033299

© 2006

W.E. Upjohn Institute for Employment Research  
300 S. Westnedge Avenue  
Kalamazoo, Michigan 49007-4686

The facts presented in this study and the observations and viewpoints expressed are the sole responsibility of the author. They do not necessarily represent positions of the W.E. Upjohn Institute for Employment Research.

Cover design by Alcorn Publication Design.

Index prepared by Diane Worden.

Printed in the United States of America.

Printed on recycled paper.