Testimony prepared for the Senate Committee on Health, Education, Labor and Pensions
for a hearing on "The Right to Organize: Empowering American Workers in a 21st Century Economy"

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Chair Murray, Ranking Member Burr, and members of the committee, thank you for the opportunity to testify today on the right to organize and on empowering U.S. workers in a 21st century economy. My name is Heidi Shierholz and I am a senior economist and the director of policy at the Economic Policy Institute (EPI) in Washington, D.C. EPI is a nonprofit, nonpartisan think tank created in 1986 to include the needs of low- and middle-wage workers in economic policy discussions. EPI conducts research and analysis on the economic status of working America, proposes public policies that protect and improve the economic conditions of low- and middle-wage workers, and assesses policies with respect to how well they further those goals. I previously served as Chief Economist at the U.S. Department of Labor during the Obama administration.

Today I will discuss the importance of unions to working people, to racial equity, and to reducing economic inequality. I will also discuss how the decline in unionization in recent decades is the direct result of relentless attacks on unions. Finally, I will discuss the economic impacts of the coronavirus pandemic, how unions played a vital role in protecting workers during the pandemic, and why promoting unionization and the right to collectively bargain through labor law reform is essential for an equitable recovery.

The benefits of unions to union workers

The share of workers covered by a collective bargaining agreement dropped from 27.0% to 12.1% between 1979 and 2020, meaning the union coverage rate is now less than half where it was four decades ago.[1] Importantly, this decline was not because workers are now less interested in being in a union. In the four decades between the late 1970s and the late 2010's, the share of non-union workers who said they would vote to unionize if given the opportunity *rose* from one-third to nearly one-half.[2]

It's no surprise workers want unions. When workers are able to come together, form a union, and collectively bargain, their wages, benefits, and working conditions improve.[3] On average, a worker covered by a union contract earns 10.2% more in wages than a peer with similar education, occupation, and experience in a nonunionized workplace in the same sector.[4] Unions also provide workers with better benefits. For example, unions workers are far more likely to be covered by employer-provided health insurance: More than nine in 10 workers covered by a union contract (95%) have access to employer-sponsored health benefits, compared with just 68% of nonunion workers. Further, union employers contribute more to their employee's health care benefits.[5] Union workers also have greater access to paid sick days: More than nine in 10 workers—93%—covered by a union contract have access to paid sick days, compared with 75% of nonunion workers.[6] Union

[1] Economic Policy Institute, "Union Coverage," *The State of Working America Data,* last updated February 2021.
[2] Thomas A. Kochan et al., "Worker Voice in America: Is There a Gap Between What Workers Expect and What They Experience?" *ILR Review* 72, no. 1 (January 2019): Figure 3, https://doi.org/10.1177/0019793918806250.
[3] Bivens et al., *How Today's Unions Help Working People: Giving Workers the Power to Improve Their Jobs and Unrig the Economy*, Economic Policy Institute, August 2017.
[4] Economic Policy Institute, *Unions Help Reduce Disparities and Strengthen Our Democracy* (fact sheet), April 23, 2021.
[5] Economic Policy Institute, *Unions Help Reduce Disparities and Strengthen Our Democracy* (fact sheet), April 23, 2021.
[6] Economic Policy Institute, *Unions Help Reduce Disparities and Strengthen Our Democracy* (fact sheet), April 23, 2021.

workers are also more likely to have paid vacation and holidays, more input into the number of hours they work, and more predictable schedules. Further, union employers are more likely to offer retirement plans and to contribute more toward those plans than comparable nonunion employers.[7]

Unions also improve the health and safety practices of workplaces through their collective bargaining agreements by providing health insurance and requiring safety equipment.[8] Further, unions empower and allow workers to freely report unsafe working conditions without retaliation, which can lead to a reduction in work hazards.[9] Research has found that so-called "right-to-work" legislation, which weaken unions, has been associated with a roughly 14% increase in the rate of occupational fatalities.[10]

The important of unions to racial equity

The right to a union and collective bargaining is also directly relevant to our urgent national conversation around racial inequality in its various forms, including economic disparities by race. Unions and collective bargaining help shrink the Black–white wage gap, due to the fact that Black workers are more likely than white workers to be represented by a union and that Black workers who are in unions get a larger boost to wages from being in a union than white workers do (i.e. the "union wage premium" is larger for Black workers than for white workers). Further, research shows that this phenomenon isn't new. Starting in the mid-1940s, Black workers began to be more likely to be in unions and to have a larger union premium than white workers.[11] While significant segments of organized labor—like nearly all institutions in U.S. society—exhibited racial bias well past the mid-1940s, the *net* effect of the mid-20th century spread of unionization made the institution of collective bargaining one of the most important institutions in the country for advancing racial economic justice. Consequently, one of the most devastating casualties of the erosion of collective bargaining in recent decades has been the weakening of this force for racial equity. The *decline* of unionization has played a significant role in the *expansion* of the Black–white wage gap over the last four decades. An increase in unionization could help halt and reverse those trends.[12]

Unions and economic inequality

While union workers receive higher wages than nonunion workers, nonunion workers also benefit from the presence of unions. When union density is high, nonunion workers benefit, because unions effectively set broader standards—including higher wages—that nonunion employers must meet in order to attract and retain the workers they need (and to avoid facing a union organizing drive themselves). The combination of the direct effect of unions on union members and this "spillover" effect to nonunion workers means unions are crucial in raising wages for working people and reducing income inequality.[13]

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[7] Economic Policy Institute, *Unions Help Reduce Disparities and Strengthen Our Democracy* (fact sheet), April 23, 2021.
[8] Michael Zoorob, "Does 'Right to Work' Imperil the Right to Health? The Effect of Labour Unions on Workplace Fatalities," *Occupational and Environmental Medicine,* 75, (June 2018): 736-738, https://dx.doi.org/10.1136/oemed-2017-104747.
[9] Benjamin C. Amick et al., "Protecting Construction Worker Health and Safety in Ontario, Canada: Identifying a Union Safety Effect," *Journal of Occupational and Environmental Medicine,* 57, no. 12 (December 2015): 1337-1342, https://doi.org/10.1097/JOM.0000000000000562.
[10] Michael Zoorob, "Does 'Right to Work' Imperil the Right to Health? The Effect of Labour Unions on Workplace Fatalities," *Occupational and Environmental Medicine,* 75, (June 2018): 736-738, https://dx.doi.org/10.1136/oemed-2017-104747.
[11] Henry S. Farber, "Unions and Inequality over the Twentieth Century: New Evidence from Survey Data," *Quarterly Journal of Economics*, 136, no. 3 (August 2021): 1325–1385, https://doi.org/10.1093/qje/qjab012.
[12] Valerie Wilson and William M. Rodgers III, *Black-White Wage Gaps Expand with Rising Wage Inequality*, Economic Policy Institute, September 20, 2016.
[13] Jake Rosenfeld, Patrick Denice, and Jennifer Laird, *Union Decline Lowers Wages of Nonunion Workers*, Economic Policy Institute, August 2016.

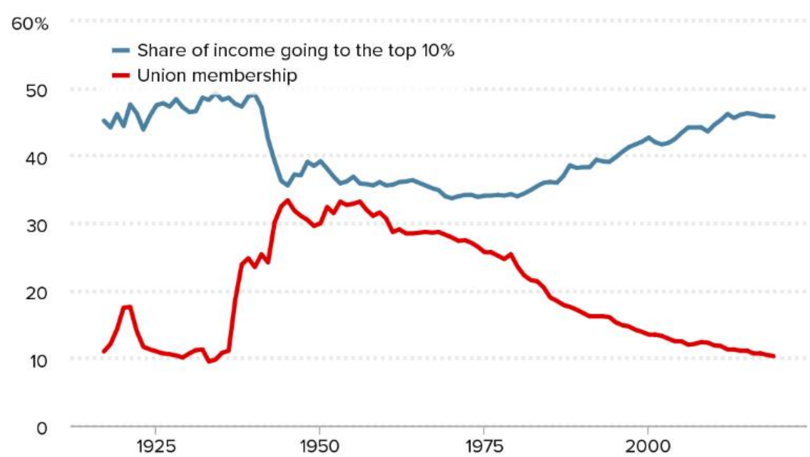
Unsurprisingly, then, after decades of decline in the share of workers represented by a union, the U.S. economy in 2019 had the highest inequality ever in U.S. history, according to Census Bureau data.[14] Chief executive officer (CEO) compensation grew 1,167% between 1978 and 2019, while typical worker compensation had risen only 13.7% during that time.[15] From 1979 to 2019, the wages of the top 1% grew nearly 160.3%, whereas the wages of the bottom 90% combined grew just 26.0%, less than one-sixth as fast.[16]

Recent research examining the direct effect on wages of union workers and the spillover effect on wages of nonunion workers has demonstrated that the median worker's wages would have been higher, and inequality between middle- and high-wage workers much lower, had there not been an erosion of collective bargaining. For instance, the "typical" or median worker economy-wide would have earned $1.56 more per hour in 2017 had unionization not declined since 1979. This translates to an equivalent gain of $3,250 for a full-time, full-year worker.[17] **Figure A** provides an instructive raw comparison, showing that as union membership has eroded, the share of total income in the economy that gets funneled to the rich has risen accordingly. More rigorous research shows that de-unionization accounts for one-third of the growth in inequality between typical workers and workers at the high end of the wage distribution in recent decades.[18]

FIGURE A

As union membership declines, income inequality increases

Union membership and share of income going to the top 10%, 1917–2019



Source: Reproduced from Figure A in Heidi Shierholz, *Working People Have Been Thwarted in Their Efforts to Bargain for Better Wages by Attacks on Unions*, Economic Policy Institute, August 2019.

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[14] United States Census Bureau, "American Community Survey Provides New State and Local Income, Poverty and Health Insurance Statistics" (press release), September 26, 2019.
[15] Lawrence Mishel and Jori Kandra, *CEO Compensation Surged 14% in 2019 to $21.3 Million*, Economic Policy Institute, August 2020.
[16] Lawrence Mishel and Jori Kandra, "Wages for the Top 1% Skyrocketed 160% since 1979 while the Share of Wages for the Bottom 90% Shrunk," *Working Economics* (Economic Policy Institute blog), December 2020.
[17] Lawrence Mishel, *The Enormous Impact of Eroded Collective Bargaining on Wages*, Economic Policy Institute, April 2021.
[18] Lawrence Mishel, *The Enormous Impact of Eroded Collective Bargaining on Wages*, Economic Policy Institute, April 2021.

Unions and the pandemic

The U.S. entered the COVID-19 pandemic with an economy characterized by extreme economic and racial inequality, historically low rates of union density, and weak worker protections, but low unemployment. In February 2020, the unemployment rate was at a 50-year low of 3.5%. In March and April of 2020, the labor market shed an unprecedented 22 *million* jobs, losses the likes of which we hadn't experienced in modern history. Low-wage workers experienced vastly greater job loss due to the fact that low-wage jobs are concentrated in sectors that got hit particularly hard because they involve more social contact (such as restaurants and bars, hotels, personal services, events, and brick-and-mortar retail). Further, due to differences in labor market outcomes caused by occupational segregation, discrimination, and other disparities rooted in systemic racism and sexism, people of color—and particularly women of color—experienced much greater job loss. While white non-Hispanic workers saw a peak unemployment rate of 12.8%, Black non-Hispanic workers saw a peak unemployment rate of 16.7%, Latinx workers saw an unemployment rate of 18.5%, and AAPI workers saw an unemployment rate of 15.0%.[19,20]

The Bureau of Labor Statistics' most recent data on unionization shows that while the number of workers represented by a union declined in 2020, the unionization *rate* rose because union workers saw less job loss that nonunion workers. This increase in the unionization rate was due in part to the fact that unionized workers have had a voice in how their employers have navigated the pandemic, and have used this voice for such things as negotiating for terms of furloughs or work-share arrangements to save jobs.[21] This engagement likely played a role in limiting overall job loss among unionized workers.[22]

The importance of unions in giving workers a collective voice in the workplace has been especially salient for frontline workers throughout the pandemic. During the crisis, unionized workers who provide essential services have been able to secure enhanced safety measures, additional premium pay, and paid sick time.[23] But most essential workers, like nonessential workers, are not unionized. For example, just 10% of essential workers in health care are unionized and just 8% of essential workers in food and agriculture are unionized.[24]

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[19] Celine McNicholas et al., *Why Unions Are Good for Workers—Especially in a Crisis Like COVID-19: 12 Policies That Would Boost Worker Rights, Safety, and Wages*, Economic Policy Institute, August 2020.

[20] While jobs are now returning rapidly—on average, the labor market added more than 600,000 jobs in each of the last five months—an enormous gap in the labor market remains. We still have 6.8 million fewer jobs than we did before the COVID-19 recession began.[20] And furthermore, that 6.8 million is not the total gap in the labor market. Before the recession, we were adding about 200,000 jobs per month. At that pace, we would have added 3.2 million jobs since the recession began, which means the total gap in the labor market right now is as many as 10 million jobs (6.8 + 3.2 = 10 million jobs). Further, the recovery remains highly inequitable. The June jobs report shows the overall unemployment rate is 5.9%. However, while the unemployment rate is 5.2% for white workers, the Black unemployment rate is 9.2% and the Hispanic and Asian unemployment rates are 7.4% and 5.8%, respectively.

[21] Celine McNicholas et al., *Why Unions Are Good for Workers—Especially in a Crisis Like COVID-19: 12 Policies That Would Boost Worker Rights, Safety, and Wages*, Economic Policy Institute, August 2020.

[22] Celine McNicholas, Heidi Shierholz, and Margaret Poydock, *Union Workers Had More Job Security during the Pandemic, but Unionization Remains Historically Low*, Economic Policy Institute, January 2021. Another reason unionization rates increased in 2020 was a "pandemic composition effect." In particular, industries with lower unionization rates, like leisure and hospitality, have tended to experience the most job loss during the pandemic, while sectors with higher unionization rates, like the public sector, have tended to see less job loss. A simple decomposition of the increase in the overall unionization rate in 2020 shows that roughly half (46.5%) of the increase was the result of a pandemic composition effect, while roughly half (53.5%) was due to union workers seeing less job loss than nonunion workers in the same industry.

[23] Celine McNicholas et al., *Why Unions Are Good for Workers—Especially in a Crisis Like COVID-19: 12 Policies That Would Boost Worker Rights, Safety, and Wages*, Economic Policy Institute, August 2020.

[24] Celine McNicholas and Margaret Poydock, "Who Are Essential Workers: A Comprehensive Look at Their Wages, Demographics, and Unionization Rates" *Working Economics* (Economic Policy Institute blog), May 29, 2020.

During the pandemic, many nonunionized essential workers were forced to work without personal protective equipment or access to paid leave or premium pay. Further, when nonunion workers have advocated for health and safety protections or wage increases, they were often retaliated against or even fired. The lack of these basic protections led to thousands of essential workers becoming infected with the coronavirus.[25]

The decline in unionization is the direct result of relentless attacks on unions

As mentioned above, the decline in collective bargaining in recent decades has not happened because workers don't want unions—a far higher share of nonunionized workers report wanting to be in a union today than did four decades ago. The decline in unionization has been the result of fierce corporate opposition that has suppressed workers' freedom to form unions and bargain collectively. Intense and aggressive anti-union campaigns—once confined to the most anti-union employers—have become widespread; it is now typical, when workers seek to organize, for their employers to hire union avoidance consultants to orchestrate fierce anti-union campaigns.

And though the National Labor Relations Act (NLRA) makes it illegal for employers to intimidate, coerce, or fire workers in retaliation for participating in union-organizing campaigns, the penalties are insufficient to provide a serious economic disincentive for such behavior (there are *no* punitive damages or criminal charges under the NLRA; penalties may consist of being required to post a notice or reinstate illegally fired workers).[26] This means that employers can engage in illegal tactics with almost no financial concern; for example, employers often threaten to close the worksite, cut union activists' hours or pay, or report workers to immigration enforcement authorities if employees unionize. One out of five union election campaigns involves a charge that a workers was illegally fired for union activity.[27]

In the face of these attacks on collective bargaining, policymakers have egregiously failed to update labor laws to rebalance the system. In fact, in many cases policy is moving backward; 27 states have passed so-called right-to-work laws[28], which are intended to undermine union finances by making it illegal for unions to require nonunion members of a collective bargaining unit (who don't pay union dues) to pay "fair share fees"—fees that cover only the basic costs of representing employees in the workplace. And the Supreme Court decision in *Janus v. AFSCME*—a case financed by a small group of foundations with ties to the largest and most powerful corporate lobbies—made "right-to-work" the law of the land for all public-sector unions.[29]

Conclusion: The U.S. needs the PRO Act

In the expansion following the Great Recession, the unemployment rate ultimately got down to 3.5%. However, given the tight labor market, wage growth for working people was surprisingly slow and uneven, racial wage gaps worsened, and the highest earners continued to see more than their fair share of economic gains. The years after the Great Recession marked a completely different story from the experience following the Great Depression, and there is no mystery to that phenomenon—federal labor law policy following the

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[25] Celine McNicholas et al., *Why Unions Are Good for Workers—Especially in a Crisis Like COVID-19: 12 Policies That Would Boost Worker Rights, Safety, and Wages*, Economic Policy Institute, August 2020.
[26] Celine McNicholas et al., "Civil Monetary Penalties for Labor Violations Are Woefully Insufficient to Protect Workers," *Working Economics* (Economic Policy Institute blog), July 15, 2021.
[27] Celine McNicholas et al., *Unlawful: U.S. Employers Are Charged with Violating Federal Law in 41.5% of All Union Election Campaigns*, Economic Policy Institute, December 2019.
[28] National Conference for State Legislatures, *Right-To-Work Resources* (fact sheet).
[29] Celine McNicholas, Zane Mokhiber, and Marni von Wilpert, *Janus and Fair Share Fees: The Organizations Financing the Attack on Unions' Ability to Represent Workers*, Economic Policy Institute, February 2018.

Great Depression enabled workers to organize unions, while federal lawmakers failed to pass labor law reform following the Great Recession. We can't make that same mistake now.

This is a critical moment and the policy decisions made will have longstanding impacts on our economy. We know that unions are essential to a fair and equal economy. It is crucial that policymakers prioritize labor law reforms that restore workers' rights to organize and bargain collectively. The Protecting the Right to Organize (PRO) Act addresses many of the major shortcomings with our current law. Passing the PRO Act would help restore workers' ability to organize with their co-workers and negotiate for better pay, benefits, and fairness on the job, and it would reduce racial disparities and help halt and reverse skyrocketing inequality.[30]

The large gap between the share of workers who *want* a union and the share of workers who are *in* a union underscores that our system of labor laws is not working. Fundamental reform is required to rebuild an economy that guarantees all workers the right to come together and have a voice in their workplace and no longer leaves most workers behind. Meaningful policy changes like the PRO Act are crucial for restoring a fair balance of power between workers and employers.

Thank you and I look forward to your questions.

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[30] The decline of unionization over the last four decades has played a significant role in the expansion of the Black-–white wage gap. See Valerie Wilson and William M, Rodgers III, *Black–White Wage Gaps Expand with Rising Wage Inequality*, Economic Policy Institute, September 2016.