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“Progress, Challenges, and Opportunities Still Ahead for Labor during the Biden-Harris Administration”

The 2023 Jerry Wurf Memorial Lecture



Center for Labor and a Just Economy,
Harvard Law School



Harvard Trade Union Program

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The Jerry Wurf Memorial Fund was established in memory of Jerry Wurf, the late president of the American Federation of State, County and Municipal Employees (AFSCME). Its income is used to initiate programs and activities that “reflect Jerry Wurf’s belief in the dignity of work, and his commitment to improving the quality of lives of working people, to free open thought and debate about public policy issues, to informed political action...and to reflect his interests in the quality of management in public service, especially as it assures the ability of workers to do their jobs with maximum effect and efficiency in environments sensitive to their needs and activities.”

Jerry Wurf Memorial

Lecture *January 18, 2023*

**“Progress, Challenges, and
Opportunities Still Ahead for Labor
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Administration”**



Pronita Gupta

Thank you, Elissa McBride [Secretary-Treasurer of AFSCME], for the warm welcome! And thank you to AFSCME for making this prestigious lecture possible. I also want to give a big thank you to my friend and former colleague Sharon Block for this invitation to speak before the Harvard Trade Union Program and for the kind and generous introduction.

I appreciate the goals of the Jerry Wurf Memorial Fund and his legacy. I am sorry I never got a chance to meet him, but I was fortunate to meet and briefly work with Mildred Wurf on the steering committee for the National Coalition for Women and Girls in Education back in the early 1990s when she represented Girls, Inc. and I represented the U.S. Student Association. I remember her fondly as a kind and passionate leader who used her power and position in the movement to welcome and support younger women leaders like me.

Introduction

Back in the year 2000, I worked for a grassroots organizing group focused on economic and racial justice in Los Angeles. Living in the wake of decades of de-industrialization, union-busting, and institutionalized

racism, our largely Black and Latino members had decided to prioritize a campaign to win the creation of high-quality jobs and ensure community access to the training and supports needed for their neighbors and families to really succeed in those jobs. They also wanted to work in a sector that was critical for their communities: health care.

Alongside those community members, I led the policy work that identified the federal Workforce Investment Act dollars then flowing into our city and county. Working closely with the health care and public employee unions and the community college system, we developed a demand for a new health care careers program that would create career pathways and grow good union jobs. We ran a campaign on the L.A. Workforce Investment Board and the L.A. City Council. And we won.

That program still exists.

Little did I know then, that over 20 years later, I'd end up working at the White House, helping develop the next generation of multi-billion dollar workforce development, job quality, and equity programs in the Biden-Harris Administration. This work built on my experience in the Obama Administration at the US DOL, where I had a chance to work with and learn from the brilliant David Weil and Sharon Block!

So, my talk and the recommendations are based on these different experiences inside and outside the federal government: as a former community and labor organizer and researcher; as a long-time labor policy advocate; and, most

recently, as the lead staff on labor issues for the White House Domestic Policy Council.

A NOTE: I'm not here today as a representative of the Biden-Harris Administration or the old Obama-Biden Administration. I worked in both, but now I'm on the outside. I'm here as an ally of the labor movement who hopes to share lessons and insights from my time inside. And to talk about how we can keep advancing the agenda for workers.

Here are the three things I'd like to talk about today, and I look forward to our discussion together.

1. Progress we've made.
2. What made it work.
3. Opportunities – what we still can do /need to do.

I want to start by sharing some of the progress made to date by the Biden-Harris Administration through working in close alignment with organized labor and the wider progressive movement in moving an ambitious, pro-worker agenda.

One of the major goals the Biden-Harris Administration set for itself was to be the most pro-union administration in years. While it hasn't been able to accomplish all it wanted to in the last two years, it has made some significant strides towards these visionary goals. I would place these accomplishments in the following three buckets:

1. Passing and implementing several significant pieces of legislation with trillions of dollars of federal

investment with many pro-labor policies embedded. This includes:

- The historic \$1.9 trillion American Rescue Plan (ARPA), that directly invested in communities and prevented the economy from collapsing from COVID.
 - \$1.2T Infrastructure Investment and Jobs Act (IIJA), focused on rebuilding and strengthening the nation's infrastructure while creating good jobs.
 - \$740B Inflation Reduction Act of 2022 (IRA), which will make significant investments to address climate change and the transition to a clean energy economy.
 - \$280B CHIPS and Science Act (CHIPS), which has major funding to build and grow the domestic semiconductor manufacturing industry and also strengthen science and technology research and development to make the US more competitive in the global arena.
2. Taking substantial executive actions, including issuing critical regulations and executive orders to protect workers and safeguard the right to organize and collectively bargain.

3. Establishing a ground-breaking White House Task Force on Worker Organizing and Empowerment and identifying ways in which the executive branch could utilize the policies, practices, and programs of the federal government to support worker organizing, power-building, and collective bargaining.

I want to note that the Administration has made equity a priority and the North Star in all these policies, programs, and investments.

From these three big buckets, I will discuss a few key successes and share some reflections on the actions I believe helped spur this progress, and also the lessons we can learn going forward.

So, to start, there were the measures for saving the nation from the brink of disaster.

American Rescue Plan, aka ARPA, funded a national vaccination program; helped safely re-open schools; kept day care centers and other small businesses from shuttering; provided immediate relief to families through direct relief payments, extending unemployment benefits, and expanding and making refundable the Child Tax Credit, which cut child poverty by more than 40 percent between 2020 and 2021.¹ ARPA funding also kept front-line workers on the job and prevented layoffs of public sector workers including educators and transit workers. While there are many other critical provisions that helped workers in ARPA, I want to highlight the Special Financial Assistance Program, also known as the “Butch Lewis Act,” which ensures multi-union

pension funds remain solvent and pay out critical retirement benefits for the hard-working union members who have more than earned them. Approximately \$97 billion has been made available in special financial assistance to over 250 financially troubled plans that cover more than 3 million union members and their families.²

I will discuss the other three major federal investments later in my talk.

The second area of progress is the substantial executive action the Administration has taken to protect and support workers. This includes reversing harmful policies and regulations passed under the Trump Administration, including ones on protecting federal employee organizing rights and joint employer rules.

Instead, the Administration has issued numerous pro-worker executive orders and regulations. Some examples include: Making it harder to misclassify workers as independent contractors under the FLSA; rules on minimum wage and tipped workers; requiring Project Labor Agreements on federal construction projects over \$35 million. This can potentially impact \$262 billion in federal construction contracts and 200,000 workers.³

The last of my three buckets of progress - Establishing a ground-breaking WH Task Force on Worker Organizing and Empowerment

The Task Force, through federal agency engagement, meetings with unions, worker organizations, community advocates and businesses, identified the scope of the

challenges and developed nearly 70 recommendations to promote worker organizing and collective bargaining for federal employees, and for public and private-sector workers. The recommendations are divided into three broad categories:

1. How the federal government can be a model pro-union employer.
2. Using the federal government's authority to improve transparency, and ensure workers have information and access to pro-worker services.
 - One concrete example is an effort by the Department of Homeland Security and Department of Labor to provide immigration protections to non-citizen or undocumented workers who experience or witness labor law violations.⁴ This was an important priority for many unions and immigrant rights organizations.
3. And, last but not least, how the federal government can use its purchasing and spending power to support workers and pro-worker employers. This includes ensuring the "Made in America" Executive Order, which directs federal agencies to increase the use of and support for US produced goods and services through their procurement and funding, is fully implemented and enforced.

LEARNINGS

There are many more regulations and executive orders that can be raised up, but I will stop here and pivot to my learnings and reflections on what worked in moving these policies and actions forward.

First --Focusing on the long-game while working on the short-term

Many unions and worker organizations and advocates have identified long-term goals to build worker power and increase unionization. By focusing on a set of key policy areas and actions that can be won in the near-term, such as stronger regulations or effective and implementable executive orders, they have developed multi-stage efforts to change hearts and minds, socialize pro-worker ideas, and build a base to engage and hold legislators and policymakers accountable. For example, passing the Protecting the Right to Organize (PRO) Act may be a key long-term goal, but labor can use each of the pro-worker executive actions under Obama and Biden as key wins, in conjunction with other organizing victories and state and local policy changes, toward meeting this longer-term goal.

Second --Ongoing engagement with the Administration

Building strong working relationships with staff – both long term civil service staff and the administration’s own political appointees —inside the Administration, whether in the White House or in federal agencies is extremely important. People inside the Administration are looking for trusted partners on the outside. One of the most effective strategies

used by unions and worker centers has been to bring members to meetings with White House and agency staff. Hearing first-hand about challenges, what policies work and which don't, why enforcing these labor protections matter, and the important role of unions can make a difference in how a policy is prioritized, changed, or moved forward. For example, a group of national youth advocacy groups brought some "opportunity youth" to meet with us. Opportunity youth refers to young people who are disconnected from both school and work and face many obstacles. We heard first-hand about the challenges these young people faced in accessing job training and the types of supports they would need to complete a training program or apprenticeship. This valuable session helped DOL and the White House design a new and more effective National Youth Employment Program which was included in the President's 2023 budget.⁵

Third --State and local models

Many unions have worked with state and local advocates and community-based organizations to pass critical worker protections and supports, such as increasing the minimum wage, paid sick days, paid family and medical leave laws, and fair and predictable scheduling laws, to name a few. These state and local laws serve as models for national policy. States and localities can sometimes be far more innovative and flexible than the federal government. It also provides an opportunity to build support in communities that can help slowly shift national public opinion. Speaking from my own experience, I found it always helped to point to state and local examples when we were discussing critical worker

policies to move forward at the national level. For example, we were able to advance a national, comprehensive, paid family and medical leave program in Build Back Better based on the lessons, data, and successes of the nine states and the District of Columbia that had passed these laws. It made it all the way to the Senate where one Democrat managed to derail progress on this critical, and what would have been a historic, new universal benefit for all workers.

FOURTH (and final) - Strong partnerships and speaking with one voice.

When multiple groups came to us, in the Administration, with a policy ask or idea, we were more likely to take note than if one group came to us with the ask. It always helped to have diverse coalitions or partnerships speaking with one voice on an issue. It highlighted the scope and scale of the need, how different populations would face impacts, and the capacity and strength to move political will and power to actualize the policy or program. Examples of this can be seen in the passage of the consequential Infrastructure Investment and Jobs Act, and the Inflation Reduction Act. Unions, businesses from key sectors and climate action groups worked together to push these major federal investments forward.

Additionally, while organizing campaigns and grassroots actions often rightly target Congressional leaders and delegations, the pressure and momentum can also get the notice of the Executive branch.

Now I am going to shift to the second part of my talk--.

CHALLENGES AND OPPORTUNITIES – WHAT WE STILL CAN DO / NEED TO DO:

So where do we go from here...

Rebuilding and diversifying our labor force

Immediately after the worst of the pandemic, we faced numerous supply chain disruptions. One of the primary reasons was that there were not enough workers to take these jobs. Many workers had retired during the pandemic, and others, mostly women, faced significant caregiving responsibilities and challenges since the US still does not have a comprehensive care infrastructure. But one of the biggest drivers was poor job quality. Many of these jobs were low wage, without benefits or union representation, had unpredictable schedules and no opportunities for advancement. A critical role labor can continue to play is to demand better jobs and to get more workers, especially from diverse communities, into union and high-quality jobs. This can be done several ways.

1. **By advocating for stronger workforce development policies.**
 - a. For example, the State of Tennessee worked with the US Department of Labor to create a new teacher apprenticeship program that will allow current staff working in schools as paraprofessionals and teaching assistants to “earn while they learn” to get their teaching license, instead of leaving their jobs to go to college and take on debt.⁶ It also promotes greater hiring from within communities to bring more underrepresented populations

into the teaching profession by providing an entry and pipeline. Currently, the American Federation of Teachers (AFT) and the National Education Association (NEA), in partnership with the National Governors Association and the Council of Chief State School Officers, are also working together on expanding high-quality registered teacher apprenticeship programs.⁷

2. **Pushing states and localities to use their American Rescue Plan dollars**, which I know many of you have been doing –thank you and keep up the pressure! State, local, and Tribal governments got \$350 billion in Coronavirus State and Local Fiscal Recovery Funds (SLFRF).⁸ These dollars are pretty flexible and can be used to replace lost public sector revenue, respond to public health and negative economic impacts due to the pandemic, provide premium pay to essential workers, and invest in water, sewer, and broadband infrastructure. Some communities, such as Boston, Buffalo, and Chicago, are using these funds to establish pre-apprenticeship programs with wraparound services to get more underserved communities into the pipeline for infrastructure and climate jobs.

3. **The labor movement can also take advantage of funding in ARPA, which must be spent by the end of 2026, to create more public sector jobs.** For example, \$7.4 billion in American

Rescue Plan funding was dedicated to rebuilding and strengthening the public health infrastructure by supporting increased recruitment and hiring of public health workers.⁹ This includes funding to allow states and localities to expand, train, and modernize their public health workforce and agencies, and hire more school nurses. The funding can also be used to transition or support short-term community health workers and others hired for the COVID-19 response into longer term public health careers. As with the other federal investments, these funds must prioritize equity and recruiting and hiring from underrepresented communities and from the communities they will serve.

4. **Labor can take advantage of the almost \$4 trillion in historic federal investments from ARPA, IIJA, IRA, and CHIPS and Science.** These investments will meet critical community, business, and societal needs, enable job creation, and facilitate more workers, especially from underserved communities, entering these good jobs. Labor unions and community groups, in partnership, can ensure these are good union jobs that embed equity, include the use of Project Labor Agreements and/or Community Benefit Agreements, local hire provisions that will allow greater recruitment from underserved populations, and the use of Registered Apprenticeships. There is a real opportunity to transform communities and build worker and community power. These are five-to-ten-year

investments. While this seems like a lot of time, it really isn't. A national union staffer recently told me they need over 150,000 workers in the next five years to meet the workforce needs of IJJA and IRA. Creating good union jobs and building a diverse pipeline of workers doesn't have to be done sequentially. Communities can leverage and build on each of the investments. For example, over the next two years, ARPA funds can be used to establish workforce development programs and wraparound services to allow and support the training of a diverse workforce. Workers trained for many of the infrastructure jobs will also have similar or adjacent skills necessary for climate-related projects in IRA. This is the time for labor to build or strengthen robust partnerships with new community-based organizations, such as those providing employment services to the formerly incarcerated. It is also a moment to think outside the box and work with groups labor may not traditionally work with, including anti-poverty advocates, anti-violence and domestic violence prevention groups, and environmental justice organizations.

Advocating for the Care Agenda

If we are to pass an ambitious and needed care agenda that includes child care, long-term care, and paid leave, we must make it a priority and work together, labor with community. As the recent big legislative wins have taught us, a strong

coalition can make the difference in getting these kinds of national policies over the finish line.

What does this entail?

1. **Labor prioritizing care and including it as a key policy demand.** We know our friends in the building trade unions are being hampered in their recruitment efforts for infrastructure jobs. One of their major obstacles is the lack of child care that is available during nonstandard hours. Some building trade unions are engaging state and local governments to use ARPA funding to support wraparound services, including child care, for pre-apprentices and apprentices.

An example of this is the Care That Works coalition in Boston, that is comprised of unions, community-based organizations, nannies, au pairs, and grandparents, and is fighting to create a publicly funded child care system. It is piloting an affordable child care program to support construction and hospitality workers with nonstandard schedules.¹⁰

2. **Developing authentic partnerships with care organizations at the national, state, and local levels.** Labor can work with care allies to both advocate for comprehensive or separate care policies. These partnerships can also be nimble in incorporating portions of a labor and care agenda in legislation that is moving, rather than waiting for the opportune time to move the entire policy you want to see passed. An example of this is when paid leave advocates were able to include paid parental leave for federal workers in the

National Defense Authorization Act for Fiscal Year 2020, under the Trump Administration.¹¹ While this is not the ultimate goal for the paid leave advocates, it gets more workers covered by this protection and helps to continue to spotlight the need for a national policy.

INDUSTRIAL POLICY

Lastly, a word about “industrial policy.”

Thinking outside the box, how can we use industrial policy to move a robust pro-worker agenda that supports union organizing, collective bargaining, equity, strong labor standards and job quality, and a robust care agenda?

Industrial Policy is a current buzzword around DC. As many of you know, these are policies that have traditionally been used to support industries deemed to be strategically important to the nation. It has primarily been used to support manufacturing in the defense industry; but during various crises, it has been used to bail out industries like the auto industry and the financial industry. The supports have traditionally been in the form of loans, subsidies, protective tariffs, tax credits, and public funding for research and development. While the U.S. does not have a comprehensive industrial policy, though there is interest in the Biden-Harris Administration to explore this option, the recently passed CHIPS and Science Act and the Inflation Reduction Act incorporate some elements of industrial policies. For example, IRA includes \$386 billion for climate energy spending and tax breaks. Additionally, it includes more than

\$50 billion for clean energy manufacturing, one of the largest investments of this kind, and estimated to create over 900,000 jobs over ten years.¹² These investments and supports are clearly geared to help the US transition to a more clean energy economy. While all this is critical and ground breaking, what I am most interested in is that IRA also includes some of the strongest labor protections and incentives ever attached to clean energy tax credit programs, including use of prevailing wages and use of registered apprentices.

I am interested in exploring how far we incentivize these key sectors, using industrial policy, to adopt pro-worker and care provisions, such as stronger labor protections, neutrality agreements, paid sick days, and supports for child and elder care. This is not crazy talk –it is currently underway.

I am also curious to see what critical industries that support the supply chain or those considered vital to our economic competitiveness and well-being can include similar provisions and more. If our economic policies are advantaging some sectors over others, in exchange, we should be able to demand and extract some social returns from them, such as good union jobs.

I know I have left many other important actions labor should consider out of this talk. These include continuing to push for more regulatory changes and updates, greater enforcement of our existing labor laws, and the passage of critical legislation such as the PRO Act, National Domestic Workers Bill of Rights and Healthy Families Act. But you know all that!

I want to acknowledge that this work –all the accomplishments and ongoing commitments to this pro-labor and pro-worker agenda -- has happened due to the incredible hard work of dedicated, career public sector workers in the federal government, key political appointees in Biden-Harris Administration who never wavered in their commitment against the many obstacles thrown in their way, and, most importantly, the critical work of the U.S. labor movement and the union members who fought and continue fighting to make these policies a reality and inspire this work.

Thank you again for this opportunity.

POSTSCRIPT on Industrial Policy from The Center for Labor and a Just Economy, HLS (February 2024):

Dani Rodrik, the Ford Foundation Professor of International Political Economy at Harvard's John F. Kennedy School of Government, tweeted on July 31, 2023 that “Mainstream economics used to have little good to say on industrial policy. But this is largely not true anymore.”

In the month of January 2024, the USA added 353,000 jobs, nearly double the amount predicted in the mainstream forecasts of surveyed economists. For the previous two years, many economists foresaw a recession on the horizon and the approach of sluggish economic activity. In an article for Fortune (June 15, 2023) ominously entitled “Deutsche Bank’s top minds put U.S. recession chance near 100%—and say avoiding a hard landing would be ‘historically unprecedented,’” business journalist Christiaan Hetzner noted that Deutsche Bank analysts are in essence rebuking U.S. economists too eager to pop champagne corks about the possibility of a soft landing.

While recessions remain a perilous feature of advanced capitalist economies, Team Biden has thus far into early 2024 not only averted the hard landing that at one time dominated economic forecasting, but

there has also been substantial economic growth of 4.9 percent in the third quarter and 3.3 percent in the fourth quarter of 2023. New federal spending and programs played a role in keeping the U.S. economy from sinking into a post-Covid slump. Industrial policy has thus gathered additional support and fewer hectoring denunciations from naysayers.

In late February 2023, the Biden Administration announced that it would require semiconductor manufacturers who apply for more than \$150 million in subsidies from CHIPS to submit plans to provide high-quality child care to their construction and manufacturing workers. This was the policy direction recommended by Pronita Gupta at the end of her Wurf lecture in January 2023 and is a critical development ensuring greater subsidy accountability while addressing the care needs of workers. Many workers forego employment opportunities because of unaffordable child care, and this burden typically falls more heavily on women. In seeking to provide more resources for workers, the Biden Administration is preventing firms from using CHIPS funding for stock buybacks and augmenting dividends for shareholders.

There are still major challenges ahead. Construction firms and workers are enjoying a boom with the efforts to build huge chip facilities such as the \$20 billion Intel factory in New Albany, Ohio that broke ground in September 2022 and is now slated to open in 2026. Approximately 7000 construction

workers are anticipated for completing this factory. Regularly touted as “Ohio’s biggest private sector investment,” the Intel factory has benefited from major subsidies from the state of Ohio and anticipates new infusions of support from the CHIPS Act (Dayton Daily News, February 2, 2024).

The construction industry has lamented shortages of construction workers especially those with specific niche skills needed for semiconductor plants. But some young workers who have received training as semiconductor fabrication technicians find themselves stuck in fast food and Starbucks jobs because the renaissance in U.S. chip manufacturing cannot start until many of the new factories are at last completed. Various chip companies and manufacturing spokespeople have quietly expressed anxieties that if Biden is not re-elected, there is a possibility that CHIPS Act funding would be rapidly curtailed by a resurgent Trump Administration. So they are slowing down their timelines and pace of hiring just in case, admits Leah Palmer, who works at providing education and training programs tailored for the semiconductor industry while serving as the executive director for the Arizona Advanced Manufacturing Institute at Mesa Community College.

(See L. Palmer in Jacob Zinkula, “The chip industry’s false promise: America is spending \$52 billion to counter China’s edge in semiconductor chips. So where are all the jobs?” at Business

Insider, January 9, 2024, <https://www.businessinsider.com/semiconductor-chips-jobs-hiring-arizona-tech-phoenix-tsmc-intel-china-2024-1>).

Another challenge for industrial policy is the prospect of improving worker voice and representation amid majority U.S. worker support for labor unions. Akash Systems is a semiconductor company that pledges to use union labor in the construction and staffing of a \$62-million facility in West Oakland, California. But until this comes to fruition, the Communication Workers of America (CWA) identifies the ON Semiconductor Corporation's chip production plant in Mountain Top, Pennsylvania as the only semiconductor facility in the USA with a unionized workforce.

To overcome some of these obstacles to collective bargaining and worker representation, the CWA has helped spearhead the formation in October 2023 of CHIPS Communities United (CCU), a coalition of 50 organizations and community groups dedicated to good jobs, a clean environment, and community benefits. In a letter of October 25, 2023, CCU lists its goals as pushing corporate beneficiaries of CHIPS funding to achieve progress in the following areas:

Diverse Workforce: *Inclusionary hiring practices, pay equity, fair schedules,*

childcare, and protections against discrimination to support underrepresented populations.

Workers' Rights: *Respect for unionization and adoption of neutrality agreements, as well as project labor agreements for construction workers.*

Health and Safety: *State-of-the-art protocols, eliminating toxic chemicals, including PFAS “forever chemicals,” and replacing hazardous substances with safer alternatives.*

Environmental Protection: *Safeguarding air and water resources through facility design review.*

Clean Energy: *Commitment to renewable energy use and sustainable sourcing.*

Public Infrastructure: *Investment in local infrastructure improvements to strengthen and support local communities hosting new factories and production.*

(see <https://cwa-union.org/news/releases/chips-communities-united-over-50-national-and-local-groups-call-semiconductor>)

Many of the ideals enunciated in Pronita Gupta's presentation are reflected in the CCU principles. It will take the mobilization of these labor, environmental, national, and local organizations to assure that the CHIPS Act can fulfill the promise of community and people-oriented development over the profit-maximization imperatives of corporate leaders and billionaire shareholders from the high-tech aristocracy.

ENDNOTES

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