

# UC Berkeley

## Cal-in-Sac Undergraduate Research Products

### Title

United We Stand: Understanding and Acknowledging the Contemporary Challenges Associated with Union Affiliation and Union Busting Practices at the Federal and State Level

### Permalink

<https://escholarship.org/uc/item/81d505c4>

### Author

Vallecillo, Hugo

### Publication Date

2023-11-08

# **United We Stand: Understanding and Acknowledging the Contemporary Challenges Associated with Union Affiliation and Union Busting Practices at the Federal and State Level**

Hugo Vallecillo, Cal-in-Sac Fellow (2022-2023 cohort)

## **Abstract**

This brief analyzes the existing gap between union approval and current levels of affiliation at both national and state levels, exploring the differences in affiliation in the private and public sectors. After this quantitative analysis, it briefly explains the current trends regarding union avoidance and union-busting practices and concludes with the possible solutions that have been presented at the state and federal levels to solve the flaws of the National Labor Relations Act (NLRA), focusing on the “Protecting the Right to Organize” Act (PROA).

## **Literature review and research question**

Academic research suggests that most workers support labor unions. Kochan et al. (2019) observed workers’ attitudes toward labor unions by looking at the data from two nationally representative surveys previously conducted in 1977 and 1995 and comparing it to new data collected by them and concluded that the majority of workers in the United States see unions as a desired channel to exercise their voice and that the percentage of non-union workers that would join a union today is significantly higher than in the past (48% in 2017 against one-third back in 1977 and 1995), and it is larger among non-white, low-income workers.

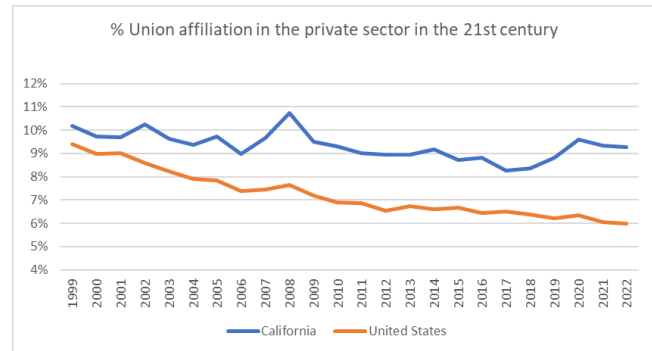
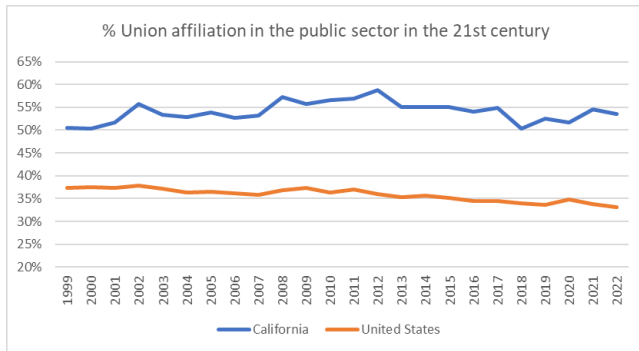
In discussing the reasons behind this inconsistency between union demand and union “supply”, the available literature seems to find a common denominator: employer resistance, most importantly in the private sector. Kleiner (2001) explains how this works by carrying out a Qualitative Comparative Analysis using information from a small sample of individuals who had suffered intimidation and harassment in the workplace. He concludes by saying that the benefits that managers obtain by preventing workers from joining unions are much higher than the costs associated with doing so, as the penalties associated with violating the National Labor Relations Act are not harsh enough for preventing them from breaking the law.

This brief will focus on studying the extent to which this problem is also extended throughout California, and how the PROA could help solve these problems. Consequently, the proposed research question is the following:

*Is the national gap between employees’ demand for unions and actual levels of affiliation also present in California, and what influence could the PROA have in solving this at the state level?*

## **Union affiliation and approval at the state and the federal level**

Data demonstrates that union affiliation in California has historically been superior to the national average. In California, the public sector affiliation since the beginning of the 21<sup>st</sup> century has ranged between 50.26% (2018) and 57.26% (2008). Meanwhile, the national average has ranged from 37.8% (2002) to 33.2% (2022). In the private sector, California has moved between 10.73% (2008) and 8.26% (2017) since the beginning of the century, while the national percentage ranged from 9.4 to 6%, experimenting a continuous decrease since the 2000s.



Regarding union popularity, the levels of approval also seem to be superior in the Golden State: the 2022 PPIC Statewide Survey shows that a large majority (82%) of Californians think that worker organization is essential for them to be protected. In that same year, the approval of unions at the national level was 71%, according to Gallup Poll. As a result, it could be argued that, although the percentage of workers that are part of a union in California is larger than the national average, there is still a gap between union demand and supply.

### How legislative action could help stop union-busting practices? The case of the PRO Act

As previously noted, the vulnerability of workers towards union-busting practices is primarily due to the lack of regulation in the NLRA. Although California has enacted some laws making it more difficult for union-busting practices (SB931, which public employees from union-busting practices, or SB 399, which prevents workers from having to attend anti-union meetings), it is essential to establish a series of legal standards at the national level. Following that purpose, the PRO Act would amend various sections of the NLRA. The changes in SEC. 104, related to Unfair Labor Practices, would be especially important, as it would explicitly reflect many of the practices that are common examples of employer resistance and discrimination nowadays. As it is reflected in its summary, the main purpose of this Act is to increase the number of individuals covered by the “fair labor standards.”

### Conclusion

Unions are still a very powerful tool for Californian workers to improve their labor conditions and their ability to bargain collectively. For this reason, it is more important than ever that we ensure we have the legal instruments to make sure everyone can associate freely to defend their rights, and the PRO Act could be a very important step in that direction.