

# *Tackling Workplace Segregation Through Collective Bargaining*

The Case of UNITE-HERE and the Hotel Industry

Report by  
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## Introduction

More than 50 years after the passage of the landmark 1964 Civil Rights Act, what little progress the United States has made in ending job segregation by race and gender has stalled. As women and people of color make up a growing majority of America's workforce, we must find new and innovative solutions to end workplace segregation and promote equal opportunity for all. This brief advances one key solution: collective bargaining.

In this brief, we identify direct ways in which unions can influence the racial and ethnic division of labor beyond network recruitment of individual members. Outside of apprenticeship programs (Fuchs, Bayer, and Warren 2014), unions may directly influence racial, ethnic, and gender representation by legislating hiring practices through specific contract language; for example, by mandating diversity commitments from employers, implementing stronger nondiscrimination practices, and requiring direct outreach to underrepresented applicants.

By focusing on the specific, race-focused collective bargaining activities of unions as worker organizations, we present our case as a corrective to narrowly economic conceptions of economic action (Freeman and Medoff 1984; Warren 2005). Unions are not merely aggregates of their members' social networks, nor are they merely bargaining agents exclusively focused on raising wages. Instead, labor unions operate as collective institutions that mediate between the network recruitment of workers and the hiring practices of management. Significantly, we draw attention to the political nature of this mediation: Workers and their unions must organize among themselves—and overcome racial and ethnic divisions in the process—in order to negotiate a set of racial and gender equity demands with management. Union organizing can upset and redirect social closure processes that most frequently operate along lines of race, ethnicity, and gender.

## The Problem: Persistent Workplace Segregation

Fifty years after the passage of the 1964 Civil Rights Act, our workplaces are still highly segregated by race, ethnicity, and gender. One of the intentions behind the 1964 law—one of the most significant legislative achievements of the civil rights movement—was to end employment discrimination and segregation based on race, ethnicity, nationality, and sex. What we know from social science research is that we made some progress toward desegregating the workplace for about 15 years; however, after 1980, this progress plateaued, and in many firms and occupations re-segregation has occurred (Stainback and Tomaskovic-Devey 2012). Race and gender occupational segregation in the workplace is particularly problematic because it is a causal factor in systemic and persistent racial and gender wage disparities (Hegewisch and Hartmann 2014).

In addition to race and gender occupational segregation affecting women workers, workers of color, and especially women of color, many workers face significant barriers even gaining access to the labor market. One of the most significant problems of the 21st century labor market is the incredibly high incarceration rate in the United States. More than two million Americans have had some contact with criminal justice institutions, and even though violent crime in particular has

gone down significantly in the last decade, there is still a very high rate of incarceration. This matters for labor market access because possession of a criminal record, as the sociologist Devah Pager points out, makes it very difficult to find a job (Pager 2007). Employers are extremely reluctant to hire formerly incarcerated men and women, a problem particularly affecting African-American men.

Given the failure of workplace desegregation and the increasing significance of criminal justice policies and institutions in shaping labor market access and outcomes, the current national policy framework dealing with segregation, discrimination, and labor market access is quite limited (Johnson 2015). Collective bargaining, however, might be an alternative and underutilized tool to advance racial and gender equity in the workplace.

### **Bargaining Diversity: A Case Study of UNITE-HERE**

In 2006, Unite Here Local 1 in Chicago won unprecedented diversity language in its collective bargaining contracts, which ensures that hotel employers hire and retain African-Americans. Albeit new, this language added to the broad and expansive non-discrimination language the union had won in previous contracts, as well as the broad scope of equity provisions the union had secured for its diverse workforce, such as domestic partner benefits for its lesbian, gay, and transgender members, gender equity in health care coverage (e.g., contraceptive equity), and protections for its immigrant workforce (Warren 2005). Commitment to diversity was not new to the union, but securing commitments to diversity in hiring and retention from employers was.

The diversity language is comprised of two parts: a commitment to a diverse workforce by the employer and a set of “affirmative steps” by which the employer will demonstrate a good faith effort to reach, or manifest, this commitment. The relevant section of the contract (Part 1 of Section 16, titled “Commitment”) reads as follows:

*The Employer is committed to a diverse workforce, consistent with and practicing equal employment opportunity and engaging in affirmative efforts to maintain an environment that supports and encourages the contribution of all employees. The parties strive to achieve a workplace environment respectful of the diverse cultures of the workforce. The Employer and Union are proud of the diversity of the workforce, which includes a significant number of African-American employees, as well as those who have immigrated [sic] from various countries, and the benefits that diversity brings to the industry.<sup>1</sup>*

The contractual commitment represents the formal adoption of union diversity goals by management and provides the union with a mechanism by which to hold employers accountable. Additionally, the language provides a means by which to hold employers accountable in their dealings with workers on a day-to-day basis, outside of formal grievance dealings and contract

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<sup>1</sup> Collective bargaining agreement between UNITE HERE Local 1 and signatory Chicago hotel employers, August 2006. UNITE HERE Local 1 Records.

negotiations. In short, signing such a commitment shifts the tone and tenor of future interactions around race, immigration, and diversity on the shop floor and beyond, and it has a built-in enforcement mechanism. By securing the diversity language, the union demonstrated that it could win on an issue of great concern to many of its members. By so doing, the union also provided its members with a means by which to hold the union accountable to the substantive realization of its diversity commitments and practices.

Part 2 of the diversity section, “Affirmative Steps,” outlines a program of action centered on community outreach as the primary means by which to actualize the diversity commitment. The contract states:

*The Employer with the cooperation of the Union will act in good faith to outreach to the community, including to the African-American community, in order to attract applicants who are part of underrepresented groups through a coordinated and strategic outreach program.*

Specifically, the contract mandates that the union and the employer jointly develop “an annual strategic action-oriented outreach program” designed to accomplish the following:

1. Inform and educate members of underrepresented community about job and career opportunities with the Employer;
2. Establish contacts with diverse community groups and schools that serve underrepresented communities and seek to develop partnerships with them to enhance their knowledge of the Employer and jobs and career opportunities for community members with the Employer.

Lastly, the contract stipulates that results must be tracked and reported annually.

The impetus behind this diversity contract language was the African American Hiring Initiative, which was created in 2000 by local union leaders and the Executive Board of HERE as part of the union’s larger diversity program. The initial focus of the initiative was on targeted training programs to connect African-Americans to hotel employment. Las Vegas provided a successful model. A program undertaken in the early 2000s by the hotel union (Unite Here Local 226) and the Culinary Training Academy, a labor–management partnership that provides training for the hospitality industry, had some success in bringing more African-Americans into the hospitality industry by using high schools to recruit students, particularly young African-American men, into training programs at the Culinary Training Academy. Efforts replicating the Las Vegas model moved forward in Boston and Los Angeles. In Boston, an entire floor of the union hall, outfitted with a training kitchen and hotel rooms, was dedicated to providing training in partnership with hotel management.

In each city targeted by the African American Hiring Initiative, community outreach was key. In particular, the union recruited African-American ministers (sometimes working through the

NAACP and the Urban League) to inform them about the hiring initiative, training opportunities, and the pay and benefit levels of union hospitality jobs. In an effort to further institutionalize and build upon these early efforts, local union leaders in a number of cities committed to fight for the inclusion of diversity language in their next contracts, all up for negotiation between 2005 and 2007. Such a step helped to further the union’s efforts to attract and retain African-American workers by formalizing the participatory efforts of hotel management as well as signaling a heightened level of commitment to its members. In addition to Chicago, the Boston and Los Angeles locals were successful in winning some form of diversity language in their 2006 contracts.

While not identical, each of these contracts secures a commitment to diversity from management and outlines affirmative steps centered on community outreach and targeted training. All of the contracts stipulate that a strategic program must be developed; they differ, however, in specifying how and by whom. The Chicago contract states simply that the union and the employer, “through the mutual commitment of time and resources” (Section 16.2.b), will design an annual strategic plan together. By contrast, the Boston contract specifies the creation of a “Citywide Diversity in the Hospitality Industry Taskforce” comprised of hotel, union, and community representatives, the latter appointed by the mayor.<sup>2</sup> An ombudsman is designated to facilitate the “consensus building process” of the Taskforce (Article 48, Section B.2) and is charged with additional tasks ranging from discussing “complaints by employment applicants about the Employer’s hiring practices or decisions” to coordinating the analysis of hiring, promotion, and recruitment data provided by the hotels (Article 48, Section 7). The contract charges the taskforce to meet at least quarterly.

The Boston contract reveals the union’s grasp of the complexity of the problem of increasing the employment of underrepresented groups, such as African-Americans, as well as the complexity of labor market processes in general. Although the Boston contract pays heed to the supply side of the labor market—how to recruit and train eligible applicants—it goes the furthest of all the contracts in addressing the most critical part of shaping the racial and ethnic division of labor: hiring. Although the final hiring decision remains the right and privilege of the employer, the Boston contract’s diversity provisions provide union and community representatives with a voice in the hiring process. As members of the taskforce, union and community representatives are able to “review and make recommendations to the Hotels regarding suggested amendments to the application and hiring procedures that may present obstacles to members of the African-American and broader diverse community members” (Article 48.5.b). While not guaranteed, this provision gives union and community representatives the opportunity to influence hiring procedures for the purpose of increasing labor market access for excluded groups.

Perhaps most significantly, this mandate increases transparency around hiring practices and procedures. In order to comply with the “review and recommendation” mandate of the taskforce, employers must identify, regularize, and report their procedures. Doing so helps to formalize the hiring process. Additionally, the taskforce institutionalizes a monitoring process, further

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<sup>2</sup> Collective bargaining agreement between UNITE HERE Local 26 and signatory Boston hotel employers, December 2006. UNITE HERE Local 26 Records.

reinforcing formalization. Past research indicates that transparency and formalization greatly reduce discriminatory practices (intentional or not) and are of the greatest benefit to African-American applicants (Dobbin 2009; Holzer and Neumark 2006). While the advisory nature of the taskforce protects employers' autonomy in hiring, its mere existence, simply by opening up hiring practices and procedures to review, can potentially influence hiring procedures in ways that are beneficial to underrepresented applicants.

In addition to the citywide taskforce, the Boston contract establishes a Hotel Diversity Committee at each hotel, with equal representation by labor and management, "to assess the success of the Hotel's hiring, promotion and recruitment practices when compared with the benchmarks and recommendations of the Citywide Taskforce" (Article 48, Section 6.f). These local hotel committees locate monitoring closest to the point of hire, at specific worksites, while the taskforce serves to set benchmarks for the industry as a whole and coordinates outreach across the entire local labor market. Such a strategy guards against unevenness and laggard employers, even as it generates efficiencies of scale and mutuality—no one employer is expected to undertake community outreach or facility training on its own. But each hotel must attend to its own hiring practices. The Hotel Diversity Committee provides the union with a means to monitor these local practices, and the contract secures a pledge from each hotel "to negotiate in good faith with the union to correct any failures to follow the recommendations and benchmarks described by the Citywide Taskforce" (Article 48, Section 6.f).

As research has unequivocally demonstrated, labor and employment violations are greatly reduced when workers have a voice in labor-management relations (Fine and Gordon 2010). Workers, when enfranchised within a "backward-mapping" implementation process, provide invaluable on-the-ground knowledge necessary for successful monitoring and problem-solving (Barenberg 2008; Elmore 1979–1980). Through the creation of these Hotel Diversity Committees, the Boston diversity language goes furthest in institutionalizing worker participation in the hiring process.

Notably, the Boston contract formalizes the participation of the city and the community in addressing the issue of employment access and integration, especially the hiring and retention of African-American workers. Institutionalizing the involvement of multiple stakeholders serves both political and pragmatic ends. Bringing outsiders into the issue "expands the scope of conflict" in an effort to build widespread support for the union's diversity goals that stretches beyond the shop floor (Schattschneider 1960). City and community participation helps to connect both the union and hotel management to a diverse set of resources and outreach venues (see also Johnson 2015). For example, the contract charges the taskforce to "work with existing Community job development and training programs that will assist Employers in identifying potential job applicants" (Article 48.5.c). Lastly, involving community representatives at the start helps to solidify "buy-in" through mutuality. Community outreach, then, becomes a bilateral process undertaken with the community rather than one directed at the community. Further, the requirement of community participation externalizes recruitment and outreach to actors most likely to identify underrepresented applicants.

Differences in the specific diversity language used in the Chicago, Boston, and Los Angeles collective bargaining agreements reflect differences in union density and negotiating power, past practices, and urban political regimes. In Boston, the union had already garnered management's participation in a labor-management training program—the Greater Boston Hotel Employees/Local 26 Education/Training Program—that the contract stipulates should be utilized “to further the efforts of the Taskforce” (Article 48.5.d). This training program also receives workforce development funding, a key government lever that can be utilized to advance workplace integration goals (Johnson 2015).

Far from symbolic, the diversity language—even that which serves as placeholder language—included in these Unite Here contracts was hard-won. Negotiations were tense in a number of cities. The Boston Globe (2006) reported that “contract negotiations in Boston erupted in a heated exchange” on the issue of African-American representation, specifically over the numbers of African-Americans employed in the city's Starwood-operated hotels, and that the hotel industry negotiator publicly stated that the Boston hotels were “prepared to do whatever outreach is necessary.” At root, the diversity language makes hotel employers formally accountable “to do whatever is necessary.”

Unite Here's contract diversity language represents a significant way in which workers and their unions, beyond the confines of their own social networks, can shape and influence the racial and ethnic division of labor and transform persistent patterns of labor market exclusion and occupational segregation by race and gender. By institutionalizing outreach efforts and the monitoring and review of hiring practices, the diversity provisions provide workers with some formal influence on hiring. Even without these provisions, workers can do much to shape the applicant pool and affect application and hiring procedures through word-of-mouth recruitment, coaching of acquaintances through the application process, and vouching for certain applicants to the boss (Waldinger and Lichter 2003). Yet Unite Here's contract requirements formalize these processes in an effort to lessen information asymmetries that can exclude particular groups from gaining entry into employment. Significantly, the diversity language attempts to open the black box of hiring to workers through their union representation. In the case of Boston, the community also gains inclusion in the process.

Ultimately, the diversity language in the collective bargaining agreement provides workers with a formal accountability mechanism. While workers cannot demand specific hires, they can demand that employers demonstrate good faith efforts toward achieving greater inclusion of workers of color, and especially African-American workers. Such leverage differs strikingly from workers' informal influence on the composition of the workforce, which is achieved through their recruitment networks and other forms of social capital. This formal influence instead derives from workers' political capital, achieved through their explicit political mobilization as union members and through the existing collective bargaining framework of our current labor law regime.

## Conclusion

These labor agreements do not impose quotas, but they represent a significant step on the part of a union to address issues of racial and ethnic inclusion and representation in employment directly. Significantly, the impetus for such language emerged from the growing concerns facing an increasingly diverse union membership that is comprised predominantly of African-American and immigrant workers. Motivated in part by political ideals and in part by political pragmatism, the union's international leadership embarked on a number of diversity initiatives. Winning such policies at the bargaining table, however, required building support among union members first. Internally, the union implemented institutional practices that challenge and bridge divisions of race, ethnicity, and nationality on a daily basis. A commitment to building diverse committee representation among workers at each individual hotel sits at the center of this set of practices.

Taken together, these activities illustrate how workers and their organizations as collective agents utilize the collective bargaining process in order to influence racial and ethnic representation on the shop floor. Significantly, this is a political process: Workers must organize among themselves—and overcome racial and ethnic divisions in the process—in order to negotiate a set of demands with management. In the case of Unite Here Local 1, union organizing activities work to counter notions of intergroup competition between African-Americans and immigrants in order to build common cause that affirms, rather than denies, differences. This mobilization yielded efforts to contest and reshape the ethnic and racial division of labor on the grounds of diversity and improve the racial and ethnic composition of the workforce. At a moment when the legal tools of workplace discrimination law are limited to Title VII of the Civil Rights Act, strengthening collective bargaining and using it to tackle occupational discrimination and segregation is a promising avenue toward achieving the goal of equal opportunity for all in the workplace.

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