

Biographical Sketch for Kate Bronfenbrenner

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Kate Bronfenbrenner joined the extension faculty at the New York State School of Industrial and Labor Relations at Cornell University in 1993. As the Director of Labor Education Research, Kate teaches and conducts research in the areas of organizing, collective bargaining, contract administration, labor research, and leadership development for national and regional unions as well as students in the resident graduate and undergraduate programs at Cornell ILR. Prior to coming to Cornell, Kate was an Assistant Professor and Labor Education Coordinator for the Department of Labor Studies and Industrial Relations, Penn State University, and worked for many years as an organizer and business agent with the United Woodcutters Association in Mississippi and SEIU in Boston. Kate is the co-author and editor of several books on union strategies including Union Organizing in the Public Sector: An Analysis of State and Local Elections, Organizing to Win: New Research on Union Strategies and Ravenswood: The Steelworkers' Victor-v and the Revival of American Labor. Kate has also published articles and monographs on employer and union behavior in public and private sector organizing and first contract campaigns, unions and the contingent workforce, union leadership development, women in the labor movement, and labor and the global economy. Because of her expertise in contemporary labor issues and her research on union and employer behavior in certification election campaigns, Kate has been brought in to testify as an expert witness at Labor Department and Congressional hearings and is frequently quoted in the major news media. In 1997, Kate was elected Vice-President and Professional Council Chair of the University College Labor Education Association. In October 1998 Kate was the first recipient of the Labor Party's Karen Silkwood award and in January 1999 she received the Industrial Relations Research Association's Young Scholar Award.

**Testimony of Dr. Kate Bronfenbrenner
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Before the

**Public Hearing of the US Trade Deficit Review Commission
Trade in Manufacturing, Labor, and Environment Issues**

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Commissioner Becker and Commission members, thank you for this opportunity to present the findings of my research on the impact of US trade policy on union organizing, collective bargaining, and wage stagnation.

I am the Director of Labor Education Research at Cornell University where I am on the faculty of the Extension Division of the School of Industrial and Labor Relations. Starting in 1988 and continuing to the present I have conducted a series of studies specifically designed to gain greater insight into factors contributing to union success or failure in organizing and collective bargaining.¹ My recent study, "The Effects of Plant Closing or Threat of Plant Closing on the Right of Workers to Organize," upon which my testimony is based, was

¹See Kate Bronfenbrenner. "The Effect of Plant Closings and the Threat of Plant Closings on Worker Rights 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, Berman Press: June, 1997. *Organizing to Win: New Research on Union Strategies*. Editor (with Sheldon Friedman, Richard Hurd, Rudy Oswald, and Ron Seeber). Ithaca, N.Y.: ILR Press, January, 1998. "Employer Behavior in Certification Elections and First Contracts: Implications for Labor Law Reform." In Sheldon Friedman, Richard Hurd, Rudy Oswald, and Ronald Seeber, eds., *Restoring the Promise of American Labor Law*. Ithaca NY: ILR Press, 1994, pp. 75-89. Kate Bronfenbrenner and Tom Juravich. "The Impact of Employer Opposition on Union Certification Win Rates: A Private/Public Comparison," Economic Policy Institute Working Paper No. 113, 1995.

commissioned by the Labor Secretariat of the North American Commission for Labor Cooperation in September 1996. The study came as an outgrowth of the charges filed under the NAFTA labor side agreement relating to the shut down of Sprint's Hispanic marketing division, La Conexion Familiar, in San Francisco, California just two weeks before an NLRB certification election which the union was predicted to win. In the study we examined union and employer behavior and organizing climate variables for a random sample of more than 500 NLRB certification election and first contract campaigns that took place between 1993 and 1995, the first years after NAFTA came into effect. These findings were compared to data conducted in a similar study on certification election and first contract campaigns that took place in 1986- 1987, before NAFTA was in place.

As you heard in earlier testimony, there has been a great deal of discussion and debate about the impact of trade policies on job loss and plant closings. But trade agreements and trade deficits have had a much broader ripple effect on workers and communities than simply lost jobs and closed plants. Yes, many Americans are doing better economically than in the recent past and consuming more goods than ever before. Yet, in the context of corporate mergers, leveraged buyouts, contracting out, and capital flight, there remains a great sense of economic insecurity among American workers today. In the shadow of the economic boom, it is this economic insecurity that has been the driving force behind the decline in real wages among hourly workers.

As Federal Reserve Chair Alan Greenspan explained in his testimony before the Senate Banking Committee in February 1997, our "sustainable economic expansion" is thanks to "atypical

restraint on compensation increases [which] appears to be mainly the consequence of greater worker insecurity.”

What our research found is that free trade policies have been one of the critical factors fueling this economic insecurity among American workers. Under the cover of NAFTA and other trade agreements, employers use the threat of plant closure and capital flight at the bargaining table, in organizing drives, and in wage negotiations with individual workers. What they say to workers, either directly or indirectly, is that if you ask for too much, or don't give concessions, or try to organize, **strike**, or fight for good jobs with good benefits, we will close, or move across the border, just like other plants have done before.

Our research shows that in NLRB certification elections more than 50 percent of employers made threats to close all or part of the plant during the organizing drive. This is nearly double the 29 percent of employers who made plant-closing threats during NLRB campaigns in the late 1980s, before NAFTA came into effect. The threat rate is significantly higher, 62 percent, in more mobile industries such as manufacturing, transportation, and warehouse/distribution, where employers can credibly threaten to shut down **and/or** move their operations in response to union activity. The win rate in these more mobile industries is only 23 percent in campaigns where employers made plant closing threats compared to a 40 percent win rate overall.

We also found that the majority of these threats are a direct component of the employer anti-union campaign and do not result from the companies' deteriorating financial condition. Plant-closing threats were no less likely to occur in companies in strong financial shape than in

those in extremely poor financial condition. Instead, threats of plant closing tended to occur in the context of other aggressive anti-union behavior by employers, including a combination of other threats, interrogation, surveillance, discharges, bribes, and promises. Win rates are as much as 10 percentage points lower in units where plant closing threats were combined with other anti-union tactics.

Given that direct unambiguous threats to close the plant in response to union organizing activity are clearly in violation of the law, most of the employers chose to make their threats indirectly and verbally. Still, 19 percent of the election campaigns with threats included unambiguous written threats, which are much easier to document and are more likely to be found in violation of the NLRA.

Unambiguous threats ranged from attaching shipping labels with Mexican addresses to equipment throughout the plant, to posting maps of North America with an arrow pointing from the current plant site to Mexico, to a letter stating directly that the company will have to shut down if the union wins the election. In some of these cases, the plant manager or company official stated clearly in captive audience meetings that if the employees voted in favor of union representation, they would lose their jobs.

More than 10 percent of the organizers we interviewed reported that the employer directly threatened to move to Mexico if the workers organized. The most blatant example of this involved a UAW campaign at ITT Automotive in Michigan in March 1995, where overnight management removed an entire production line, wrapped it in shrink-wrap and set the equipment out on thirteen flat-bed tractor-trailers parked in front of the plant with large hot-pink signs

posted on the side which read “Mexico Transfer Job.” ITT also flew employees **from** its Mexican facility to videotape Michigan workers on a production line which the supervisor claimed they were “considering moving to Mexico.” According to UAW organizer Diane Ketola, as the Mexican crew began filming the ITT workers at their jobs “shivers went down the back of each worker. They were here to learn their **jobs.**”[•]

Another company provided statistics in a captive audience meeting on the average wage of Mexican auto workers, the average wage of their U.S. counterparts, and how much the company stood to gain from moving to Mexico. Company officials also provided an overhead visual with a large red arrow pointing from their location to their plant near Mexico City.

Despite the clearly illegal nature of plant closing threats in the context of union organizing campaigns, fewer than a third of the union organizers filed unfair labor practices (ULPs) in response to threats. Many organizers reported that they did not file charges because the climate of fear and intimidation generated by the employer’s campaign made it impossible to collect corroborating evidence or get witnesses to testify. Because the penalties for employers found to be committing unfair labor cases are so minimal, and because ULP charges can delay elections and first contracts for months, if not years, many unions questioned the value of devoting scarce union organizing resources to a legal victory that would be pyrrhic at best. In fact, the final Board decision was in the union’s favor in less than a third of the campaigns where the union filed charges in response to plant closing threats and unions were only able to win Board-ordered re-run election in a handful of cases. There was also not a single instance of the

NLRB ordering a company to re-open its facility after shutting down all or part of its operations to avoid unionization.

The use of plant closing threats did not stop after the election was won. Eighteen percent of employers threatened to close the plant rather than bargain a first contract with the union, and 12 percent of the employers followed through on threats made during the organizing campaign and actually shut down all or part of the plant before a first contract was reached. Another 4 percent of employers closed down the plant before a second agreement was reached. This 15 percent shutdown rate within two years of the certification election victory is triple the rate found by researchers who examined post-election plant closing rates in the late 1980s, before NAFTA went into effect.

Even where a contract was reached, plant closing threats during both the organizing and first contract campaigns, tended to have a chilling effect on union bargaining demands, particularly over wage and benefit increases. The threats served as a constant reminder that if the newly unionized workers asked too much, or fought too hard, the employer might still shut down the facility.

This research does not include the many organizing campaigns that never get to the point where a petition is filed because of the chilling effect of aggressive employer opposition. Thus we do not know how many employers effectively use plant closing threats to stop a fledgling organizing drive before it gets off the ground. Nor do we know the chilling effect that plant closings during organizing campaigns have on other workers contemplating bringing a union into their own workplace. Without further research, we also do not know how many employers use

plant closing threats to hold down union wage and benefit demands at every stage of the collective bargaining process, even after years of representation under a union agreement.

We learned from our research that one of the most effective components of employer threats were the photos, newspaper clippings, and video footage of plants that shut down in the aftermath of a union campaign. Thus, the impact of plant closings and threats of plant closings during organizing campaigns and bargaining campaigns goes well beyond the individual workers in the unit being organized. We also know that widespread media coverage of plants and jobs lost to NAFTA have reinforced this climate of fear and insecurity, making both organizing and bargaining an increasingly frightening and difficult exercise for American workers.

The ripple effect of public anxiety over job loss and the effects of NAFTA goes far beyond the relatively small number of companies that shut down plants and move operations to Mexico and other countries. Thanks to a combination of employer threats of plant closings, and actual plant closings, and the media coverage of those threats and plant closings, a climate of insecurity has been fostered which affects every worker, union or nonunion, in every industry. As our research shows, this fear and insecurity not only has a chilling effect on workers exercising their rights to organize and bargain collectively, it also has a significant impact on restraining wage demands among all workers, both union and non union.

Employers do not grant wage increases simply because their companies are doing well economically. On the contrary, employers grant raises because their employees make demands and have the power in the workplace and the community to enforce those demands. If workers

and unions are too afraid to hold out for raises, or if workers are too afraid to organize into unions, then wage gains become increasingly difficult to achieve.

Some would argue that we cannot and should not use trade agreements to solve problems such as labor rights that are not directly related to trade. But we must remember why we enter into trade agreements in the first place -- namely to protect, boost, and strengthen our economy and to improve the quality of life for our citizens. If, as you have heard today, trade agreements and the resultant trade imbalances force down wages, threaten the environment and public safety, and interfere with freedom of association and the legal right to organize, then we are doing a disservice to all of our citizens if we do not fight for trade policies that protect both labor and environmental rights and take bold action to quickly and effectively reduce our nation's burgeoning trade deficit. Otherwise, the benefits of our economic success will accrue to fewer and fewer of our citizens, while the economic, social, and environmental costs to American workers, their families, and communities will only expand and escalate.

Thank you.