

## VI. Incorporating Finance into Employment Relations: Implications for Theory and Practice

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### Labor and Finance: Some Preliminary Attempts at Quantification

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It is well known that the U.S. labor movement has, since 1990, increased its involvement with financial markets. It has done so through two primary modalities: shareholder activism focused on corporate governance and regulatory and legislative efforts at the federal level. For the most part, it has been a minority actor in these realms. The present research is an effort to measure various dimensions of these activities.

Corporate governance and regulation are separate but related paths for constraining financial actors, such as corporate executives and owners, and firms in the financial services industry. Shareholder activism directed at corporate governance is slower and less comprehensive than regulation because it occurs on a firm-by-firm basis. It is, however, a double-edged sword. While applying shareholder pressure to management can benefit labor's own objectives in organizing and sometimes in bargaining, it also has the effect of strengthening shareholder primacy. This is so because the reforms labor champions also are those that empower shareholders.

Financial regulation has been a major issue throughout the past two decades, from the deregulation that occurred in the Reagan and Clinton years through legislation such as Sarbanes-Oxley and, more recently, Dodd-Frank. There also have been efforts focused on regulatory agencies such as the SEC.

The method for doing this research is an analysis of data from Factiva, a database of major newspaper and magazine publications. In the research, the analysis is limited to articles about the United States.

There are many shortcomings with the methodology. The data are noisy because of various category overlaps. The figures on union involvement are biased downward because of declining media coverage of organized labor. Given the noise in the data, one must avoid attaching too great importance to the raw numbers lest we fall prey to Whitehead's fallacy of misplaced concreteness: the interpretation of seemingly precise numbers as constitutive of concrete reality. It is the fallacy of reductionism.

That said, there are some benefits associated with the methodology. Article counts can provide rough orders of magnitude. They can show trends over time. And they are a useful way of provoking conversation and further research.

#### Labor's Overall Involvement

In the analysis, labor is defined by counting stories containing various search terms such as the names of major unions, AFL-CIO, Change to Win, organized labor, unions, and labor movement.

The chief foci of labor's activities in the financial arena are divided between corporate governance and regulation (here meant as legislation and regulation). Corporate governance is measured by stories that include terms such as corporate governance, executive pay, poison pills, and shareholder resolutions.

Financial regulation includes terms such as proxy access, say on pay, private equity regulation, Sarbanes-Oxley, and financial regulation.

During the period from 1988 to 2010, looking at the issues overall without considering labor's involvement, stories mentioning financial regulation dominated those mentioning corporate governance by a ratio of 10 to 7. This is not surprising given that financial regulation affects all firms, whereas corporate governance affects individual companies, for the most part. Financial regulation is, in a word, more newsworthy.

When we examine labor's involvement in these areas, however, corporate governance dominates financial regulation by almost the opposite ratio: 11 to 7. Because labor's primary involvement in financial markets has been to seek collateral benefits (in bargaining, organizing, and strikes) via shareholder activism, this is not surprising.

Traditionally, labor's appearance in the media has involved stories on organizing, bargaining, minimum wages, and inequality. This continues to be the case. But what is especially interesting is the recent importance of corporate governance and financial regulation as compared to labor's traditional interests. In fact, labor's mention in stories on traditional issues is slightly less than in stories mentioning labor and corporate governance. (The analysis precedes recent events in Wisconsin.) Again, one must not attach too much importance to the precise numbers. Rather, the lessons are twofold: first, labor splits its financial activities between corporate governance and financial regulation; second, corporate governance and financial regulation, relatively new concerns since 1980, have become increasingly important to the labor movement.

This raises the question of how labor's involvement with all financial matters has changed between the decades 1988–1999 and 2000–2010. The change is striking. The ratio between the two periods is 1 to 14. There are at least two reasons for this. One is that shareholder activism in support of collateral benefits has become more important, especially since creation of the AFL-CIO's Office of Investment in 1998. The other is that the financial crises epitomized by Enron and Lehman Brothers created the necessity of financial regulation and opened up opportunities for unions in this area.

Labor's activities in the corporate governance realm occur primarily through its leverage of workers' pension capital, especially from the public sector. (This is one reason for the recent attacks on defined-benefit pension plans of public employees.) Not surprisingly, stories combining union-influenced pension plans (e.g., NYCERS, Taft-Hartley plans) and corporate governance are more prevalent than stories combining the former and financial regulation. Pension plans are not usually a tool for affecting financial regulation.

Again, if we compare the decades 1988–1999 and 2000–2010, the ratio of the latter to the former for labor and corporate governance issue is 24; the ratio for financial regulation is 13. Labor's involvement in corporate governance, then, rose more rapidly after 2000 than its involvement with financial regulation. Of course, had we examined only the AFL-CIO—the principal body for affecting legislation and regulation—the ratio would show a relatively larger increase in financial regulatory activities since 2000. The AFL-CIO has a larger staff for federal lobbying and the like than most national unions. That said, labor's involvement with financial issues grew slightly faster than the change in the overall salience of legislative and regulatory stories in the media. The same is true for labor's involvement with corporate governance issues. One way to interpret this is to say that the resources devoted by the labor movement to all types of financial activities grew faster than the phenomena themselves. In other words, labor has since 2000 become a more important actor in the financial arena.

That said, labor remains a fly on the elephant in terms of its share of mention in stories on financial issues. After 2000, in the area of corporate governance, labor was mentioned, on average, in 5% of all stories (4% of all articles on boards of directors, 7% of stories on poison pills, 8% of stories on shareholder resolutions and on executive pay, and so forth). These figures surely understate labor's prominence because we know that, after the late 1990s, labor was filing more shareholder resolutions to do with corporate governance than any other group. When it comes to financial regulation and legislation, labor's share of stories was never more than 2% to 3%, with the exception of Sarbanes-Oxley, where the AFL-CIO was very vocal and its share was 5%. If, however, underreporting of labor for corporate governance and for financial regulation is the same, then labor is a bigger player in corporate governance than for regulatory issues. Still, it is a bit player.

However, the picture changes a bit if we consider union-influenced pension funds and their salience in stories on corporate governance and regulation. If we combine the pension-fund figures with those for labor and ask what percentage of stories on corporate governance during 2000–2010 mentioned labor or union-influenced pension funds, the figure is 8%—still small but not inconsiderable. Again, the point is less about the absolute number than the fact that labor acts not only on its own but in alliance with pension funds that can boost its influence. And very often it can find other institutional investors who will support its efforts. However, pension funds provide less of a boost to labor when it comes to regulatory issues.

The one important exception has to do with Say on Pay and with proxy access. The former gives shareholders the right to hold advisory votes on executive pay. It has been a long-sought goal not only of labor but of other institutional investors as well. Initially, demands for Say on Pay were presented as resolutions at shareholder meetings; they sometimes succeeded. But after 2000, the action shifted to the legislative and regulatory realms. Recently, as a result of the Dodd-Frank legislation, the SEC has agreed to require companies to hold these advisory votes on executive pay. Potentially, this can be a powerful check on runaway executive pay, though evidence from the United Kingdom—which has required these votes for many years—suggests that it is but a minor remedy. On the other hand, it can raise media salience of the executive pay issue and thereby strengthen labor’s efforts to raise larger questions about income inequality. During the period 2004–2007, when Say on Pay was a hot issue, labor was mentioned in 23% of stories on Say on Pay, dropping to 12% after 2008, by which time, however, Congress had signaled its intent to act on the matter and Obama had replaced several Republican members of the SEC.

Proxy access refers to the practice of allowing major shareholders to nominate candidates for a company’s board of directors. This is potentially a big change in corporate governance because it could allow election of directors who are more public minded than those selected by management. It would not be anything remotely resembling co-determination. But it could, in theory, tilt boards away from their obeisance to managements. Again, proxy access took off during the period 2004–2007, and on this important issue labor was mentioned in 29% of stories on the issue. This is a striking figure. While the SEC under President Bush hemmed and hawed on proxy access, the new SEC has asked companies to allow it. Business, however, has appealed the issue in the courts and the outcome remains uncertain at this time.

Recently, political scientist Pepper D. Culpepper has argued that business is more likely to win on corporate governance issues that are less salient to the public, because on these issues it faces less opposition and can sway voting outcomes. Proxy access and Say on Pay are not salient. The total number of stories about them from 2000 to 2010 was only around 11,000, whereas for Sarbanes-Oxley the total was 105,000. Thus, one would expect that, if Culpepper is right, business would be more likely to win on Say on Pay and proxy access. That it did not—or in the case of proxy access, has not yet won—reflects the resources labor marshaled around these issues together with its pension-fund allies.

To conclude, labor’s involvement with financial issues today is greater than 30 years ago, and greater than 15 years ago. Labor can take some of the credit for the fact that executives today are more constrained by shareholders than in the past. It can also take some of the credit for Say on Pay and proxy access. However, these successes come despite the fact that labor failed in its efforts to obtain the Employee Free Choice Act. What this shows is the oft-repeated phenomenon that labor is more successful on non-labor issues, where it can find allies, than on labor issues for which allies are harder to find.