Because They Can: Employers and the Payday Heist

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New Labor Forum, Volume 19, Number 1, Winter 2010, pp. 105-108 (Review)

Published by The Murphy Institute/City University of New York

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confusion, and a sense of displacement. Lee feels some ambivalence, but that is mostly about having left her family behind, not about fitting into her new world.

American Rust shows how deindustrialization affects not only those who lose their jobs, but also their children, who have been taught to expect failure. Despite its flaws, this novel—and others like it—makes the experience of growing up in the Rust Belt visible and personal. As communities around the country collapse in the face of foreclosures and job losses, these novels warn us of the long-term consequences of the current economic crisis.

Because They Can: Employers and the Payday Heist

Wage Theft in America: Why Millions of Working Americans Are Not Getting Paid—and What We Can Do About It
By Kim Bobo
The New Press, 2009
Reviewed by Bethany Moreton

Readers of New Labor Forum are no strangers to the uncanny illogic of the American economy. If we needed a refresher course, we got one recently by trying to explain that health care is already rationed, or that “too big to fail” is an oxymoron coming from a big, failed bank. But if the title of Kim Bobo’s Wage Theft in America: Why Millions of Working Americans Are Not Getting Paid—and What We Can Do About It strikes labor insiders as old news, consider this: Bobo’s book may be the single most effective grassroots organizing tool available during this crucial window of opportunity for labor.

Her first accomplishment is to gather the evidence of wage theft in one place; the result may rattle even those already familiar with workplace injustice. Employers steal billions of dollars annually from millions of workers by illegally denying overtime rates; tampering with time cards; refusing mandated breaks; underpaying the agreed-upon wages or the legal minimum; paying minimum wages on federal projects and pocketing the difference between the prevailing wage and the minimum; avoiding employer contributions to Social Security, Medicare, unemployment insurance, and workers’ compensation insurance; deducting specious charges from paychecks; seizing tips; or flat-out refusing to pay for work performed, period. Studies by the Department of Labor, the Government Accountability Office, the Urban Institute, Human Rights Watch, and even the business-backed Economic Policy Foundation reveal that these tactics of theft can be found across industries, with particularly high incidences in nursing homes, garment factories, large-scale farms, restaurants, residential construction sites, and poultry processing plants.

Management apologists cannot hide behind individual mom-and-pops hopelessly confused by byzantine regulations, although Bobo advocates common sense revisions that would eliminate this genuine hazard. But the scale of the larceny demonstrates that wage theft is largely a deliberate method of cost control. Employers display their knowledge of the laws they are breaking by the ingenuity
of their tactics. One car wash in Nashville clocked workers out when customers were not present. A Wisconsin cook worked eighty hours a week in two different restaurants within the same chain; the employer denied him overtime rates by counting these as two separate jobs. A packing house in California required every worker to provide two Social Security numbers, splitting their hours between the two to avoid paying for overtime work. Lawsuits successfully prosecuted or settled have involved tens of thousands of workers at nationally known companies: $6.5 million to fifty-six thousand Wal-Mart employees who had been forced to work off the clock; $65 million to thirty-two thousand misclassified “permatemps” at IBM; $120 million to three thousand insurance adjusters at Allstate.

Employers steal wages for the same reason that dogs—well, you know: because they can. Bobo performs a second mitzvah by systematically laying out the appalling non-enforcement of labor laws that creates the abuses. If an employee steals from an employer, she typically loses her job and her right to unemployment insurance, and likely faces prosecution and jail time. If she takes anything valued at over $1,000, she has committed a felony; if she racks up three of those, in many states she has bought herself life imprisonment for the bargain price of $3,003. If, on the other hand, her boss steals twice as much in wages from her over five years, it is headline news if he even agrees to comply with the law in the future. With one federal wage and hour investigator for every 170,000 workers (the comparable number in 1941 was one investigator for every nine thousand workers), the employer is virtually invited to disregard the law; indeed, the state of Florida got the point across with admirable clarity by disbanding its Department of Labor altogether. Even in the unlikely event that the employee has the resources to pursue a private lawsuit, the most the boss risks is an order to pay back two years’ worth of stolen wages, with no interest and no additional penalties. In short, if we applied drug laws the way we apply labor laws, we’d be handing out bongs in kindergarten.

Imagine instead if a few willful wage thieves were led off in handcuffs, Madoff-style. Imagine if the enforcement of this particular property crime were not outsourced to the handful of victims in a position to launch a private lawsuit. Imagine if we took this crisis seriously enough to rebuild the federal Department of Labor (DOL) with the same gusto as Homeland Security, or allowed organized labor the same weight in the DOL that organized capital enjoys in the Departments of Commerce, Defense, and Energy. Even experienced labor hands will find a wealth of new ideas in the concrete suggestions Bobo offers, from “mechanics’ liens” to presentations on wage theft in college business classes. The recent hiring of 250 new wage and hour investigators, while well short of the numbers Bobo recommends, is a heartening sign that her message is getting through at the new Solis-led DOL.

But what makes Kim Bobo’s voice so uniquely effective is her ability to communicate this routine moral outrage to those who have never experienced it and, in the process, possibly transform
public debates about labor. Bobo writes for the broadest national audience, those with no personal exposure to labor unions and more faith in faith than in government. Her book includes a congregational-style study guide, imitating best-selling evangelical manuals like Rick Warren’s *The Purpose Driven Life*. Using denominational resolutions about labor rights and Biblical and Quranic references, she awakens readers to violations of labor laws as sin, crime, and violence.

[Instead of asking whether the secular Left] can afford to break bread with the family values crowd, Bobo suggests the real question is, “Can it afford not to?”

The messenger in this case is as important as the message, for Bobo has earned her credibility among people of faith. Raised in the hardline Church of Christ, and currently serving as the choir director at Good News Community Church in Chicago, Bobo is the founder and executive director of Interfaith Worker Justice (IWJ), the premier organization for America’s religious Left. A national network of nineteen worker centers and sixty religious groups focused on labor issues, IWJ has tapped into pent-up interest among Jewish, Muslim, Catholic, and Protestant congregations across the country; coordinated religious support for workers, both organized and unorganized; and pioneered innovations like “Seminary Summer” to bring clergy into direct contact with labor struggles.¹

But for a labor Left that is still struggling to overcome its own foundational exclusions, is there danger in partnering with religious allies after four decades of family values activism that has turned “Christian” into a code word for anti-abortion and anti-gay? The fundamentalist takeover of the Southern Baptist Convention, the eclipse of Catholic liberation theology by “masses for life” and purges of gay seminarians, the Mormon fight against the Equal Rights Amendment and California’s Proposition 8, and the broader evangelical and Pentecostal defense of reproductive marriage have created a very different context than that faced by forerunners like the Catholic Labor Schools of the 1930s.² The secular Left is the lonely guardian of sex equality and sexual liberation. Can it afford to break bread with the family values crowd?

Bobo’s work suggests that the real question is, “Can it afford not to?” Eighty percent of Americans are religious, while fewer than one in seven is represented by a union.³ When a labor poll asked working women: “Who do you turn to if you have a problem on the job?”, God won out over unions, secular women’s organizations, and governmental agencies.⁴ Labor’s dynamism today comes from sectors like janitorial services, health care, and public employment, where men and women of color, immigrants, and white women predominate.⁵ These are also the people most likely to identify as religious, as are low-income Americans generally.⁶ How can the labor Left respect low-wage America while queasily avoiding many low-wage Americans’ most cherished beliefs—loving the sinner, in effect, while hating the sin?

IWJ is living proof that effective religious coalitions can be built around worker justice, and that doing so transforms priorities among religious believers. It took massive, organized, sustained effort to make homosexuality and abortion—two issues on which the New Testament is utterly silent—more important to Christian America than the hundreds of scriptural exhortations to alleviate poverty, eschew personal gain at others’ expense, and deal fairly with those who work for you. It will take more work to redress this distortion of morality, but the conservative
takeover shows that change is possible, that religious priorities are truly mutable.

Moreover, the post-1970s elevation of family values was itself a statement about worker justice, with “work” perceptively understood as including reproductive as well as productive labor. Much as we may abhor this apparent reduction of all human ethics to censuring other people’s sex lives, it speaks to a shared moral outrage against the neoliberal economic order. Labor’s infatuation with the independent workingman essentially wrote off reproductive labor—the work of care that reproduces the labor force, from childbirth to housework to tending the sick and the aged. In contrast, religious emphasis on households actually put reproductive labor in the limelight and, as services became the leading sector of the American economy, even held it up as an ideal for men on the job and at home.7

In short, labor arguably has as much to learn from religion as the other way around—and little to lose. We should be looking for ways to get Kim Bobo’s work into as many hands as possible. If prayers of thanksgiving come easily to your lips, this book is the occasion for one.