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## **Politically Engaged Unionism: The Culinary Workers Union in Las Vegas**

Ruben J. Garcia\*

This Chapter will examine the model of what I term “politically engaged unionism” in the Las Vegas area as a template for labor-community coalitions in the future of the labor movement.<sup>1</sup> The Culinary Workers Union Local 226 (“the Culinary Union”) has focused on being a politically connected union able to obtain results with state and local policymakers, and that political and legislative success has been followed by gains at the bargaining table. In this Chapter, I will argue that the Culinary Union defies previous distinctions between business unionism and social movement unionism, with lessons for the future of the rest of the labor movement.

The 2016 election results proved to be a surprise to many, but the outcomes in Nevada were less surprising given the years of organizing done by the Culinary Union.<sup>2</sup> The 2016 elections once again proved the truth of the Nevada paradox. Nevada is a Western state which has long had a libertarian bent. It has been “right to work” since 1953.<sup>3</sup> Brian Sandoval, the Hispanic Republican Governor, has just served two terms but both houses of the legislature controlled by Democrats for more than ten years except for the 2015 session.<sup>4</sup> Due to the legislature exempting state employees from collective bargaining, government employees are not as densely unionized as states like Illinois and California but private sector unionization ranked fourth in the nation.<sup>5</sup>

After the shocking results of the 2016 presidential election, pundits around the country looked at Nevada as a kind of bellwether for national politics.<sup>6</sup> The underlying reason for much of that success is due to the work of Culinary Workers Union Local 226, an affiliate of UNITE

HERE, AFL-CIO.<sup>7</sup> The “Culinary,” as it is known in Nevada, has been a political force in the state for decades, even while being by its own account Nevada’s largest immigrant organization.<sup>8</sup>

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<sup>2</sup> C. Jeffrey Waddoups, *Union and Wages in Nevada’s Hotel-Casino Industry*, 21 J. LAB. RES. 345 (2000).

<sup>3</sup> Adam Nagourney, *Crowds Return to Las Vegas but Gamble Less*, N.Y. TIMES, Aug. 1, 2013, at A1.

<sup>4</sup> Nevada Revised Statutes, sections 613.230-613.300.

<sup>5</sup> Legislative Counsel Bureau, History of Right to Work in Nevada.

<sup>6</sup> Dorothy Sue Cobble, *Organizing the Postindustrial Work Force: Lessons from the History of Waitress Unionism*, 44 INDUS. REL. LAB. REV. 419 (1991).

<sup>7</sup> Sharon Zukin et. al., *From Coney Island to Las Vegas in the Urban Imaginary: Discursive Practices of Growth and Decline*, 33 URB. AFF. REV. 627 (1998).

<sup>8</sup> BROOKINGS INSTITUTION, UNIFY, REGIONALIZE, DIVERSIFY: AN ECONOMIC DEVELOPMENT AGENDA FOR NEVADA (2011).

With the labor movement nationally on the defensive in the Trump era, many are looking for the new strategies for labor movement.<sup>9</sup> For decades, the labor movement has struggled to define itself between the competing narratives of business unionism and social movement unionism. Many point to these orientations as oppositional.<sup>10</sup> In this Chapter, I will argue that they are not. The immigrant-centered focus of the Culinary Union shows a path forward through dichotomies of race and class that are currently riveting the Left. Immigrant identity has always been centered around race and class, as I have argued in other work.<sup>11</sup>

In this Chapter, I argue that the Culinary Union has innovated a new model of “politically engaged unionism” that molds the new worker center model with traditional unionism. It does this through a strong emphasis on immigrant identity – the common experience of workers of workers from who immigrated to the United States and Las Vegas in search of a better life. This model also maintains stronger ties to home countries.

The transferability of this model to other parts of the country seems to depend on three factors. First, a critical mass of immigrant workers focused on an ethic that is heavily engaged in

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<sup>9</sup> Robert Perrett, Miguel Martínez Lucio, Jo McBride & Steve Craig, *Trade Union Learning Strategies and Migrant Workers: Policies and Practice in a New-Liberal Environment*, 49 URB. STUD. 649 (2002).

<sup>10</sup> Virginia Parks & Dorian T. Warren, *Contesting the Racial Division of Labor from Below: Representation and Union Organizing Among African American and Immigrant Workers*, 9 DU BOIS REV. 395 (2012)

<sup>11</sup> Ruben J. Garcia, *Across the Borders: Immigrant Status & Identity in Law & LatCrit Theory*, 55 FLA. L. REV. 511 (2003).

the politics of immigration and citizenship. Second, the union needs to have enough bargaining power in a particular industry, or attempt, as other unions have done, to focus on sectoral or industry bargaining that would increase worker negotiating power. Finally, the Union must tie specific political fights to contract issues, as the Culinary has done. The usual ingredients of a willingness to take great risk on strikes and direct action, as well as constantly organizing new members, also figure into the Union's success. As the possibility of more states becoming right to work continues, there will be more questions about the best strategy for labor. While it is clear that the Culinary Union model does not immediately translate throughout the country, there is ample evidence that the demographics of the union and of Las Vegas will soon mirror the demographics of the country.<sup>12</sup>

### **History of the Culinary Union**

The Culinary Workers Union Local 226 and Bartenders Union Local 165, the Nevada locals of UNITE-HERE, AFL-CIO, represent over 57,000 workers in the gaming, hotel and hospitality industries, primarily on the Las Vegas Strip. Founded in 1935, the same year that Congress enacted the National Labor Relations Act, the Union represents 57,000 workers in Las Vegas and

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<sup>12</sup> Five-Thirty Eight.Com: *40 Years from Now: The Rest of the Country Could Look Like Las Vegas*. <https://fivethirtyeight.com/features/40-years-from-now-the-u-s-could-look-like-las-vegas/>

Reno, including nearly all of the casinos on the Las Vegas Strip.<sup>13</sup> According to the Culinary's own demographic data, the union's membership is 56 % Latino and 55% women.<sup>14</sup> Although the union represents many of the food and beverage workers in the hotel, the predominance of their membership is among the ranks of the guest room attendant or GRA staff.<sup>15</sup> The GRAs clean several floors of rooms after the millions of visitors to Las Vegas and push large carts filled with cleaning supplies and linens. They are nearly all female and nearly all Latina. The union also calls itself Nevada's largest immigrant organization with workers who come from over 167 countries and speak over 40 different languages.<sup>16</sup>

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<sup>13</sup> C. Jeffrey Waddoups & Vincent H. Eade, *Hotels and Casinos: Collective Bargaining During a Decade of Expansion*, in COLLECTIVE BARGAINING IN THE PRIVATE SECTOR 137-77 (Paul F. Clark, John Thomas Delaney & Ann C. Frost eds., 2002).

<sup>14</sup> Our Union, Culinary Workers Union 226, available at [www.culinary226.org/about](http://www.culinary226.org/about)

<sup>15</sup> Annette Bernhardt, Laura Dresser & Erin Hatton, *The Coffee Pot Wars: Unions and Firm Restructuring in the Hotel Industry*, in LOW-WAGE AMERICA: HOW EMPLOYERS ARE RESHAPING OPPORTUNITY IN THE WORKPLACE 33-76 (Eileen Applebaum, Annette Bernhardt, and Richard J. Murnane eds., 2003).

<sup>16</sup> Courtney Alexander, *Rise to Power: The Recent History of the Culinary Union in Las Vegas*, in THE GRIT BENEATH THE GLITTER: TALES FROM THE REAL LAS VEGAS 145-75 (Hal Rothman & Mike Davis eds., 2002).

The union's successes have been won through long strikes such as the Frontier strike which lasted six years, four months and ten days.<sup>17</sup> Nearly 600 workers maintained a 24-hour picket line in front of the Frontier Hotel until February 1, 1998 in response to management demands for concessions. The strike showed that the Union was able to wage long strikes in the face of employer resistance. Since then, the union has gone on shorter strikes, less than a week, such as in the 2002 negotiations in the aftermath of the September 11 attacks. In each successive round of negotiations, strikes have become less likely because of the increased bargaining power of the union.

After showing its ability to wage a long strike, the Culinary's clout at the bargaining table resulted in enhanced contractual provisions on immigration in the contracts. The union also created programs to encourage workers to become citizens, known the Citizenship Project. Since its inception, the program has led to approximately 20,000 new citizens in Nevada, which has had an impact on federal and state elections. The union is generally seen as the most important constituency of the Democratic Party in Nevada, but they also have endorsed Republicans, such as when they endorsed Republican Governor Kenny Guinn over his Democratic challenger Las Vegas Mayor Jan Jones in 1998.<sup>18</sup>

This type of politically engaged unionism is not new in the labor movement. In several federal election cycles, unions have worked to elect candidates that would be favorable to them,

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<sup>17</sup> Robert E. Parker, *Las Vegas: Casino Gambling and Local Culture*, in *THE TOURIST CITY* 107-23 (Dennis R. Judd and Susan F. Fainstein eds., 1999).

<sup>18</sup> *From Rome to Las Vegas*, in *LEARNING FROM LAS VEGAS* (Robert Venturi, Denise Scott Brown & Steven Izenour eds., 2nd ed. 1977).

such as the push in the recent special congressional election in Pennsylvania in March 2018.<sup>19</sup> The difference in the Culinary Union ties its political results to getting results for its members at the bargaining table.<sup>20</sup> One of the key recent political campaigns was the union's push for the repeal of the "Cadillac Tax," which is the tax on high value health plans in the Affordable Care Act a.k.a. "Obamacare." The campaign to repeal the tax was stymied by Congress's unwillingness to amend Obamacare at all, but now that there is unitary control of government by the Republican party, it seems that there is a political opportunity for repeal of the Cadillac tax coinciding with a competitive senate race.

### **The Worker Center Model**

Throughout the last thirty years, a new model of organization has arisen in the shadow of waning traditional unionism. "Worker centers" have opened throughout the country. Professor Janice Fine documented the rise of worker centers in her book and even provided a helpful map.<sup>21</sup> Until recently, Las Vegas has had an absence of workers centers. A new site, *Arriba! La*

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<sup>19</sup> NBC News: John Allen & Alex Seitz-Wald, Labor Support Could Sway Pennsylvania 11th Congressional District Election, March 13, 2018, available at <https://www.nbcnews.com/politics/politics-news/labor-support-could-sway-special-election-pennsylvania-18th-congressional-district-n85831>

<sup>20</sup> Adam Nagourney, Culinary Workers Union Won't Take Sides in Nevada Democratic Caucuses, N.Y. Times, Feb. 8, 2016.

<sup>21</sup> Janice Fine, *Worker centers: Living on the Edge of a Dream* (2003); Jennifer Gordon, *Suburban Sweatshops: The Fight for Immigrant Rights*

has recently opened, but the Culinary has served the role of the workers center in the hospitality industry, which in Las Vegas continues to be dominant share of the economy.

The Culinary Union shares many common elements with worker centers. Janice Fine and others have identified elements that define worker centers in today's economy.<sup>22</sup> These elements include:

- 1) *Service provision.* The Culinary Union offers many benefits such as tax preparation and access to home buying classes to its members, besides, of course, services under the collective bargaining agreement.
- 2) *Advocacy.* As with many unions, the Union engages both in advocacy on the political stage and on the shop floor.
- 3) *Worker organizing.* In a right to work state, the importance of constant organizing is paramount, and the union is often engaging members in their work sites.
- 4) *Place-based, rather than work site-based organizing.* The Culinary and Bartenders Unions represent workers throughout the Las Vegas Valley, rather than just one site.
- 5) *Strong ethnic and racial identification.* As described above, the Culinary Union closely identifies itself as an organization of immigrants, and so engages in political engagement around policy issues of immigration. The union and its parent UNITE HERE have been in continuous dialogue with their members and the public on President Trump's moves to end Temporary Protected Status for several Central American countries that make up a large portion of the membership of the union.

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<sup>22</sup> Janice Fine, *Worker Centers: Organizing Communities on the Edge of a Dream* (2010).

- 6) *Leadership development and internal democracy.* The union, once primarily led by white men, has consciously cultivated leaders like Geoconda Arguello-Kline, who is currently the Secretary-Treasurer or highest ranking official in the union. She is an immigrant from El Salvador who began working as a GRA in a downtown casino before becoming one of the leaders of the Frontier strike, the longest strike in Nevada gaming history. She previously served as President of the union, the second ranking position to D. Taylor, who is now international president of UNITE HERE, the parent union. Although required by law adhere to certain democratic norms like free speech and the right to run for office, the union’s committee system seems to be primarily about cultivating new leaders.
- 7) *Coalition building.* While the union often has the ability to go its own way because of its size, it engages in significant coalition building, particularly on the immigration issues and particularly around election and citizenship education, with organizations that engage in voter registration and the monitoring of poll sites to protect the integrity of the process.
- 8) *Involved memberships.* As Fine says about worker centers, the union sees membership as a “privilege that is not automatic, but must be earned.”<sup>23</sup> While the union earns each member in this “right to work” state, those members also adhere to a code of conduct that binds them to certain norms.

Jennifer Gordon wrote about the workers center she founded Make the Road by Walking on Long Island, New York in her book *Suburban Sweatshops: The Fight for Immigrant Rights*.

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<sup>23</sup> Fine, *supra* note \_\_ at 14.

Like the Culinary Union, Make the Road incorporates immigrants into leadership and advocacy around public policy issues and protections against wage theft. Make the Road also cultivated immigrants as leaders.

As depicted above, workers centers represent a new form of social movement unionism that is nontraditional and does not rely on exclusive bargaining relationships with employers. While the goal of some workers centers may ultimately be collective bargaining, the goal of many workers centers is to collect as much back pay as possible on the numerous and rampant violations of wage laws that occur for low wage and day laborers in the economy.

### **Business Unionism**

After World War II, the labor movement began a tack toward business unionism, and union density declined from a high mark of 33% in the private sector to, more recently, around 7 percent. Business unionism is the idea that unions exist primarily as a service for the organization's members, rather than as part of a broader social movement. This "deradicalization" of the labor movement, identified by Karl Klare in the 1980s, came about in part because of the post-war compact of labor peace and shared prosperity, but also Supreme Court decisions like *Boys Markets v. Retail Clerks, Local 770*, which allowed for injunctions of peaceable labor disputes during the term of a collective bargaining agreement, in seeming disregard of the prohibition of such injunctions in the 1932 Norris La-Guardia Act.<sup>24</sup>

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<sup>24</sup> Karl E. Klare, *The Politics of Labor Law*, in *THE POLITICS OF LAW* (David E. Kairys, ed. 4<sup>th</sup> ed.).

Business unionism prioritizes filing grievances and representing existing workers at the expense, it is argued, of increasing organizing and bargaining power to be more effective for a greater number of workers. The history of the labor movement in the last several decades has shown an increasingly necessary focus on organizing new workers to counteract the

### **Union Communications**

The union publishes a newsletter called *Unity to Win*, which regularly features examples of grievance victories under the Culinary contract, and a running total of the amount of back wages obtained. These victories show employees in this “right to work” state that there is value in union membership, and although workers will be represented regardless of whether they pay dues, the effectiveness of the contract and the vigorous enforcement of it by the union’s business agents and legal staff, leads many workers to support the union who otherwise would not. The union also uses social media to spread its victories to members and also those outside the Union. On January 24, 2018, the union tweeted:

Over the last 4 years, the **Culinary Union**’s amazing **grievance** department has processed 17,223 grievances and won nearly \$8 million for workers who were wronged. We are fighting everyday. All day! Congratulations! Yes we did!

#Vegas #lu<sup>25</sup>

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<sup>25</sup> @CulinaryUnion 226, Twitter, Jan. 24, 2018, available at

<https://twitter.com/Culinary226/status/956240308869545984>.

Although there are undoubtedly many grievances that will not be processed because of limited resources, these messages tell the employer and the employees alike that the organizing the union does is not at the expense of enforcement of the contract.

### **Contractual Provisions**

The provisions of the Culinary Union contracts with large companies like Caesars Entertainment & MGM Resorts indicate the Union's interest in continuing to build the work of their union to ensure that they will continue to attempt to get immigration provisions in the contracts.

As the demographics of the Las Vegas work force changed, immigration protections in the Culinary contract became more important. In each successive contract in the 2000s with the MGM Grand and the Mirage Hotel and Casino, provisions for employees to take leave to regularize their immigration status was added. By contrast, MGM casino contracts in the Detroit area have not added these immigration protection provisions. The difference in demographics might lead some to question whether these provisions are necessary in other parts of the country, but these provisions go far to ingratiate the union to the employees and see the value of engagement and further organizing.

### **Trump Hotel Campaign**

The Trump Hotel campaign represents the best example of the model of politically engaged unionism. Sitting apart from Las Vegas Boulevard by a couple of blocks, the Trump International Hotel's gold sheen sticks out from the rest of the iconic Strip. The Hotel opened in 2006 without a union contract. On the cusp of the 2008 Recession, with layoffs throughout the

Strip, the Hotel cut back on wages and benefits. When Donald Trump announced his intent to run for the 2016 GOP nomination and called Mexican immigrants drug runners, rapists, and criminals, the Union became very much focused on what Trump represented in the Republican Party. Although the union has organized much of the Las Vegas Strip through card check agreements that avoided the delays of an NLRB election, the Culinary filed a representation petition at the Trump Hotel in 2015. The union won a large majority of the votes in the unit. The Hotel, managed by the Trump-Ruffin Organization, responded with objections to the election result, which were adjudicated but ultimately dismissed by the NLRB region based in Las Vegas.

While the unionization campaign was in full swing, the Culinary and Unite Here spared no punches for the Trump campaign or the Republican party. Sporting t-shirts that bluntly stated “DEFEAT TRUMP,” the Union railed against Trump and his ant-immigration proposals. The union also parodied Trump’s promise to “build a wall” between the U.S. and Mexico by posting a wall of taco trucks in front of the Trump Hotel. Despite the union’s efforts in the political sphere, Trump won the presidency on November 8, 2016. Their efforts on the ground successfully produced the first Latina U.S. Senator, Catherine Cortez Masto, and the first Latino congressman from Nevada, Ruben Kihuen. The union also supported state candidates to help the Democratic Party regain the majority in the Nevada Legislature. This changed the tenor of the 2017 legislative session from the 2015 session before that, in which several bills to curtail public sector collective bargaining and one which would limit the right to picket in front of businesses. The legislature also included the Culinary Union’s political director, Yvanna Cancela, a state senator who is also a law student at the University of Nevada, Las Vegas.

In December 2016, the Culinary and the Trump Organization settled a first collective bargaining agreement at the Trump Las Vegas. In light of the bitter campaigning between Hillary Clinton and Donald Trump, and the union's endorsement of Clinton, the contract battle could have dragged several years into the future and then might have been adjudicated by an NLRB majority that was appointed by Donald Trump.<sup>26</sup> The Trump organization's contract with the union shows that the Trump organization recognized that the union's willingness to engage in job actions made a contract with a no-strike clause a more attractive alternative.

### **The Corporate Campaign**

As with many union organizing campaigns today, the goal of the Culinary Union's corporate campaign is to see the interrelations between corporations and to apply pressure to the various constituencies. This kind of labor activity requires a good deal of activity with faith-based groups. Even after the union negotiated a contract with the Trump Hotel, they criticized another target of the corporate campaign-Station Casinos-for their donations to and associations with rich political benefactors of the Trump presidential campaign. The campaign against Stations Casinos continues throughout the Las Vegas valley, with some locations becoming unionized through the secret ballot elections that the union eschewed for many years prior. The NLRB rules that pushed through faster, streamlined union elections in the last two years of the Obama Administration played a part in the union's decision to seek elections. The corporate

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<sup>26</sup> Ari Shapiro, Trump's Dispute with Las Vegas Hotel Employees Poses Potential Conflict, Dec. 1, 2016, National Public Radio, All Things Considered.

campaign against Stations and the entities that finance their operations apparently will continue until the rest of the chain's locations in the Las Vegas Valley are unionized.

## **Conclusion**

As depicted above, the Culinary Union has some unique advantages that other unions would find hard to replicate in other parts of the country. The *sui generis* nature of the Las Vegas Strip allows union workers access to millions of tourists who would be sensitive to disruption and a work stoppage that would cause rooms to go uncleaned and traffic blocked. The consolidation of the gambling industry has also played a role in allowing the union to obtain pattern agreements with large sectors of the industry that are then used to reach settlements through smaller operators in the Valley and downtown Las Vegas. Most properties on the Strip are either owned by MGM Resorts, Caesars' Entertainment or Wynn Resorts, with the lone holdout to the Culinary contract being Sheldon Adelson's Sands Corporation and Venetian properties. Workers can organize by moving through a number of casinos relatively quickly and the union and the American Civil Liberties Union of Nevada have won several rulings that

opened up access to seemingly private areas of the Strip.<sup>27</sup> The Strip is now the modern equivalent of the “Company Town” in First Amendment law.<sup>28</sup>

These advantages, however, do not alone explain the Culinary’s success. The history of the union is marked by sometimes violent conflict with casino owners, law enforcement, and, sometimes, the mob. The political establishment has often been very cool to the union’s efforts, and sometimes openly hostile and contemptuous of their influence. And the long campaign to organize smaller companies throughout the Las Vegas Valley shows that many employers in the industry still fail to see the value that the union brings in terms of training, longevity, and a healthy workforce.

In this way, the story of the Culinary Union is very much like the rest of the history of the labor movement, employer resistance and indifferent or hostile government action to enforce federally protected rights to collective action and increased bargaining power. Immigrants coming from Mexico and Central America strengthen the West and Southwest labor movements much like European immigrants were the engine that fueled organizing in the garment factories and Chicago meatpacking plants in the 20<sup>th</sup> Century.

In addition, political engagement has been central to the Culinary’s bargaining power, which shows that the unions cannot simply give up on politics in order to increase bargaining

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<sup>27</sup> Venetian Casino Resort, LLC v. American Civil Liberties Union of Nevada 257 F.3d 937 (9<sup>th</sup> Cir. 2001). New York New York Hotel & Casino LLC v. NLRB, D.C. Cir. Apr. 17, 2012 cert. denied, Mar. 18, 2013.

<sup>28</sup> Amalgamated Food Employees v. Logan Valley Plaza, 391 U.S. 308 (1968), *overruled by* Hudgens v. NLRB, 424 U.S. 507 (1976).

power.<sup>29</sup> The ongoing debate about the labor movement becoming more of a service organization or an organizing machine will continue. In an era where “right to work” campaigns look to increase into the future, the Culinary Union in Las Vegas makes clear that the future of the labor movement depends upon unions both serving their existing members, and organizing many new ones.

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<sup>29</sup> Ruben J. Garcia, *Politics at Work After Citizens United*, 49 *Loyola L.A. L. Rev.* 1 (2015)