

# Green Unionism and Human Rights: Imaginings Beyond the Green New Deal

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## PACE ENVIRONMENTAL LAW REVIEW

### ARTICLE

#### Green Unionism and Human Rights: Imaginings Beyond the Green New Deal

CHAUMTOLI HUQ\*

*"I believe that if every man and every woman who works, or who toils in the mines, the mills, the workshops, the fields, the factories and the farms in our broad America should decide in their minds that they shall have that which of right belongs to them ... Nature has been lavish to her children. She has placed in this earth all the material of wealth that is necessary to make men and women happy." Lucy Parsons, 1905 Speech to IWW.<sup>1</sup>*

*"How to get these helpless human beings out of overcrowded cities and on the bosom of Mother Earth is one of the greatest problems of the age." Lucy Parsons, New York Letter, 1906.<sup>2</sup>*

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1. Lucy E. Parsons, Speeches at the Founding Convention of the Industrial Workers of the World (June 29, 1905) (transcript available in The Anarchist Library), <https://theanarchistlibrary.org/library/lucy-e-parsons-speeches-at-the-founding-convention-of-the-industrial-workers-of-the-world> [<https://perma.cc/Y4K9-5ALC>]; see also LUCY PARSONS & T.S. GREER, A LIFELONG ANARCHIST! SELECTED WORDS AND WRITING OF LUCY PARSONS (2010).

2. See LUCY PARSONS, LUCY PARSONS: FREEDOM, EQUALITY & SOLIDARITY – WRITING AND SPEECHES, 1878-1937 123 (Gale Aherns ed., 2004).

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### INTRODUCTION

The Green New Deal<sup>3</sup> harkens us back to the nostalgia of the New Deal era when a diverse and comprehensive set of federal legislation, agencies, programs, public work projects and financial reforms were implemented between 1933 and 1939 by President Franklin D. Roosevelt to promote economic recovery.<sup>4</sup> Among them, relevant to this essay’s focus on labor, was the passage of the National Labor Relations Act (NLRA)<sup>5</sup> which provided legal protection to organizing, and supporting unionization and collective bargaining.<sup>6</sup> However, due to political compromises, categories of workers including domestic workers and agricultural workers, who were mostly

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3. Recognizing the Duty of the Government to Create a Green New Deal, H.R. Res. 109, 116th Cong. (2019); see also Sophie White, *The Art of the Green New Deal*, GEO. L. ENV’T. L. REV. ONLINE (March 6, 2019), <https://www.law.georgetown.edu/environmental-law-review/blog/the-art-of-the-green-new-deal/> [<https://perma.cc/CTU5-8J4T>] (explaining that GND is a non-binding resolution that gets its name from the New Deal that lays out several policy principles that seeks to combat climate change and spur economic growth).

4. Robert L. Rabin, *Federal Regulation in Historical Perspective*, 38 STAN. L. REV. 1189, 1243-53 (1986) (discussing New Deal as a series of legislation, where the “principal objective . . . was economic recovery”); see also Theda Skocpol, *Political Responses to Capitalist Crisis: Neo-Marxist Theories of the State and the Case of the New Deal*, 10 POL. & SOC’Y 155, 159 (1980) (describing New Deal legislation as “business-government effort to promote national economic recovery” and the role government intervention played to stabilize industries).

5. See 29 U.S.C. §§ 151-69 (1935).

6. See generally NELSON LICHTENSTEIN, *Reconstructing the 1930s*, in STATE OF THE UNION: A CENTURY OF AMERICAN LABOR (rev. and expanded ed. 2013) (discussing New Deal vision of industrial democracy where state-assisted the growth of unions through legislation in an effort to address a crisis of capitalism).

Black and immigrants were excluded from the NLRA's coverage.<sup>7</sup> Despite these exclusions,<sup>8</sup> it was a time when the New Deal state seemed to be a strong ally of workers and the labor movement.<sup>9</sup> Industrial peace and security were dominant narratives fueling much of the New Deal legislation.<sup>10</sup> This industrial peace and security rhetoric suppressed the radicalization and rising militancy of the labor movement of the time such as the Industrial Workers of the World (IWW).<sup>11</sup> Moreover, the law was actively used to prosecute criminally radical unionists and through other extra-judicial means.<sup>12</sup>

New Deal policies solidified one form of unionism, referred to as business or contract unionism which is based on the idea that the union or labor movement brokers wages, benefits from its members, through collective bargaining agreements, and unions become servicers or

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7. See Juan F. Perea, *The Echoes of Slavery: Recognizing the Racist Origins of the Agricultural and Domestic Worker Exclusion from the National Labor Relations Act*, 72 OHIO STATE L. J. 95, 103–104 (2011) (describing how Black workers were excluded by occupational carve-outs enabling southerners to discriminate against workers through state and local laws, and that the race neutral language of the law was a compromise with Southern Democrats without whom legislation would not pass); see also PREMILLA NADASEN, *HOUSEHOLD WORKERS UNITE: THE UNTOLD STORY OF AFRICAN AMERICAN WOMEN WHO BUILD A MOVEMENT* 117-18 (2015) (noting how domestic workers were excluded from NLRA due to “racial politics” as well as gendered assumptions about what constituted work).

8. See JENNY CARSON, *A MATTER OF MORAL JUSTICE: BLACK WOMEN LAUNDRY WORKERS AND THE FIGHT FOR JUSTICE* 125 (2021) (explaining that the New Deal climate contributed to the success of laundry worker organizing in New York and energized Black worker organizing due to a responsive federal government).

9. LICHTENSTEIN, *supra* note 6, at 20.

10. *Id.* at 27.

11. See Richard W. Hurd, *New Deal Labor Policy and the Containment of the Radical Union Activity*, 8 REV. RADICAL POL. ECON. 32, 32 (1976); see also Ahmed White, *Law, Labor, and the Hard Edge of Progressivism: The Legal Repression of Radical Unionism and the American Labor Movement's Long Decline*, 42 BERKELEY J. EMP. & LAB. L. 165, 168 (2021) (discussing the role of progressives in the criminalization of radical unions because they saw unions as an “affront to their vision of a well-ordered society and who embraced the use of the law as a means of putting the union in check”).

12. Interview with Professor Ahmed White, Professor of Law, Nicholas Rosenbaum Professor of Law, at University of Colorado Law School (October 7, 2022) [hereinafter White] (discussing different factors that led to the repression and destruction of IWW, including federal prosecution requiring members to repudiate IWW, internal schisms based on politics related to Soviet Union and communism and openness to collaborate with the state, based on forthcoming book, *Under the Iron Heel: The Wobblies and the Capitalist War on Radical Workers* (2022)).

administrators of those benefits.<sup>13</sup> Such an approach heavily defers to law,<sup>14</sup> state and legislative spaces<sup>15</sup> as the protector of labor rights; thereby, ceding power away from worker or community control.<sup>16</sup> In contrast, social unionism espoused the view that the role of the labor movement was to build worker power which gives them greater control over their livelihood, workplaces and environment.<sup>17</sup> This view encompassed a wide spectrum of political ideologies and strategies. Social unionism broadly advanced that unions should address the economic interests of its members, encourage them to be active on broader issues of social justice and engage with the state to pass protective worker legislation.<sup>18</sup> Under the social unionism view, syndicalists like IWW were skeptical or at most contemptuous of the legal system and emphasized the direct role of the union as agents of social change and governance.<sup>19</sup>

A similar divide can be said to exist between business and social environmentalism, where a business oriented environmentalism does not seek to challenge the role of corporations in causing adverse environmental

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13. Jefferson Cowie, *Reframing the New Deal: The Past and Future of American Labor and the Law*, 17 THEORETICAL INQUIRIES LAW 13, 26 (2016) (describing the AFL approach of bargaining for its members – skilled, white, and US born, as a survivalist and conservative strategy and describes the New Deal as setting in motion a labor regime deeply rooted in compromise and collaboration); see also Margaret Levi, *Organizing Power: The Prospects for an American Labor Movement*, 1 PERSPS. ON POL. 45, 46 (2003) (describing that under business unionism, unions leaders are responsible for improving the material conditions of workers lives and addresses immediate economic interests).

14. See STAUGHTON LYND & DANIEL GROSS, *Solitary Unionism and the Law*, in LABOR LAW FOR THE RANK & FILER: BUILDING SOLIDARITY WHILE STAYING CLEAR OF THE LAW 75 (2<sup>nd</sup> ed. 2011) (discussing differences in legal perspectives under business unionism where the focus of the union is becoming the exclusive bargaining agent for workers and channeling worker grievances through formalist arbitration processes).

15. White, *supra* note 12 (after the destruction of IWW, the only unions that could be effective were liberal ones that collaborated with liberal state limiting possibilities for future radical unionism).

16. See White, *supra* note 12, at 174.

17. See Immanuel Ness, *US Labor Law at 80: The Enduring Relevance of Class Struggle Unionism*, COUNTERPUNCH (Sept. 21, 2015), <https://www.counterpunch.org/2015/09/21/us-labor-law-at-80-the-enduring-relevance-of-class-struggle-unionism/> [https://perma.cc/CR8L-NRJU] (contrasting the business unionism of the New Deal era with the alternative, organic autonomous workers movement reflected in the unions affiliated with IWW); see also LYND & GROSS, *supra* note 14, at 75 (calling it solidarity unionism where workers share their grievance with a committee of workers who collectively decide and lead the agreed upon course of action in contrast to relying on a professional union representative to bring a grievance; thus under this model the union and worker relies less on the legal process).

18. See Levi, *supra* note 13, at 45; see also Dimitris Stevis, *Unions and the Environment: Pathways to Global Labor Environmentalism*, 14 WORKINGUSA: J. LAB. & SOC'Y 145, 153 (2011).

19. See WOBBLIES OF THE WORLD: A GLOBAL HISTORY OF THE IWW (Peter Cole et al., eds., 2017) [hereinafter *Wobblies*]; see White, *supra* note 12, at 167.

harms or the political economy. Rather, it views that policy and technical adjustments can be made to ameliorate environmental impact.<sup>20</sup> In contrast, social environmentalism seeks to change how life forms, including humans, interrelate with each other and is more concerned with varying degrees of lack of regulation of corporate actors.<sup>21</sup> It aspires towards an inclusive and emancipatory agenda. Labor environmentalism, arising from environmentalists' involvement in labor unions,<sup>22</sup> examines specifically how workers and environmental concerns interrelate<sup>23</sup> and encompasses aspects of both business and social environmentalism.

Radical expressions within social unionism and environmentalism were and are critical of the role of capitalism and understand its role in creating exploitative working conditions and extractive policies regarding the environment.

The radical strands of labor and environmentalism, as reflected in Lucy Parsons' speeches quoted above and Industrial Workers of the World (IWW) organizing<sup>24</sup> as well as that by similar radical unions,<sup>25</sup> offer an alternative labor organizing model that integrates environmental concerns with the economic interests of workers now referred to as green unionism or labor environmentalism.<sup>26</sup> Current narratives of labor and environment tension is belied by this rich working class environmental history.<sup>27</sup> Even a cursory look

20. Stevis, *supra* note 18, at 154 (describing business-oriented form of environmentalism as "environmental modernization" which adopts policies and technologies that are environmentally sound, but which encourage reforms that "minimally perturb the existing political economy. . .").

21. *Id.*

22. See Dimitris Stevis, *Embedding Just Transition in the USA: The Long Ambivalence*, in THE PALGRAVE HANDBOOK OF ENVIRONMENTAL LABOR STUDIES 591 *passim* (Nora Rathzel et al. eds. 2021) (tracing the history of US labor environmentalism through interviews of five trade unionists).

23. See Victor Silverman, *Sustainable Alliances: The Origins of International Labor Environmentalism*, 66 INT'L LAB. & WORKING-CLASS HIST. 118, 119 (2004).

24. ERIK LOOMIS, EMPIRE OF TIMBER: LABOR UNIONS AND THE PACIFIC NORTHWEST FORESTS 20 (2016) (describing how IWW, Wobbly literature contrasted healthy forests with unhealthy workers lives, and how loggers demanded what we would call environmental justice today, and how working class have fought for safe food and clean water).

25. While this piece focused on labor-environment efforts by IWW, radical elements existed in early unionism, including CIO which challenged the craft unionism of AFL but due to anti-communism of McCarthyism many left unions were repressed); see Nora Rathzel et al., *Trade Union Environmentalists as Organic Intellectuals in the USA, the UK, and Spain*, in THE PALGRAVE HANDBOOK OF ENV'T STUD. 583, 587 (2021).

26. See Silverman, *supra* note 23, at 132.

27. Environmental working-class history is a relatively new field with leading scholars in this field which I encourage readers to explore. See Scott Dewey, *Working-Class Environmentalism in America*, OXFORD RSCH. ENCYC. OF AM. HIST. (Mar. 26, 2019), <https://oxfordre.com/americanhistorical/view/10.1093/acrefore/9780199329175.001.0001>

back at this history quickly reveals some key insights on and prospective challenges to fashioning inclusive and equitable labor and environmental policies. Moreover, since the New Deal, human rights in the area of labor<sup>28</sup> and environmental rights<sup>29</sup> have further developed with efforts by grassroots non-governmental organizations and unions engaged in the international human rights spheres.<sup>30</sup> This engagement has expanded global labor and environmental rights, showing increased involvement of unions on environmental issues and renewed an interest in transnational organizing similar to that advanced by IWW and other militant unions from the New Deal era.<sup>31</sup>

In this essay, I assert that the ideas that were foundational to the New Deal, of business unionism, politics of racial and gender exclusion,<sup>32</sup> uncritical stance of the capitalist economy and conciliatory legal approaches should not be the framework through which to envision inclusive and equitable labor and environmental justice policies today.<sup>33</sup> We need to recuperate radical visions emerging from alternative labor organizing efforts of that time, which were multi-racial, transnational and anti-capitalist,<sup>34</sup> and reimagine them with contemporary grassroots human rights movements for environmental and worker justice. This recuperation of environmental working class history and reframing shows that labor and environmental

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/acrefore-9780199329175-e-690 [https://perma.cc/PC3G-3V5J] (describing that interest in working class environmentalism gained traction in the 2000s).

28. Founded in 1919, the International Labour Organization (ILO) has been the main public international body setting international labor standards, but the establishment of labor rights as a core part of international human rights occurred gradually. S.J. Rombouts, *The International Diffusion of Fundamental Labor Standards*, 50 COLUM. HUM. RTS. L. REV. 78, 82 (2019).

29. See discussion *infra* Section II.

30. See Rombouts, *supra* note 28, at 82.

31. See Silverman, *supra* note 23, at 129-30 (describing efforts made during the 1992 ICFTU congress to organize “environmentalist-labor cooperation on a global scale”).

32. See Perea, *supra* note 7, at 103-104 (describing how Black workers were excluded by occupational carve-outs enabling southerners to discriminate against workers through state and local laws, and race neutral language was a compromise with Southern Democrats without whom legislation would not pass).

33. See C.J. Polychroniou, *The 21<sup>st</sup> Century Doesn’t Need a New Deal – It Needs a New Economic Model*, TRUTHOUT (Aug. 6, 2016), <https://truthout.org/articles/the-21st-century-doesn-t-need-a-new-deal-it-needs-a-new-economic-model/> [https://perma.cc/LX65-3Z52] (detailing the limits of New Deal as a frame for alleviating economic inequality).

34. See Athena D. Mutua, *Introducing ClassCrits: From Class Blindness to a Critical Legal Analysis of Economic Inequality*, 56 BUFF. L. REV. 859, 896 n.83 (2008) (defining anti-capitalism, at least in relation to Marxism, as the idea that a private capitalist market economy “blocks the possibility of achieving a radically egalitarian distribution of the material conditions of life”).

movements share and have shared a common struggle.<sup>35</sup> Workers who are most impacted by environmental degradation do not oppose environmental policies because often such policies protect their lives and livelihood.<sup>36</sup> Further, this rhetorical and uninterrogated tensions between these movements are more a result of differing views by unions on the relationship between labor, environment, and the role of capitalism. Green Unionism or labor environmentalism, based broadly on socialist and anti-capitalist ideas or at the very least curbing unregulated multinational corporations, reflect a synergistic relationship between trade unions and environmental movements.<sup>37</sup> Such a view envisions the role of unions as not only protecting workers rights and fighting against economic precarity but also sees their role as protecting the environment.<sup>38</sup>

In visioning equitable and inclusive labor and employment law and policies moving forward, this essay urges us to connect back to a radical, internationalist and holistic vision of labor and environment, that was *seeded* at the time of the New Deal era by militant organizers from the Industrial Workers of the World (IWW or Wobblies)<sup>39</sup> and other independent unions as well as early environmentalists which is now known as green unionism.<sup>40</sup> Further, we should connect those emergent visions

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35. See generally CHAD MONTRIE, A PEOPLE'S HISTORY OF ENVIRONMENTALISM IN THE UNITED STATES (2011) (through historical case studies demonstrates the importance of including working people into the narratives of the environmental movement and how that changes one's perspectives).

36. See Dewey, *supra* note 27; see also Scott Dewey, *Working for the Environment: Organized Labor and the Origins of Environmentalism in the United States, 1948-1970*, 3 ENV'T HIST. 45 (1998) (describing a long history of environmental advocacy by labor unions) [hereinafter *Origins of Environmentalism*].

37. Silverman, *supra* note 23 (describing labor environmentalism as an extension of labor's purpose to improve the lives of workers and their families and emphasizes a connection between workers' workplace and external environments); Victor Silverman, *Green Unions in a Grey World: Labor Environmentalism and International Institutions*, 19 ORG. & ENV'T 191, 194 (2006) (showing that labor environmentalism arises from the recognition that greatest challenge to labor is "unchecked growth of capitalism" in neoliberal globalization).

38. See LOOMIS, *supra* note 24 (using the example of the timber industry to assert that workers have long used the their labor organizations to fight for environmental justice, in terms of demanding healthy and safe working environments; and in the case of the International Woodworkers of America advocated for forestry policy unconnected to the wages and conditions of workers); see also Jean-Baptiste Velut, *A Brief History of the Relations between the U.S. Labor and Environmental Movements (1965-2010)*, 3 REVUE FRANCAISE D'ETUDES AMERICAINES 59, 59 (2011) (discussing how from pre-colonial times to present, work has defined how Americans interact with nature); see also Dan Jakopovich, *Green Unionism in Theory and Practice*, SYNTHESIS/REGENERATION, Spring 2007, at 38.

39. See Wobblies, *supra* note 19.

40. See Silverman, *supra* note 23, at 119 (describing origins of green unionism and labor environmentalism).



that resulted in labor-environment collaborations with contemporary grassroots, human rights frameworks of labor and environmental justice which I refer to as green human rights. Broadly, green human rights links international human rights to environmental justice movements.<sup>41</sup> By linking green unionism and green human rights, we are able to imagine broader inclusive and equitable strategies for those movements.<sup>42</sup> Further, green unionism and green human rights pushes us towards an emancipatory vision of labor-environment that seeks to challenge capitalism and transform our relationship to nature and livelihood, which is urgently needed.

In Section I, I briefly uncover the foundation of green unionism in the United States through Lucy Parsons' speeches as one of the founders of IWW and the radical ideology of IWW and affiliated unions.<sup>43</sup> IWW's anti-capitalist, anti-racist and internationalist ideologies viewed an autonomous global labor movement as the vehicle for revolutionary social change and approached strategies reliant on law and the state with skepticism.<sup>44</sup> I contrast that view with the racial and gendered exclusionary laws of the New Deal era whose primary goal was to address the crisis of capitalism which impeded radical labor movements to take root.<sup>45</sup> This in turn has

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41. John Knox, *Greening Human Rights*, OPEN DEMOCRACY (July 14, 2015), <https://www.opendemocracy.net/en/openglobalrights-openpage/greening-human-rights/> [<https://perma.cc/22RN-ZJLZ>].

42. While frameworks and framing are often dismissed as intangible or not concrete, framing is crucial to construct a social reality by shaping beliefs and perceptions, which in turn are important to implementing a desired vision especially where multiple stakeholders and complex set of policies are needed. "Activists engage in a variety of agenda-building activities and use frames to mobilize support, build coalitions, manipulate symbols, make claims, typify problems, seek publicity, and gain access to the public policy agenda." Kirk Hallahan, *Strategic Framing*, in INTERNATIONAL ENCYCLOPEDIA OF COMMUNICATION, (W. Donsbach ed. 2008); see also David J. Doorey, *The Contested Boundaries of Just Transition Law*, LPE PROJECT (Dec. 14, 2021), <https://lpeproject.org/blog/the-contested-boundaries-of-just-transitions-law/> [<https://perma.cc/MV99-CG9B>] (discussing why definitions and conceptualization matters because they shape discourse, solutions and who gets a place at the table).

43. Wobblies, *supra* note 19, at 3.

44. *Id.* at 2; see also *Preamble*, Constitution of the Industrial Workers of the World, IWW (Jan. 1, 2022), <https://www.iww.org/resources/constitution/> [<https://perma.cc/T8FV-W8C3>].

45. See Ness, *supra* note 17 (explaining that after reviewing IWW and formalization of contract unionism, concluded that the failure of a radical union movement to take hold in the US was not due to an disinterested working class but due to constraints of the NLRA legislation and channeling worker militancy into bureaucratic collective bargaining process); see also Malcolm Harris, *We can thank the Wobblies for the Biggest Labor Story of the Year*, THE NATION (Mar. 17, 2022), <https://www.thenation.com/article/activism/iww-wobblies-starbucks-union/> [<https://perma.cc/RSY4-89M7>] (discussing how IWW radical union tactics led to the successful unionization campaign of Starbucks workers).

prevented a more radical labor environmentalism from taking shape in the US thereby limiting the transformative potential of the Green Deal.<sup>46</sup> Next, in Section II, I connect green unionism to emergent visions for green human rights. In Section III, I show how this reframing reveals a long history of labor and environment collaborations, ways to assess these past efforts when tensions between movements arose, and strategies employed by labor environmentalists. Finally, in Section IV, I draw some lessons that can be learned from adopting a green unionism and green human rights framework, such as placing greater legal and regulatory controls on corporate actors, the importance of transnational grassroots organizing, and employing multi-pronged and multi-nodal strategies on city, state, federal and international levels, and race, class and environmental consciousness raising. All of these strategies ensure that workers gain control over their livelihood and protect the environment, as well as reimagines new relationships between humans, society and their environment.

#### I. SEEDS OF GREEN UNIONISM<sup>47</sup>: COUNTERNARRATIVES TO NEW DEAL COMPROMISES

Social movements and their articulations take on historically specific forms.<sup>48</sup> While Lucy Parsons, IWW and other militant unions did not explicitly address an environmental justice agenda as we understand it today, the seeds were present.<sup>49</sup> Lucy Parsons' speeches and IWW organizing offer glimpses (albeit not the only) of a counter-narrative to the New Deal liberal economic policies. They articulated a socialist view of the economy that viewed capitalism as the cause of both worker exploitation and the environmental degradation.<sup>50</sup> IWW organizing in certain industries,

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46. See Dimitris Stevis, *Green jobs? Good jobs? Just Jobs?*, in *TRADE UNIONS IN THE GREEN ECON.* 179, 179-95 (Nora Rathzel & David Uzzell eds., 2012) (reviewing US labor environment history to conclude that while radical environmentalism exists in many unions, labor environmentalism has mostly been reformist).

47. See *Green Unionism*, IWW ENV'T UNIONISM CAUCUS (June 6, 2013), <https://ecology.iww.org/texts> [<https://perma.cc/7JBG-2LC5>].

48. Romain Felli, *An Alternative Socio-Ecological Strategy? International Trade Unions' Engagement with Climate Change*, 21 *REV. INT'L POL. ECON.* (2014), <http://dx.doi.org/10.1080/09692290.2012.761642> [<https://perma.cc/7K7K-TH6N>].

49. *Id.* (explaining that the historical role of trade unions in the development of environmental policies is often omitted in middle class documentation of environmental history).

50. While IWW arose in the context of a growing popularity of socialism, political ideologies among those identified as IWW varied from anarchism, socialism to communism as did their strategies, but its defining characteristic was a form of syndicalist unionism that sought to build worker control. See *Wobbles*, *supra* note 19, at 15.

such as mining, logging, and agriculture<sup>51</sup> seeded principles of green unionism that we are observing in the present day human rights, labor and environmental justice movements. Those principles include: leadership of impacted communities, social movement strategies that are informed by grassroots organizations, trans-local-international approaches, multiracial coalitions, strategic legal interventions and non-institutional strategies on addressing the excesses of global capitalism such as direct action.<sup>52</sup> Recent labor organizing campaigns and social movements have revived an interest in IWW, for its internationalism, multi-racial organizing, and commitment to organizing immigrant and precarious agricultural workforces that were said to be unorganizable.<sup>53</sup>

As New Deal labor legislation was being debated, including the Fair Labor Standards Act<sup>54</sup> and the NLRA, there was a period of grassroots, direct action and organizing, which many labor scholars argue was muted with the passage of federal labor legislation, through compromises and deal-making with Democratic Party.<sup>55</sup> Labor law scholar Ahmed White described the economic philosophy of New Deal programs as being “responsible capitalism” which managed the crisis of capitalism caused by the Great Depression through state sponsored reform.<sup>56</sup> As such labor scholar Ania Zbyszewska reasons that modern labor law systems became regulatory responses to crises produced by capitalism, and as such, narrowed the scope of labor law in addressing issues of the environment.<sup>57</sup> The New Deal was an aberration in terms of policies making the capitalist class open to compromise with liberal elements of unions who espoused business

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51. See GREG HALL, *HARVEST WOBBLIES: THE INDUSTRIAL WORKERS OF THE WORLD AND AGRICULTURAL LABORERS IN THE AMERICAN WEST, 1905-1930* (1961) (explaining background on agricultural organizing by IWW).

52. Felli, *supra* note 48.

53. See *Wobbles*, *supra* note 19, at 13; see also Malcolm Harris, *We Can Thank the Wobblies for the Biggest Labor Story of the Year*, *THE NATION* (Mar. 17, 2022), <https://www.thenation.com/article/activism/iww-wobblies-starbucks-union/> (discussing the success of the Starbucks unionization campaign in Buffalo, New York as part of IWW campaign to unionize Starbucks baristas nationally as of Spring 2022 workers at 100 locations petitioned for union recognition).

54. 29 U.S.C. §§ 201-19.

55. Ness, *supra* note 17 (describing the New Deal as setting in “motion a labor regime deeply rooted in compromise and collaboration”).

56. See White, *supra* note 12, at 173; see also Leo E. Strine, Jr., *Development on a Cracked Foundation: How the Incomplete Nature of the New Deal Labor Reform Presaged its Ultimate Decline*, 57 *HARV. J. ON LEGIS.* 67, 71 (2020).

57. Ania Zbyszewska, *Labor Law for a Warming World: Exploring the Intersection of a Work Regulation and Environmental Sustainability: An Introduction*, 40 *COMP. LAB. L & POL’Y J.* 1 (2018).

unionism and cooperated with New Deal politicians.<sup>58</sup> The repression of radical unionism including IWW solidified business unionism as the dominant mode of unionism in the US, which placed greater reliance on the state and legal system to advance workers interests.<sup>59</sup> This reliance on the legal system and state mediated through the NLRA made progressive unions dependent on and conciliatory to liberal legal approaches.<sup>60</sup> Through collective bargaining, while workers gained legal rights to organize and form unions they also accepted regulation of their economic powers, specifically strikes or secondary boycotts which dulled its power within capitalism.<sup>61</sup> The repression of militant unions also destroyed the infrastructure and institutional capacity for this radical unionism to take root, which circumscribed the scope of labor environmentalism in the US, as discussed in Section III.

In addition to the establishment of business unionism and conciliatory legal approaches aligned with liberal capitalism, New Deal era federal labor legislation excluded agricultural workers and domestic workers, at the time excluding women and workers of color to appease concerns of Southern Democrats.<sup>62</sup> Agricultural and domestic workers are still excluded from the NLRA.<sup>63</sup> Leo Strine powerfully writes: “[the] New Deal’s acceptance of the most unsavory aspects of our nation’s history - specifically its acquiescence to Jim Crow and a political power structure that did not fully share the principles of the National Labor Relations Act (NLRA) - impeded the ultimate realization of gainsharing for American workers.”<sup>64</sup> The legacy of this

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58. White, *supra* note 12, at 225; Hurd, *supra* note 11, at 2 (discussing how state can adopt policies like the New Deal in response to working class demands to maintain peace for capital to operate in a non-hostile environment, but does not reorder socio-economic relations); *but see* Lizbeth Cohen, Workers Make a New Deal, in Making a new deal: industrial workers in Chicago, 1919-1939, 252 (2008)(describing how workers were critical of capitalism but opted to strengthen federal governments and unions to rebalance their power within capitalism, and argue against categorizing workers as radical or not).

59. *Id.* at 222.

60. *See* White *supra* note 12.

61. *Id.* at 229.

62. Perea, *supra* note 7, at 102–103; *see also* Strine, *supra* note 56, at 81.

63. *See* 29 U.S.C. § 152(3); *see also* Hernandez v. New York, 99 N.Y.S.3d 795 (N.Y. App. Div. 3d Dep’t 2019) (declaring a state law that denied farm workers the right to organize unconstitutional).

64. Strine, *supra* note 56, at 67-68; *see also* Cowie, *supra* note 13, at 24 (asserting that accommodations to New Deal were a constitutive part of the New Deal and that economic democracy was advanced through collusion with racist political system).

exclusion and compromise with Jim Crow policies allowed politicians to use race to divide workers and obstructed multiracial organizing.<sup>65</sup>

In contrast, IWW was founded as a radical alternative to the American Federation of Labor<sup>66</sup> (AFL) and was committed to organizing all workers regardless of their ethnic, racial, gender identities, or their skills.<sup>67</sup> The IWW envisioned a global union replacing capitalism with a socialist economy but remained skeptical of state power and supported autonomous forms of political organizations of society.<sup>68</sup> They used direct action tactics including general strike to bring about change.<sup>69</sup> It is unclear how the IWW viewed the role of law in bringing about social change, however, based on IWW-identified lawyers such as Staughton Lynd they most likely saw its use as instrumental to building one revolutionary union.<sup>70</sup> They believed that workers should exert greater control over their working conditions.<sup>71</sup> They are credited for bringing a radical unionism into the US labor movement, many due to immigrant and Black rank and file members.<sup>72</sup> The IWW organized immigrants in the Northeast, as well as migratory farmworkers and multi-ethnic mine workers. While the AFL succumbed to racism and permitted white-only unions, the IWW was committed to interracial unionism; its most successful example was dock workers in Philadelphia.<sup>73</sup> The IWW was often influenced by social movements around the globe.<sup>74</sup> An

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65. Strine, *supra* note 56, at 81, 83; Cowie, *supra* note 13, at 20 (discussing the increased tensions between US born and immigrant workers and racial costs from the New Deal).

66. White, *supra* note 12, at 170, 172.

67. *Id.* at 167.

68. See Wobblies, *supra* note 19, at 2; see White, *supra* note 12, at 234.

69. *Id.* at 4.

70. See, e.g., LYND & GROSS, *supra* note 14, at 10–11 (describing the goal of the handbook which lays out basic labor laws is for workers to protect themselves when the law is against them and to use it when the law is on the worker's side; primarily the view is not to engage in legal strategies if a problem can be solved through organizing); but see Professor White interview *supra* note 12 (describing founding IWW member and leader Bill Haywood's critical view of law stating that a socialist cannot be law abiding; instead, favoring direct action over political action).

71. See White, *supra* note 12, at 167.

72. Wobblies, *supra* note 19, at 13.

73. *Id.* at 6–7 (describing the IWW Marine Transport Workers Local 8 with a workforce of African American and Irish American).

74. See David M. Struthers, *IWW Internationalism and Interracial Organizing in the Southwestern United States*, in *WOBBLIES OF THE WORLD: A GLOBAL HISTORY OF THE IWW* 74, 77 (Peter Cole et al., eds., 2017) (describing Phoenix based Mexican organizers active in IWW members and organizing to support the Mexican revolution); Tariq Khan, *Living Social Dynamite: Early Twentieth-Century IWW-South Asia Connections*, in *WOBBLIES OF THE WORLD: A GLOBAL HISTORY OF THE IWW* 59, 62 (Peter Cole et al., eds., 2017) (discussing the overlap of

explicitly transnational organization, its members and influence spread throughout the globe, even though it was founded in the United States in Chicago, where Parsons among other socialist labor leaders were present.<sup>75</sup>

In this context, a nascent radical green unionism and labor environmentalism was seeded by the IWW and other militant independent unions of the time with a focus on multiracial organizing which is a crucial foundation for today's labor-environmental movements. The IWW preamble contemplates a harmonious relationship with nature when it encourages workers to "take possession of the means of production, abolish the wage system, and live in harmony with earth."<sup>76</sup> The preamble contemplates a wholly different conception of society: a vision that not only seeks to emancipate workers from exploitation, but also contemplates a right of nature to be in harmony with humans free of its dominance. Historian Peter Cole, author of *Wobblies* and an expert on IWW history writes: "[g]enerally, the IWW didn't overtly talk about the planet or environment during the 1905-1920s. However, I believe that many workers whose jobs were connected to natural resources did have what many call a conservation ethic."<sup>77</sup>

IWW founder and labor organizer Parsons is not known as an "environmentalist"<sup>78</sup> but her speeches are historical breadcrumbs that show her to be. They evidence the influence of early conservationists<sup>79</sup> on union

Indian anti-colonialists in the United States who formed the Ghadr Party were members of IWW).

75. *Wobblies*, *supra* note 19, at 2.

76. See *Preamble*, Constitution of the Industrial Workers of the World, *supra* note 44.

77. Interview with Dr. Peter Cole, Professor & Graduate Director, Western Illinois University (May 7, 2022).

78. While I make this point based on her speeches, and literature of the time, the designation of who is an environmentalist, when environmentalism or environmental movement began are contested. See Eric Yamamoto & Jen-L W. Lyman, *Racializing Environmental Justice*, 72 U. COLO. L. REV. 311, 338 (2001) (discussing Native American framework as distinguishable from modern environmentalism in that it views humans' relationship to the environment as holistic as well as how other racialized communities view their relationship to the environment). Throughout history, indigenous communities and societies have articulated human's holistic relationship to the environment. See Rex Weyler, *A Brief History of Environmentalism*, GREENPEACE (Jan. 5, 2018), <https://www.greenpeace.org/international/story/11658/a-brief-history-of-environmentalism/> [<https://perma.cc/4SPZ-P7NP>]. Scholars have found that Black women often erased from feminist history, such as Sojourner Truth and Ida B. Wells Barnett communicated a "nascent feminism and womanism" and in this way Parsons can be said to articulate a nascent green unionism.; see DIANNE D. GLAVE & MARK STOLL, *African American Environmental History: An Introduction*, in *TO LOVE THE WIND AND THE RAIN: AFRICAN AMERICANS AND ENVIRONMENTAL HISTORY* 1, 5 (2006).

79. Prior to WWII, the focus was on conservation of physical resources and their efficient use and development for future use. See Samuel P. Hays, *From Conservation to Environment: Environmental Politics in the States Since World War Two*, 6 ENV'T. REV. 14, 14

organizers of her time, the origins of green unionism in the early occupational health and safety movement,<sup>80</sup> the role of IWW organizers in advocating an environmental agenda<sup>81</sup> and the rising influence of conservationists<sup>82</sup> and early environmentalists in broader society.<sup>83</sup> Parson's speeches routinely invoked nature, Mother Earth and metaphorical phrases linking social movements to the rhythms of nature such as "ebb and flow."<sup>84</sup> In her speech, *Our Civilization: Is It Worth Saving*, she writes: "The awe-inspiring phenomena of nature concern us in this age but little. We have stolen the lightning from the gods and made it obedient servant to the will of man; have pierced the clouds and read the starry page of time."<sup>85</sup> She continues to reason why the

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(1982). This pastoral idealism and rural utopia reflected in Parsons' speeches about the crowded cities reflected early nineteenth century ideals by thinkers such as Henry David Thoreau's Walden Pond by connecting health and rural nature as an antithesis to the industrial worker. See Ryan H. Edgington, "Be Receptive to the Good Earth": Health, Nature, and Labor in Countercultural Back-to-the-Land Settlements, 82 *AGRIC. HIST.* 279, 285 (2008) (describing origins of back to land settlements, communes, collective farms of the 1960s and early 1970s as evidencing an interest in environmental concerns and alternative to consumerist city life).

80. While OSHA was enacted in 1970, workers and unions have long been engaged in struggles to protect workers' health and safety from the passage of workers compensations law at the state level and the New Deal expansion of federal worker protections, with militant unions being responsible for strongest state level safety laws. See Robert Asher, *Organized Labor and the Origins of the Occupational and Safety and Health Act*, 24 *NEW SOLS.* 279, 280 (2014); see also Felli, *supra* note 48 (describing that trade union interest in health and safety issues at the workplace connect to broader demands for environmental justice which led to coalitions with community-based movements). In 1909, coal miners in Pittsburgh staged strikes to oppose the use of a dangerous blasting powder. Robert Asher, *Organized Labor and the Origins of the Occupational and Safety and Health Act*, 24 *NEW SOLS.* 279, 281 (2014). United Mine Workers advocated, albeit unsuccessfully, for worker-led mine inspections on the belief that workers who worked in hazardous work environments knew best how to minimize workplace hazards. *Id.* at 280-81. In the 1930s, during the New Deal era, unions' focus was on union organizing and legislation to provide legal protection to strike, however, health and safety issues were raised based on the belief that a strong union could take action. *Id.* at 286; see Dewey, *supra* note 27, at 46 (dating early labor environmentalism to WWII). But see LOOMIS, *supra* note 24, at 95 (documenting IWA forestry program with roots in labor pre-WWI radicalism).

81. See LOOMIS, *supra* note 24, at 39.

82. Cole, *supra* note 77; see also LOOMIS, *supra* note 24, at 92 (discussing how IWA combined left leaning unions with a conservationist critique).

83. Felli, *supra* note 48, at 374 (noting union interest in environmental issues is not a new development or even an expansion of topics of interest because trade unions have developed green policies but reflects a "renewed engagement with broader political understanding of the role of trade union in society").

84. See LUCY PARSONS, *LUCY PARSONS: FREEDOM, EQUALITY & SOLIDARITY – WRITING AND SPEECHES, 1878-1937* 123 (Gale Aherns ed., 2004) (writing "[h]ow to get these helpless human beings out of our overcrowded cities and on the bosom of Mother Earth is one of the greatest problems of the age").

85. *Id.* at 44.

wealthy should determine working conditions when it is workers who engage with nature to produce valuable goods that are sold. In her essay, *What Freedom Means*, she links the exploitation of workers and nature. She writes: “We now live under the pay system, in which if you can’t pay, you can’t have. Everything has a price set upon it; earth, air, light and water, all have their price. The productive and distributive forces of nature, united with the power and ingenuity of man are reserved for a price.<sup>86</sup>” Parsons seems to make the point that both nature and man should exercise greater control over their existence rather than the wealthy. However, the goal was not to substitute the wealthy with workers exerting control over nature, but to live harmoniously with nature, thereby articulating a far reaching goal to emancipate both worker and nature from capitalism. It is this vision of green unionism from this New Deal era which is crucial to recuperate, as discussed in Section II. Parsons background as a woman of color of mixed Black, Mexican, and Native American heritage<sup>87</sup> may also reflect the environmental ethos of the antebellum period.<sup>88</sup> She is an important figure to trace roots of African American environmentalism,<sup>89</sup> labor environmentalism and environmental justice movements today focused on racial justice.<sup>90</sup>

In *Empire Timber*, labor historian Eric Loomis details the role IWW played in organizing timber workers to support how the environment was central to their organizing.<sup>91</sup> With a focus on sanitation, health and later a union program for forest conservation, protecting the environment was an integral part of IWW organizing.<sup>92</sup> The IWW affiliated union - International Woodworkers of America (IWA)’s holistic vision of the links between labor and nature is expressed by analogizing workers in the forest and the labor

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86. *Id.* at 103.

87. See Roxanne Dunbar-Ortiz, *Afterword*, in LUCY PARSONS: FREEDOM, EQUALITY & SOLIDARITY – WRITING AND SPEECHES, 1878-1937 169, 169 (Gale Ahrens ed., 2004).

88. See Mart A. Stewart, *Slavery and the Origins of African American Environmentalism*, in TO LOVE THE WIND AND THE RAIN: AFRICAN AMERICANS AND ENVIRONMENTAL HISTORY 9, 17 (Dianne D. Glave & Mark Stoll eds., 2006); Scott Giltner, *Slave Hunting and Fishing in the Antebellum South*, in TO LOVE THE WIND AND THE RAIN: AFRICAN AMERICANS AND ENVIRONMENTAL HISTORY 21 (Dianne D. Glave & Mark Stoll eds., 2006); see also Dewey, *supra* note 27 (discussing how interest in working class environmentalism gained traction in the 2000s and how enslaved persons laboring in the fields supplemented their food rations with fishing, gardening, and many brought their knowledge of farming and forestry from Africa which aided in their survival and at times escape).

89. See Dunbar-Ortiz, *supra* note 87, at 169.

90. See Yamamoto & Lyman, *supra* note 78, at 315–16 (defining environmental justice as addressing environmental racism, where the burdens of environmental hazards are different based on color, and that the goal of a justice movement is to address racism).

91. See Loomis, *supra* note 24, at 20.

92. *Id.* at 37.



of the forest for humans to achieve sustainable timber supplies.<sup>93</sup> Based on this holistic vision, the IWA made alliances with conservationists of the time. They tied good wages with sustainable forestry.<sup>94</sup> They saw exploitation of both labor and nature as a result of corporate greed. This vision resembles the socialist approaches to labor environmentalism today, discussed in Section III.B. Post WWI, with the demise of radical unionism, the IWA's vision of connecting the forest to livelihood changed to a consumerist and instrumentalist one which views nature for human leisure.<sup>95</sup> This instrumentalist view of the environment and the prioritization of human needs over nature (contrasted with a holistic view) can be seen in some unions' labor environmental policies such as green jobs or a protective form of just transition.<sup>96</sup> Just transition has come to encompass a wide range of meaning emerging from varied disciplines to include for example policies that seek to protect union jobs in a sustainable economy and vulnerable communities impacted by climate policies as well as a holistic approach that seeks to challenge the socio-economic order that is extractive of labor and environment.<sup>97</sup> The holistic view continues to exist among IWW<sup>98</sup> or environmentalist-union organizers.<sup>99</sup>

Reference to Parsons and IWW organizing is in line with historian Jefferson Cowie's call to go back and look at "suppressed historical narratives" that may fuel our radical imaginings for the present. This essay does not suggest they are the only narratives to look back on but they do reveal key insights to imagining inclusive and emancipatory labor environment policies beyond the Green New Deal as presently expressed. Cowie advises us to "free ourselves from the New Deal"<sup>100</sup> and that anchoring future strategies to New Deal policies will prove unsuccessful. He writes: "The one-time breakthrough of the New Deal has proven to be a problematic political metaphor for the future."<sup>101</sup> In terms of envisioning policy and strategy, Cowie writes: "*bad*

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93. *Id.* at 89–90.

94. *Id.* at 95.

95. *Id.* at 119.

96. See Todd E. Vachon, *The Green New Deal and Just Transition Frames Within the American Labour Movement*, in PALGRAVE HANDBOOK OF ENVIRONMENTAL LABOUR STUDIES 105, 108 (Nora Rathzel et al., eds., 2021) (distinguishing protective just transition which seeks to preserve jobs from a transformative one that imagines a different socio-economic order).

97. *Id.* at 108; see generally Ann Eisenberg, *Just Transitions*, 92 S. CALIF. L. REV. 273, 275 (discussing the varied uses of the phrase just transition but arguing for the definition by the labor movement).

98. See *Green Unionism*, *supra* note 47.

99. See generally Stevis, *supra* note 22, at 604.

100. See Cowie, *supra* note 13, at 36.

101. *Id.* at 13 (viewing the New Deal era and after more of an exception in American history; that the NLRA provided workers a temporary relief from corporate).

*history makes for weak political strategy*” and cautions “freewheeling historical analogies based on an extraordinarily unique period in American history.” The danger of such an analogy may prevent us from looking at other historical possibilities that may open up present movement strategies. Looking at these suppressed histories of radical, multiracial transnational unionism provides the foundation for imagining the bolder labor-green environmental policies that we need in the present moment.

Green unionism challenges the excesses of capitalism and provides labor and environmental justice movements a powerful framework to protecting both workers’ rights and the environment. Militant unions affiliated with the IWW reveal early articulations of labor-environment policies and it is their multi-racial, transnational mass based labor organizing model that needs to inform present day labor environment policies. Obstacles exist to actualizing this vision given the severe repression of radical unionism in the US and the dominance of business unionism. The New Deal era provides a cautionary tale against lapsing into more reformist approaches which may impede the implementation of emancipatory labor and environmental policies.

## II. RECUPERATION AND REPLANTING: GREEN UNIONISM AND GREEN HUMAN RIGHTS<sup>102</sup>

After a period of neoliberal globalization, grassroots social movements including both labor and environment have (re)turned to international human rights spaces to protect rights led by marginalized communities.<sup>103</sup> Whereas green unionism links labor unions and environmental justice movements, green human rights links international human rights with environmental rights. UN Special Rapporteur on Human Rights and the Environment John Knox defined green human rights by stating that individuals can only fully enjoy their human rights if they live in a natural and healthy environment.<sup>104</sup> In these bundles of human rights, workers’ rights are included. However the current conception of environment and

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102. Achim Steiner, Exec. Dir., UN Env’t Programme, Focusing on the Good or the Bad: What Can International Environmental Law do to Accelerate the Transition Towards a Green Economy, Lecture before the American University Washington College of Law (Mar. 25, 2009), in 103 PROC. ANN. MEETING AM. SOC’Y OF INT’L L. 2009 at 3, 9.

103. See Cheryl Holzmeyer, *Human Rights in an Era of Neoliberal Globalization: The Alien Tort Claims Act and Grassroots Mobilization in Doe v. Unocal*, 43 L. & SOC’Y REV. 271, 294 (2009).

104. John Knox, *Greening Human Rights*, OPEN DEMOCRACY (July 14, 2015), <https://www.opendemocracy.net/en/openglobalrights-openpage/greening-human-rights/> [<https://perma.cc/22RN-ZJLZ>] [hereinafter Knox, *Greening Human Rights*]; see also John Knox, *Constructing the Human Right to a Healthy Environment*, 16 ANN. REV. L & SOC. SCI. 79, 82 (2020) [hereinafter Knox, *Constructing the Human Right*].

human rights subsumes nature into the rights of humans which is different from the emancipatory vision of green unionism for both workers and the environment discussed in Section I.<sup>105</sup> Nonetheless, while what green human rights policies could look like may vary, for purposes of this essay, the symbiotic framing of human rights and the environment provide a powerful narrative to imagine equitable and inclusive labor and environment policies in the international law sphere. It opens up the international law spheres for potential advocacy, or at the very least allows labor and environmental organizers to deploy the language of human rights in the labor and environmental justice movements at the local level. The emergent internationalist vision of labor and the environment of the 1930s, referenced above, is a throughline to the present-day human rights-oriented grassroots labor and environmental justice movements.<sup>106</sup> Some of the early IWW organizing strategies of building grassroots transnational advocacy networks can be seen in contemporary labor organizing.<sup>107</sup>

At the international level, as it relates to environmental human rights law, the UN Human Rights Council resolution on the right to healthy environment,<sup>108</sup> UN Convention on Biological Diversity<sup>109</sup>, UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP)<sup>110</sup> are tremendous advancements that need to be incorporated into our more local/national level approaches including the Green New Deal. These changes in human rights law have been described as greening human rights.<sup>111</sup> Prior to the UN resolution, in 2018, the UN promulgated Framework Principles on Human Rights and the Environment affirming the collectivist nature of these environmental rights which is crucial for labor

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105. See Zbyszewska, *supra* note 57, at 1 (discussing the anthropocentrism of labor law specifically in how the socio-ecological is marginalized through conceptions of society and nature as separate realms).

106. See Silverman, *supra* note 37, at 191.

107. Transnational advocacy network (TAN) is defined as a network of actors in NGOs, social movement organizations, international organizations and foundations that operate across national borders on behalf of specific issues of human rights, women rights and environmental. See David M. Trubek et al., *Transnationalism in the Regulation of Labor Regulations: International Regimes and Transnational Advocacy Networks*, 25 L. & Soc. INQUIRY 1187, 1194 (2000) (citing Margaret Keck & Kathryn Sikkink, *ACTIVISTS BEYOND BORDERS: ADVOCACY NETWORKS IN INTERNATIONAL POLITICS*, 1 (2014)).

108. Human Rights Council Res. 48/13, U.N. Doc. A/HRC/RES/48/13 (Oct. 18, 2021).

109. See United Nations Convention on Biological Diversity, June 5, 1992, 1760 U.N.T.S. 79.

110. See Human Rights Council Res. 39/12, U.N. Doc. A/HRC/RES/39/12 (Oct. 8, 2018).

111. Knox, *Greening Human Rights*, *supra* note 104.

unions.<sup>112</sup> Specifically, Principle 5 requires states to respect and protect the rights to freedom of expression, association, and peaceful assembly in relation to environmental matters.<sup>113</sup> Unions and environmental organizations can use freedom of associational rights to promote labor-environment policies, including through the collective bargaining process.<sup>114</sup> This becomes particularly important in the US as federal labor law restricts many union activities such as boycotts and secondary strikes which have hindered union organizing. Where labor law is limiting, unions can use the UN Framework principles to advance policies that are environmental in nature but positively improve the material lives of workers.<sup>115</sup> Moreover, the Framework instructs states to protect those most vulnerable to harm: “States should take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks, and capacities.”<sup>116</sup> Within this formulation under environmental rights, workers, women and indigenous communities, often the most impacted could find some protection around issues that are at the intersection of labor-environment issues. These new triangulated labor-environment-human rights law developments provide additional spaces through which environmental organizations could collaborate with trade unions to advance environmental protections and for trade unions to promote codes and protections of workers.<sup>117</sup>

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112. H.R.C. Res. 48/13, *supra* note 108; Rep. of the Special Rapporteur on the Issue of Hum. Rts. Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Env't, U.N. Doc. A/HRC/37/59 (Jan. 24, 2018).

113. See John Knox (Special Rapporteur on Human Rights and the Environment), *2018 Framework Principles on Human Rights and The Environment*, U.N. Doc. A/HRC/37/59, at 9 (Mar. 2, 2018).

114. See Paolo Tomassetti, *Labor Law and Environmental Sustainability*, 40 COMP. LAB. L. & POL'Y J. 61, 64-69 (2018) (discussing how statutory and collective bargaining mechanisms can be a space for labor-environment regulation and how labor's goal of addressing inequality of bargaining in the labor-management relationship converges with environmental concerns to prevent formation of social hierarchies particularly of people over nature).

115. See *e.g.*, Consuelo Chacarergui, *Workers' Participation and Green Governance*, 40 COMP. LAB. L. & POL'Y J. 89, 94 (2018) (discussing how a holistic labor and environmental sustainability framework can ban hazardous substances that harm workers and the environment).

116. *Id.* at 20.

117. See Roger McElrath, *Environmental Issues and the Strategies of the International Trade Union Movement*, 23 COLUM. J. WORLD BUS. 63, 66 (1998); Paolo Tomassetti, *supra* note 114, at 61 (discussing the integration of ILO's Decent Work Agenda in the UN 2030 Agenda for Sustainable Development).

Long before the 2018 UN resolution on the right to a healthy environment, trade unions have used existing international law spaces to promote a green labor platform.<sup>118</sup> Trade unionists from the labor environmentalism tradition understood that environmental justice should form an integral part of union politics be it at the local or international level.<sup>119</sup> Just transition and green jobs have been the two entry points for labor in the international environmental law sphere.<sup>120</sup> For example, the International Labor Organization (ILO), the public international body addressing global labor rights and standards, established a partnership with the UNEP, the intergovernmental agency commissioned with addressing the environment within the UN system,<sup>121</sup> and the International Trade Union Confederation in 2007.<sup>122</sup> Trade union advocacy at the international level has resulted in just transition guidelines to ameliorate the impact of the green economy on jobs.<sup>123</sup> The ILO addressed climate change through a collection of essays, which added decent work into the discussions of a green economy.<sup>124</sup> Before the Green New Deal was proposed in the US Congress in 2018,<sup>125</sup> the United Nations Environment Programme (UNEP)

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118. Comisiones Obreras of Spain (COO) and Sustainlabour and International Trade Union Confederation have been identified as leaders in this international union-environmental movement. See Béla Galgóczi, *Just Transition Towards Environmentally Sustainable Economies and Societies for All - ILO ACTRAV Policy Brief*, INT'L LAB. ORG. 1 (2018), [https://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---actrav/documents/publication/wcms\\_647648.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_647648.pdf) [<https://perma.cc/JPA8-RPHP>]; see also Stevis, *supra* note 18, at 148 (discussing CCOO and other initiatives by international trade unions on developing an environmental agenda); Rathzel, *supra* note 25, at 587; David Doorey, *Just Transitions Law: Putting Labour Law to Work on Climate Change* 30 J. ENV'T L. & PRAC. 201, 206 (2017) (discussing how the idea of a just transition and green economy is rooted in the global labor movement).

119. *Id.*; see also Aviva Chomsky, *Sorry, Conservatives – Unions Do Support the Green New Deal*, THE NATION (Aug. 7, 2019), <https://www.thenation.com/article/archive/unions-support-green-new-deal/> [[perma.cc/EPG2-DQQW](https://perma.cc/EPG2-DQQW)].

120. Felli, *supra* note 48, at 379.

121. *UNEP About Page*, <https://www.unep.org/about-un-environment> (last visited Sept. 24, 2022).

122. For a discussion on ILO's integration of environmental sustainability into its platform including green jobs, see Chacartergui, *supra* note 115, at 99.

123. Silverman, *supra* note 37, at 203; see also Galgóczi, *supra* note 118; INT'L LAB. ORG., *Guidelines for a Just Transition Towards Environmentally Sustainable Economies for All* (2015), [https://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---emp\\_ent/documents/publication/wcms\\_432859.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/documents/publication/wcms_432859.pdf) [<https://perma.cc/M652-8SQ2>].

124. See INT'L LAB. ORG., CLIMATE CHANGE AND LABOUR: THE NEED FOR A "JUST TRANSITION," 2 INT'L J. OF LAB. & RES (2010); See also Chacartergui, *supra* note 115, at 95 (discussing ILO's integrative views on labor and environment and how environmental sustainability provides an avenue for better jobs and poverty reduction).

125. See generally H.R. Res. 109, 116th Cong. (2019).

promoted the idea of the Global Green Deal (GGND)<sup>126</sup> The GGND had three broad objectives: (1) revive the world economy, job creation and protecting vulnerable groups; (2) reduce carbon dependency and ecosystem degradation; and (3) further the millennium development goals, including ending poverty. The global union agenda has also involved broadening UN's sustainable development goals to include social equity and justice and emphasizing green jobs and just transitions in the economy especially for workers who work in industries that engage in environmentally harmful activities that need to be phased out.<sup>127</sup>

US labor's success at the international level is due in large part to its long history as discussed in Section I, where unions at the national, regional, and global levels developed environmental agendas stemming from their interest in workers' health and safety.<sup>128</sup> However, the international environmental union agenda has largely focused on jobs in contrast to broader environmental concerns unconnected to workplace issues.<sup>129</sup> The narrow focus on green jobs has limited the potential for more holistic labor-environmental policies. New developments in environmental human rights called greening human rights specifically the UN resolution on the right to a healthy environment<sup>130</sup> discussed above provide additional legal spaces to imagine emancipatory labor-environment policies. Because "a clean, healthy and sustainable environment as a human right" includes workers and other vulnerable members of society such as indigenous communities, it provides a basis to consider worker demands beyond the narrow confines of the workplace and the broader environment. For rural and agricultural

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126. See U.N. Environment Programme, *Global Green New Deal: Policy Brief* (March 2009), [https://wedocs.unep.org/bitstream/handle/20.500.11822/7903/A\\_Global\\_Green\\_New\\_Deal\\_Policy\\_Brief.pdf?sequence=3&isAllowed=y](https://wedocs.unep.org/bitstream/handle/20.500.11822/7903/A_Global_Green_New_Deal_Policy_Brief.pdf?sequence=3&isAllowed=y) [https://perma.cc/MC4W-NNXF] (referencing US New Deal to reason that the present economic crisis calls for a global green new deal); see also Steiner, *supra* note 102, at 843. It should be noted that among the recommendations to address environmental justice are voluntary mechanisms and financial incentives. This is a key distinction as discussed in Section III that the different approaches to the environment depends in large part on whether activists believe the capitalist market is able to regulate itself in relation to its impact on the environment. I argue for more binding regulations of corporations in Section IV.

127. Stevis, *supra* note 18, at 149; Camila Huerta Alvarez et al., *Is Labor Green? A Cross-National Panel Analysis of Unionization and Carbon Dioxide Emissions*, 14 *NATURE & CULTURE* 17, 23 (2019).

128. See Stevis, *supra* note 18, at 145; McElrath, *supra* note 117, at 65.

129. Stevis *supra* note 18, at 149; see also Chacartegui, *supra* note 115, at 91 (discussing how labor's platform has not been holistic focusing mostly on green jobs).

130. General Assembly Resolution 76/L.75, *The Human Right to a Clean, Healthy and Sustainable Environment*, A/RES/76/L.75 (28 July 2022), <https://undocs.org/Home/Mobile?FinalSymbol=A%2F76%2FL.75&Language=E&DeviceType=Desktop&LangRequested=False>.

workers whose workplace is the environment, it provides additional protections that labor law has been unable to provide.

With these developments in the area of international labor-environment-human rights, there has also been a turn to the international human rights sphere by vibrant grassroots, “human rights from below” oriented social movements in response to globalization.<sup>131</sup> Outside of social movement organizations, countries in the Global South like Ecuador have adopted constitutional legal rights to nature which is gaining ground.<sup>132</sup> Social movements like Via Campesina and the broader food sovereignty movement have demonstrated how to successfully push for international human rights protections at the international level which led to the UNDROP.<sup>133</sup> Their strategies are resonant of the IWWs and militant advocates of the New Deal era. This grassroots green human rights frame, similar to green unionism, focuses on a holistic vision of labor-environmental concerns. For example, UNDROP recognizes the rights of rural workers and indigenous communities which allow them to control means of production, opening up possibilities for new socio-economic relationships to be formed.<sup>134</sup> While the international environment-labor-human rights developments discussed above are positive, a grassroots

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131. See Balakrishnan Rajagopal, *Counter-Hegemonic International Law: Rethinking Human Rights and Development as a Third World Strategy*, 27 *THIRD WORLD Q.* 767, 775 (2006) (discussing how social movements, particularly Third World resistance, can be integrated to challenge formalist discourses of international law); see also Maria S. Tysiachniouk et al., *Indigenous-Led Grassroots Engagements with Oil Pipelines in the U.S. and Russia: The NoDAPL and Komi Movements*, 30 *ENV'T POLS.* 895, 895-96 (2021) (discussing how indigenous-led grassroots resistance can shape global governance networks and policies to resist large industrial operations even if formal practices are not unchanged).

132. See Mari Margil, *The Rights of Nature Gaining Ground*, *OPEN GLOBAL RIGHTS* (Nov. 14, 2018), <https://www.openglobalrights.org/the-rights-of-nature-gaining-ground/> [<https://perma.cc/N7ZL-RVSK>].

133. Priscilla Claeys, *From Food Sovereignty to Peasants' Rights: An Overview of Via Campesina's Struggle for New Human Rights*, in *LA VIA CAMPESINA'S OPEN BOOK: CELEBRATING 20 YEARS OF STRUGGLE AND HOPE 5* (2013), <https://viacampesina.org/en/la-via-campesina-s-open-book-celebrating-20-years-of-struggle-and-hope/>; see also Heri Purwanto, *Local to Global: How Serikat Petani Indonesia has Accelerated the Movement for Agrarian Reform*, in *LA VIA CAMPESINA'S OPEN BOOK: CELEBRATING 20 YEARS OF STRUGGLE AND HOPE 5* (2013); see also ADELLE BLACKETT, *EVERYDAY TRANSGRESSIONS DOMESTIC WORKERS' TRANSNATIONAL CHALLENGE TO INTERNATIONAL LABOR LAW* (2019) (discussing how domestic workers grassroots mobilization led to adoption of ILO Convention 189 which sets labor standards for domestic workers).

134. See Priscilla Claeys & Marc Edelman, *The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas*, 47 *J. PEASANT STUD.* 1, 62-63 (2020) (Sandra Moreno Cadena, an organic oil producer, scholar and activist, shares that the “Declaration promotes a new approach to production, consumption and distribution” and “changing the public policies that have made precarious the lives of millions of people, especially peasant women indigenous peoples, racialized minorities, migrants and seasonal and agricultural workers.”).

oriented green human rights frame must be mobilized to ensure that the emancipatory visions of reconfiguring labor-environment relations remain the long term goal. Further, that labor and environment movements do not compromise on more narrow demands for green jobs and formal legal rights similar to conciliatory approaches by labor during the New Deal era. The grassroots transnationalism of the IWW and recent labor-environment organizing at the international level could ensure that these emergent international environmental rights are given their most expansive and emancipatory application.

In sum, the green unionism based on the IWW's transnational, multi-racial, socialist vision, greening of human rights, labor-environment advocacy in international sphere, and grassroots mobilization of human rights from below provides a broader framework from which labor and environmental justice movements can fashion inclusive and equitable labor and environment policies.

### III. RECYCLING & REFLECTING: LABOR ENVIRONMENT'S COMMON GROUND

Green unionism and green human rights, as discussed above, provide a framework to envision a Green New Deal beyond current formulations. By briefly tracing green unionism to the radical, internationalist vision of labor organizing of IWW and affiliated unions and connecting it to the emergence of a vibrant grassroots green human rights movement, this essay reorients us to a history of labor and environmental movement cooperation.<sup>135</sup> This history debunks the myth of labor-environment tension when viewed from the perspective of a conscientized working class movement.<sup>136</sup> Both movements share common ground around environmental threats to workplaces and working class communities and corporate dominance.<sup>137</sup> This section discusses how both movements share and have shared common goals but that tensions arise depending on the actors or organizations involved<sup>138</sup>, the historical period in which the issues

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135. See Dewey, *supra* note 27; Velut, *supra* note 38.

136. See Alvarez et al., *supra* note 127, at 22-23 (showing research that US union households do not see tensions between workers interests and environmental protection).

137. *Id.* at 34 (discussing how unions and environmental organizations have a "common struggle in fighting the excesses of the global capitalist system.").

138. Felli, *supra* note 48, at 374 (discussing differences between trade unions regarding environmental issues are "political differences resulting in different strategic choices."); see Andrew D. Van Alstyne, *The United Auto Workers and the Emergence of Labor Environmentalism*, 18 WORKINGUSA: J. LAB. AND Soc'Y 613, 614 (2015) (discussing how environmental movements that focus on health are likely to partner with labor, and unions that embrace social unionism are more open to environmentalism).



emerge<sup>139</sup>, or the political ideologies underlying the approaches taken such as their views on the role of capitalism.<sup>140</sup> Sharing some examples of these collaborations and strategies employed reveal some lessons for us today, which is discussed in Section IV.

#### A. Labor Environment Cooperation and Collaborations<sup>141</sup>

Labor and environment movements have cooperated and collaborated in a myriad of ways that are well documented.<sup>142</sup> Closer examination reveals there have been more examples of collaboration than conflict. I relate here a few examples that debunk the narrative that labor and environmental movements are intrinsically at odds.<sup>143</sup> Labor unions such as International Woodworkers of America (IWA), affiliated with the IWW, used environmental language to catalyze organizing<sup>144</sup> and supported environmental efforts like their forestry program.<sup>145</sup> Fumes trapped in a Pennsylvania factory killing 20 workers in 1948, which sparked United Steelworkers' (USW) interest in environmental issues, resulted in a

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139. See Velut, *supra* note 38, at 62–68 (describing four periods of labor and environment engagement: friendly from 1965 to 1973, tensions in the 1970s, uneasy alliance of the 1980s, and globalization from 1990-2010; the collaborative period was due in part to leadership of union presidents who individually were supportive of environmental issues).

140. See also Felli, *supra* note 48, at 372-98.

141. As discussed in this section, the ways in which actors within labor and environment movements have interacted has ranged from cooperation, where organizations from both movements work together towards a common goal/benefit to a more engaged relationship which I describe as collaboration, where purposeful work together produces specific common goals. See Felli, *supra* note 48, at 374; see also Van Alstyne, *supra* note 138, at 614.

142. See Dewey, *supra* note 27; Velut, *supra* note 38, at 59 (discussing how from pre-colonial times to present, work has defined how Americans interact with nature); Stevis, *supra* note 18, at 147 (discussing how early environmental concerns of labor unions focused on the occupational health and safety of workers).

143. BRIAN K. OBACH, LABOR AND THE ENVIRONMENTAL MOVEMENT: THE QUEST FOR COMMON GROUND 3 (2004); see Robert Gordon, *Shell No! OCAW and the Labor-Environmental Alliance*, 3 ENV'T HIST. 460, 463 (Oct. 1998) (dating history of cooperation to the 1960s which expanded through the 1970s and became tense in the 1980s). *But see generally* LOOMIS, *supra* note 24 (dating worker environmentalism to the New Deal era, though perhaps not at the scale of the 1960s. Labor union environmentalism where unions formally and at a more national scale engaged with environmental organizations can be dated to the 1960s); see Stevis, *supra* note 18, at 147; see Robert Gottlieb, *Forcing the Spring: The Transformation of the American Environmental Movement*, at 36 (1993) (situates environmentalism as part of a complex of social movements responding to industrial changes dating back to the Progressive Era of 1890s).

144. See LOOMIS, *supra* note 24, at 9.

145. See *id.* at 89-90 (discusses how natural resource planning was a central union position; made alliances with conservationists, and “articulated a powerful working-class voice for conservation.”).

manufacturing alliance with Sierra Club.<sup>146</sup> Unions like Oil, Chemical and Atomic Workers (OCAW)<sup>147</sup>, United Autoworkers (UAW)<sup>148</sup> and USW supported Clean Air Act<sup>149</sup> and Clean Water Act<sup>150</sup> and the creation of the US Environmental Protection Agency (EPA).<sup>151</sup> Although not as strongly as labor would have liked, environmental organizations supported labor legislation like Occupational Safety and Health Administration (OSHA) and OCAW strike of Shell in 1973.<sup>152</sup> Organizations within both movements have cooperated to include their constituencies' interests in just transition programs or engaged in grassroots organizing efforts like green bans which halted development projects that have an environmental impact.<sup>153</sup> Unions and environmental organizations have cooperated around the issue of pesticide poisoning in defense of workers and consumers led by United Farm Workers.<sup>154</sup> The 1999 labor and environment collaboration protesting WTO in Seattle is a visible moment of collaboration against corporate dominance.<sup>155</sup>

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146. See David Foster, *BlueGreen Alliance: Building a Coalition for a Green Future in the United States*, in 2 INT'L J. OF LAB. & RES., CLIMATE CHANGE AND LABOUR: THE NEED FOR A "JUST TRANSITION," 233, 234 (2010).

147. See Montrie, *supra* note 35, at 111. (discussing how OCAW legislative director Tony Mazzocchi, influenced by radical left politics, got his union engaged in health and safety legislation as a way to draw connections between workplace hazards and the community at large so as to advocate for their members and all people impacted by hazards of industrial production).

148. See Dewey, *supra* note 27, at 52 (noting UAW reasoned that improved working conditions gained in the plant were negated when a worker leaves the factory); see Montrie, *supra* note 35, at 104 (discussing how UAW's social unionism led them to advocate for issues beyond wages and hours including the environment making them a union leader in local, state and national pollution controls).

149. See Foster, *supra* note 146, at 235.

150. Velut, *supra* note 38, at 63; see Van Alstyne, *supra* note 138, at 619.

151. Gordon, *supra* note 143, at 461.

152. *Id.*; see also Stefania Barca, *On Working-Class Environmentalism: A Historical and Transnational Overview*, 4 INTERFACE 61, 67 (Nov. 2012); see Montrie, *supra* note 35, at 113 (discussing how 11 environmental organizations endorsed the OCAW strike where 5000 workers walked off the job and joined a nation-wide boycott campaign where consumers returned their Shell credit cards; this labor-environmental alliance was first of its kind during a strike).

153. See Jakopovich, *supra* note 38, at 39 (explaining green bans are a form of direct industrial union tactics where workers refuse to work on projects that are viewed as adverse to the environment not unlike a strike).

154. See J. Mijin Cha et al., *Workers and Communities in Transition: Report of the Just Transition Listening Project*, LAB. NETWORK FOR SUSTAINABILITY (2021), [https://www.labor4sustainability.org/files/JTLP\\_report2021.pdf](https://www.labor4sustainability.org/files/JTLP_report2021.pdf) [<https://perma.cc/C9CV-MVR3>].

155. OBACH, *supra* note 143, at 9; see also Van Alstyne, *supra* note 138, at 613 (dubbing them "teamsters and turtles").

Unions have taken a strong environmental stand over the years through leadership of unions such as Harold Pritchett of IWA,<sup>156</sup> Anthony Mazzocchi of OCAW<sup>157</sup> Walter Reuther and Olga Madar of United Autoworkers (UAW),<sup>158</sup> and Jack Sheehan<sup>159</sup> of USW<sup>160</sup> to name a few. Noteworthy are union feminists like Olga Madar of UAW that raised issues of workplace safety and environmental hazards impact on women.<sup>161</sup> While these names are listed in the literature, it was “rank-and-file workers, class oriented environment groups and progressive activists in both movements”<sup>162</sup> that cultivated common ground. More recently, labor-environment movement strategies have aligned especially around green jobs and just transition policies. Just transition rests on the idea that ecological sustainability has to happen in a context where workers and their communities are not negatively impacted.<sup>163</sup> This has become the consensus among international trade union movements if not in the US.<sup>164</sup>

Labor-environment conflicts are more a response to capital than any inherent conflict between movements.<sup>165</sup> It also reflects an organization’s power or ability to respond to capital’s impact. Labor-environment conflict has primarily involved a perceived threat to jobs or loss of jobs.<sup>166</sup>

Scholar Obach reviewing labor and environment cooperation notes that often it is not workers who are leading opposition to environmental measures but is instead “industry [that] seeks allies in opposition to environmental measures by using the threat that losses or decreases in profit may result in layoffs or a complete shutdown.”<sup>167</sup> The *threat* of job loss or “job blackmail” is real to workers causing a genuine fear due to their

156. See LOOMIS, *supra* note 24, at 93.

157. See Gordon, *supra* note 143; Barca, *supra* note 152, at 68; Dewey, *supra* note 27, at 14; Felli, *supra* note 48, at 378.

158. See Josiah Rector, *Environmental Justice at Work: The UAW, the War on Cancer, and the Right to Equal Protection from Toxic Hazards in Postwar America*, 101 J. AM. HIST. 480 (2014).

159. See Gordon, *supra* note 143, at 465 (legislative director of USW devoted time and resources towards the passage of the Clean Air Act in 1970 and Clean Water Act in 1972).

160. Velut, *supra* note 38, at 68.

161. Rector, *supra* note 158, at 493-94.

162. Gordon, *supra* note 143, at 462.

163. Cha et al., *supra* note 154, at 11.

164. Felli, *supra* note 48, at 380.

165. *Id.* at 392.

166. OBACH, *supra* note 143, at 10, 32-33, 461 (noting job loss from environmental regulations is politically motivated and not supported evidence and explaining environmental regulations create more jobs than they eliminate).

167. *Id.* at 10; see also Velut, *supra* note 38, at 68 (quoting United Steelworkers President Leo Gerard as stating that the labor-environment conflict is “manufactured by employers”).

economic precarity and because environmental policies have had/will have an adverse impact on their job sectors. However, evidence that there will be a *lack of jobs* in the green economy has not borne out to be true.<sup>168</sup> As such, the threat can be a powerful deterrent on labor-environment cooperation depending on how secure unions and their members perceive their power within the political economy and extent of consciousness raising on both sides. However, because of such deterrence, labor-environment cooperation becomes even more urgent.

Recent tensions between the labor-environmental movements can be attributed to increased impacts of neoliberal policies and globalization.<sup>169</sup> A narrative of conflictual relationships between labor-environment developed in the 1980s<sup>170</sup>, after a period of cooperation, when deregulation and neoliberalism impacted workers' economic security.<sup>171</sup> Unions and environmental organizations were unable to overcome tensions due to the economic recession, employer threat of job loss and class tensions within the movement.<sup>172</sup> Workers' increased economic precarity has exacerbated tension with environmental movement demands including the Green New Deal, which is what we are observing today. As mentioned below, one way to address these concerns is for environmental organizations and unions to address this threat, and advocate not just for jobs but "just jobs."<sup>173</sup>

While this essay has focused on the labor side of this labor-environment collaboration question, it is equally important to highlight the classism and middle class nature of some facets of the environmental movement that alienates unions and workers.<sup>174</sup> During the zenith period of collaboration, some larger environmental organizations failed to make labor issues their movement's priority.<sup>175</sup> Closer examination reveals where

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168. RICHARD KAZIS & RICHARD L. GROSSMAN, FEAR AT WORK: JOB BLACKMAIL, LABOR AND THE ENVIRONMENT (1982).

169. Velut, *supra* note 38, at 66-8.

170. Barca, *supra* note 152, at 69.

171. See Cowie, *supra* note 13, at 32 (describing the 80s as a time when the state returns to a period of protecting business interests and corporations and a fragmentation of workers along the lines of race, immigration).

172. Gordon, *supra* note 143, at 476.

173. See generally Stevis, *supra* note 46, at 190 (stating how green jobs can replicate the same equity concerns raised by the present global division of labor).

174. *Id.* at 461 (discussing the class component of the conflict between environmentalists and workers). It is worth noting a distinction between mainstream environmentalism and environmental justice movements that were more diverse and grassroots. See Van Alstyne, *supra* note 138, at 615-16 (distinguishing reform environmentalism which is predominant and environmental justice). For a history of American environmental movement, see Gottlieb, *supra* note 143, at 36 (situating environmentalism as part of larger social movements).

175. Gordon, *supra* note 143, at 477.

there have been strategic opportunities for collaboration and where there was political education; those collaborations have been successful.<sup>176</sup> Further, those collaborations have been initiated and led by environmentalists in trade unions from the rank-file and grassroots and trade unionists active in the environmental movements.

## B. Labor-Environment Strategies

Unions and social movements including environmental organizations are not monoliths and reflect a diversity of political ideologies. Different unions take different positions, even locals within a national union, in relation to labor-environment cooperation, depending on their sector and how they view the links between environment, capital and labor.<sup>177</sup> Environmental scholar Romain Felli identifies three different strategies<sup>178</sup> taken up by labor in addressing environmental policies with differing political ideologies which is helpful to understand where potential tensions actually lie and where there may be convergences.<sup>179</sup> It is important to keep in mind tensions are not inherently negative, but surfacing them may open up spaces for consciousness raising and political education. Understanding these approaches helps to reframe any future policies, identify spaces for collaboration and address any potential conflicts. The three approaches are: deliberative, collaborative growth and socialist. Policies may comprise

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176. Barca writes that connections between labor and environment that critiques the economic system is capable of producing a new “emancipatory discourse.” Barca, *supra* note 152, at 67; see also OBACH, *supra* note 143, at 8 (discussing instances of labor-environment cooperation can help for broader movement).

177. See Nora Rathzel et al., *Introduction: Expanding the Boundaries of Environmental Labour Studies*, in PALGRAVE HANDBOOK OF ENV. LAB. STUD. 6 (Nora Rathzel et al., eds., 2021) (discussing how the environment has been conceptualized from viewing humans acting on nature and limiting its impact, thereby including nature into social practices, to a co-production relationship, to one where nature is its own subject deserving of protection); see Vachon, *supra* note 96, at 105-26 (discussing how Local 32BJ of Service Employees International Union (SEIU), representing office cleaners, security officers, porters, maintenance workers were the first to endorse the Green New Deal, whereas the energy sector unions were more critical).

178. See Felli, *supra* note 48, at 382 (providing an excellent chart of the three approaches with policies and actors).

179. Interest convergence theory coined by Derrick Bell is instructive to understand how policies are actualized where competing stakeholders are involved. Environment and labor organizations may achieve labor-environment policies when their respective interests converge. See Derrick A. Bell, *Brown v Board of Education and the Interest-Convergence Dilemma*, 93 HARV.L. R. 518, 524 (1980) (discussing interest convergence as how the interests of Blacks in achieving racial equality will be achieved when it converges with the interests of whites).

elements of more than one of these approaches. These are not presented as inflexible, or categorically rigid.

Deliberative is based on a non-conflictual understanding of social relationships and looks toward the state to implement policy and places greater reliance on legal approaches.<sup>180</sup> It views labor, environment organizations and business as equal stakeholders in a neutral socio-economic context that through negotiation and dialogue they can reach agreements on environmental policies.<sup>181</sup> Concepts such as green growth or green economies reflect this deliberative approach. Green growth are ways to reduce pressures on the environment, to conserve natural resources while transitioning to new industries, and to address social welfare.<sup>182</sup> Green growth naturalizes capitalism as the preferred mode of economic development. Mainstream articulations of the Green New Deal that focus on investing in green economies reflect this deliberative approach.<sup>183</sup> The Apollo Alliance which was a coalition of labor, environmentalist and business, and the Blue Green Alliance<sup>184</sup> are examples of this deliberative approach.<sup>185</sup> The federal Inflation Reduction Act of 2022 which financially incentivizes individuals and businesses through tax credits for purchasing clean vehicles, energy efficient commercial buildings, and other environmental policies is another example.<sup>186</sup> The UNEP, with calls for a green economy by making technological fixes, is an international example.<sup>187</sup> This deliberative approach has led to successful green industrial

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180. *Id.* at 381.

181. *Id.* at 383.

182. See Armand Kasztelan, *Green Growth, Green Economy and Sustainable Development: Terminological and Relational Discourse*, 4 PRAGUE ECON. PAPERS 487 (2017).

183. See, e.g., RHIANA GUNN-WRIGHT & ROBERT HOCKETT, *THE GREEN NEW DEAL*, (New Consensus Jan. 2019) <https://newconsensus.com/projects/green-new-deal> [<https://perma.cc/L74P-99DH>].

184. See *Good Jobs: Climate Change and the Clean Economy*, BLUE GREEN ALLIANCE, <https://www.bluegreenalliance.org/work-issue/climate-change/> [<https://perma.cc/3HJX-D92Q>]; Foster, *supra* note 146, at 234; see also Stevis, *supra* note 22, at 607-08 (describing the Blue Green Alliance, as being launched in 2006 by the United Steelworkers and the Sierra Club, after many years of cooperation).

185. See Stevis, *supra* note 22, at 601.

186. See Inflation Reduction Act, H.R. 5376 (2022); see Fact Sheet: The Inflation Reduction Act Supports Workers and Families (Aug. 19, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/19/fact-sheet-the-inflation-reduction-act-supports-workers-and-families/> (It does not guarantee workers jobs in the green economy or prescribe any basic labor standards. It focuses on incentivizing individual consumer and businesses reflecting a market approach).

187. See Steiner, *supra* note 102, at 847 (discussing a green economy where industries move toward clean and efficient technologies).

infrastructure policies where businesses, workers and environmental groups benefit from public investments in manufacturing industries.

Collaborative growth recognizes that there are industrial sectors that will be impacted by environmental regulation.<sup>188</sup> Further, it recognizes that capitalism does have an impact on workers and the environment, and conflicts may arise, but seeks solutions to ameliorate that impact without challenging capitalism.<sup>189</sup> Similar to the deliberative model, there is an implicit assumption that capitalist economic development is ultimately beneficial; ecological and labor impacts can be addressed.<sup>190</sup> Much of labor-environment policy including the Green New Deal embodies that approach. Most trade unions in the US have taken this collaborative growth approach in the form of advocating for green jobs or just transition.<sup>191</sup> While advocates vary, mainstream definitions of just transition,<sup>192</sup> which seeks to protect jobs are also an example of this approach. While the Labor Network for Sustainability (LNS)<sup>193</sup> employs the just transition language, it is oriented towards social environmentalism which is attuned to the role of the economy in structuring the labor-environment relationship.

Finally, the socialist strategy (and I would add an anti-capitalist strategy) places the origins of both labor and environmental destruction

188. See Felli, *supra* note 48, at 385.

189. *Id.*; see also Fred Magdoff & John Bellamy Foster, *What Every Environmentalist Needs to Know About Capitalism*, MONTHLY REV. (Mar. 1, 2010), <https://monthlyreview.org/2010/03/01/what-every-environmentalist-needs-to-know-about-capitalism/> [<https://perma.cc/NJN7-SCWM>] (commenting on green thinkers who criticize capitalism's failure but ultimately advance solutions that are about curbing and controlling its impact).

190. Felli has also described this as an ecological modernization perspective because it fails to address the social relations of property and production in capitalism that may contribute to the climate crisis. *Id.* at 380. For proponents of ecological agriculture and food sovereignty movements, this view is at odds with environmental justice because under the banner of modernization and green technologies, corporations have promoted GMO seeds and industrialized agriculture. In the New Deal era, and in the new Green New Deal, greater attention needs to be placed on the impact on agricultural workers and farmers, especially when we view the large farmer protests in India. Mandeep Rai Dhillon, *The World's Largest Protests You've Probably Never Heard of*, CNN (Mar. 6, 2021, 11:43 AM), <https://www.cnn.com/2021/03/06/opinions/india-farmer-protests-mandeep-rai-dhillon/index.html> [<https://perma.cc/SL8G-NTBK>].

191. See Sean Sweeney & John Treat, *Trade Unions and Just Transition* (Trade Unions for Energy Democracy, Working Paper No. 11, 2018), [https://rosalux.nyc/wp-content/uploads/2021/09/tuedworkingpaper11\\_web.pdf](https://rosalux.nyc/wp-content/uploads/2021/09/tuedworkingpaper11_web.pdf) [<https://perma.cc/96RZ-B793>].

192. Felli, *supra* note 48, at 380; see also Vachon, *supra* note 96, at 118 (describing protective just transition which seeks to protect jobs and focuses on sites of employment, from a proactive one which involves large scale public investments, and distinguishes those from a transformative one which envisions a different socio-economic model).

193. See MISSION STATEMENT FOR THE LABOR NETWORK FOR SUSTAINABILITY, LAB. NETWORK FOR SUSTAINABILITY (2016), <https://labor4sustainability.org/wp-content/uploads/2017/03/LNS-Mission-and-Principles.pdf> [<https://perma.cc/D3FB-HVMA>].

within capitalism which views labor and natural resources similarly; namely, that they are resources to use for production to make profit.<sup>194</sup> Working class environmentalism reflects a socialist approach because it examines relations of production including what is produced, who is engaged in production, waste, and the environment in which production occurs.<sup>195</sup> Green unionism, derived from IWW radical unionism, is rooted in a socialist approach. Examples of a socialist approach include IWW organizing of timber and agricultural unions, green bans by labor unions in Australia<sup>196</sup> which blocked construction jobs that were environmentally or socially destructive, and Earth First! organizer Judith Bari's efforts to build alliances between timber workers and radical environmentalists.<sup>197</sup>

The socialist strategy emphasizes the need to submit economic production to greater community control.<sup>198</sup> While reformist approaches and proposals can be advanced under a socialist approach including ones that fall into the deliberative or collaborative approach such as green job creation legislation, those proposals are not the end itself.<sup>199</sup> Law and policies, even if they are for the present moment reform oriented, should be evaluated based on meeting the goal of increasing community control over workers' livelihood and increasing protections for the environment. Further, the socialist approach would involve policies that advocate a holistic view of humans' relationship to the environment.<sup>200</sup>

Due to contradictions in capitalism and tensions within social movements, particularly around race, class and gender, there are challenges to socialist oriented labor-environment formations and it is not easy for these formations to last. However, labor-environment issues and movements are not in an intrinsic tension so much as the focus is on the tensions within capitalism. The IWW's focus on organizing and forming one industrial union reflected a similar focus on the capitalist economy to

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194. Felli, *supra* note 48, at 389.

195. Barca, *supra* note 152, at 67.

196. See Meredith Bergman et al., *In Celebration: Jack Munday and the Green Bans*, IWW ENV'T UNIONISM CAUCUS: GREEN UNIONISM (Nov. 8, 2021), <https://ecology.iww.org/taxonomy/term/48> [<https://perma.cc/WHR4-JD5U>]; see also Kurt Iveson, *The Sydney "Green Bans" Show How We Can Transform Our Cities*, JACOBIN (July 10, 2021), <https://www.jacobinmag.com/2021/07/australia-sydney-urbanism-construction-builders-labourers-federation-nsw-green-labor-militancy> [<https://perma.cc/3JTL-BFJH>].

197. See Jakopovich, *supra* note 38, at 40; see generally JUDI BARI, *TIMBER WARS* (Common Courage Press 1994) (comparing corporate treatment of workers as similar to the extraction of natural resources).

198. Felli, *supra* note 48, at 391.

199. See Magdoff & Foster, *supra* note 189, at 97.

200. See, e.g., Zbyszewska, *supra* note 57, at 11 (discussing a "socio-ecological scope for labor law").



prevent division within workers.<sup>201</sup> These socialist oriented labor-environmental policies or formations do not arise organically. They require engagement and coalition building between labor organizers and environmentalists, as we saw from the IWW organizing in timber in the early twentieth century and the proactive outreach to environmental organizations by OCAW and USW.<sup>202</sup> Moreover they require the leadership of unions to proactively reach out to environmental organizations and vice-versa.<sup>203</sup>

A socialist approach requires the development of political consciousness among workers and environmentalists, which would enable worker organizations to see sustainable ecologies as also being able to promote their livelihood needs.<sup>204</sup> One major reason for the failure to sustain labor and environment cooperation was because much of the collaboration occurred at the leadership level. As a result, no “broad-based, unified labor-environmental movement developed at the grassroots.”<sup>205</sup> Such a labor-environment grassroots movement is needed as noted in Section IV given the suppression of radical unions like the IWW has prevented the development of the organizational capacity and infrastructure of independent unions. This is changing through the work of LNS that has taken on a more organizing strategy.<sup>206</sup> Learning from IWW grassroots unionism and present day grassroots environmentalism can help fashion bolder strategies for the future.

Debunking any intrinsic tension between labor and environment, surfacing examples of cooperation, and gaining a better understanding of the politics that underlie labor-environment approaches helps to envision approaches that are more likely to lead to equitable and inclusive labor and environmental programs and policies.

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201. See generally *INDUS. WORKERS OF THE WORLD*, *supra* note 42.

202. See *LOOMIS*, *supra* note 24; *Gordon*, *supra* note 143, at 466 (discussing how OCAW collaborated with Ralph Nader’s Public Citizen and proactively built alliances with leading environmental organizations).

203. *Gordon*, *supra* note 143, at 466.

204. See *Stavis*, *supra* note 22, at 598 (discussing how OCAW organized frontline communities as part of environmental justice movements, organized workers in factories in a Just Transition Alliance in 1997, and hosted group training events by bringing together unionists, community members, and environmentalists).

205. *Gordon*, *supra* note 143, at 463.

206. *Stavis*, *supra* note 22, at 613 (describing the Labor Network as incorporating an organizing strategy).

#### IV. OH, THE PLACES WE CAN GO!<sup>207</sup> EQUITABLE AND INCLUSIVE LABOR AND ENVIRONMENT FUTURES BEYOND THE GREEN NEW DEAL

Labor and environmental movements in the US are at a moment when more conciliatory policies approaches are advanced, as reflected in the Green New Deal, which are about creating green jobs regardless of whether they are just jobs that address workers economic precarity. These policies fail to conduct a whole-sale reevaluation of the relationship between labor-environment and capitalism.<sup>208</sup> The overarching goal must be to reconstitute socio-economic and ecological relations, worker to worker, worker to environment and community that respects their dignity as beings, fulfills their livelihood and needs and protects the environment.<sup>209</sup> With this reframing, through green unionism and green human rights, there can be greater alignment of labor and environment movement goals.<sup>210</sup> While the main purpose of this essay is to offer green unionism and human rights as a different frame from which to imagine labor-environment law and policies, this section draws some key lessons (not exhaustive) from this reframing. It will be up to us through our engagement in grassroots labor and environmental groups<sup>211</sup> to fashion concrete steps through ongoing mutual

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207. See THEODOR SEUSS GEISEL, *OH, THE PLACES YOU'LL GO!* (Random House, 1990) (title alluding to Dr. Seuss, who was a known environmentalist); Springfield Museums, *Environmentalism, SEUSS IN SPRINGFIELD*, <https://seussinspringfield.org/who-is-dr-seuss/who-is-ted-geisel/environmentalism/> [<https://perma.cc/HY2Q-S8GE>]; see also Lisa Lebduska, *Rethinking Human Need: Seuss's The Lorax*, 19 *CHILDS. LITERATURE ASSOC. Q.* 170, 170–76 (1994).

208. See Stevis, *supra* note 22, at 614 (interviewing Joe Uehlein of LNS, who expresses concerns that we fight for “what we can win, we’re selling ourselves short and that’s the direction things are going.”).

209. See Felli, *supra* note 48, at 392 (questioning whether unions are ready to formulate alternative strategies that seek to constitute social relations, in order to open up possibilities for socio-ecological and socialist approaches).

210. See, e.g., Tomassetti, *supra* note 114, at 61–69 (discussing various ways labor law can be adjusted to incorporate environmental concerns into the traditional domain of labor such as collective bargaining, incentives for green technology through green pay which is given to workers through energy saving and waste reduction measures which benefits employers, whistleblowing protection for workers who raise issues of workplace hazards with broader environmental implications).

211. Advocates can turn to groups that are already engaged in the labor-environment collaborative work such as the Labor Network for Sustainability (LNS) which has developed a set of recommendations for labor and environment groups. See generally Cha et al., *supra* note 154; see also *The Green Jobs Assessment Institutions Network (GAIN)*, INT’L LAB. ORG., <https://www.ilo.org/global/topics/green-jobs/areas-of-work/gain/lang-en/index.htm> [<https://perma.cc/93TQ-8DDK>] (discussing grassroots movements on the international level).

engagement and in response to socio-political contexts.<sup>212</sup> Invoking the popular IWW slogan of an *Injury to One is An Injury to All* underscores that this path cannot be forged alone or based on narrow self-interest.<sup>213</sup> Or as articulated by USW 1990 statement on environmental policy: “In the long run, the real choice is not jobs or environment. It’s both or neither.”<sup>214</sup> Bold visions and steps will be needed.<sup>215</sup>

First, labor and environment groups must find common ground and jointly advocate for proposals that challenge the present socio-economic order and move us towards one that squarely addresses environmental and worker exploitation.<sup>216</sup> IWW green unionism views that path as being socialist in orientation, or at the very least providing a critique of the capitalist political economy.<sup>217</sup> Studies show that unions can ensure the enforcement of environmental regulations because labor unions as an institution can place limits on capital that counterbalance “exploitative tendencies of corporations.”<sup>218</sup> It is why labor law scholars including this author view labor law and unions as a productive site from which to address environmental and worker concerns.<sup>219</sup> While not socialist in nature, Blue Green Alliance found common ground between labor and environmental organizations around trade agreements<sup>220</sup> and used green industrial policy to

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212. See e.g. Doorey, *supra* note 118 (discussing the need for a new area of law called just transition law bringing together labor and environment law together to address climate change).

213. Union failure to address green unionism or provide greater engagement with environmentalism will adversely impact more emancipatory union organizing. See Stevis, *supra* note 18, at 156.

214. Foster *supra* note 146, at 234.

215. See Michael Burger, *Five Legal Principles for the Green New Deal*, WASH. POST (May 22, 2019), <https://www.washingtonpost.com/outlook/2019/05/22/five-legal-principles-green-new-deal/> [<https://perma.cc/CM2H-6HZC>] (discussing how an ambitious vision can help provide a new vision for environmental law).

216. See Vachon, *supra* note 96, at 119 (describing a transformative and just transition as not just protecting workers or planning for job loss and sustainability but “transitioning to an entirely different socio-economic model which addresses the root cause of environmental degradation, worker exploitation, and social injustices”); see Strine, *supra* note 54, at 90 (discussing how the New Deal placed American workers in greater competition with other workers and vulnerability due to the incomplete vision of the New Deal, and recommending a global New Deal that “guarantees economic security for the many into the globalized economic system”).

217. See INDUS. WORKERS OF THE WORLD, *supra* note 42.

218. Alvarez et al., *supra* note 127, at 21.

219. See generally Zbyszewska, *supra* note 57; Eisenberg, *supra* note 92; Doorey, *supra* note 118.

220. Foster, *supra* note 146, at 238 (discussing USW and Sierra Club collaborations, especially around WTO debates, pushing for enforceable labor and environmental side agreements).

channel public investments in the manufacturing industry.<sup>221</sup> By developing a strategic partnership between manufacturing union USW and environmental groups, they refused to settle for “least common denominator” proposals which impeded early labor-environment efforts and focused on common ground issues.<sup>222</sup> Another area where labor unions-environmental groups have found common ground is in environmental regulations that touch on the workplace such as air pollution.<sup>223</sup> Studies have shown that nations with highly unionized workforces have lower carbon emissions.<sup>224</sup> Working class labor environment history has also shown the myriad of ways local unions, rank-file members of unions who are environmentalists and concerned community members have and can advance collaborations on labor and environmental issues outside of the formal spaces of unions or environmental organizations. These are positive developments towards building an equitable and inclusive labor and empowered future.

Second, while labor and environment movements may advance a myriad of strategic approaches, unless there are direct and immediate enforceable regulations of transnational and multinational corporate actors, we will simply whack-a-mole labor and environmental justice issues.<sup>225</sup> Workers, citizens, environmentalists, community members should have a legal vehicle to enforce those regulations of corporate actors.<sup>226</sup> When we view major labor-environmental disasters,<sup>227</sup> impacted workers and communities have not been able to hold corporate actors legally accountable.<sup>228</sup> Labor and environment groups must support efforts

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221. Stevis, *supra* note 20, at 615.

222. Foster *supra* note 146, at 239.

223. Foster, *supra* note 146, at 238 (discussing how USW raised air quality in strike demands); *see also* Alvarez, *supra* note 127, at 22; *see generally* Scott L. Cummings, *BLUE AND GREEN: THE DRIVE FOR JUSTICE AT AMERICA’S PORT* (MIT Press 2018) (documents the Campaign for Clean Trucks by immigrant port drivers to reform the trucking industry and addressed environmental concerns from poorly maintained trucks that contributed to air pollution; this campaign provided an opportunity for labor and environmental groups to come together where they were otherwise in conflict).

224. Alvarez et al., *supra* note 127, at 33-34.

225. *Id.* at 34 (discussing the importance on being specific and setting deadlines to achieve vision).

226. *See, e.g.*, Zachary D. Clopton, *Civil Justice and The (Green) New Deal*, 69 DEPAUL L. REV. 335 (2020) (discusses how the Green New Deal can utilize civil enforcement regimes as was done in the New Deal era by incentivizing private enforcement of federal rights).

227. *See generally* ERIC LOOMIS, *OUT OF SIGHT: THE LONG AND DISTURBING STORY OF CORPORATIONS OUTSOURCING CATASTROPHE* (2015).

228. *See, e.g.*, Tim Covell, *The Bhopal Disaster Litigation: It’s Not Over Yet*, 16 N.C. J. INT’L L. & COM. REGUL. 279, 279–80 (1991); *but see* Jeff Brady, *In a Landmark Case, a Dutch Court Orders Shell to Cut Its Carbon Emissions Faster*, NPR (May 26, 2021, 11:08 AM), <https://www.npr.org/2021/05/26/1000475878/in-landmark-case-dutch-court-orders-shell-to-cut-its-carbon-emissions-faster> [<https://perma.cc/Q98F-X8F3>].

to pass a binding treaty to hold multinational companies legally responsible for human rights violations, which include labor and environmental rights.<sup>229</sup> Advocates have suggested the use of Global Framework Agreements, where unions and multinational companies agree to set labor standards as a place where environmental protections can be added.<sup>230</sup> Unions can explore the collective bargaining process as a site to enforce controls over company conduct which empowers workers to exercise greater control over their working conditions and play a more direct role in environmental protection.<sup>231</sup> Local communities, though municipalities and local regulatory bodies, can exercise greater control over labor and environmental decisions that adversely impact them.<sup>232</sup> Recent legislation by states including New York to adopt a Constitutional Green Amendment could bring corporate actors within community oversight.<sup>233</sup>

Third, labor and environmental groups must form genuine and transformative solidarities<sup>234</sup> by viewing their respective issues (e.g. job creation, environmental regulation) as their priority even if it does not meet the narrow interests of their members or constituents. Broad environmental changes will not happen without the involvements of

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229. See *generally Binding Treaty*, BUS. & HUM. RTS. RSCH. CTR., <https://www.business-humanrights.org/en/big-issues/binding-treaty/> [<https://perma.cc/D2DS-FMS9>].

230. See Stevis, *supra* note 18, at 151 (describing how global agreements “can serve as a vehicle and a learning ground” for integrating environmentalism within global union governance).

231. See Alvarez et al., *supra* note 127, at 34.

232. See, e.g., *Climate Mobilization Act*, N.Y.C. COUNCIL, <https://council.nyc.gov/data/green/> [<https://perma.cc/Z94V-F4C8>] (legislation to reduce greenhouse gas emissions from and improve energy efficiency for certain buildings in New York City); see also A Green New Deal is Already Underway in States and Cities, <https://www.sierraclub.org/trade/green-new-deal-already-underway-states-and-cities> (last visited Sept. 24, 2022); *But see* Andrea Furnaro & Kelly Kay, *Labor Resistance and Municipal Power: Scalar mismatch in the Los Angeles Green New Deal*, *Pol. Geography* 98 (2022) (discussing some jurisdictional challenges to a municipal level GND).

233. See N.Y. Const. of 1938, art. 1, §19 (stating that “each person shall have a right to clean air, water and a healthful environment.”); see also New York’s Green Amendment, S 5.59, N.Y. Prac. Env’t L. & Regul. (passed due to concerns that environmental legislation did not address pollution, especially in disadvantaged communities); Wendy Kerner, *Making Environmental Wrongs Environmental Rights: A Constitutional Approach*, 41 *STAN. ENV’T L. J.* 83 (2022) (advocates for a green amendment in each state constitutions and uses a Colorado case study to show how such an amendment can protect the public).

234. See Desis Rising up and Moving (“DRUM”) four levels of solidarity including transformative, which is when oppressed communities forego something that would benefit them in the immediate because it comes at the expense of other oppressed communities. Resources: Four Levels of Solidarity, Movement Hub (last visited Oct. 23, 2022), <https://movementhub.org/resource/four-levels-of-solidarity/>.

workers and unions.<sup>235</sup> This can happen if there is an alignment on strategic approaches and political ideas underlining their campaigns and policies. For example, if environmental regulations lead to job loss, environmental organizations must support and guarantee full employment, training, and support living wages and other benefits for workers.<sup>236</sup> Environmental organizations must support unionization in green jobs and oppose the creation of new jobs that lower the workplace standards of workers.<sup>237</sup> Workers have most directly experienced increased economic precarity and widening inequalities through changes in the economy and the fear of new transitions are real.<sup>238</sup> These fears should not be dismissed or condescended to but met with a commitment to improving living standards for workers and their families.<sup>239</sup> Or, even if environmental regulations lead to short-term job loss, unions could do a better job to educate members on the long term employment gains as evidenced by research.<sup>240</sup> In other words, environmental movements must join in labor's demands and vice-versa in authentic and genuine solidarity.

Fourth, mainstream national environmental organizations must address the classism within their organizations which alienates rank-file workers,<sup>241</sup> and both trade union and environmental groups must address

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235. Dharna Noor, *Why Unions Are the Key to Passing a Green New Deal*, GIZMODO (Sept. 25, 2020, 9:11 AM), <https://gizmodo.com/why-unions-are-the-key-to-passing-a-green-new-deal-1845169012> [<https://perma.cc/7RA8-4UHA>]; see also Alvarez et al., *supra* note 127, at 20 (explaining how environmental sociologists found that legislation aimed at protecting the environment has had modest effects on reducing environmental impacts, suggesting legislative proposals alone will not address environmental harms).

236. See J. Mijin Cha, *A Just Transition: Why Transitioning Workers into a New Clean Energy Economy Should Be at the Center of Climate Change Policies*, 29 FORDHAM ENV'T L. REV. 196, 208 (2017) (explaining the importance of funding for workers for a just transition, including unemployment, fully funded pensions, education, and training benefits); see also Alvarez et al., *supra* note 127, at 22 (discussing how in the 1950s and 1960s AFL pushed for compensation for workers who lost their jobs to automation and that it is unions that can best advocate for health and other social insurance programs for workers).

237. See generally Stevis, *supra* note 46 (distinguishing between green jobs and just jobs).

238. See Rachel M. Cohen, *Labor Unions Are Skeptical of the Green New Deal, and They Want Activists to Hear Them Out*, INTERCEPT (Feb. 28, 2019, 9:32 AM), <https://theintercept.com/2019/02/28/green-new-deal-labor-unions/> [<https://perma.cc/LYV4-LF53>] (quoting member of United Mine Workers of America expressing concerns as to what exactly a just transition means but noting that if wages and benefits remain same to what workers are getting now, workers would consider it).

239. See Cha, *supra* note 236, at 205 (explaining why a just transition must minimize hardships for workers).

240. One of the successes of OCAW collaboration with leading environmental groups was the political education the union offered their members. See Gordon, *supra* note 143, at 477.

241. Gottlieb, *supra* note 143, at 36.

sexism and racism that alienates marginalized communities often ignored by both movements.<sup>242</sup> Political education and consciousness raising about each movement is key.<sup>243</sup> Both environment and labor groups must reflect a commitment to multi-racial, ethnic, and feminist organizing similar to IWW and radical unions. It should be noted that a vibrant, grassroots, multi-racial environmental justice movement exists which should be centered in any future labor-environment collaborations.<sup>244</sup> This essay's critique is focused on dominant narratives and organizations.<sup>245</sup> Human Rights principles of paying attention to those most vulnerable and adversely impacted in devising policies is essential so that the burdens of economy and environmental policies are equally shouldered.<sup>246</sup>

Fifth, existing labor and environment collaborations need to be sustained and deepened whereby strategies that involve multiple stakeholders, are multi-pronged and multi-nodal are coordinated. The green unionism and green human rights framing discussed in this essay can serve as the basis to coordinate and align these efforts. This means finding opportunities for cooperation or collaboration among actors that share similar values at the municipal,<sup>247</sup> state,<sup>248</sup> federal, and international

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242. See generally Yamamoto & Lyman, *supra* note 78 (writing on race and modern environmental movement); see BARI, *supra* note 198, at 219, 225 (discussing how women who led actions of Red Summer to protect the forests were not respected by mostly male leadership of Earth First!); Marion Crain, *Between Feminism and Unionism: Working Class Women, Sex Equality and Labor Speech*, 82 GEO. L. J. 1903, 1907–08 (1994) (explaining how labor unions have ignored the experiences of working class women and how law reinforces the “gendered nature of unionism”); see also DORCETA TAYLOR, *THE STATE OF DIVERSITY IN ENVIRONMENTAL ORGANIZATIONS, GREEN 2.0* (2014).

243. See Vachon, *supra* note 96, at 122; see also Stevis, *supra* note 22, at 614 (discussing LNS training programs for environmental activists on labor union history).

244. See generally LUKE COLE & SHEILA FOSTER, *FROM THE GROUND UP: ENVIRONMENTAL RACISM AND THE RISE OF THE ENVIRONMENTAL JUSTICE MOVEMENT* (2000).

245. *Id.* at 151 (discussing environmental justice networks such as Indigenous Environmental Network which reflects a shift from the top-down environmental groups to a decentralized, geographically but highly organized structure).

246. Human Rights and Environment Principle 14: “States should take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks, and capacities.” See Knox, *supra* note 113, at 20.

247. See, e.g., *Climate Mobilization Act*, N.Y.C. COUNCIL, <https://council.nyc.gov/data/green/> [<https://perma.cc/Z94V-F4C8>] (legislation to reduce greenhouse gas emissions from and improve energy efficiency for certain buildings in New York City); see, e.g., also Press Release, *On Earth Day, Council Announces New Environmental Legislation*, N.Y. C. COUNCIL (Apr. 22, 2022), <https://council.nyc.gov/press/2022/04/22/2174/> [<https://perma.cc/RD93-JJ7U>] (outlining municipal actions taken by N.Y.C. that demonstrate environmental values at the local level).

248. See Cha, *supra* note 236, at 196–97 (discussing why activists should turn to state and local governments); see also Dharna Noor, *‘Everyone Wants a Good Job’: The Texas*

spheres. In doing so, all those spheres open as potential sites for advocacy. It frees up activists from pursuing a singular legislative effort focused on the federal government, as did advocates during the New Deal era, which invariably leads to compromises with long lasting consequences such as racial and gender exclusions.<sup>249</sup> Specifically, this may mean connecting national networks focused on the Green New Deal in the US with international trade union efforts. Movements must not be afraid to use direct action strikes, consumer boycotts and other non-institutional and non-legal approaches to build labor and environmental actors' collective power. The over reliance on legal and institutional approaches particularly a federal one while neglecting organizing will be a mistake.<sup>250</sup>

Finally, both movements must be committed to building a grassroots, rank-file labor, and environmental transnational movement for any collaborations to be sustained. Adopting a radical, internationalist, human rights from below vision of labor and environment offered by green unionism and green human rights can help. This reframing and lessons learned from labor-environment policies can give strategies greater clarity.

### CONCLUSION

Green unionism and human rights rooted in socialist and broader anti-capitalist approaches that seek to reconfigure socio-economic and ecological relations provide an effective framework to advance equitable and inclusive labor and environment policies. Deals are costly compromises which exclude vulnerable communities who are often most in need of legal protection, as shown by the history of the New Deal era. Green unionism is about building workers collective power over their livelihood and emancipating nature from capital's dominance. Human rights articulate values that shape our vision of a society we want to build. Both involve workers and communities gaining greater control over production, their lives and environment. At present, the labor-environment policies remain at the reformist visions of just transition focused on a job rather than just jobs and livelihoods which is limiting the contours of the Green New Deal in

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*Unions Fighting for a Green New Deal*, GIZMODO (Aug. 18, 2021), <https://gizmodo.com/the-texas-unions-fighting-for-a-green-new-deal-1847432841> (discussing Texas AFL-CIO comprised of 121 local unions voted in favor of a green jobs plan).

249. Cowie, *supra* note 13, at 36 (urging labor activists to look at more local wage coalitions, municipal ordinances, workers' centers than towards Congress or the "once-promising" mechanism of NLRA).

250. *Id.* at 15 (reasoning that large-scale federal labor law reform would most likely fail and encouraging more alternative forms of advocacy such as workers' centers, municipal regulation, and social pressures through coalitions).



much the same way as did the New Deal policies. Such policies fail to mobilize the potential of labor and environmental movements' capacity to bring forward an inclusive, equitable and more emancipatory vision of the relationship between labor-environment. Early histories of IWW grassroots transnationalism and labor-environment collaborations reveal that more radical imaginings are necessary. While intermediate policies can be immediately taken to protect the environment and ameliorate hardships from widening inequalities, our vision needs to move beyond the Green New Deal. Such an emancipatory approach which seeks to reevaluate our views on humans and environment is not without its challenges, but there are vibrant grassroots movements, in the United States, global south, and in frontline communities impacted by environmental degradation, from whom we can learn from, as well as leadership of marginalized communities in the US and around the globe.<sup>251</sup>

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251. See LEILANI NISHIME & KIM HESTER WILLIAMS, *COLLECTIVE STRUGGLE, COLLECTIVE ECOLOGIES*, IN *RACIAL ECOLOGIES* (Leilani Nishimi & Kim Hester Williams eds., 2018) (discussing how marginalized communities resist despite compromised environments and envision "generative and just environmental relations.").