

# **Downturn in strike activity reflects COVID-19 recession but fails to capture many walkouts for worker safety**

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## **Summary**

This report finds that after increasing dramatically in 2018 and 2019, the official federal count of workers involved in major strikes dropped in 2020. Key findings include:

- Anemic wage growth despite low unemployment—motivating workers to push for pay raises that the tight labor market was not delivering—likely explained the large increase to an annual average of 455,400 workers involved in the Bureau of Labor Statistics tally of “major work stoppages” in 2018 and 2019.
- Due to the COVID-19 recession, the number of people involved in major work stoppages fell to 24,000—the lowest count since 2009, the depths of the Great Recession.
- The BLS data on major work stoppages only include strikes (and the rare employer lockout) involving 1,000 or more workers lasting at least one full shift. These size and duration limits mean that the BLS data did not capture the actions taken by many workers who walked off the job to demand a healthy and safe workplace during the pandemic.

The longer-run decline in major strike activity and the current low level of action despite continued risks under the pandemic highlight the need to strengthen the right to strike:

- Crucial reforms in the Protecting the Right to Organize (PRO) Act would strengthen the right to strike and would help ensure that workers have the leverage they need to secure their share of economic growth.
- Directing more resources to BLS to allow more comprehensive tracking of work stoppages would provide policymakers with a clearer picture of how workers are able to exercise their collective

bargaining rights.

## Introduction

Data from the Bureau of Labor Statistics (BLS) show a decline in major work stoppages (strikes and similar activities) in 2020. This follows an upsurge in these activities in 2018 and 2019—when the pooled annual average of the number of workers involved in a major work stoppage reached a 35-year high. In the 2018–2019 period, an annual average of 455,400 workers were involved in major work stoppages—work stoppages involving 1,000 or more workers and lasting one shift or longer. In 2020, as the COVID-19 pandemic wreaked havoc on the U.S. economy and labor market, just 24,000 workers were involved in major work stoppages. However, this 2020 figure does not count the numerous examples of workers speaking out against unsafe working conditions and engaging in work stoppages involving 1,000 workers or fewer workers.

In this brief we cover the basics on strikes and other work stoppages, discuss likely reasons why the increase in work stoppages in 2018 and 2019 was followed by a decline in 2020, and highlight important work stoppages that don't appear in the BLS data.

## The law grants private-sector workers the right to strike

BLS's work stoppage data include strikes, which are initiated by workers, and lockouts, which are initiated by management. Since lockouts are rare relative to strikes, it is reasonable to discuss major work stoppage data as a proxy for data on major strikes.

A strike is when workers withhold their labor from their employer for a period of time during a labor dispute. By withholding their labor—labor that employers depend on to produce goods and provide services—workers are able to counteract the inherent power imbalance between themselves and their employer. In this way, strikes provide critical leverage to workers when bargaining with their employer over fair pay and working conditions or when their employer violates labor law.

Most private-sector workers in the United States are guaranteed the right to strike under Section 7 of the National Labor Relations Act (NLRA). Section 7 of the Act grants workers the right “to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.” This allows private-sector workers to engage in “concerted activities” such as strikes regardless of whether the worker is in a union or covered by a collective bargaining contract. There is no federal law that gives public-sector workers the right to strike, but a dozen states grant public-sector workers the right to strike.<sup>1</sup>

## There are legal and practical limits to exercising the right to strike, depending on the type of

## strike

In general, there are two types of strikes: economic strikes and unfair labor practice strikes.

In an economic strike, workers withhold their labor as leverage when bargaining for better pay and working conditions. While workers in economic strikes retain their status as employees and cannot be discharged, their employer has the right to withhold pay during the strike period and permanently replace them.<sup>2</sup> Although a worker who is permanently replaced is not fired, the worker's position is precarious. At the conclusion of an economic strike, replaced workers are not automatically reinstated in their old jobs but rather given priority to apply for any future job openings. In other words, while workers have the legal right to participate in an economic strike—and remain employees while on strike—current law makes participation risky because workers might be out of a job when the strike concludes.

In an unfair labor practice strike, workers withhold their labor to protest their employer engaging in activities that the workers regard as a violation of labor law. Workers in an unfair labor practice strike cannot legally be discharged or permanently replaced. When an unfair labor practice strike concludes, workers who were on strike are entitled to be reinstated even if replacement workers have to be discharged.

Workers in both economic and unfair labor practice strikes are entitled to back pay if the National Labor Relations Board (NLRB) established to carry out key parts of the NLRA finds that the employer unlawfully denied the workers request for reinstatement.

While Section 7 of the NLRA provides workers the right to strike, not all strikes are lawful. Under the NLRA, it is currently unlawful for workers to be involved in “secondary” strikes, which are strikes aimed at an employer other than the primary employer (for example, when workers from one company strike in solidarity with another company's workers). In addition, if a strike is deemed an “intermittent strike”—when workers strike on-and-off over a period of time—it is not protected as a lawful strike by the NLRA. In general, a strike is also unlawful if the collective bargaining agreement between a union and the employer is in effect and has a “no-strike, no-lockout” clause.

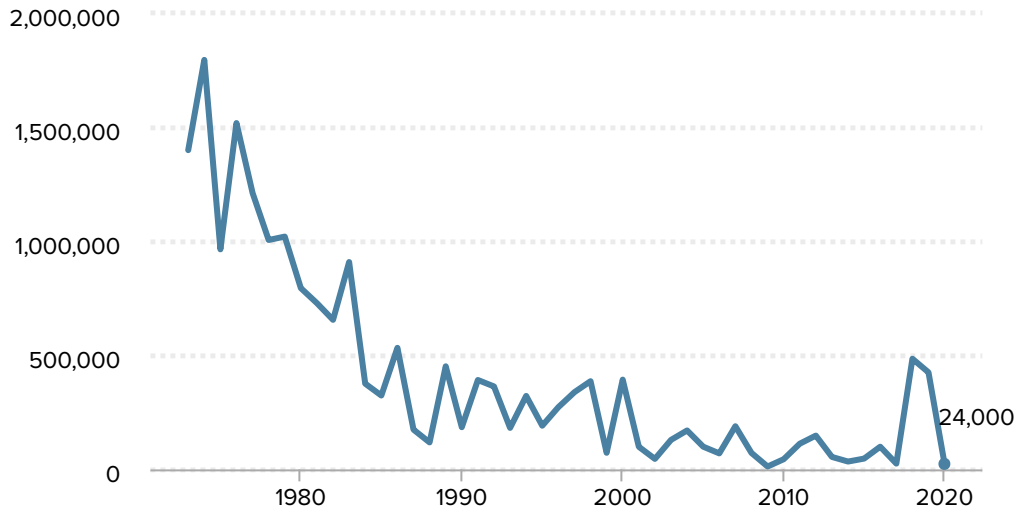
## The large increase in strike activity in 2018 and 2019 was followed by a sudden drop in 2020

BLS data on work stoppages involving 1,000 or more workers lasting one shift or longer show that 24,000 workers were involved in major work stoppages during 2020 (see Figure A).<sup>3</sup> This was a large drop from 2018 and 2019, when, in a substantial departure from a longer run downward trend, an annual average of 455,400 workers were involved in major work stoppages. The annual average number of people involved in work stoppages in the 2018–2019 period was the largest two-year pooled annual average in 35 years, since 1983–1984. Further, 2019 recorded the greatest number of work stoppages involving 20,000 or more workers since at least 1993, when the BLS started providing data

Figure A

## After increasing dramatically in 2018 and 2019, major strike activity dropped in 2020

Number of workers involved in major work stoppages, 1973–2020



**Note:** The Bureau of Labor Statistics does not distinguish between strikes and lockouts in its work stoppage data. However, lockouts (which are initiated by management) are rare relative to strikes, so it is reasonable to think of the major work stoppage data as a proxy for data on major strikes. Data are for work stoppages that began in the data year. Data are for public- and private-sector workers.

**Source:** Bureau of Labor Statistics, “Major Work Stoppages in 2020” (news release), February 19, 2021, and related table, “Annual Work Stoppages Involving 1,000 or More Workers, 1947–2020.”

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that made it possible to track work stoppages by size.<sup>4</sup>

## While low unemployment and anemic wage growth likely explained the large increase in strikes in 2018 and 2019 the COVID-19 pandemic led to the sudden drop in 2020

The increased strike activity in 2018 and 2019 likely stems from two factors. First, workers know that if they are fired or otherwise pushed out of their job for participating in a strike when the unemployment rate is extremely low, they are likely to be able to find another job. And the unemployment rate averaged 3.8% in 2018 and 2019, its lowest level in 50 years.<sup>5</sup> Second and likely more important, working people who do not see wage growth when the economy is doing well are motivated to push for their fair share of economic growth. Workers in 2018 and 2019 were not seeing the robust wage growth that one would expect with such a low unemployment rate and wages for working people remained low, with many families struggling to make ends meet.<sup>6</sup> For the 2018–2019 period, the real wage of the median worker averaged \$19.24 per hour, which translates to about \$40,000 per year for a full-time, full-year worker. That low wage level demonstrates

that the U.S. economy was not delivering for most working people, despite low unemployment.<sup>7</sup> Further, inequality continued to rise, as the people who already had the most saw strong gains.<sup>8</sup> The increase in strike activity in those years suggests that many working people had concluded that they could no longer wait for a tight labor market to deliver broader shared prosperity. If even a sub-4% unemployment rate 10 years into an economic recovery was not providing enough leverage to meaningfully boost wages of typical workers, they likely saw the need to join together to demand a fair share of the recovery.

In 2020, the situation was very different. The coronavirus pandemic hit the U.S. in full force in March, with former President Trump declaring a national emergency on March 13, 2020. The unemployment rate peaked at 14.8% in April, and the average unemployment rate from April to December was 9.5%.<sup>9</sup> At the end of the year, the number of workers who were either unemployed, otherwise out of work because of the virus, or who were employed but had seen a drop in hours and pay was still in the tens of millions.<sup>10</sup> In this environment—with job losses surging and large swaths of the economy hobbled—major work stoppages dropped substantially from the levels of the prior two years. In fact, the total number of workers involved in major work stoppages in 2020, at roughly 24,000, was lower than it had been since 2009, when, in the depths of the Great Recession, only 12,500 workers were involved in major work stoppages. And unsurprisingly, most of the major work stoppages of 2020 began before the COVID-19 national emergency was declared on March 13. In 2020, only 11,600 workers were involved in major work stoppages that began after March 13. Another difference worth noting between the 2018–2019 period and 2020 is that the 2018–2019 resurgence in major work stoppages was spurred by large public school teacher strikes demanding just wages and better learning conditions for students. These large-scale teacher strikes did not happen during the pandemic.

## **Higher ed service workers among those who went on strike in 2020**

The work stoppage data from the BLS include a breakdown by name of organizations involved in major work stoppages. The data combined with an EPI review of publicly available sources suggest a range of strike activity in 2020. Following is just one example.

### **University of Illinois at Chicago workers strike for pay raises and safety protections**

On September 14, 2020, more than 4,000 workers at the University of Illinois at Chicago went on strike.<sup>11</sup> The workers, represented by the Service Employees International Union (SEIU) Local 73, authorized the strike after a year's worth of failed contract negotiations to address fair pay and working conditions. The striking workers called for minimum wage increases, adequate staffing levels, and safer working conditions during the coronavirus pandemic. The strike also served as a solidarity action with nurses at the University of Illinois Hospital, who had just begun a strike of their own to call for adequate staffing levels

and protective equipment.<sup>12</sup>

After ten days, the UIC strike concluded when SEIU Local 73 and the university agreed to a four-year contract that provided across-the-board raises and back pay for all workers, safe staffing levels to limit exposure to the coronavirus, personal protective equipment, protections against outsourcing, and for establishing a \$15 minimum wage for building service workers.<sup>13</sup>

## Many important work stoppages of 2020 did not appear in BLS data

The BLS data on work stoppages, while crucial, have a major limitation—the data include only information on work stoppages involving 1,000 or more workers that last at least one full shift. There is an enormous amount of information that is missed by restricting the data to work stoppages involving at least 1,000 workers, as evident in BLS data on firm size. According to the BLS, nearly three-fifths (58.9%) of private-sector workers are employed by firms with fewer than 1,000 employees.<sup>14</sup> Restricting the tracking to actions that last at least one full shift also misses important work stoppages.

Unfortunately, these size and duration limits mean that the BLS data are not capturing the actions taken by many workers who walked off the job to demand a healthy and safe workplace during the pandemic. These limits make it difficult to determine and understand the extent to which workers are using their fundamental right to strike. Further, comprehensive data on work stoppages involving fewer than 1,000 workers or lasting less than one full shift are not readily available from other sources.

Resources should be directed to BLS to allow more comprehensive tracking of work stoppages. Without comprehensive data on work stoppages, policymakers lack the information necessary to adequately address the needs of workers in the United States. However, news coverage provides some information on work stoppages during the pandemic. Here, we include examples of work stoppages not covered in the BLS data.

## The May Day walkouts called attention to inadequate protections for front-line workers

On May 1, 2020—coinciding with International Workers’ Day or “May Day”—front-line workers across the U.S. participated in walkouts calling for fair pay and working conditions amid the coronavirus pandemic. The walkouts involved workers from some of the largest retailers, including Amazon, Target, and Instacart.<sup>15</sup> The walkouts arose because these companies were not providing front-line workers with adequate protections from the coronavirus. The front-line workers’ demands included access to personal protective equipment, expansion of paid sick leave, hazard pay, and enforcement of social distancing at the workplace.<sup>16</sup> While the May Day walkouts did not cause any major disruptions for the retailers, it shed light on the abysmal protections front-line workers received during the coronavirus pandemic.

## **General Electric workers staged protests to preserve jobs by making ventilators**

In spring 2020, General Electric (GE) workers staged a series of protests demanding GE Aviation factories be converted to build ventilators during the coronavirus pandemic.<sup>17</sup> The protests, which included workers in Massachusetts, Virginia, Texas, and New York, were organized shortly after GE Aviation announced it planned to layoff 10% of its U.S. workforce and furlough 50% of its maintenance workers. To preserve those jobs, the Industrial Division of the Communications Workers (IUE-CWA), the union representing the workers, urged GE to take federal stimulus funds included in the stimulus bill passed by Congress in March and switch production from aviation parts to ventilators.<sup>18</sup> But despite the shortage of ventilators in the United States, GE did not seek federal assistance<sup>19</sup> or shift aviation factory production to ventilators.<sup>20</sup>

## **In conclusion, worker actions despite decline in strikes during the pandemic highlights the need for new legislation protecting the right to strike**

While 2020 BLS data show a decline in major strike activity, workers facing high unemployment and an uncertain economy continue to engage in concerted activity. Front-line and essential workers during the coronavirus pandemic are a critical part of this trend, demanding better pay and safer working conditions from their employers. That is why it is important to address the shortcomings in current law that leave private-sector workers without a meaningful right to strike. For example, when workers at an Amazon warehouse in New York City joined together and walked out to protest safety conditions at the start of the pandemic, Amazon retaliated by firing one of the lead organizers of the walkout.<sup>21</sup>

Court decisions have dramatically undermined this right by allowing employers to “permanently replace” strikers—in other words, replace strikers with other workers so the strikers no longer have jobs. As noted earlier, being placed on a priority list to fill future openings rather than reinstated in one’s old job is a very weak protection.

The law also prohibits workers employed by one company from boycotting so-called “secondary” companies as a means of putting economic pressure on the workers’ employer, even if these secondary companies hold real sway over the employer and could help settle the dispute.

The Protecting the Right to Organize (PRO) Act would help restore workers’ right to strike.<sup>22</sup> The legislation would prohibit employers from permanently replacing striking workers and would repeal the prohibition on secondary boycotts. As the country builds out of the pandemic, it is critical that workers have a meaningful right to withhold their labor as a means of securing fair pay and safe working conditions. This is an important tool for working people. No worker should have to risk their job in order to demand a safe workplace. Policymakers must pass the PRO Act and strengthen the right to strike.

## Endnotes

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