



## **Rights at Work and Workers' Resistance in a Luzon Export Zone**

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### **Abstract**

Unionization and freedom of association are key labor rights that must be enjoyed by all workers. Yet, they are actively suppressed through various schemes of union avoidance and union busting. Repression of unionization is meant to stop workers from bargaining collectively to better their wages and working conditions. The indifference of the State as represented by the Department of Labor and Employment (DOLE) and the Philippine Economic Zone Authority (PEZA) in the case has led to the outbursts of workers' protests and strikes escalating the conflict between workers and capitalists. The study explores the state of rights at work in an Ecozone in Luzon through five case studies of the struggles of workers from different factories. Using the human rights-based approach, it examines how duty bearers are protecting, upholding and fulfilling the rights and entitlements of workers as claim-holders. It also reiterates a set of recommendations by the Partido ng Manggagawa that addresses crucial barriers to fulfilling workers rights in the ecozones.

**Keywords:** export processing zones, unionism, workers, human rights



## Introduction

Labor rights are based on the social justice provisions of the Constitution (Article XIII), on laws enacted by Congress such as Republic Act 9481 which is on strengthening the right to self-organization or with international conventions like the International Labor Organization Conventions 87 and 98 that pertain to freedom of association and collective bargaining, respectively. The Constitution includes among state policies Section 3 that views labor as “a primary social economic force” and guarantees “full protection” to workers. The Labor Code reiterates all the rights enumerated in the Constitution while detailing the mechanisms for their observance and enforcement.

The enjoyment of labor rights is a foundation for the exercise by workers of their workplace-related capabilities to function as human beings. Decent work is promoted by the protection, upholding, and fulfillment of these labor rights and standards.

Diokno (2009) illustrated the vast expanse of the rights at work that workers need to possess. She listed the rights of workers as claim holders and the services that must be provided by the State as duty bearer. She noted two major divisions. One is freedom to choose or accept work, including freedom from unfair deprivation of work. This relates specifically to the right to have work and against illegal termination. Also the provision of state services promoting employment and policies on migration would fall under this category. Another is entitlement to gainful employment and decent work. This narrowly refers to humane wages and working conditions. Examples of these would be the workers’ right to occupational safety and health, and state enforcement through a system of labor inspection and compliance.

However, there are laws and rules that undercut the exercise of these labor rights. For example, Republic Act 6727 (Wage Rationalization Act) institutionalized in 1989 the policy of wage setting at the regional level, thereby resulting in the cheapening of labor at the



expense of the Constitutional mandate of a living wage. Likewise, the series of DOLE department orders (DO) from DO 10 (1997), DO 03 (2001), DO 18-02 (2002), DO 18-A (2011) and finally DO 174 (2017) has been criticized by labor groups for weakening security of tenure and allowing the proliferation of contractualization.

In contrast to the statutory rights of workers, the situation of laborers in the export processing zones (ecozones) is nothing but dismal. In 2009, the Human Rights Report of the US State Department on the Philippines averred that:

Violation of minimum wage standards and the use of contract employees to avoid the payment of required benefits were common, including in the government-designated [Special Economic Zones] SEZs, where tax benefits were used to encourage the growth of export industries.... Complaints about nonpayment of social security contributions, bonuses, and overtime were particularly common with regard to companies in SEZs.

With regard to freedom of association in the ecozones, the same report states that:

Labor groups alleged that companies in Special Economic Zones (SEZs) used frivolous lawsuits as a means of harassing union leaders. Labor groups reported that firms used bankruptcy as a reason for closing and dismissing workers. Labor law applies uniformly throughout the country, including in SEZs; however, local political leaders and officials who governed the SEZs attempted to frustrate union organizing efforts by maintaining union-free or strike-free policies. A conflict over interpretation of the SEZ law's provisions for labor inspection further obstructed the enforcement of workers' rights to organize. The DOLE can conduct inspections of SEZs and establishments located there, although local zone directors claimed authority to conduct their own inspections as part of the zones' privileges intended by congress. Hiring often was controlled tightly through SEZ labor centers. Union successes in organizing in the SEZs were few and marginal in part due to organizers' restricted access to the closely guarded zones and the propensity among zone establishments to adopt fixed-term, casual, temporary, or seasonal employment contracts. Labor unions claimed that government security forces were stationed near industrial areas or SEZs to intimidate workers attempting to organize.

Ofreneo, Bellin & Hega (2007) describe the same miserable condition of garments workers in Cavite and Laguna ecozones. The deplorable state of labor standards and workers' rights at the Mactan ecozone is echoed by Certeza, Adviento and Reyes (2012) in their investigation of working conditions at a multinational company's suppliers:

Workers in all factories continue to receive the prevailing minimum wage despite their long years of working in the factories. This wage was not even sufficient to meet the workers' basic needs especially when there is a family to sustain. Mandatory overtime is largely practiced to save on costs and to beat tight production deadlines (p. 33).



The research by Certeza et al. (p. 34) reveals that, “workers’ participation is completely lacking in the supplier factories.” It affirms that without a union to represent and bargain collectively for workers, rights at work including guarantees provided in the multinational company’s codes of conduct, are meaningless.

### **Research Objectives and Methodology**

The research addressed three objectives: to present workplace grievances, including women’s concerns, in a Luzon-based ecozone; identify factors that motivate unionization; and describe forms of resistance such as traditional direct action, social movement unionism and supply chain organizing.

The focus was on the experiences of workers in five factories in a Luzon-based ecozone. Data gathering was done from 2014 to 2018. The author, at that time, was actively involved in the workers’ struggles as a member of Partido Manggagawa. He assisted the workers by conducting labor education, facilitating strategizing sessions, writing briefing papers and press releases about the disputes, and networking with international labor NGOs engaging transnational companies. The author’s record of observations and insights as a participant-observer is published in the Partido Manggagawa blog (<http://partidongmanggagawa2001.blogspot.com>), of which he was also the primary writer.

The human rights-based approach was found appropriate to use in assessing the exercise by export zone workers of their rights as claim holders and the reaction of duty bearers such as government institutions like DOLE and PEZA, and the private actors like factory management and global brands. The dynamic relationship between claim holders and duty bearers is at the heart of the rights-based approach. Diokno (2009) illustrated it as:

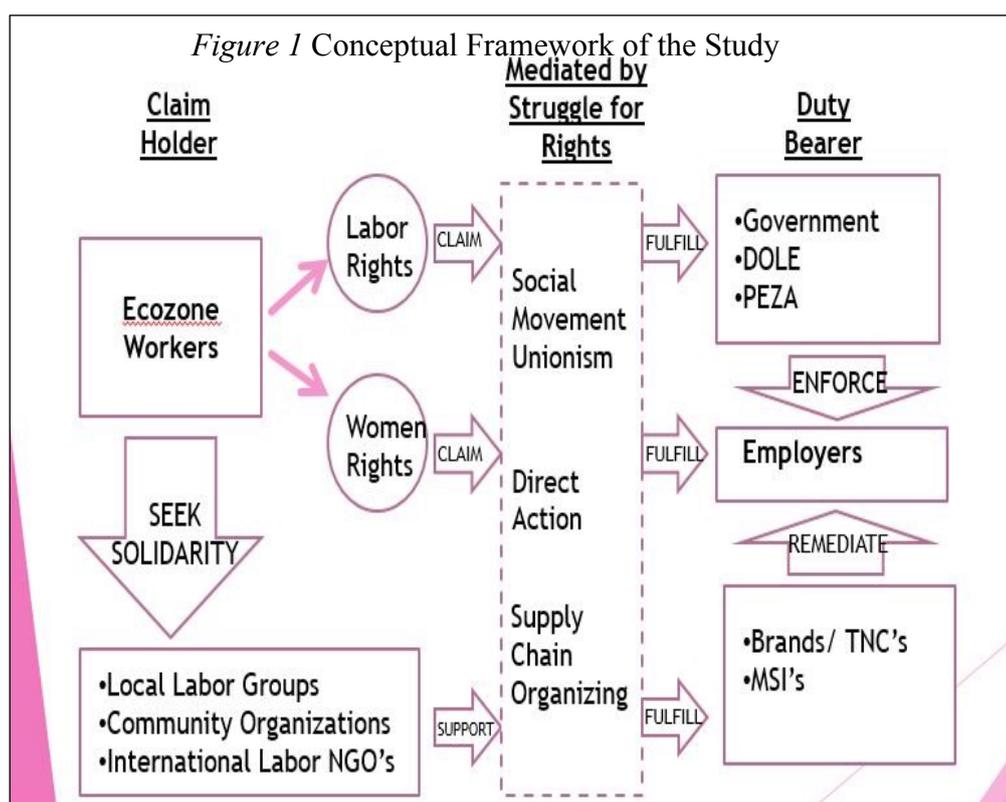
A framework that promotes claimholder’s freedoms and entitlements to goods, services, institutions and resources provided by duty bearers on the basis of human rights standards, in compliance with human rights obligations and in a manner that fully integrates human rights (PANTHER) principles (p. 1).



PANTHER refers to participation, accountability, non-discrimination, transparency, human dignity, empowerment and rule of law.

The study tested the hypothesis that the relationship between claim holders and duty-bearers has to be mediated by a strategy of struggle for rights and entitlements. The human rights-based approach has to be complemented by a theory of class interests and power relations. The relationship between claimants and duty-bearers is conflict-ridden and rights and entitlements are contested terrain. Thus, without the mediation of a strategy of struggle, the rights and entitlements of claimants will not be upheld, protected and fulfilled by duty-bearers.

Figure 1 shows the conceptual framework of the study.



In the case of workers in the ecozone, class struggle is a characteristic of the relationship between workers striving to improve their working conditions through unionism, and foreign capitalists and local management bent on curtailing freedom of association and



collective bargaining. Workers resort to a strategy of direct action through protests and strikes, social movement unionism and supply chain organizing.

The Marxist theory of class struggle was used in the study to view the conflict between management and workers, and the development of working class consciousness. According to this standpoint (Marx & Engels, 1969), an irreconcilable struggle exists between the employers and the employees that springs from the conflict between the profit motive of capitalists and the human needs of workers. The class struggle is expressed in forms such as protests, strikes, riots and even revolutions.

Aganon, Serrano, and Certeza (2009) state that workers imbued with social movement unionism fight not for their narrow interests as employees in a firm but as a class which has a strategic interest in broader reform and social change. Unions should encompass workers at the enterprise or industry level but must also reach out to the broader mass of workers that are mostly unorganized and located in poor communities.

A global supply chain connects transnational companies headquartered in the developed nations to their subcontractors in many parts of the world, usually in the emerging and developing countries. Supply chain organizing grapples with this challenge by seeking solidarity among workers all along the network of factories, logistics, wholesalers, retailers and laboratories that comprise the modern production system.

There are many aspects and manifestations to supply chain organizing. As will be explained in the case studies, supply chain organizing is manifested in the challenge of ecozone workers to global companies to remediate the violations of their supplier factories. In this, workers are assisted by local labor organizations and international NGO's that engage with transnational corporations. The contestation of workers as claim holders are not only expressed in old school tactics of labor strikes and factory protests but also in new forms of resistance such as social movement unionism and supply chain organizing.



Majority of workers in the ecozone, or the research site, are women. Women worker's issues are distinct and are among the range of concerns that could animate workers' grievances in the ecozone. The intersection of labor and gender issues is integral to the dynamics of unionization and struggle in the ecozone.

### **The Case Study of Factory A**

Company A is a transnational company manufacturing electronics parts. There are around 500 workers, almost all of them men. Half of the workforce are union members and the entire union leadership is male.

Occupational safety and health concerns prodded workers to start organizing a union. The hazardous nature of machine cutting and a lack of safety devices led to workers losing fingers. When management learned of unionization, it moved to cancel the union registration. Despite workers voting overwhelmingly for the union, management filed a protest and used that as an alibi to refuse to bargain. It took the threat of a strike for management to finally open negotiations for a collective bargaining agreement (CBA).

Over the course of more than seven months of negotiations, Company A management did not bargain in good faith, instead harassed the union by firing active unionists and suspending top union officers. It took a two-day strike in 2015 to break the deadlock and conclude a CBA.

Union organizers noted that supply chain organizing was key in the victorious strike. The biggest customer of Company A is a subsidiary of a European company whose workers are progressive unionists. The union organizers in the Philippines engaged the union leaders of the European company to exert leverage upon Company A to settle the dispute in favor of the ecozone workers.

This was a major victory considering the hostile regard of companies inside the ecozone against unionism and strikes. There are very few unions with a CBA in the ecozone,



and the Company A union were the first group in recent years to hold a strike in the ecozone. The victory of the Company A workers inspired workers from other factories to organize and strengthen their unions.

### **The Case Study of Factory B**

The Company B is a transnational factory. It was the largest garments factory in the ecozone before it shut down and left jobless some 1,000 workers, mostly women. Despite years of seniority, Company B workers received only the daily minimum wage of PhP356.50 at that time. Workers who had been there since the factory started—called pioneers—got only an additional peso over the rest. Low wages and the lack of retirement pay were the impetus for unionization and later were the main demands in the CBA negotiations.

Union organizing began a year previous to the shutdown, and it was clear that the management was determined to discourage it. Workers were questioned one by one, told to drop from the union; they were also offered money to resign. Workers, including contractuales who were being regularized, were instructed against enlisting with the union. The intimidation stopped only when workers took to one of the Company B's international customers, which has a public commitment to ensure freedom of association in its supply chain.

During the certification elections, management told workers to vote against the union, closure was threatened should the union win and an anti-union leaflet was circulated. Still the union won a landslide victory.

It took some six months for the CBA negotiations to finally be concluded. The union even filed a notice of strike in order to break the deadlock with the management. However, five months after the CBA, the Company B announced that it was closing down because of cited lack of orders. No evidence was presented for this claim. The workers alleged that closure was a ruse to bust the union. Later, it was found out that one of its biggest customers



did not cancel any work engagements with the company during the year Company B closed down.

Company B workers were barred from marching in protest inside the ecozone. Aside from union busting and illegal closure, workers also complained of blacklisting. The names and pictures of Company B union members were allegedly given to at least two garments factories in the export zone to, in effect, warn the companies against hiring them.

The labor dispute was settled after three months. As reported by union organizers, the deal included provisions for rehiring its retrenched employees if the Company B reopens, additional financial assistance as separation pay, and several sewing machines for a livelihood project.

### **The Case Study of Factory C**

The Company C is a small company with a workforce of less than 100 and with an almost equal number of female and male workers.

The Company C workers decided to organize to resolve violations of labor standards on wages, overtime pay, illegal deductions, and occupational health and safety. The management immediately tried to bust the union with support from the industrial relations (IR) head of the ecozone. Unionists were threatened with factory shutdown and enticed to accept separation pay. Several union officers were charged with spurious cases about producing defective products. One female union officer was disciplined, after she defended herself from physical attack by a non-union worker. She was brought to the eco zone IR office and questioned not about the incident but regarding union activities. Soon after, 20 union officers and members were terminated shortly one after the other.

The union launched a strike for five days until the all the unionists were reinstated. During the strike, union organizers engaged one customer of Company C. This connection proved significant in exerting leverage on Company C to finally settle the strike.



The union moved for certification as the bargaining agent. Yet the DOLE did not certify the union despite it having complied with requirements. Not long after, the company filed for shutdown on the pretext of lack of order even as it continued operating with non-union workers.

In desperation, the locked-out union members barged into the factory and occupied the shop floor. With the PEZA IR head and a DOLE Calabarzon conciliator threatening the workers with cases for barging into the factory, the workers finally accepted a separation offer and ended the occupation.

### **The Case Study of Factory D**

The Company D was established in early 2000s. A large majority of the 500 or so workers are female.

The Company D workers started organizing a union after getting in touch with the union in Company B. The management moved to separate the identified union leaders from the rest of the workers by transferring them to one production line. The company also called for a meeting to disparage the union. Another way that the management discouraged the workers from joining the union is by starting a “whisper campaign” that is, planted rumors that the union victory on the unfair labor practice case it filed will result to the company shutting down. Anti-union leaflets were distributed. Not surprisingly, the union lost the elections.

To finally bust the union, the company shut down temporarily for one month and offered termination pay. The Company D justified this with claims of lack of orders. However, the union countered the statement saying that the orders were just shifted to sister company factories of Company D, and the shutdown was meant to harass union members into accepting separation. The factory reopened in several months after and rehired many



former workers who were non-union members. The 20 union officers and members who refused to accept the offer of separation were locked out from the factory.

The union with the support of labor groups based in the area launched protests at the ecozone. The Company D workers marched inside the ecozone despite harassment by PEZA security guards who wanted to take down the placards they were holding. As these mass actions were being held, international labor NGOs were also communicating with a major customer of the Company D. The union president and seven other union officers were eventually allowed to return to work.

### **The Case Study of Factory E**

Company E is a transnational electronics factory. Almost all of its 200 workers are women.

The Company E union's leadership and membership was entirely female. Workers organized a union to address grievances such as excessive production quota, verbal harassment, and violations of occupational health and safety standards. Another major complaint was the removal of the door of the women's restroom so that managers and supervisors can see if employees were loitering or chatting. The unreasonable time limits and other conditions on the use of the restroom led to numerous cases of workers suffering from urinary tract infection (UTI).

In response, the management interrogated workers about their participation in organizing. Work assignments of union leaders were reshuffled. Overtime was denied to regular employees and instead given to contractual workers. Three line leaders who supported the union were forced to quit.

The union countered by filing a complaint for union busting. With DOLE mediating, Company E agreed to the demand of the union that management release a memo that it will not interfere with workers' freedom of association. However, it also formed another company



union, which intervened in the worker-initiated union's petition for certification as bargaining agent. The latter won the elections to represent the workers in the CBA, but not without hurdling challenges to their victory.

Management continued discriminating against unionists. They were served disciplinary charges on minor grounds such as loitering in the comfort room. Unionists were excluded from receiving Christmas packs. The union president together with other officers and members were later terminated. Likewise, scores of other union officers and members were suspended.

The union filed a notice of strike for union busting. Mediation deadlocked as management was adamant in firing and suspending unionists. At the start of the strike, a fire truck along with guards went to the picket line area. Barricades were set up and workers were refused entry. During the first night of the strike up to dawn of the next day, the picket line was repeatedly attacked by armed men that resulted in injuries to two women workers. These actions were violations of the DOLE-PEZA-PNP Guidelines on the Conduct of Police and Security Personnel During Labor Disputes.

From the very start of union organizing, there were attempts to contact the customers of Company E through the mediation of international NGOs. Communications did not lead to favorable results. Two customer companies denied their link to Company E, while the others did not even respond.

A labor agreement was finally reached after a series of meetings convened by DOLE. Company E reinstated the 64 strikers subject to an investigation by management. In actuality, Company E only reinstated the union members, while the leaders were suspended and later terminated. A notice of strike on the grounds of union busting was again filed. The dispute is still on-going at the time of writing.



## Analysis of Case Studies

Export processing zones are gated complexes where capitalists' interests are dominant but also where workers' struggles erupt. It is an arena where workers as rights holders assert their claims in the face of deficits of development due to the dereliction of duty by bearers such as PEZA and employers. They are enclaves of poverty and repression when the right to unionize and bargain collectively is actively suppressed by capitalists, with the connivance of government agencies. Repression of freedom of association is a means to maintain cheap wages, insecure jobs, and docile workers, which in turn, redound to profits of foreign investors. Management interferes in workers' right to organize despite reforms initiated as a result of the ILO High Level Mission in 2009 to investigate killings of unionists and transgressions of the right to organize and bargain collectively.

Using the PANTHER principles (participation, accountability, non-discrimination, transparency, human dignity, empowerment and rule of law) as a lens to view the state of human rights at the ecozones, it becomes clear why unions remain a vital force in workers rights promotion. In lieu of participation, workers are subjected to the arbitrariness of management decisions that lead to abuse and harassment.

At the State level, no action has also been leveled on relevant agencies for the persistent and rampant violations of labor standards and labor rights in ecozones, nor has anyone been made accountable for the occurrence of specific cases such as the cases described in the paper. It is worthy to note that the cases of labor rights violations presented in the paper covered at least two Philippine government administrations, up to the present. In all cases, the intervention of government agencies has been limited, if not dismal and skewed towards the interests of transnational and multinational companies operating in the ecozone to the detriment of worker rights protection.



Unionists are discriminated by management through termination and suspensions, with almost absolute freedom and no accountability. Human dignity is transgressed with widespread incidents of verbal harassment, lack of privacy and forced overtime. Empowerment is possible through workers' self-organization into unions but this is suppressed through various union busting and union avoidance maneuvers. The rule of law should have meant wellbeing for workers. Apart from enforcing work standards that affirm the dignity of labor, laws should ensure that corresponding penalties for erring companies are carried out, in the event of violations. But these remain to be realized.

The case studies also showed the supply chain organizing as an important part of the repertoire of actions, complementing the mass actions of workers such as strikes and marches. Engagement with the global companies assisted the struggles of the workers in varying degrees. This was key in the victory of the strikes at Company A and Company C. It led to the stop of the harassment of unionists at Company B and to the reinstatement of union leaders at Company D. In contrast, there was no engagement with the customers of Company E and this affected the lobby of the women workers for better working conditions.

Finally, and related to the gender dimensions of unionizing, the paper notes the active political participation of women in unions, whether as its leaders or members. Only in Company D and Company E do women figure prominently as union leaders; in two cases (Company B and C), the unions have male presidents despite women forming the majority of the workers, although there are also women in leadership positions. The pattern of predominantly male-led unions, even when the membership were mostly women, was also observed by Aganon et al., Pacris & Geges (2015) and Global Labour University Alumni (2011). In contrast, the respondents studied by Ofreneo et al. were women-led unions. This researcher shares the findings of these studies that women's double burden weigh down heavily on their capacity to take leadership positions in unions. Women workers decline from



accepting top positions in unions or later drop out of their union tasks because of the lack of more time and attention to devote to unionism due to domestic chores that have to be done after work in the factories. In contrast, male unionists are relatively not as encumbered.

### **Conclusion and Recommendations**

Using the insights of the rights-based approach to appreciate the five cases presented in the paper highlights an essential feature of workers rights struggles in the ecozone, that is, while claim holders know and assert their rights to unionize and demand for better work conditions from private actors, it is often the State as a duty-bearer who is amiss in ensuring that these rights are protected and fulfilled.

Unions are expressions of empowerment that is continually being suppressed by profit-driven capitalists. The rule of law and other human rights-affirming policies of the country should provide protection to workers against the various forms of violations and abuses in the workplace and by employers, as well as give redress when these occur. However, this is not often the case. The PANTHER principles of participation, accountability, non-discrimination, transparency, human dignity, empowerment and rule of law are empty statements.

In the absence of stronger State measures to uphold worker rights in actuality, unions are combining localized direct action such as securing CBAs, strikes and pickets, with global level engagement of stakeholders and workers solidarity. The cases showed the power of engaging with global companies about their supply chain codes of conduct. In many cases, it is the leverage of these companies on their suppliers operating in the ecozones that forces factories to finally make remediation and uphold rights at work. These global companies have the most to lose in disputes involving their supplier factories that will taint their carefully crafted reputation as good corporate citizens.



This study reiterates a set of reforms that this researcher personally drafted as part of the recommendations by labor organizations to the ILO High Level Mission (Partido Manggagawa, 2009). The recommendations seek to actualize the right to unionize that forms a foundation for the exercise of other rights at work. Without the agency of workers through their self-organization and empowerment through unionism, the labour standards and rights will remain unprotected, not upheld and unfulfilled by duty bearers such as the DOLE, PEZA and factory management. Thus the importance of enabling measures so that workers can exercise their capability to freely choose to unionize as a means to improve working conditions.

Among these reforms are:

1. Implementation of tripartite councils—with the mandate to discuss grievances of ecozone workers and recommend solutions—within all ecozones as provided for in the PEZA Law.
2. Information dissemination at all ecozones about the provisions of the Labor Code that (a) it is state policy to guarantee labor rights, (b) the law encourages trade unionism and collective bargaining, and (c) management interference in the right to organize is illegal and constitutes unfair labor practice.
3. Holding of seminars for ecozone workers, including managerial and supervisory employees, about labor rights, standards and welfare as a tripartite activity by the PEZA, DOLE, employers and labor groups.
4. Inclusion of a course on labor rights, standards and welfare in the mandatory curriculum for senior high school and college students to prepare them for entry in the world of work.
5. Access for representatives of labor organizations to the ecozones and to company premises during break time for the purpose of union activities.



6. Formation of gender committees at the level of each ecozone with representatives from workers, employers and the PEZA to take up gender-related concerns such as workplace discrimination, sexual harassment and violence against women.
7. Strengthening of gender education and women's rights orientation within local unions and labor groups.
8. Advancement of worker power through unity among various labor groups organizing in the ecozones and the use of innovative forms of actions such as social movement unionism and supply chain organizing together with old modes such as marches and strikes.

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