



The Anti-Union Lobby's Newest Weapon

Now armed with cynical antisemitism allegations, the corporate-backed effort to destroy unions is ramping up.

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Republican Rep. Virginia Foxx at a House Education and Workforce Committee Hearing on December 5th, 2023.

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ON APRIL 11TH, two public defenders in New York City filed a [lawsuit](#) against their union, the Association of Legal Aid Attorneys (ALAA), claiming that a [pro-Palestine resolution](#) it had adopted last December was antisemitic. They demanded an extraordinary

recompense: the right to opt out of paying the ALAA for the cost of negotiating better working conditions on their behalf. Like other private sector employees at unionized workplaces in New York, the public defenders who filed the suit—who are employed by the nonprofit Legal Aid Society—can already opt out of becoming dues-paying members of their union (and, indeed, had already done so). But as union-represented workers, they are still required under labor law to pay their fair share of “agency fees” to the ALAA to cover the cost of representation. These fees ensure that unions have the necessary resources to negotiate and enforce contracts, and restrict “free riding,” i.e. workers’ ability to benefit from a union without contributing to it. In their lawsuit, however, the plaintiffs cited their union’s pro-Palestine position as a reason that they should not be compelled to pay such fees, with one of them [saying](#) he “shouldn’t have to financially support an organization that adopts antisemitic resolutions, sides with terrorist organizations, and advocates for the destruction of Israel.” (The actual [resolution](#), which was approved by 65% of voting ALAA members and strongly [backed](#) by 122 Jewish members, calls for an immediate ceasefire in Gaza, an end to Israeli apartheid, and support for the [Boycott, Divestment, and Sanctions](#) movement.)

Fair share fees of the kind the lawsuit targets are so important to the financial health of unions that pro-business groups have [regularly attacked them for decades](#) in order to weaken workers’ collective power. This attack has largely taken place through deceptively named “[right-to-work](#)” laws, which ban the mandatory collection of agency fees for private sector unions in 26 states. In 2018, the Supreme Court’s conservative majority further expanded this war on fair share fees through the [Janus v. AFSCME](#) case. One of the most consequential assaults on organized labor in recent years, the decision effectively imposed “right-to-work” on the nation’s entire public sector. The majority justified the decision by arguing that since the government is the employer that public sector unions aim to influence, a financial contribution to such a union is a form of political speech. Under this argument, public sector unions were accused of effectively compelling workers’ speech, in violation of the First Amendment, by requiring the payment of fair share fees. But while it was dressed up in the language of free speech rights, *Janus* was [clearly intended](#) to undermine and bankrupt public sector unions. Within a year, the ruling naturally led to the [virtual disappearance](#) of agency-fee payers in public sector unions, weakening those unions in the process.

Private sector workplaces in more union-friendly states like New York have thus far remained outside the purview of this particular anti-union strategy, but the recent [lawsuit](#) against the ALAA aims to change this. Filed by the Liberty Justice Center, one of the right-wing law firms behind the *Janus* case, the suit is an attempt to use the union's pro-Palestine position as a justification to extend *Janus* to private organizations that receive government funding. The suit argues that since the plaintiffs' employer is contracted by New York City to provide legal counsel to indigent defendants, *Janus* should apply to its staff. This is not the first effort by anti-union groups to broaden the scope of *Janus*. In recent years, other such lawsuits—such as [one](#) demanding that public sector unions reimburse the agency fees non-members paid prior to *Janus*, and [another](#) seeking to prevent unions from limiting when free riders can opt out—have been rejected by the Supreme Court, but not before forcing unions to expend significant resources on unnecessary litigation. There is a chance that the new Liberty Justice Center lawsuit will go the same way, being dismissed in court while nevertheless costing the ALAA time and money. However, if the case makes it to the Supreme Court, it is conceivable that the conservative majority could rule that *Janus* is applicable in cases where a private sector worker's job duties are entirely government-funded. With an estimated [80%](#) of all nonprofit revenues in the US coming from government sources, such a decision could have major ramifications for the tens of thousands of workers who have been [rapidly unionizing in recent years](#) at nonprofit cultural institutions, advocacy groups, and social service organizations.

In addition to posing a threat to a large swathe of the labor movement, the case against the ALAA signals the development of a new anti-union effort, in which opponents of organized labor are justifying their right-wing crusade by claiming that they are battling antisemitism. This strategy is also on display in another [recent lawsuit](#) that is now moving through the courts, involving the Professional Staff Congress (PSC), a union representing about 30,000 faculty and staff at the City University of New York (CUNY). In June 2021, shortly after the conclusion of Israel's 11-day [military offensive](#), which killed at least 260 Palestinians in Gaza, the PSC's delegate assembly passed a [resolution](#) condemning "the massacre of Palestinians by the Israeli state" and encouraging the union's campus chapters to consider adopting the strategy of the Boycott, Divestment, and Sanctions movement. The following January, the Fairness Center—an anti-union law firm based in Pennsylvania—responded by filing a lawsuit on behalf of six full-time CUNY professors accusing the union of antisemitism. The six professors are represented

by the PSC in bargaining, but they are not union members, and thanks to *Janus*, they also do not pay any agency fees. In this situation, the Fairness Center lawsuit's proposed remedy has been to ask that the plaintiffs be excluded from the PSC bargaining unit altogether. "Our clients, most of whom are Jewish, should not be forced to associate with a union that engages in hateful, anti-Israel rhetoric and political activity," Fairness Center president Nathan McGrath [told](#) the conservative news site *The Washington Free Beacon*.

By demanding that workers at a unionized shop be allowed to sever all ties with their union, this lawsuit poses a direct challenge to the long-held notion of [exclusive representation](#), a central right of unions to represent all workers in a given bargaining unit, whether they are members or not. In the absence of exclusive representation, bosses could potentially pit workers against each other in negotiations, undermining the whole concept of *collective* bargaining. The targeting of this long-standing union prerogative, in other words, constitutes another attack on organized labor's very foundations.

The Fairness Center's case has so far failed to hold up in court. In November 2022, a district judge [dismissed](#) the lawsuit based on a 40-year-old Supreme Court [precedent](#) upholding exclusive representation. This past March, an appellate court [dismissed](#) the suit on the same grounds. The Fairness Center now plans to file an [appeal](#) with the Supreme Court, though it is uncertain whether the justices will agree to hear the case. But however it fares in court, the Fairness Center lawsuit—alongside the Liberty Justice Center's complaint against the ALAA—signals the development of a novel strategy to undermine unions. In recent years, and especially in the past months, supporters of Israel have been [indiscriminately](#) and [irresponsibly hurling accusations](#) of [antisemitism](#) at the growing Palestine solidarity movement, with many [Democratic politicians](#), [liberal commentators](#), and [campus administrators](#) getting [on board](#), or, indeed, [leading the charge](#). Anti-union groups are aiming to exploit this hysteria to their own advantage, using weaponized concerns about "Jewish safety" as a potentially effective cudgel in their ongoing attack on organized labor.

THIS IS NOT THE FIRST TIME right-wing forces have justified attacks on unions by pointing to worker opposition to US foreign policy. In the late 1940s, when Communist trade unionists [stood against](#) the emerging Cold War, corporate executives made the convenient argument that curbing the strength of organized labor was vital to national

security. In light of the assumed threat posed by the Soviet Union, employers and business groups [decried](#) strikes by US workers as unpatriotic and labeled criticisms of capitalism as treasonous. As General Electric CEO Charles E. Wilson [put it](#) in 1946, “the problems of the United States can be captiously summed up in two words: Russia abroad, Labor at home.” The Red Scare that this rhetoric helped instigate soon aided Republicans in passing the Taft-Hartley Act of 1947, which [outlawed](#) militant tactics like sit-down strikes and secondary boycotts, required union officers to sign legal affidavits swearing they were not Communists, and authorized states to adopt “right-to-work” legislation. In addition to passing this sweeping anti-union legislation, anti-Communist zealots in Congress [used](#) the House Un-American Activities Committee (HUAC) to subpoena and grill suspected leftists from the labor movement, higher education, Hollywood, and government agencies. These public interrogations leveraged the threat of arrest and career destruction to demand that people identify other “subversives” and served to demobilize much of the organized left for years to come.

Labor leaders were complicit in these catastrophic losses for the left. Despite the obvious dangers that the Red Scare posed for organized workers, liberal union officials of the time, including Philip Murray and Walter Reuther, did not fight back against the anti-Communist hysteria. Instead, they [abetted](#) it by undemocratically expelling 11 leftist-led unions from the Congress of Industrial Organizations between 1949 and 1950. Not only did this controversial purge severely weaken the labor movement—with union density in decline ever since—it also further emboldened HUAC and Republicans like Senator Joseph McCarthy to launch a full-scale witch hunt against progressives in the early 1950s.

Today, the House Committee on Education and the Workforce, chaired by Rep. Virginia Foxx, seems to be following in HUAC’s footsteps, using the hysteria that greets any criticism of Israel to [resurrect](#) the spirit of McCarthyism. An [anti-abortion](#), [anti-LGBTQ](#), [anti-immigrant](#) Republican who once [said](#) that unions shouldn’t legally exist, Foxx now [presents herself](#) as a crusader against antisemitism in order to attack two of the right’s traditional foes: academia and organized labor. Foxx’s committee has made headlines in recent months for [questioning](#) the [presidents](#) of [prestigious](#) universities over Palestine solidarity activism on campus, and the congresswoman is trying to reenact the spectacle with unions, as well. In January, she [wrote](#) to the ALAA seeking documents related to the membership vote on the Palestine solidarity resolution, which she called a “deplorable”

example of “union bosses [being] purposely divisive and combative toward their membership.” But unlike university administrators, the union is standing its ground by refusing to cooperate with Foxx’s committee. In response, she served a [subpoena](#) on the ALAA in March and is now [threatening](#) to charge the union’s officers with contempt of Congress.

The rising [moral panic](#) around antisemitism is giving new ammunition not only to demagogic politicians, but also to the well-organized, corporate-funded lobby that has long worked behind the scenes to undo all the gains of the New Deal and annihilate the labor movement. Both the Liberty Justice Center and the Fairness Center [are members](#) of the State Policy Network (SPN), a web of right-wing think tanks and law firms in all 50 states that work hand-in-hand with the [notorious](#) lobbying group the American Legislative Exchange Council (ALEC). The Center for Media and Democracy, a progressive watchdog organization, [calls](#) SPN “the tip of the spear of a far-right, nationally funded policy agenda in the states that undergirds extremists in the Republican Party.” Indeed, the SPN is financed by Donors Trust—a private foundation bankrolling libertarian organizations that has been [described](#) as the “dark money ATM of the conservative movement”—and has received [donations](#) from mega-corporations like Microsoft, AT&T, Comcast, Verizon, Philip Morris, Facebook, and GlaxoSmithKline. Using this funding, the SPN has been [successfully](#) privatizing public schools, denying climate change, cutting taxes on the wealthy, blocking healthcare reform, and chipping away at the strength of organized labor for over three decades. In 2017, SPN president Tracie Sharp [outlined](#) the network’s plan to “defund and defang” public sector unions in order to “deal a major blow to the left’s ability to control government at the state and national levels.” One year later, the SPN-affiliated Liberty Justice Center helped win the *Janus* decision. Now armed with the cynical weaponization of antisemitism—which is proving to be a frighteningly effective instrument of repression—the SPN’s relentless, corporate-backed quest to destroy unions could potentially become unstoppable.

IF HISTORY IS ANY GUIDE, it is urgent that the US labor movement vigorously fight back against the ongoing wave of anti-Palestine repression—or risk serious setbacks. The consequences of the original McCarthyism continue to be felt in the present day, with unions struggling to grow in the face of the limitations that the Taft-Hartley Act imposes on organizing and striking. Despite this, some present-day union leaders may be setting

themselves up to repeat the mistakes of their '50s predecessors by refusing to stand up for the left flank of their movement. Leaders in major unions like the Teamsters and SAG-AFTRA have [failed](#) to [join](#) the rest of the labor movement in even calling for a ceasefire in Gaza. Others, like Rich Gulla—president of the Service Employees International Union (SEIU)-affiliated State Employees' Association in New Hampshire—have been even more explicit in disavowing Palestine activism, with Gulla recently [saying](#) that his union is “focused on New Hampshire issues and not foreign policy.” But the anti-labor, anti-Palestine right will not be banished by some union officials' attempts to ignore Israel's [genocidal](#) war. Instead, there is every reason to think that hyper-conservative groups will continue leveraging the claim that Palestine solidarity is antisemitic to boost their union-busting strategy—which means that unions must stand up for Palestine not simply to fulfill the principles of solidarity or to defend their members' right to free speech, but ultimately to protect workers' right to a union.

Many union members—and some union leaders—understand these interconnections, and have responded to recent attacks by doubling down on their pro-Palestine stances. For instance, when Foxx's committee [decried](#) the “depravity” of Starbucks Workers United (SBWU) last October after multiple Twitter accounts affiliated with the baristas' union expressed solidarity with Palestinians, SBWU and its members stood firm in the face of a coordinated [smear campaign](#). When Starbucks management joined the right in [calling on](#) SBWU's parent unions—Workers United and the SEIU—to denounce SBWU members, and then [sued](#) SBWU on spurious grounds, the union responded by [counter-suing](#) the coffee giant. Further, SBWU reiterated its position by posting a [Palestine solidarity message](#) condemning “the occupation, displacement, state violence, apartheid, and threats of genocide Palestinians face.” Meanwhile, pro-Palestine activists around the globe [launched a boycott](#) of Starbucks to protest the company's attack on the union, leading to a massive drop in revenues in Muslim-majority countries like [Turkey](#) and [Malaysia](#). As a likely result of this global consumer pressure, in late February, Starbucks [agreed](#) to a framework for negotiations with SBWU on first contracts at its over 400 unionized stores.

So far, the ALAA has also refused to be cowed by either the Liberty Justice Center or Foxx's modern-day HUAC. “ALAA stands behind our resolution and the democratic processes that led to its overwhelming passage,” [said](#) Leah Duncan, the ALAA's financial secretary-treasurer. “Our membership will not be intimidated into abandoning our core

principles, including advancing the interests of working people worldwide, by this blatant attack on organized labor.” And as the crackdown on Palestine solidarity intensifies on college campuses—with students and faculty getting [beaten](#), [arrested](#), [suspended](#), [expelled](#), and [banned](#) from campus—academic worker unions have likewise been steadfast, defending protesters by filing grievances and unfair labor practice charges against university administrations. United Auto Workers (UAW) Local 4811, which represents 48,000 graduate student workers and postdocs across the University of California system, plans to hold a [strike authorization vote](#) starting May 13th to protest the repression faced by its members, and to support the demand that the university divest from companies profiting off of Israel’s war on Palestinians. [Many other unions of university workers have](#) also been organizing and speaking out in support of the campus protests, and on May 1st, 300 rank-and-file members of the PSC at CUNY held a “[May Day sickout for Palestine](#)”—a one-day wildcat strike in [solidarity](#) with student protesters and the Palestinian people.

Such worker militancy has pushed US labor leaders to overcome their [longstanding hesitation](#) to associate with the Palestine solidarity movement. For instance, the UAW president has [denounced](#) the violent crackdowns on student and faculty protesters at university campuses, and officials from the union have [spoken up](#) in support of the ALAA, which is a UAW-affiliated local. The leadership of the SEIU, the second largest union in the country, has also [condemned](#) the repression at universities and expressed solidarity with those protesting “the horrors and injustice Palestinians are facing.” These statements demonstrate the kind of clarity that organized labor will need if it is to counter the growing power of the right, responding to the fusing of anti-union tactics with anti-Palestinian arguments by demonstrating unequivocal support for workers who are fighting for Palestine—and for the cause of Palestinian freedom itself. **JC**

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