Within days, a compromise was reached, and Graves and Miller were elected to represent Tele. And at the opening of negotiations on August 17, Payne and Graves attended the first negotiations. Management was astounded, and they seemed to understand the fight was over. We had moved every single unit in the hospital.

During the course of the negotiations, Kelly built a solid relationship with Payne and with all the leaders from Tele. I had to leave in November, just after the US election because I had way overstayed the date by which my director at Harvard had said I needed to return to teaching. I handed the negotiations over to the PASNAP organizing director, Mark Warshaw. When I first told the nurses I had to leave and that we had a transition plan, they were nervous. Terrified, actually, but I knew that by that point they knew, really deeply knew, that they were winning and almost done. They were confident in themselves, and I stressed repeatedly that I was only a tactician in a serious power fight between them and management.

In early December 2016, by the time a real strike vote was needed—not a vote for picketing, but a vote to strike—to get management to move off their insistence that only small raises would be given, Payne didn’t just participate in the strike vote, she helped lead it. It was even more important than the vote she had ignored back in July—the vote to send the ten-day legal notice to picket. Trump had been elected US president, and management was smelling blood. At that crucial moment, Tele stepped in to become central actors in winning a terrific first collective agreement. The workers had forged an unbreakable solidarity bond through their unpaid, all-volunteer, high-participation, open, democratic negotiations.

Payne told me that in the final days, actually the final 18 hours—there was an 18-hour round-the-clock last day of negotiations, “I wouldn’t leave. I couldn’t leave. I am for fair pay, and I was not letting management not give us a fair pay raise.” Miller, who was inseparable at that point from Payne, told me:

I kept saying to people the process is fascinating, a slow chisel away, all the way to the end, with 18-hour days, with people saying, “I am not going to leave. I am going to sit right here to the end.” I remember when it was finally over, that last day, we got the wages, we got some remaining little stuff, too, but it was big, and the raises were big. And it’s all big—especially when they [management] don’t want to give you anything. We were so burnt out. And then I went home thinking, “Oh, my God. I can’t believe this shit happened.” I even cried when I drove home, I was crying.

On the blackboard, on that final, 18-hour day, as she walked out, Payne wrote, “Thank you, Jesus.” On December 23, the day the workers voted to ratify their first contract, she sent a text message to Kelly. He gave it to me, and Payne agreed I could include it here in its entirety:
Hey Patrick. I wanted to personally thank you for all the work and time you sacrificed on this contract. Up until the very end, I still did not believe our contract could be this good the first time around. I know myself that I was not easy to deal with. I have very strong convictions. And so does my floor, telemetry. It was hard for myself and the floor to swallow that the union got in. I did not believe in the process. After last night and waking up this morning I have now realized that we are in fact stronger together. And we can accomplish so much in this profession together. Thank you for being one of the lead organizers and helping to push this through. We now have a true voice and damn good contract!!! Enjoy your holidays with your family. I am sure they miss you!

**CONCLUSION: BECAUSE WORKERS, NOT PROFESSIONAL STAFF, HAVE TO DECIDE TO STRIKE, REAL WORKER AGENCY AND UNION DEMOCRACY PRODUCE AND RESULT FROM REAL STRIKES**

*Trade union and strike leaders who have experienced genuine union democracy know that the rank and file have a great deal to teach them.*

John Steuben

I asked Payne recently what she would say if it were five years from now and someone in a non-union hospital was asking her opinion about forming a union. She thought for a couple of seconds and said:

I would tell somebody if they need a union, to be patient and be prepared to fight for what you believe in, and, you have to fight for every nurse in the hospital, you can’t have a union and be selfish. You can’t be I, I, I. It’s not about you, it’s about the people, the entire population.

In the end, as Payne herself said to Kelly in the pre-Christmas text, she wasn’t convinced about the union in the beginning and even after she had first changed her mind about participating (and convinced her entire unit to back the union). Had Tele not completely flipped its position about building a strong union, they would not have won a life-altering contract. That Payne became the strike vote leader—in a department with a 100% strike vote and after running the anti-union campaign—is a powerful lesson in how best to build worker agency.
This real-life struggle, set against the backdrop of a horrible year for the working class in the United States, one characterized by disunity and division, reaffirms the argument laid out by Judith Stepan-Norris and Maurice Zeitlin in *Left Out: Reds and America’s Industrial Unions*. Their book details with exacting evidence that the unions of the CIO heyday that were least oligarchic and the most democratic were also the most radical. Today, PASNAP—but not just PASNAP—proves the same point. Unions prove it in today’s strategic sectors, mainly but not exclusively the service sector, where schools, universities, hospitals, and health care systems are growth industries where workers still have strategic labor market power.

The mostly female workers who dominate in these two sectors of the economy—sectors increasingly under attack from accounting firms, hedge funds, and Wall Street that attempt to suck the life out of education and health care, to turn students and patients into profit centers—have the capacity to hold the line on austerity. They are building or rebuilding unions like those built in 2016 at Einstein Medical Center and by nurses and techs in a half dozen other hospitals in Philadelphia in the same year. Building strong, democratic unions in strategic sectors, sectors made up of enough workers who are hard to replace, and workers who have a kind of moral authority in mission-driven work, is a strategic choice of leadership, not something dictated by the constraints of global trade deals, though priorities on sectors should be informed by the effects of neoliberalism. Of course, there are many sectors of workers where using the strike weapon is not feasible, but that was also true a hundred years ago. The key to rebuilding working-class power is a more intense focus on questions of strategy—the strategy of which workers to focus on, why, when, where, and how.
<table>
<thead>
<tr>
<th>Hospital (and Unit, If Applicable)</th>
<th>Date of Election</th>
<th>Vote Count (Yes–No)</th>
<th>Total Unit and % Turnout</th>
<th>First Contract Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eagleville Hospital RNs</td>
<td>Aug. 20, 2015</td>
<td>78–8</td>
<td>94 of 100 voted (94%)</td>
<td>Sep. 13, 2016</td>
</tr>
<tr>
<td>Eagleville Hospital techs</td>
<td>Sep. 11, 2015</td>
<td>62–9</td>
<td>71 of 90 voted (79%)</td>
<td>Sep. 13, 2016</td>
</tr>
<tr>
<td>Delaware County Memorial Hospital RNs</td>
<td>Jan. 15–16, 2016</td>
<td>164–130</td>
<td>294 of 330 voted (90%)</td>
<td>Apr. 20, 2017</td>
</tr>
<tr>
<td>St. Christopher's RNs</td>
<td>Feb. 8–9, 2016</td>
<td>311–9</td>
<td>360 of 470 voted (77%)</td>
<td>Dec. 7, 2016</td>
</tr>
<tr>
<td>St. Christopher's outpatient</td>
<td>Feb. 10, 2016</td>
<td>18–2</td>
<td>20 of 29 voted (69%)</td>
<td>Dec. 7, 2016</td>
</tr>
<tr>
<td>Delaware County Memorial Hospital techs</td>
<td>Feb. 19, 2016</td>
<td>61–17</td>
<td>78 of 102 voted (76%)</td>
<td>Apr. 20, 2016</td>
</tr>
<tr>
<td>Einstein Medical Center RNs</td>
<td>Apr. 8, 2016</td>
<td>463–343</td>
<td>806 of 926 voted (87%)</td>
<td>Dec. 23, 2016</td>
</tr>
<tr>
<td>Mercy Hospital of Philadelphia</td>
<td>Sep. 7, 2016</td>
<td>117–125 (lost)</td>
<td>242 of 296 voted (90%)</td>
<td>——</td>
</tr>
<tr>
<td>Pottstown Hospital</td>
<td>Sep. 7, 2016</td>
<td>189–129</td>
<td>318 of 360 voted (88%)</td>
<td>2017</td>
</tr>
</tbody>
</table>

**Total newly organized in 2016 (excluding 2015 numbers):** 3,005 newly organized; 3,300 with growth in new units since election
APPENDIX: EINSTEIN WEEK OF 7-25 CONDENSED RAP

I’m sure you’ve heard the good news—Einstein has officially caved, and agreed to not appeal again and to come to the negotiations table! Why do you think they finally agreed to respect your decision?

Einstein finally caved because of all the hard work you and your co-workers have been doing, and the power you’ve built in the hospital. Getting to a majority on the petition, talking to the Board of Trustees, getting the support of Philly state senators, and sending a 10-day notice to Einstein informing them that you’d be picketing in front of the hospital—this is why Einstein is coming to the table, you’ve built real power.

Our official first negotiations date is August 17th. The most important thing to know about negotiations is that you don’t win a contract at the negotiating table, you win it in the hospital and in and with the community. If you have a lot of power in the hospital with 80% of nurses involved and signing petitions and wearing buttons, you win a strong contract—if not, you win a weak contract.

The plan to build that power is to get a majority of nurses to sign full membership cards by the time we get to the negotiating table. Einstein management fights in two major arenas day in and day out; inside the workplace to make a profit, and in Harrisburg and Washington DC to reap more money and keep the rules stacked in favor of management and against the nurses. We have to be able to go toe to toe with management, which is why it’s important for everyone to sign a political dues and a union dues card. Paying political dues keeps you strong in Harrisburg and DC so you can win crucial legislative fights such as the law that banned mandatory overtime. Remember when Senator Leach and 9 other senators sent a letter to Barry Freedman asking him to stop the appeals (show the letter)? The only reason the senators sent that letter is because nurses from other hospitals pay political dues, and PASNAP has built relationships with these senators. If you want to continue to have their support and to have political power, it’s important to sign both cards.

The other card is a membership card, which makes you a full member with voting power to vote on your contract and to elect your future union leadership. Temple and Crozer both have about 98% membership, which a key reason why they have been able to win such strong union contracts. You don’t start paying workplace or political dues until you and your co-workers have won a union contract that you yourselves have approved.

What kind of message does it send to management if only 20% of nurses are signed up as full members? Do you think we can win if we don’t get a majority of nurses to sign up as full members? Great, so let’s make a plan for your unit of how you’re going to get to majority over the next few weeks!
ENDNOTES

1 John Steuben, *Strike Strategy* (New York, NY: Gaer Associates, 1950), p. 14 (note, however, that introductory pages to this version of the volume state the first printing of Steuben’s book was in 1923, and it was subsequently added to and eventually published later with various claims for the copyright. This version states that the copyright is held by no one and is in the public domain).

2 Michael Wynn, interview with author, April 29, 2016.


4 Id., 292.

5 Id., 292.

6 In President Obama’s second term, he began to make some progressive changes administratively, via rule and regulation changes in various agencies. One bone he threw to national unions frustrated by lack of progress on anything to do with union elections was to mandate that firms or companies that hire union avoidance consultants had to file monthly paperwork with the National Labor Relations Board naming the basics, the firm or union avoidance consultants, and the amount of money being spent on union busters. I am in possession of the monthly reports that demonstrate that Einstein had hired IRI, Inc.


8 Steuben, op. cit., p. 100.


10 Steuben, op. cit.

11 Id., p. 98.


15 Steuben, op. cit., p. 111.

16 Steuben, op. cit., p. 96.

17 Patty Eakin, interview with author, April 3, 2017.

18 Id.


20 In author’s possession. Also, in 1990, what was a national union, 1199, voted district by district to merge into either SEIU or AFSCME, with the vast majority of the members voting to join SEIU. The biggest 1199 local, NYC 1199, voted to stay independent, but by 1998, voted to merge into SEIU.

21 Steuben, op. cit., p. 74.

22 Marne Payne, interview with author, April 2, 2017.

23 Id.

24 Steuben, op. cit., p. 91.

25 Letter in author’s possession.

26 Steuben, op. cit., p. 91.

27 Pat Kelly, interview with author, April 2, 2017.

28 Steuben, op. cit., p. 100.

Section Two: Bargaining
Chapter 9

Bargaining for the Common Good: An Emerging Tool for Rebuilding Worker Power

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One of the most significant innovations to appear during the last decade of struggle for the labor movement and its allies is an initiative called “Bargaining for the Common Good” (BCG). Emerging from public sector unions—especially teachers’ unions—in the wake of the Great Recession and the austerity regimes it imposed on state and local governments, BCG is an ambitious effort to redefine collective bargaining. Its practitioners have sought to bring community allies into the bargaining process by forging strategic alignments around a shared commitment to the preservation of public services and use of the public sector as a tool for building a fairer economy for all; they have sought to challenge the narrow parameters of bargaining in order to highlight the structural inequalities and exploitative power relations that are undermining the public sector and broad-based prosperity; and they have sought to hold financial elites accountable for policies that are starving the public sector. As this initiative matures, it promises to point the way toward the revitalization of collective bargaining as a tool for building a more democratic and egalitarian economy. We believe that it will become particularly relevant in a landscape reshaped by restrictions on union security that are likely to follow the Supreme Court’s decision in the case of Janus v. American Federation of State, County and Municipal Employees, Council 31. In what follows, we will describe the emergence of this initiative and suggest a course for its evolution in the decade ahead.

ORIGINS, EVOLUTION, AND CHARACTERISTICS

BCG builds on a long tradition of community–labor alliances and community unionism. That tradition dates back at least to the “mixed
assemblies” of the Knights of Labor (founded in 1869), organizations that worked in conjunction with the Knights’ trade assemblies and functioned as community unions that mobilized worker political power. It is a tradition that has been repeatedly revised and updated in response to changing conditions over the years. In 1930s Chicago, the Congress of Industrial Organizations supported the efforts of former CIO organizer Saul Alinsky as he built the Back of the Yards organization, the prototype for postwar community organizing. In 1950s St. Louis, Teamster Local 688 developed an innovative “community stewards” program under the leadership of Harold Gibbons and Ernest Calloway, through which the union sought to advance a vision of “total person unionism.” Flashpoint struggles by workers of color in the 1960s and 1970s, including the Memphis sanitation strike and the struggles of the United Farm Workers, helped forge strong alliances between unions and community allies. Jobs With Justice, was founded in 1987 with the vision of lifting up workers’ rights struggles as part of a larger campaign for economic and social justice and institutionalized community–labor alliances, eventually spreading to 45 affiliates in 25 states. And in 1996, the AFL-CIO’s Department of Field Mobilization launched Union Cities, an effort to work with key central labor councils to rethink labor’s relationship with community groups, an effort that included mapping corporate power structures, building a shared infrastructure for political work, increasing diversity in leadership and activists, and supporting organizing of unrepresented workers in local communities.

The Great Recession put the long tradition of labor–community alliances to a new test and revealed the need for rethinking old models. Over the years, as union resources were stretched thin, all too often labor–community alliances had devolved into strictly transactional relationships. Unions did little to build community support for organizing or bargaining campaigns. It was common for a union to pay little attention to community allies until the eve of a campaign and then to approach allies with an offer of financial support or some other quid pro quo in return for their solidarity. Community groups, meanwhile, remained disconnected in particular from union bargaining. Unions rarely sought the input of their allies when crafting bargaining demands. If a form of labor–community alliance that some have disparaged as “the mutual backscratch” had worked in an era when unions were strong enough to win what they needed at the bargaining table with minimal community support, such an approach was clearly inadequate in an era when private sector union density was dipping toward 6% and when governors such as Scott Walker (Wisconsin), Tim Pawlenty (Minnesota), Mitch Daniels (Indiana), and Chris Christie (New Jersey) were leveling attacks on public sector workers as a “new privileged
class,” whose wages and benefits were paid by taxpayers whose own wages and benefits were fast eroding.8

It was not only the need for allies in troubled times that drove some unions to begin to rethink their approach to labor–community alliances, it was a growing realization that the same forces that were undermining the bargaining power of public sector workers were also wreaking havoc on the communities served by those workers and their governmental agencies. Unless union and community joined together, it would be impossible to confront these forces. Public sector bargaining had first developed in the 1960s and early 1970s in an economy that had not yet been reshaped by privatization, subcontracting, outsourcing, and financialization. These trends began deconstructing the private sector economy in the mid-1970s, and by the 1990s they were also increasingly affecting the public sector. Even before the Great Recession hit, “austerity bargaining” had become well entrenched in the public sector—even when conditions could not justify it, as when New York City’s Metropolitan Transportation Authority (MTA) sought to institute a two-tier system of health and retirement benefits at a time when the system was boasting a billion-dollar surplus.9 Financial elites, who were exercising increasing influence over governmental institutions ranging from New York City’s MTA to local school boards before the Great Recession, used that calamity to push aggressive austerity agendas aimed at increasing their influence and at opening the public sector further to the incursions of a rapacious neoliberal order bent on privatizing public goods.10

Confronting these developments demanded going beyond transactional community–labor relationships and temporary alliances of convenience to build lasting alignments between unions and community groups, both of which were being threatened by the forces that were transforming American capitalism in the 21st century. BCG did not emerge as a full-blown strategy fostered in a top-down fashion. Instead, it took shape from the bottom up, developing incrementally from the experiences of unions and their community allies, who began to push back against the austerity agenda in discrete local settings.

As suggested in Joseph McCartin’s contribution to this volume, “Innovative Union Strategies and the Struggle to Reinvent Collective Bargaining,” the general outlines of BCG began to emerge in the Chicago Teachers Union bargaining campaign and strike of 2012. But it was only in the aftermath of the Chicago fight as St. Paul teachers, Oregon state workers, Los Angeles municipal workers, and others began adopting similar strategies that the phrase “Bargaining for the Common Good” emerged to describe their approach. That phrase was further popularized in a conference by that name that attracted many of practitioners of these early efforts to Georgetown University in May 2014. Nonetheless, not every union that has adopted the BCG approach has
done so under that explicit banner. There is no exclusive franchise or centralized control of this initiative, which to date has involved the locals of unions both inside and outside the AFL-CIO, including the American Federation of State, County and Municipal Employees (AFSCME), the American Federation of Teachers (AFT), the Communications Workers of America (CWA), the National Education Association (NEA), and the Service Employees International Union (SEIU).  

While BCG is an evolving approach, emerging organically from the activities of a broad range of unions and community allies, a menu of nine key features, present in varying combinations and to varying degrees, tend to define BCG-style campaigns. They are the following:

- **Expanding the scope of bargaining.** BCG campaigns seek to attack head-on the endlessly repeated claim by anti-union forces that public sector unions are greedy, self-interested, and willing to protect the wages, benefits, and pensions of their members even at the expense of community needs. Mindful of the increased traction such arguments have achieved in a climate of economic insecurity, wage stagnation, and union erosion in the private sector, unions adopting the BCG approach have attempted to break free of the “paradox” of public sector unionism, the fact that unions are generally permitted to bargain only over those issues—wages and benefits—that are most likely to divide them from community allies. BCG campaigns have advanced nontraditional bargaining demands—such as that tuition costs at state universities be frozen, that governments cease doing business with banks that foreclose on home loans of distressed borrowers, and that commissions be formed to investigate government financing—and in so doing have assumed the role of defenders of the public’s interest. Such demands seek to publicly redefine who the union represents when it goes to the bargaining table.

- **Bringing the community to the table.** BCG campaigns realize that expanding the scope of bargaining means also expanding the bargaining table so that community interests—and in some cases even key community groups themselves—are represented. This means incorporating the community into the formulation of bargaining demands early in the process and developing an alignment of union and community interests that will persist through the bargaining process and beyond.

- **Unifying identities.** Even as they seek to bring together unions and their community allies, BCG campaigns also seek to address the multiple identities of union members. Union members (or potential members) are also parents, homeowners, renters, taxpayers, neighbors, and human beings with their own gender, racial, and class identities. By
seeking to expand the range of bargainable issues beyond simply wages, benefits, and working conditions, BCG campaigns attempt to use the bargaining process to serve the needs of their members not only as workers but also as individuals who wear multiple hats and are embedded in larger communities with particular needs. BCG campaigns attempt to center both community and labor struggles in the heart of union work—the bargaining table—and use bargaining to connect traditional worker issues and broader community issues.

- **Confronting systemic/racial injustice.** BCG campaigns tend to realize that traditional collective bargaining has proven to be an inadequate instrument with which to confront systemic injustices like institutionalized racism, the roots of which invariably extend beyond the confines of the workplace and are deeply imbedded in the structure of communities and reinforced by a broad range of policies. By breaking out of the box of traditional bargaining, BCG campaigns seek to identify, expose, and attack systemic injustices. For example, teachers’ unions embracing BCG have attempted to break the school-to-prison pipeline by calling for an end to disciplinary policies that tend to criminalize students and by demanding wraparound services that can better serve vulnerable populations.

- **Strengthening internal organizing and member engagement.** BCG campaigns seek to capitalize on the fact that union members are rarely more engaged with their organizations than during collective bargaining, using increased member interest to further deepen and expand member engagement. Union members involved in BCG campaigns often report feeling energized and prouder than ever to be union participants because they know that they are fighting not only for themselves and their coworkers but also for their neighbors and the broader community they serve.

- **Identifying, exposing, and calling to account the economic elite.** In the public sector, BCG campaigns work on researching and naming those who are profiting from the austerity agenda that has been imposed on the public sector. Long before bargaining begins, BCG campaigns do deep research to map the corporate power structure that dominates the setting of government priorities. They identify the corporate actors who claim there are insufficient funds to pay for public services even as they profit from tax cuts and generous public subsidies. Exposing the forces behind lucrative privatization schemes and showing who benefits from cuts to public services and taxes, BCG campaigns reframe the dominant narrative and expose calls for austerity as unjustified.

- **Challenging wealth inequality.** BCG campaigns call attention to one of the greatest injustices of our time: the fact that the public
sector is being starved for funds as a small sliver of Americans wallow in unprecedented wealth, paying taxes at a rate that is but a fraction of what the wealthy paid in the post–World War II era. BCG campaigns call for progressive revenue solutions that address the obscene growth of inequality. By demonstrating how wealth has been increasingly concentrated in the hands of a small elite, these campaigns help create a public debate that will help us build support for efforts to eliminate tax loopholes and raise the revenue needed to fund good schools and public services.

• *Putting capital to work for the common good.* By seeking to hold financial powers accountable, BCG campaigns open up opportunities to ensure that labor’s capital is put to work on behalf of the common good. Many union pension funds have been hurt not just by underfunding and skipped contributions but also by investing in high-fee hedge and private equity funds that all too often provide mediocre returns even as they engage in socially damaging activities that range from profiting from private prisons to promoting subcontracting, downsizing, and offshoring of jobs. (In many cases, hedge and private equity fund managers use their mega-earnings to fund candidates and groups that are leading the fight against public sector labor.) BCG campaigns increasingly seek to ensure that labor’s pension funds invest in projects that provide good returns and benefits to the community, putting billions of dollars of workers’ capital to use benefiting underserved communities.

• *Building a positive perception of organized labor.* For years, labor struggled with a negative press that bred defensiveness among unions, defensiveness that in turn led to more losses. In recent years, unions have experienced increasing popularity as the general public focuses on the dangers of growing inequality. BCG campaigns seek to build on this recent turn by positioning unions as defenders of the common good.

**RECENT DIRECTIONS IN BARGAINING FOR THE COMMON GOOD**

The promise that BCG holds as a game-changing approach for rebuilding worker power has become clearer in the last few years in work taking place around issues of education, racial justice, and financialization. An overview of some of this work indicates how BCG is evolving as unions and their allies struggle with problems in specific contexts.

No area has been a more fertile ground for the development of common-good approaches to date than education. Indeed, in many ways this sector has provided an ideal setting for BCG campaigns. As an indispensable public in-
stitution, public schools constitute an essential part of the social fabric of every community. Public schools have been hard hit by severe funding inequities and privatization efforts even as public demands for excellent schools have been rising in response to the needs of the job market for better-educated workers. Teachers’ unions have been repeatedly scapegoated for their alleged subversion of educational reform efforts and blamed for every problem besetting public education. Common-good campaigns have helped teachers reframe bargaining in that sector in ways that align the union’s interest with that of the community, pushing demands meant to correct fundamental inequities. Both the NEA and AFT have encouraged their locals to embrace common-good principles in their collective bargaining campaigns.

The recent work of the St. Paul Federation of Teachers (SPFT), an affiliate of both the AFT and the NEA, is a particularly representative case in point. In its 2013 and 2015 contract campaigns, the SPFT framed and won a set of demands that went significantly beyond the normal scope of bargaining. SPFT bargained for reduced class sizes and increases in the number of school nurses, counselors, social workers, and librarians employed by their school district. They also challenged their district’s standardized testing regime and called for the expansion of parent-led family engagement programs. They even demanded and won funding for restorative practices and mechanisms meant to address institutional racism. These restorative practices, framed as an alternative to punitive discipline policies that were pushing students of color out of the classroom and into the school-to-prison pipeline, were intended to radically shift the way members of a school community relate to one another and focused on intentional relationship building and shared problem solving. In their second year of implementation, these restorative practices have transformed the way pilot schools function, helping students, educators, and parents build deep, lasting relationships within their communities.13

The SPFT contract negotiations in 2015 also resulted in an agreement to form a task force to examine the school district’s relationship with the financial institutions with which it does business. This task force included SPFT members, district officials, and parents. It was created in response to the predatory lending practices of banks like Wells Fargo and US Bank, which have a major presence in Minneapolis–St. Paul. In its bargaining demands, the SPFT also asked the school district to stop doing business with any financial institution that forecloses on the mortgages of students’ families while the school year is in progress.

The SPFT has continued to follow this path of expanding the issues taken up in bargaining. As part of their 2017 negotiations, SPFT targeted large corporations and nonprofits—especially private colleges and medical institutions—that pay no taxes or receive public subsidies. The union is
demanding that these often generously endowed institutions, whose administrators earn millions, shoulder some of the financial burden of maintaining decent schools. In order to press its demands, the SPFT launched a popular education campaign called Teaching and Inquiring about Greed, Equity and Racism (TIGER), which has been documenting the tax avoidance by large corporations and wealthy nonprofits that is contributing to school underfunding.

Several factors help account for the SPFT’s success. First, the union was blessed with strong progressive leadership. Presidents Mary Cathryn Ricker (who moved on to be elected executive vice president of the AFT in 2014), Denise Rodriguez, and Nick Faber were visionary leaders and effective communicators of the union’s vision. Equally important, however, was the activation of rank-and-file union members who have gotten involved in the bargaining process and in programs like TIGER. Active and involved community partners were also crucial to the success of the union’s bargaining campaigns. By including those partners in the shaping of bargaining demands, and even seeking to bring them to the table during bargaining, the union built durable and broad-based community support. Parent engagement and involvement was especially important in that process. Finally, the political climate of St. Paul proved to be a propitious one for articulation of a BCG agenda.

While local conditions and the forward-thinking orientation of the SPFT made St. Paul an especially favorable location for developing BCG strategies, the SPFT has demonstrated the exportability of its approach. In 2016 it established the Saint Paul Leadership Institute to train teachers from other jurisdictions how to bargain for the common good. In 2016–2017, 26 teams, including a total of 130 educators and union staff from teachers’ locals in 17 different states, participated in trainings at the institute.14

Racial justice is another area in which BCG approaches are gaining ground. “As with most strategies in this moment, the need for Bargaining for the Common Good to focus on racial justice cannot be understated,” argues Maurice BP-Weeks, co-executive director of the Action Center on Race and the Economy. “As our opposition’s tactics focus more and more on wealth extraction from communities of color, we need strategies that fight back with specificity and collective strength.”15 BCG strategies in education have served as important incubators of such work. Seattle teachers have helped show the way on this front. When members of the Seattle Education Association went on strike in September 2015, they elevated issues of racial equity to a central place in their demands. The union denounced racism within schools, citing the disproportionate disciplining of African American children in the schools, where blacks were suspended at four times the rate of whites. One of the achievements of their strike was the creation of racial-equity teams at schools
throughout the district, which would work to reform practices that placed students of color at risk. AFSCME Local 3299 has also made racial justice central to its approach. Inspired by the Black Lives Matter movement, the union formed a Racial Justice Working Group in 2014 at the same time reactivating an Immigration Committee. After extensive internal organizing, the local developed an ambitious bargaining agenda that featured racial justice demands when it went to the table to negotiate for a contract covering 21 hospitals and the University of California’s (UC) campuses. Among their demands were the creation of local-hire and training programs for disadvantaged workers of color and a demand that UC commit to not collaborate with draconian immigration enforcement.

The inflammatory approach of the Trump administration to issues of racial and immigrant justice has sparked growing interest among unions and their allies in using collective bargaining to advance racial justice. In March 2017, the Center for Innovation in Worker Organization (CIWO) at Rutgers School of Management and Labor Relations and Georgetown’s Kalmanovitz Initiative for Labor and the Working Poor partnered with the Action Center for Race and the Economy (ACRE) to host a conference in Silver Spring, Maryland, that drew 150 key activists and leaders from racial justice groups from across the nation to explore how BCG approaches can open new avenues to confront racism and White supremacy. The conference drew support from the AFT, NEA, and SEIU, as well as racial justice community organizing groups such as Black Youth Project 100 (BYP 100) in Chicago and community organizations such as Neighborhoods Organizing for Change (NOC) of Minnesota and Alliance of Californians for Community Empowerment (ACCE). Conference participants worked on developing bargaining demands and campaigns that address structural racism in the workplace and how structural racism impacts the quality and types of services provided by schools and the public sector. By directly challenging racism and highlighting this as part of the analysis of how the public sector is being defunded, participants created openings that will allow unions and racial justice groups to connect more strategically.

In addition to providing a tool to address racial inequalities, BCG is also beginning to expand beyond K–12 education to address issues such as funding, access, and immigrant rights in higher education. Unions in Oregon and California have helped lead the way. In 2015, SEIU Local 503, which represents 55,000 workers in Oregon, including 4,500 classified support workers at state university campuses, demanded a restoration of state funding for higher education to pre-Great Recession levels and a tuition freeze, arguing that protection of access to higher education is of “utmost importance for Oregon families and our economy.” AFSCME Local 3299, which represents workers in the UC system, joined with students and other
coalition partners to document and expose how the university’s endowments were invested in hedge funds that had poor returns, high fees, and socially irresponsible investments. They have now built into their bargaining demands a proposal to create local-hire and training programs for disadvantaged workers and to ensure that UC follows “fair-chance” hiring procedures. They are also proposing expanding their existing immigrant rights language. In a past contract campaign, they won nondiscrimination provisions that restrict UC’s ability to use government-initiated reverification of immigrant documents against members. Now, in 2017, they are demanding that UC make stronger commitments not to collaborate with immigration enforcement.

Higher education provides a particularly propitious arena for the expansion of BCG. Institutions of higher education often act as “anchor institutions” in their communities, helping to set standards that influence local labor markets for better or worse. Their social function as economic incubators and training centers for workers gives them influence over the direction of the economy. They depend on public subsidies—even private institutions rely heavily on taxpayer funding of research and federal and state student loan programs. Their students borrow heavily from a rigged student loan market. Their boards of directors are influenced to an inordinate degree by financial interests. And both the endowments of private institutions and the pension funds of public university employees are often tied up with hedge funds and private equity concerns whose profits stem from the pursuit of job-destroying strategies.

In higher education, BCG offers a way of bringing diverse constituencies together and using the bargaining process to transform educational institutions into nodes for the construction of a fairer and more sustainable economy. In February 2018, the CIWO at Rutgers University hosted a convening co-sponsored by the Kalmanovitz Initiative and ACRE, which brought together more than 200 activists, including members of United Students Against Sweatshops (USAS), faculty unionists, and allies from around the country to strategize about transformative bargaining campaigns. If the enthusiastic response to the Rutgers convening is any measure, higher education might well become an increasingly central arena for the development of BCG in the years ahead.

Finally, while BCG to date has focused on public sector bargaining, there are indications that it could hold promise for the private sector in the years ahead. One promising sector for this work happens to be a key target identified in public sector BCG campaigns: the banking and finance industry. In recent years, public sector unions have repeatedly targeted banks and Wall Street firms for the role they have played in fleecing public coffers through toxic interest rate swaps and high fees—for example, the Chicago Teachers
Union occupation of the Bank of America in February 2016. But banks themselves could soon become the incubators of worker organizations that pursue common-good strategies within those institutions.

CWA has worked in recent years with the Committee for Better Banks to organize bank workers with the twin goals of winning better wages and benefits for the workers and challenging and reforming a business model that ties employee compensation to the promotion of predatory financial products. Bank workers involved with this effort were the whistleblowers who helped expose Wells Fargo's cheating scandal, in which workers were encouraged and even coerced into opening fake accounts on behalf of bank clients in order to create the illusion of a rapidly expanding depositor base. Bank workers are unionized in other nations, such as Brazil. There is no reason a bank workers' union could not emerge in this country. BCG strategies could help build support for such a movement, encouraging everyday depositors to see organized bank workers as consumer watchdogs.

THE FUTURE OF BARGAINING FOR THE COMMON GOOD

As the relentless legal, political, and economic attacks on unions, the public sector, and the broader movement for social justice continue into the immediate future, there is good reason to believe that the BCG initiative will continue to develop and spread. In many ways, the initiative is responsive to both the central underlying dynamics of these times and the needs and capacities of unions and their allies. BCG is an ambitious attempt to come to terms with the way capitalism has changed since the rise and subsequent unraveling of collective bargaining in the last two thirds of the 20th century. By attempting to rethink bargaining's participants, methods, and purposes, BCG is opening up a conversation about the sort of bargaining that will be necessary if working people are to help shape a 21st-century economy that serves their aspirations. Moreover, as a decentralized phenomenon that has taken shape from local experiments, BCG is well suited to a time when union resources are harder to come by and big top-down campaigns are difficult to facilitate. It builds on an essential function that unions must continue to perform—bargaining—and leverages that function into a broader, movement-building strategy.

The suitability of the BCG strategy to the conditions labor confronts today was exemplified by the teacher strikes and mass mobilizations of the spring of 2018. As teachers in Arizona, Colorado, Oklahoma, West Virginia, and elsewhere staged strikes and marches on state capitals, they did not explicitly adopt the mantle of BCG, and yet they pressed BCG-style demands by connecting their cause with that of community allies and attacking the austerity regimes that were starving their schools. West Virginia teachers refused to end their walkout until all state employees received the same raise they had won for
themselves; Oklahoma teachers demanded levies on the state’s enormously wealthy and notoriously tax-dodging oil and gas industry; and Arizona teachers insisted that no new tax cuts be enacted until per-pupil funding reaches the national average. Whether they adopt the BCG label or not, the extent to which teachers in Seattle and St. Paul, and from Logan County, West Virginia, to Logan County, Oklahoma, have begun converging around the same logic should alert us that something important is afoot: public sector workers are beginning to redefine how they bargain and for whom.25

How might this phenomenon spread in the years ahead? We can imagine growth occurring along geographic and sector-based lines and spreading increasingly from the public to the private sector. National convenings, such as the May 2014 meeting at Georgetown, helped plant the seed for common-good campaigns in some settings. But as activists gain experience with common-good campaigns in different regions, regionally based trainings are likely to serve as the key platforms for the expansion of the initiative. As BCG gains ground in specific sectors, institutions are likely to emerge that can help spread it further in those sectors, as the Saint Paul Leadership Institute has been doing for K–12 education. One could imagine similar institutions helping spread BCG in higher education, municipal employment, or other sectors. As common-good strategies gain ground in public sector bargaining, they should draw increased interest from private sector unions.

The Supreme Court’s attack on public sector union security is likely to facilitate the spread of BCG over the next few years. The spread of common-good strategies in the public sector, where they began, was initially hampered by fears of judicial intervention. Just as the Chicago Teachers Union was outlining its common-good demands in 2012, laying the groundwork for its strike, the Supreme Court was signaling the beginning of its attack on public sector agency fees. In Knox et al. v. Service Employees International Union, Local 1000 (2012), Justice Samuel Alito authored a majority opinion in which he called for a reconsideration of the constitutionality of state laws that allowed unions to collect agency or “fair share” fees from the workers they represented. Alito made clear his intention to overturn the 1977 Supreme Court decision in Abood v. Detroit Board of Education, which upheld the constitutionality of agency fee laws. Contending that public sector unions were inherently political vehicles and that public sector bargaining was an inherently political process, Alito believed that the collection of agency fees amounted to an infringement on the First Amendment rights of workers who might not share their unions’ politics. As such, he judged laws allowing for the collection of those fees to be unconstitutional. An Alito-led majority accepted a like argument in Harris v. Quinn (2014) and indicated that it was prepared to examine the question
in full if given the right case. If not for the sudden death of Justice Antonin Scalia in February 2016, *Friedricks v. California Teachers Association* (2016) would have been that case. Without Scalia, the court deadlocked, and it would take two more years and Donald Trump’s election before *Janus v. AFSCME* allowed the court to continue the work Alito had first envisioned in 2012.26

During the years between 2012 and 2018, as this legal drama played out, unions worried about the legal sword of Damocles that hung over their heads, and some hesitated to embrace common-good principles in part because they feared that this approach would be used by anti-union justices as evidence of the political nature of bargaining, thereby endangering agency fees. Over time, the near certainty that the Supreme Court battle was already lost had begun to diminish such reticence. If the court overturns agency fees in the *Janus* case, one of the unintended consequences of that decision will be to inspire unions to continue to innovate in their approaches to collective bargaining. They will have nothing to lose and much to gain by doing so. Should that happen, it will not be the first time in US labor history that necessity has become the mother of groundbreaking invention.

ENDNOTES


2 On the Knights of Labor’s use of mixed assemblies to build local political power, see Leon Fink, *Workingmen’s Democracy: The Knights of Labor and American Politics* (Champaign, IL: University of Illinois Press 1983).


For an account of the evolution of the SPFT’s thinking about collective bargaining, see Mary Cathryn Ricker, “Teacher–Community Unionism: A Lesson from St. Paul,” *Dissent* 62:3 (Summer 2015): 72–77.


For the overwhelming majority of the past century, a union contract has been the best weapon to ensure that working people in the United States have access to staples of a social safety net such as health care, retirement income, and other benefits often provided in other democracies directly by the government. Unlike in other parts of the world, the modern progressive movement in the United States has not been consistent in forcing the government to provide a social safety net that includes many of the things unions bargain over.

This approach is attributable to the decisions movement leaders made during and after World War II when tackling the question of who is responsible for providing for the common good and welfare of working people—employers or the state? At that moment in history, many European countries used their leverage to force the government to provide a strong social safety net that included many of the things American unions bargain over—health care, retirement, sick time, and leave. This freed up European unions to negotiate for all workers in a sector and not simply over wages but also over worksite conditions, production practices, and in some instances overall business model.

Meanwhile, US leaders used their leverage in the New Deal to increase the union’s role in negotiating these same social welfare items from each company on an enterprise-by-enterprise basis—in many ways letting the government off the hook. And that’s the system still present today, a system that puts undue pressure on unions to win piecemeal social welfare benefits for small universes of people while leaving the rest of the population to fend for themselves at the policy level.

In another New Deal compromise that continues to haunt us today, movement leaders compromised with southern Democrats to exclude protection for sectors that employed predominantly Black and Brown workers and shortly afterward allowed states to undermine and even ban various protections for workers attempting to form unions. Continuing this legacy, corporations and union-busting consultants have actively and intentionally used White supremacy to keep working people from organizing in any way. They led with White supremacy while training managers how to avoid unions—playing on the fears executives had of an active, diverse workforce that was clear on the rights they’d won. They led with it to keep workers divided—painting unions not only as
outsiders but also as a Black worker thing … something that would benefit only workers of color. This is not just the history of worker struggles at Cannon Mills or Teneco, but also the recent story of southern workers at Boeing and Nissan.

This legacy of the New Deal is that only a small section of the US workforce is currently able to consistently negotiate a collective bargaining agreement in the face of employers’ successful efforts to undercut unions through legal restrictions, retaliation, and intimidation. Because of this, some have already sounded the death knell of collective bargaining and the US labor movement.

And yet, many non-union workers are building a vibrant movement that is shaping the future of bargaining in ways that could engage the 90% of working families without access to a union contract. Like their forebears, working people today are not waiting until the perfect legal framework is in place before creating a new democratic platform for having a say, as equals, over their working conditions. In fact, the harder some employers have worked to restrict workers’ ability to collectively bargain, the more nimble and creative the modern labor movement is actually becoming. They are building a 21st-century labor movement.

Birthing the new framework for collective bargaining will not happen simply by rallying only those who already have access to 20th-century rules and protections. Certainly, unions and other institutions must protect what they’ve won. And those who still have the power to win a traditional union contract—particularly a first contract—under the current circumstances should continue to go forth and prosper. But for the remaining 90% plus of working people, most of the traditional channels are completely blocked. So building the organizing and collective bargaining power required for this phase of global capitalism requires the kind of creativity and militancy that could ultimately set up the foundation for establishing a bargaining framework that goes beyond what was won in the New Deal—expanding the ways in which working people collectively negotiate together, the types of binding agreements they can win, what they can bargain over, and whom they can bargain with.

This chapter highlights a snapshot of pioneering bargaining models and experiments that help working people call more of the shots and achieve lasting gains. Some of the efforts have been proven successful, some are actively being tested today, and others are still in incubation. The models, by and large, all require that working people are directly at the table with employers and decision makers, that an enforceable agreement or other means of collective accountability exists, and that the outcome builds enduring, longer-term power for working people.

These models fall into three distinct approaches, discussed in more detail in the pages that follow:
COLLECTIVE BARGAINING DEFINITION

When working people take collective action in negotiating with any entity that has power over their wages, conditions, and overall well-being in a way that produces an enforceable or contractual agreement that can be renegotiated as conditions change.

Disclaimer: The definition of bargaining used here is expansive and should not falsely implicate any of the organizations noted as seeking sole representation of a group of workers for the purpose of negotiating with a direct employer unless they otherwise state that themselves.

- Broadening the scope of traditional bargaining. This approach involves worker-driven bargaining that expands the scope of a traditional bargaining unit and broadens the topics subject to negotiation with a set employer.
- Bargaining with the ultimate profiteer. These strategies attempt to establish shared bargaining units of formal and informal workers in any given sector to increase their collective power.
- Community-driven bargaining. In this approach, working people organized as community members and/or some other non-union entity is the key negotiating party, and they negotiate not necessarily with an employer but with other entities with economic power over their lives—such as building owners/landlords, bankers/financiers, and developers, to name a few.

As a central strategy to expanding the bargaining power of working people, all of these approaches offer opportunities to confront White supremacy. When worker organizations centralize the struggle against White supremacy, accounting for the impacts of structural racism in their efforts to expand the scale and scope through which ordinary people are able to organize and collectively negotiate against shared targets, they win. And they do not simply win short-term compromises for a small number of members. They win in ways that alter our shared understanding of what is possible—providing the political space for the majority to essentially govern in ways that match our values of putting people and our environment over the profits of a tiny few.

Here is the problem. Far too often when confronted with this situation, movement organizations clam up. They don’t want to deal with it head on for fear of alienating some White members whom they believe might quietly disagree. And yet the 2016 elections were a sobering reminder of
what happens when institutions avoid the issue of race—the silent “hard hat” voters transforming the legislature, judiciary, and executive branch into a five-finger giveaway for corporate interests. This was a far cry from what unions did to address race directly while canvassing for Barack Obama in 2008.10

Combating racism and White supremacy is not an insurmountable challenge. Despite buying into the easy racist rhetoric of the Right that makes them fearful of extinction and scapegoats everyone who is not a White Christian man, these White men and women are actually suffering. Lane Windham’s *Knocking on Labor’s Door* demonstrates the power of trusting in working people’s innate ability to struggle and grow over issues of race when organized around our shared values. In the book, Cannon Mills worker, Tim Honeycutt, acknowledged that he was actively racist in high school, having participated in a “race riot.” But when the union organized around his shared values and economic goals with Black workers in his plant, he supported it.11

The labor movement needs all workers to make this whole thing work. It’s not fair to workers of color to let their White colleagues stand on the sidelines while they get their butts kicked. And it’s not fair to White workers to deny them the opportunity to be heroes in their own narratives.

What follows are a few examples of how some unions and organizations have led in expanding the ways in which working people come together to collectively negotiate for themselves, in ways that unite individuals across race to build a stronger foundation for a 21st-century labor movement.

**BROADENING THE SCOPE OF TRADITIONAL BARGAINING**

Social justice unionism has experienced a recent resurgence.12 One of the more popular approaches to using the collective bargaining process to negotiate over issues beyond the worksite is Bargaining for the Common Good. Coined by fellows at the Kalmanovitz Institute of Georgetown University,13 this phrase describes an approach rooted in the reality that unions and community-based organizations are actually in the same struggle.

Over several generations, community organizations and unions have fought for quality public schools, hospitals, mass transit, affordable housing, and the regulation of health and the environment to create a civil society that serves everyone. These institutions are in jeopardy after years of attack from the financial sector and global capital, which lust hungrily after the opportunity to profit off of these sectors. The same forces that seek to defund government and privatize services are dismantling the social safety net, destroying good public sector jobs, and driving ever-increasing wealth inequality. Communities of color are directly impacted because they are often more vulnerable to cuts in public services and where public sector jobs are often among the last op-
opportunities for decent wages and benefits. Harms to the public sector also hurt working-class White communities, who are similarly dependent on Medicaid, Social Security, public schools, or public hospitals. In fact, White workers make up the majority of families who benefit from many of these services.\textsuperscript{14}

Whether directly or indirectly, public sector unions address some of the same issues at the bargaining table that community organizations fight for in corporate and legislative campaigns. Community organizations organize where workers live. The same can also be true in the private sector. In both cases, these unions can advance the common good by working together with community partners. Negotiating in a united front can help both organizations move beyond reactive, defensive battles toward aligned and proactive approaches.

Luster Howard, Maricruz Manzanarez, and Seth Newton Patel offer a prime example of how to align the needs of working people and community members through their multiracial coalition negotiating for the common good. The trio introduced racial justice demands into their union’s contract negotiations with the University of California (UC) state system.\textsuperscript{15} Inspired by the Black Lives Matter movement, they formed a racial justice working group in 2014. They created space for members the American Federation of State, County and Municipal Employees (AFSCME) Local 3299, who are overwhelmingly people of color, to tell their personal stories about racism and police violence. After identifying individual cases of discrimination and systemic inequities that their members face on the basis of race and nationality, the union local pressed for several reforms to the UC system. They demanded the creation of local-hire and training programs that would open up jobs for low-income people of color who live in communities near the worksites and commitments from the school system not to collaborate with immigration enforcement. The union went beyond the traditional jurisdiction of bargaining—which directs unions to focus almost exclusively on self-interested workplace conditions—and expanded it to include the conditions of their entire community, their broader workplace.

Working people and their advocates can also look to legislative and regulatory policies as a tool to improve and expand bargaining. By working in partnership with government enforcement agencies, worker organizations can broaden the base of people able to engage in collective bargaining by using the leverage of labor law enforcement to contact more and more working people in particularly exploitative industries or jobs. In 2014, Jobs With Justice San Francisco led a successful campaign to have the city enact the first set of laws in the nation ensuring more predictable and fair workplace schedules for nearly 40,000 people who work in retail and restaurants in San Francisco. Armed with the leverage of the scheduling ordinances, women and men who work at Macy’s in the Bay Area were able to
renegotiate a better contract. Beyond these individuals, the coalition had to navigate how to maximize the policy’s implementation to create new channels for organizing.

Any organizer can validate the common experience of laws getting easily overturned, repealed, watered down, or ignored. And while labor and employment laws on the books may technically grant working people more protection—those who have a union worksite are in the best position to maintain standards. Therefore, organization is key to enforcement, to holding employers accountable and keeping working people’s concerns and voices heard long after the initial legislative lobbying and victory phase.

Co-enforcement policies can solve for lax enforcement and provide another path for expanding the scope of traditional worker-driven bargaining. As Janice Fine has noted, these processes prioritize the participation of working people, worker organizations and high-road firms in enforcement and greater cooperation among government, workers, and worker organizations. Jobs With Justice and other groups collaborated with the agency charged with enforcing the scheduling statutes to adopt co-production/co-enforcement mechanisms. The Office of Labor Standards and Enforcement then reserved funds to community-based organizations to increase compliance with the law and make sure workers’ rights are respected. The coalition is working with the Central Labor Council, the Organization United for Respect (OUR), and other partners to organize the people affected by the San Francisco ordinance to monitor implementation store-by-store. Legitimized by the local government, the coalition is set up to talk to retail employees specifically about scheduling and hours in a way that opens up organizing discussions. The co-enforcement model may catalyze a more collective engagement of individuals working in the retail industry in San Francisco who share common interests and goals.

**BARGAINING WITH THE ULTIMATE PROFITEER**

In the era of Uber and TaskRabbit, what defines a person’s “boss”? Is it the person who signs the paycheck? Perhaps it is the person who invests in the company or organization. Or is it the person(s) who sets prices, wages, or standards industry wide? Jobs structured with the traditional employer/employee relationship have shrunk dramatically in proportion to nonstandard employment, or jobs that muddy the employment relationship with the ultimate benefactor(s). This phenomenon is what scholars like David Weil have often referred to as the fissured workplace. With whom do workers negotiate in such a climate?

To understand what today’s working people are up against, workers must target the individuals who own these various enterprises and thus hold significant positions of power in our economy. Those in power are not simply
vague systems to analyze or generic companies to be angry at. They are people making decisions that ultimately benefit a small select few at the top to the detriment of everyone else. There simply is no winning plan to build a shared prosperity without confronting these individual owners and their corporate power directly.

Luckily, working people have modeled various approaches to doing just this over the past few years.

Workers at many gig companies are experimenting with different ways to negotiate over their conditions. In some instances, this takes the form of outlining a new set of labor protections for independent contractors or other workers not considered direct employees who are clearly tied to an ultimate benefactor. Uber and Lyft drivers in Seattle successfully got the local council to approve a law pushing those companies to negotiate with them. Meanwhile, groups such as the New York Taxi Workers Alliance and several unions have attempted to win protections for similar drivers under traditional labor law, claiming that they are in fact employees. Both examples are proving that the only thing inevitable about the gig economy is that, as with business innovations of the past, working people will eventually figure out how to organize.

In another example, a group of guestworkers took on the largest employer in the world by targeting the ultimate benefactors of their seasonal migration cycle—the Walton family.

Walmart is worth more than $100 billion, greater than the combined wealth of the bottom half of the US population. They directly employ 2.2 million workers but also have their tentacles stretched throughout our economy. Consider one Walton in particular, Greg Penner, Walmart’s chair and son-in-law to Rob Walton. He has his own investment firm, sits on the boards of Walmart and Hyatt Hotels, and funds anti–public school initiatives through a set of nonprofit organizations. All the workers he touches, whether or not they are directly employed by one of these companies, is a massive list. It would include Walmart sales associates as well as the Louisiana and Maryland seafood workers whose employers supply exclusively to Walmart. The list would also include subcontracted workers at the Hyatt in Los Angeles, the guestworkers on visas at the Hyatt in Colorado, and the temporary construction workers building the new Hyatt in New Orleans. It would include the janitors in the Silicon Valley building of Penner’s investment firm and, yes, the teachers and staff at the charter schools he funds. It would include these workers and many, many others. Together, all of these are “Greg Penner’s workers.”

In Breaux Bridge, Louisiana, a group of guestworkers at C.J.’s Seafood, a Walmart supplier, faced abuses not visibly seen in the United States since sharecropping. They were forced to work 24-hour shifts. They and their families were threatened with violence. They grew ill from standing so long in the heat, and at times they were locked inside the facility to work.
What are 11 guestworkers going to do to change Walmart?

Actually, they can do quite a lot. Instead of targeting a small supplier, their technical “boss”—C.J.’s Seafood—they targeted the end of the supply chain: Walmart. They organized, at great risk to their safety, engaging other guestworkers and direct employees alike to pressure the company to shift the conditions of their and other suppliers. And when the New York Times published “Forced Labor on American Shores,” an editorial about Walmart, it changed the scale and scope of the fight demanding justice for Walmart workers.

They essentially created a small bargaining unit to negotiate directly with the 0.01% at the top of their food chain, seeing the ultimate benefactor of their labor not as C.J.’s Seafood, but as Walmart and its top executives. Because they took this approach, these loosely documented workers in Breaux Bridge, Louisiana got Walmart to the table. The company ended its contract with C.J.’s and ultimately revisited its relationship with suppliers and their practices. More still is necessary to push Walmart and other companies to take full responsibility for the workforce throughout their supply and labor migration chains, and with other employees directly impacted by their policies and practices. But the guestworkers demonstrated what is possible when modeling this strategic framework.

The Asia Floor Wage Alliance (AFWA) provides another great illustration of bargaining with the ultimate profiteers, this time targeting multinational brands throughout their supply chains. This transnational collaborative effort among unions and worker-based organizations in Asia allows working people to negotiate with their direct employer in the garment factories and undermines the ability of multinational corporations to pit one country’s workers off of another’s in search of the lowest price.

Across Asia, the minimum wage varies as governments try to compete for business, and suppliers are loath to pay more than the minimum, given the pressures from the large multinational brands such as H&M, Walmart, and the Gap to keep costs low. So in 2005, the alliance assessed what a living wage would be across Asia. This calculation established a shared floor wage, allowing working people in the garment sector to make consistent wage demands and negotiate with large garment suppliers. The unions within the alliance want the garment suppliers to pay the minimum wage and have the multinational brands pay the difference between the minimum wage and the calculated floor wage. This approach gets to the heart of 21st-century bargaining in supply chains. It is a tripartite approach allowing garment workers to negotiate with their governments, who set the floor and living wages; their direct employers in the factories; and the profiteers, the multinational corporations controlling industry wages—all in a transnational collaboration among unions.
COMMUNITY-DRIVEN BARGAINING

Consider the Justice for School Workers campaign in Atlanta, Georgia. In the spring of 2012, the Georgia commissioner of labor, Mark Butler, cut off access to unemployment benefits for contracted school workers in the state—the majority of whom were Black women. These jobs—held by cafeteria workers, bus drivers, school support staff, and even some charter school teachers—had once been considered good jobs based in the public sector. In fact, it was public sector jobs like these that created many pathways out of poverty for African American workers. But by 2012, these same jobs had been contracted out to companies like Sodexho, Aramark, and others—limiting the state’s responsibility for these workers and introducing a level of flexibility that helped a set of corporations but ultimately devastated workers. Butler’s action sent thousands of school workers, again primarily African American women, into crisis.

Atlanta Jobs With Justice took it on with both organized union workers and unorganized workers. They fought a battle with the Georgia Department of Labor and the Georgia state legislature to prevent the cuts from being permanent and to restore the benefits that had been previously denied. Instead of developing a short-term “give us our unemployment back” transactional victory, the coalition took a very different, worker-centered approach. The coalition framed the issue not simply as an attack on the social safety net, but as an issue of wages and income contingent school workers in Georgia depended on. In addition, they uncovered the real systemic problems regarding the nature of work in Atlanta, asking “Whose city is it? Ours or Sodexho’s?” By doing so, the coalition was able to win $8 million in previously denied unemployment benefits, paid directly back to the workers. They were also able to establish an organizing hub, “Justice for School Workers,” that functioned across several existing unions, included non-union workers, and that positioned workers to counter future attacks while setting an agenda to redefine the value and standards of school worker jobs in Atlanta and throughout Georgia. Some of these workers were able to go on to collectively bargain agreements the traditional way with the companies they now worked for. Others are still organizing, trying to identify opportunities to collectively confront the powers that be in Georgia’s public/private education sector.28

Collective bargaining, at its best, is a system by which workers are able to exercise power in a way that directly confronts the owners of capital, and that reclaims portions of that capital for working people and our communities. It has served as a direct mechanism to fight for a fair return on the labor workers put into building, operating, servicing, or moving something. And the Atlanta case study demonstrates how and why collective bargaining must be expanded in ways that allow modern workers to confront their bosses and the owners of capital in new and creative ways.
Another model of community-driven bargaining centers on the creation and administration of a trust board that governs a public fund to advance community interests. In this model, representatives from the community, a particular workforce, government officials, and the private sector sit on the board. The approach derives from the Center for Community Change’s Housing Trust Funds, which involve housing advocates and low-income residents in decisions about affordable housing. Workers, in their role as tenants, drive negotiations with housing advocates and elected officials. These funds aggregate streams of public and private revenue for affordable housing, which a board oversees and negotiates over the funds. A board holds regular meetings, often open to the public. Through their representatives on the board, community members thus have a voice in determining fund spending.29

The Maine People’s Alliance and Caring Across Generations—a joint national campaign of Jobs With Justice and the National Domestic Workers Alliance—seek to employ this strategy in the care sector. The groups are campaigning for the passage of universal family care legislation to improve wages and working conditions for family and professional caregivers and allow families to have affordable access to care.30 Universal family care could address both childcare and eldercare needs, although in Maine the campaign may focus on care for the elderly and people with disabilities. Their proposal would create a dedicated funding stream, likely through a tax on income from wealthy individuals that is not subject to Medicare and Social Security taxes.

Instead of directing government agencies to oversee enrollment targets, set standards that employers of care workers must meet, and otherwise oversee implementation, the campaign purposely rests power and decision making with a governing board comprised of stakeholders elected by the constituencies they represent. The tripartite board would include care workers, families using the care benefit, and industry representatives. Thus, working people can more directly bargain for both improvements in the workplace and better access to care rather than trying to pressure government officials to represent their needs.

These are just a few of many examples that counter the perverse misconception that the labor movement is dead. The struggles of working people, not legal parameters of union density, have always defined the labor movement. Black Americans did not wait for the Voting Rights Act to pass before showing up at the polls in North Carolina. Undocumented youth did not wait for the DREAM Act to pass before enrolling in colleges around the country. And the American labor movement did not wait for the National Labor Relations Act to organize and vie for collective power.

Efforts to organize new bases of individuals in order to position them to bargain, to vote, and to disrupt blaze the path toward building an economy that works for everyone. This requires directly confronting corporate power,
White supremacy, and all of the systems of exploitation that allow a small number of individuals to benefit from everyone else. There is no magic pill to solve the problems of working people in the current economy without doing this.

Corporations and their friends in government have long aligned to weaken the 20th-century weapons that workers have used to claw wealth and security back from the 1%. Leaders of a budding 21st-century labor movement cannot arm the new troops with Iron-Age swords when the leaders of global capital fight with drones. Progress requires innovation and creativity beyond the frameworks of the past century. But it also requires some old basics as well—organizing like there’s nothing to lose. And in all of this, movement leaders must reach far beyond their existing memberships to the overwhelming majority of workers who are yet protected by a collective bargaining agreement—way beyond the narrow reaches of a traditional bargaining unit and a bargaining agreement—to meet the modern-day worker and in the economy she or he functions in.

While labor law reform is needed, waiting for the balance of power to change in Washington to fix the current rigged system is foolish. Early industrial unions were bargaining long before the Wagner Act codified the practice, leveraging their ability to halt production when necessary. Only through exercising their power, and even breaking some rules, were these unions able to win the legal protections to back up the ability of working people to negotiate equally with employers. Incremental change alone won’t overcome the incredible inequity and obstacles getting in the way of working people’s leading a good life.

Around the country, working people are organizing to change the rules so they are able to live with dignity. They have turned many crises into opportunities to make powerful strategic interventions to expand models of organizing, bargaining, and policy remedies that build out a framework for collective bargaining in the 21st century.

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ENDNOTES


13 “Bargaining for the Common Good” was first characterized in this way by fellows at the Kalmanovitz Initiative for Labor and the Working Poor at Georgetown University, http://bit.ly/2leqyeZ.


“Uber Deal Shows Divide in Labor’s Drive for Role in ‘Gig Economy’,” Fortune (May 23, 2016), https://for.tn/2IirYp0


For more information, see “What Are Housing Trust Funds?” Center for Community Change, http://bit.ly/2H1Sr6I2


Windham, Knocking on Labor’s Door.
Section Three:
State and Local Policy
Chapter 11

“$15 and a Union”: Searching for Workers’ Power in the Fight for $15 Movement

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In the summer of 2012, the federal minimum wage in the United States stood at $7.25 per hour, a rate at which it remained in 2017. Yet, even in 2012, a full-time, year-round job at $7.25 per hour produced an annual income below the federal poverty guidelines for a family of two (US Department of Health and Human Services 2012). In 2012, 18 states and the District of Columbia had higher minimum wages, with Washington State the highest by far at $9.04 (Burnett 2011). In July of that year, US Representative Jesse Jackson, Jr., introduced a bill in Congress to immediately raise the federal minimum to $10 per hour. With a Republican majority in the House, however, a spokesperson for Jackson’s office admitted that the bill almost certainly would not come up for a vote (Berg 2012).

Less than five years later, 29 states mandated higher-than-federal minimum wages and 16 of them required at least $9. Cities such as the District of Columbia, Los Angeles, Minneapolis, San Francisco, and Seattle had enacted laws to phase in a local minimum of $15, or more than twice the federal standard (Franco 2017; Tung, Lathrop, and Sonn 2015). In April 2016, both California and New York approved measures to do the same statewide, and in August, the Democratic National Convention made a $15 minimum wage part of the party’s election platform (Bacon 2016). A demand that only recently had seemed “outlandish” and politically impossible was being swiftly adopted in major states and metropolitan areas (Finnegan 2014). The momentum for such reform was widely attributed to the Fight for $15 campaign, which was initiated by the Service Employees International Union (SEIU) and sparked by numerous and highly publicized strike actions by workers in the fast food industry.

What explains the rapid spread and impact of this movement for economic change? In many ways, it both follows and departs from both traditional and contemporary models of labor mobilization. While the campaign organizers insist on workers’ rights to organize along with wage increases, the strikes do not emerge from established relations of collective bargaining, and the workers are as yet far from gaining union recognition from the employers. Although the movement is backed by SEIU, its organizational form resembles the independent worker center model of advocacy (Avedaño and Hiatt 2012; Fine
2015). Yet it also stands out in its focus on workplace militancy and its engagement with the National Labor Relations Board (NLRB) to try to open up space for union organizing.¹

In this chapter, I examine the Fight for $15 campaign as an example of innovative practice in the American labor movement. I begin by briefly sketching an analytic framework for understanding the features of the campaign and its strengths and limits. I then review conditions for low-wage workers, including in the fast food industry, and the emergence in recent decades of labor movement strategies to address those conditions. This sets the stage for a narrative account of the Fight for $15 mobilization, from its first walkout in New York City in November 2012 through some of its notable landmarks and victories. Finally, I try to assess some of the outcomes to date and the ongoing challenges facing the movement.

ANALYZING WORKERS’ POWER IN THE EMPLOYMENT RELATIONSHIP

We can situate our analysis here by identifying the types of power workers can use to regulate the employment relationship, starting with Wright’s (2000) distinction between structural and associational power (see also Lambert, Webster, and Bezuidenhout 2012; Silver 2003). Structural power, rooted in the economy, includes (1) labor market bargaining power arising from low unemployment or high demand for scarce skills, and (2) workplace power from strategic location within an integrated production process or supply chain. In turn, associational power describes “the various forms of power that result from the formation of collective organizations of workers [including] such things as unions and parties but [also] a variety of other forms, such as works councils or forms of institutional representation of workers on boards of directors in schemes of co-determination, or even, in certain circumstances, community organizations” (Wright 2000: 962).

Associational power draws on (1) the institutional authority and legal rights exercised through the state and (2) the organizational forms and strategies for collective action developed in the labor movement. In this way, associational power spans the arenas of the state and civil society as both a dependent and an independent variable. That is, labor’s associational power is channeled by the legal and political institutions of the state, but it also may have recursive effects on public policy, including the laws governing workers’ collective organization, and on the opportunities for further mobilization. In civil society, movement organizations build on existing repertoires of action and relationships among workers, but also generate tactical and strategic innovations to address problems that emerge in the course of ongoing conflict.

Civil society is especially important for a third form of power that Chun (2009) calls “symbolic.” In the United States, marginalized immigrant, racial
minority, and women workers in low-wage sectors were historically often excluded from legal protections and face a prior struggle for acknowledgment of the legitimate status of their labor and rights as workers. Chun argues that such workers can mobilize by using symbolic power not within formal institutional channels but through the moral order of the public sphere. Workers can exert symbolic leverage by organizing “public dramas” that transform workplace disputes into “moral crises” for the larger community, pressuring employers to respond to public opinion (2009: 17–18).

Structural, associational, and symbolic power are not historically separate or opposing types but rather coexist in varying combinations, grounded in relations in the economy, the state, and civil society. Thus, the organization of the workplace and the labor market, the nature of state-sanctioned rights and regulatory processes, and the development of workers’ capacities for collective action all affect the kinds of power that workers can bring to bear on the employment relationship. The intersection of patterns across these arenas can create opportunities, threats, or leverage for different actors, and the key question for the movement is not just the material concessions it may win but whether it can institutionalize forms of workers’ associational power. In what follows, I review these issues in the fast food industry and the low-wage economy, and I highlight the evolution of strategic responses from within the labor movement as a prelude to the emergence of the Fight for $15 campaign.

THE Restructuring of Employment and the Rise of Precarious Work

For several decades, the American economy has seen a growing polarization of employment and the expansion of low-wage jobs (Autor 2010; Kalleberg 2011). The shifts have been attributed to the offshoring and automation of many previously middle-range jobs and the decline of unions and other forms of labor market regulation. In addition, Weil (2014) argues the changes have coincided with a “seismic shift” in the structure of jobs, as employers outsource even core functions through subcontracting, third-party management, and other forms of “fissured” employment. As large firms transfer work to smaller providers operating in highly competitive markets, the result is often “downward pressure on wages and benefits, murkiness about who bears responsibility for work conditions, and increased likelihood that basic labor standards will be violated” (2014: 8).

These trends have contributed to the growth of precarious conditions for many low-wage workers, including unstable employment; involuntary part-time or temporary work and irregular, unpredictable hours; few—if any—health, retirement, or leave benefits; weak enforcement of safety standards and protections for workers’ rights; and a general shift of the burden of risk from employers to employees (Kalleberg 2014). Many of these characteristics are
illustrated in the fast food industry, with its franchise system of ownership linking large “brand” corporations with retail outlets operated by franchisees. Franchising represents another type of fissured work, through which the brand corporations dictate exact standards and procedures for products, services, management, training, and marketing while denying responsibility for wages or compliance with the National Labor Relations Act (NLRA) and other labor laws. The franchisees, on the other hand, pay royalties to the corporations based on revenues rather than profits and so face pressures to reduce costs, thus contributing to higher rates of violation of wage and hour laws and other employment regulations (Bernhardt et al. 2009; Weil 2014).

**On the Front Lines: Fast Food Workers**

The fast food industry employed an estimated 3.6 million people in 2012, the year the Fight for $15 movement began in earnest. Median hourly wages for front-line employees ranged from $8.69 to $8.94 and median hours from 24 to 30 per week (Allegretto et al. 2013; National Employment Law Project 2013; Ruetschlin 2014). According to Schmitt and Jones (2013), half of all fast food workers were age 23 or older, 31% had some college experience or college degree, and 12% were born outside the United States. Among core front-line workers in fast food, Allegretto et al. (2013) found that 73% were women, 23% were African American, and 20% Latino. Sixty-eight percent were single or married adults who were not in school, and 26% were raising children. Moreover, around 20% of core front-line workers lived in families with incomes below the federal poverty level, compared with just 5% of workers as a whole.

A survey of New York City fast food workers in 2013 found that 57% experienced some form of wage theft, including off-the-clock work, not receiving time-and-a-half pay for overtime, working while on a break, or waiting to clock in after arriving for a scheduled shift (Fast Food Forward 2013). A 2015 study of fast food workers in Chicago found respondents worked an average of 27 hours a week, and weekly hours fluctuated by as much as 10 to 14 hours for nearly 25% of employees and by 15 to 19 hours for another 18%. Over 70% of respondents said they were not guaranteed a minimum number of hours per week, and almost one third received notice of their work schedules less than one day in advance (Dickson, Bruno, and Twarog 2015).

In many ways, the fast food industry defines the popular image of precarious, low-wage work, and a “McJob” is a common term for a range of low-quality, dead-end service jobs. The conditions in the industry also make it difficult for workers to organize, and the unionization rate is less than 2% (Tung, Lathrop, and Sonn 2015). Workers lack both forms of structural power: labor market bargaining power is limited by low skill requirements and easy replaceability, while workplace power is minimized by the vertically fissured production process scattered among thousands of franchisee employers. The average number
of employees per establishment is 17, and even a complete shutdown of any one site would not necessarily affect the labor process at other sites (Weil 2014: 129). Yet this structural dispersal is in part an artifact of the legal construction of the fissured workplace and the regulatory institutions that allow lead corporations to avoid liability for labor practices.

THE RESPONSE FROM THE LABOR MOVEMENT: REMAKING ASSOCIATIONAL POWER

The rise of low-wage, nonstandard, and precarious work is not new, and neither is the impact on workers’ power. Apart from those in skilled trades, integrated production systems, or supply chains, most workers in most sectors would seem to lack structural power most of the time (Silver 2003). With the decline of union density and the weakening of traditional protections for collective bargaining, however, workers have been forced to search for new ways to exercise associational power. The last few decades have seen a proliferation of new forms and strategies of worker organization, both apart from and in alliance with unions and collective bargaining (Avendaño and Hiatt 2012; Fine 2015). There is no need here for a full review of this movement repertoire, but three types stand out as important precedents for this case.

First, the SEIU’s Justice for Janitors (JfJ) campaigns that emerged in the late 1980s directly confronted the outsourcing of work in building services. Rather than organizing for NLRB elections at each subcontractor, the JfJ strategy targeted the building owners or corporations who were the prime contractors for the cleaning firms (Lerner, Hurst, and Adler 2008). Organizers focused as much on the urban community as on the workplace, building solidarity among members and mobilizing symbolic power through “guerilla-style, ‘in your face,’ media-oriented events” designed to create public dramas and bring pressure on building owners (Milkman 2006: 157). The goal remained a collective bargaining agreement covering all contractors, but organizers typically sought voluntary recognition or filed for NLRB elections only at end of the process when the parties were already prepared to come to table (Rosenblum 2017: 95).

A second form includes nonprofit worker centers that organize groups such as independent contractors, domestic workers, undocumented immigrants, and others who lack access to collective bargaining rights under the NLRA (Fine 2006). Such worker centers enjoy greater tactical flexibility by operating outside the laws governing unions and often mobilize symbolic power to sway public opinion against unfair employers. They may also find leverage from other areas of law and state power—for example, using local authorities such as city taxi commissions to govern working conditions, the judicial system to win back pay and consent orders for legal violations, or local and state legislation to establish new regulations such as a domestic
workers’ bill of rights (Milkman, Bloom, and Narro 2010; Milkman and Ott 2014).

Finally, labor and community groups have joined to support local government ordinances or ballot initiatives requiring higher-than-minimum “living” wages for designated groups of workers (Luce 2014). Such laws typically cover employees of firms contracting with local government or benefiting from tax incentives or public subsidies. Starting in 1994 in Baltimore, by 2014 more than 125 living-wage laws and policies were in effect nationwide, and, while they help only a small fraction of all low-wage workers, they are credited with fostering labor–community political alliances and reinforcing popular opinion on the need for a higher minimum wage.

By 2012, these types of actions had become an established part of the repertoire of American labor, and SEIU and other labor and community groups had achieved some two decades of experience with them. As the traditional institutions of postwar industrial relations in the United States have declined, workplace struggles have expanded into other arenas of the state and urban civil society (Rhomberg 2012). With that, organizers have encountered a variety of institutional rules and resources that affect workers’ ability to exercise associational and symbolic power. When the Fight for $15 emerged in 2012, it drew on this body of experience and extended it, beginning with a new group of previously unorganized workers in the fast food industry.

The Fast Food Workers’ Strikes

In May 2010, Mary Kay Henry was elected president of SEIU, and the following spring the union introduced its Fight for a Fair Economy (FFE) program focused on income inequality and outreach to unorganized low-wage workers, including those in fast food (Eidelson 2012). Working through SEIU’s long-standing partnerships with community groups such as New York Communities for Change in New York City and Action Now in Chicago (both local successors to the Association of Community Organizations for Reform Now), the FFE program initially avoided direct identification with the union. “We made a decision not to make it an SEIU thing,” said Neal Bisno, head of the SEIU health care workers division in Pennsylvania. “We literally took off our purple T-shirts” (Eidelson 2016b). Starting in early 2012, SEIU paid for the campaign to hire dozens of organizers, spending an estimated $2.5 million in New York and $3 million in Chicago by the year’s end. Campaign staff began canvassing fast food workers and holding meetings away from the workplace, and, despite risks of reprisal from their employers, workers began to get involved (Finnegan 2014; Gupta 2013.)

On November 29, 2012, around 200 workers from some 40 fast food outlets in New York City, including Burger King, Domino’s Pizza, KFC, McDonald’s, and Taco Bell, engaged in a one-day walkout, the largest work stoppage in the
industry to that time. Mobilizing under the name Fast Food Forward, strikers and supporters gathered in front of a McDonald’s in midtown Manhattan and raised core demands of a $15 per hour wage and the right to form a union without intimidation (Eidelson 2012; Finnegan 2014). Underlining the latter point, in the days afterward, religious and community allies accompanied workers back to the job to ensure they would not be fired for their actions (Brown 2013). Coming one week after the first Black Friday walkout on November 23 by workers at Walmart, the New York City strike attracted wide attention and quickly sparked a larger movement throughout the country.

Within six months, the campaign had spread to cities across the United States, with each local coalition organizing under its own banner, including Fight for 15 in Chicago, Detroit-15 in Detroit, Raise Up MKE in Milwaukee, and Stand Up KC in Kansas City (Gupta 2013). At the end of July 2013, the first set of coordinated strikes occurred in seven cities over four days, followed by a nationwide action involving 60 cities on August 29 (Eidelson 2013a; McVeigh 2013). The actions continued to escalate, featuring walkouts in 100 cities in December 2013 and rising to 150 cities in May 2014, along with solidarity actions in some 30 other countries. In July 2014, 1,300 fast food workers from 50 cities gathered in suburban Chicago for a first national convention (Finnegan 2014; Speri 2014). That September, the movement for the first time engaged in mass nonviolent civil disobedience, with hundreds of protesters arrested nationally—including in Southern cities such as Atlanta, Charleston, Durham, and Little Rock (Resnikoff and Richnick 2014). By the end of 2016, the campaign had mobilized a dozen nationally coordinated one-day strikes with participation from tens of thousands of workers and supporters (Greenhouse 2016).

At a time when legal protections for the right to strike have eroded and strike rates among American workers have reached historic lows, the fast food walkouts have stood out as an extraordinary example of labor militancy and courage. The strikes have been crucial to the larger Fight for $15 mobilization, although not for their exercise of structural power: even with tens of thousands of participants, the strikers as yet have comprised only a tiny fraction of the total number of fast food employees nationally, and only a small share of the total number of outlets has been affected. Despite the rallies and sit-ins, the one-day demonstration actions have rarely shut down the restaurants, causing little disruption for most consumers and imposing almost no direct economic costs on the brand corporations. Rather, the walkouts have been important to the movement for their use of symbolic power, both internally and externally.

**Symbolic Power: The Meanings of Action**

Internally, the strikes reinforced solidarity among the workers, allowing them to overcome their fears and experience the power of collective action. Douglesha
Nicholson, a 23-year-old Pizza Hut worker from Kansas City, recalled, “When I first heard about it, I’m not gonna lie, I was kind of skeptical. I was thinking, ‘I’m gonna lose my job, I’m gonna get in trouble.’” But after the first strike, “It was a big rush of adrenaline, going out and being able to yell without the risk of being fired. Just to let you know ‘Hey, I’m here, this is what I’m demanding, this is what I want’” (Speri 2014). The act of striking itself was, for many, personally transformative and important for their emergence as leaders. Naquasia LeGrand, a 21-year-old KFC worker from New York making $200 a week, became a prominent spokesperson for the movement. “What do we have to lose? We’re already working for pennies,” she said. “This could be a breakthrough to something different in our life, to actually be worth something” (Johnston 2016). The initial strikers emboldened others to follow them: New York strikers traveled to Chicago to help persuade workers there to go out, and a group from St. Louis was motivated after returning from a bus trip to support strikers in Chicago (Brown 2013; Gupta 2013).

With a heavily minority and female workforce, organizers also explicitly invoked the cultural legacy of the African American civil rights, women’s rights, and immigrant rights movements. The April 4, 2013, action in New York was scheduled on the 45th anniversary of the assassination of Dr. Martin Luther King, who at the time of his death was supporting striking African American sanitation workers in Memphis, Tennessee. Organizers brought two surviving strikers from that 1968 campaign to New York to speak to workers in a series of pep talks before the action (Harris 2013). In Detroit a few weeks later, the Reverend Charles Williams II, head of the Michigan chapter of the National Action Network, told protesters, “You have decided to sit down in the spirit of Rosa Parks and Fannie Lou Hamer. We will continue to fight until we get $15” (Bukowski 2014). Such themes resonated with workers whose grandparents fought for and won access to unionized manufacturing jobs that now scarcely exist in many urban areas. “This kind of organizing is new to us, people my age, but we know where we come from,” said one young striker from St. Louis (Freed Wessler 2013).

Externally, the walkouts captured public attention in a way traditional media campaigns and even boycotts and demonstrations alone could not achieve. When workers risked their jobs for dignity in a sector that was both the epitome of the low-wage economy and as ubiquitous as the restaurant around the corner, the image told a powerful story. The narrative was amplified with the help of the elite public relations firm BerlinRosen (2017) and reinforced by commissioned research reports on wage theft in New York City fast food restaurants (Fast Food Forward 2013) and on poverty and reliance on public assistance among fast food workers nationally (Allegretto et al. 2013).

Along with the 2011 Occupy protests and the similar walkouts at Walmart, the fast food strikes dramatized the problems of income inequality and low-
wage work and transformed mainstream political discourse. As SEIU president Henry remarked, “The individual courage of these few hundred workers making a bodacious demand galvanized the next stage of the national conversation about inequality” (Johnston 2016). By 2015, the broader movement had clearly captured the moral debate. In February, Walmart announced it would raise its base wage to at least $9 per hour, followed shortly thereafter by similar raises at Target and the retailers T.J. Maxx and Marshall’s, and opinion polls showed strong majorities across the country in favor of raising the minimum wage to $15 (Dreier 2015; Tung, Lathrop, and Sonn 2015).

Beyond Symbolic Power: Changing the Industry

The problem remained, however, how to convert symbolic power into concrete gains in associational power and institutional change. By the summer of 2013, discussions within SEIU centered on two strategies: first, escalating pressure on the top brand corporations to push for improved standards and a path toward union negotiations, and second, legislative action for local living-wage laws to raise incomes for workers (Eidelson 2013b). Following the JFJ model, the campaign avoided seeking NLRB elections at the franchisee outlets, instead targeting the brands as the actors with enough resources to undo the low-wage, non-union pattern in the industry. In particular, the campaign focused on industry leader McDonald’s, applying pressure from any available angle. In May 2014, one week after the walkouts in 150 cities, police arrested 138 of more than 1,000 protesters who converged on McDonald’s headquarters in suburban Oak Brook, Illinois, for the company’s annual shareholders meeting (Resnikoff 2014). The efforts showed signs of impact: following the pay raises in early 2015 by the major retailers previously named, McDonald’s said in April it would increase wages at its company-owned locations to at least $1 more than the local minimum wage. The move benefited around 90,000 workers; however, McDonald’s directly owns only around 10% of its 14,000 US locations, while the rest are owned by franchisees (Greenhouse 2015).

Since then, the corporate campaign has expanded: in May 2015, thousands more protesters showed up in Oak Brook for McDonald’s shareholder meeting at the same time that public pension fund officials in California, Illinois, and New York warned McDonald’s and other firms against jeopardizing future growth by engaging in massive share buybacks (Dreier 2015). In January 2016, several U.S. fast food workers traveled to Brussels to support a SEIU-backed coalition of Italian consumer groups in their anti-trust complaint against the company with the European Commission, and in May 2017, SEIU asked attorneys general in California and Illinois to investigate McDonald’s for deceptive and unlawful gouging of $3 billion in rent from its franchisees (Larson 2017; Mahdani 2016).
Such tactics draw from the JfJ playbook while aiming at the brand corporate image. In addition, the campaign directly challenged the legal construction of the fissured workplace, in order to reduce the economic insulation of the brands and give them an incentive to negotiate. Beginning in 2012, SEIU filed unfair labor practice charges with the NLRB claiming McDonald’s was liable as a “joint employer” along with its franchisees for unlawful retaliation against strikers, and on July 29, 2014, the NLRB’s General Counsel agreed and authorized complaints against the corporation and its partners (National Labor Relations Board 2014; Short 2014). Hearings before an administrative law judge began in 2015, and the case received a boost in August when the NLRB ruled in favor of an updated, more comprehensive standard for defining joint employers in the *Browning-Ferris* case involving the Teamsters and a recycling company (Li, Masunaga, and Solomon 2015).

As a target, McDonald’s showed potential vulnerabilities. While its stock price reached record highs beginning in 2017, critics said that was inflated by $20.5 billion in stock buybacks from 2014 to 2016. The company experienced three years of steadily falling revenue from $28.1 billion in 2013 to $24.6 billion in 2016, while long-term debt increased from $14.1 billion to $25.9 billion. Perhaps more significantly, from 2013 through 2016, McDonald’s customer count fell by more than 10% (Alsin 2017). Nevertheless, the company has showed no signs of yielding to unionization and the campaign has not yet gained recognition in the workplace. Rather, its greatest economic achievements have come through its second strategy: political action on local and state minimum-wage laws.

**Raise Up the Wage: A Political Movement**

The fast food strikes have been essential to the media attention and popular support for a $15 wage, but the successful campaigns to win local wage increases have relied on a diverse alliance of actors in the labor movement, the community, and government. The first jurisdiction to pass such legislation was SeaTac, Washington, a small, working-class suburb of Seattle and home of the Seattle–Tacoma International Airport. In April 2012, Working Washington, the local affiliate of the SEIU FFE, began to organize subcontracted African American, Asian, East African, Latino, and White workers in and around the airport (Rosenblum 2017: 69). By March 2013, a majority of workers at five of the largest contractors had signed union cards, and, when the employers refused to recognize them, the campaign turned to a local living-wage initiative. Working with the Teamsters and other unions, coalition leaders drafted language to cover the airport and related area travel businesses, mandating a $15 wage, sick leave, requirements to offer part-time workers more hours before hiring new employees, and a private right to sue noncompliant firms in court (Rolf 2016: 107–112; Rosenblum 2017: 110–112). Despite legal
challenges, the campaign succeeded in getting the referendum on the ballot, and in November 2013, SeaTac voters passed it by a margin of just over 1% (Rosenblum 2017: 152).

The SeaTac initiative covered a comparatively small number of employees, but together with the fast food strikes, it had a powerful impact on the concurrent city elections in Seattle, where residents experienced widening income inequality and skyrocketing costs of living. The $15 wage issue dominated the municipal races leading to the November election of challenger Ed Murray for mayor and socialist candidate Kshama Sawant for City Council (Rolf 2016: 129–134). Mayor Murray immediately convened a committee of Seattle business, labor, and community leaders, co-chaired by David Rolf, head of the 40,000-member SEIU Healthcare 775NW, which had led the get-out-the-vote effort in SeaTac (Rosenblum 2017: 142). Rolf helped mobilize support from policy experts, labor, and community groups, while independently Sawant began organizing to put an alternative initiative on the November 2014 ballot. In a process that one observer described as an analog of collective bargaining among major local stakeholders, the mayor’s committee produced an agreement to phase in $15 over a three-to seven-year period for large and small businesses (Dreier 2015; Meyerson 2014). On May 29, 2014, almost one year exactly after Seattle’s first fast food strikes, the City Council voted unanimously for the proposal affecting around 100,000 workers and making Seattle the first major American city to approve a $15 minimum wage (Rolf 2016: 160).

Other cities soon followed, but along paths shaped by their own political environments. In Los Angeles, the movement drew from other, non-SEIU–led labor and community actors, including the Los Angeles Alliance for a New Economy (LAANE) and the politically powerful Los Angeles County Federation of Labor (LACFL). In January 2014, LAANE, LACFL, and the hotel workers union UNITE HERE Local 11 launched a campaign to raise wages for hotel workers in Los Angeles to $15.37. On September 24, the City Council voted 12 to 3 to approve the measure covering at least 40 hotels and up to 13,500 workers (Rainey 2014; Zahniser and Reyes 2014). Less than two weeks later, leaders from LAANE and LACFL stood outside City Hall to call for an increase in the citywide minimum wage to $15. While Los Angeles Mayor Eric Garcetti had previously proposed an increase to $13.25, on May 19, 2015, the councilors voted 14 to 1 to raise the minimum from $9 to $15 by 2020 for as many as 800,000 workers, with annual increases thereafter pegged to inflation (Jamison, Zahniser and Walton 2015; Smith 2014).

In San Francisco, public employees’ union SEIU Local 1021 led a coalition to put $15 on the November 2014 ballot (Coté 2014a). After negotiations with business and labor groups and Mayor Ed Lee, the San Francisco Board of
Supervisors unanimously agreed to a compromise initiative that raised the minimum to $15 by July 2018. The announcement came two weeks after the Seattle City Council vote, and, with virtually no organized political opposition, Proposition J won easily in November with 77% of the vote (Coté 2014b; Lagos 2014). Internal rivalries within SEIU, however, threatened to disrupt the effort to take the campaign statewide, despite polls showing 68% support among the electorate. While SEIU Local 1021 led the local wage drives in Northern California, another large SEIU local, United Healthcare West (UHW), began organizing independently in April 2015 for a state ballot initiative (Dayen 2015). Local 1021 and the SEIU state council later filed their own initiative with a faster phase-in to $15, but by early 2016, the SEIUUHW petition, backed by Lieutenant Governor Gavin Newsome and State Controller Betty Yee, had gathered enough signatures to qualify for the November 2016 election. At the end of March, the two coalitions reached a deal with state lawmakers, avoiding a costly political battle. On April 4, Democratic Governor Jerry Brown signed legislation raising the state minimum to $15 by 2022, while allowing the governor to delay increases in the event of state budget or economic crises (Bacon 2016; Green 2016).

New York State displayed yet another path to reform. While cities there do not have authority to set their own minimum wage, the governor can order a special board to review wages in an industry and implement changes without approval by the legislature. Democratic Governor Andrew Cuomo initially opposed raising the minimum to $15, but as the movement gained support he shifted his position (Zillman 2014). In May 2015, Cuomo authorized a fast food wage board composed of members Byron Brown, Mayor of Buffalo; Kevin Ryan, chair of the online retailer Gilt; and Mike Fishman, Secretary–Treasurer of the SEIU international union. In July, the panel recommended an increase for around 180,000 employees of fast food chain restaurants to reach $15 per hour by December 2018 in New York City and July 2021 elsewhere in the state (McGeehan 2015; Zahn 2015). In November, Cuomo announced a $15 minimum for state employees, and the following April he negotiated a budget deal with state legislators to phase in wage hikes along with 12 weeks of paid family leave. The minimum wage would reach $15 at the end of 2018 for businesses with 11 or more employees in New York City, 2019 for those with fewer than 11 employees in New York City, 2021 for the surrounding suburban counties, and subsequently for the rest of the state (McGeehan 2016).

As in the campaign against McDonald’s, the minimum-wage initiatives drew on existing action repertoires in the labor movement while extending them in new ways, including further demands for paid leave and scheduling rights, among others (Groover 2016). Moving from the industrial focus on the fast food corporations to the political campaigns for a higher wage, however,
carried the movement into a different institutional arena where the actors, rules, resources, and strategies for action can vary considerably. To date, the wage campaigns have been successful in liberal big cities or in states with Democratic governors and legislative support, and they have relied on powerful allies within SEIU and other unions. In other regions, however, the political alignments may be less favorable and the barriers to change more substantial.

CONCLUSION
In just a few short years, the Fight for $15 has achieved extraordinary results. In a bold investment, SEIU spent at least $40 million dollars by 2017 on the campaign, including $10 million in 2016 alone (Greenhouse 2015; Lewis 2017a). The campaign estimates it has raised wages for 19 million workers nationwide, and the walkouts have kept alive the idea of the right to strike at a time when so few unions are prepared to use the tactic. The movement should not be seen in isolation, and the popular momentum has built on synergies with the OUR Walmart strikes and other mobilizations (Curry 2015). SEIU itself has expanded the focus beyond fast food, bringing its campaigns with health aides, adjunct teachers, airport workers, and others into the Fight for $15 and forging alliances with groups such as Black Lives Matter (Greenhouse 2016; Haines Whack 2017).

Nonetheless, the campaign faces strategic problems in both the economic and political arenas. In the economic arena, the legal challenge to the fissured workplace was dealt a blow after Donald Trump won election as United States president in November 2016. The McDonald’s case was still at trial when the new Republican majority on the NLRB moved swiftly to overturn the Browning-Ferris standard on joint employers in the separate Hy-Brand case decision issued in December 2017. With just days left in the trial, in January 2018 NLRB General Counsel and Trump-appointee Peter Robb requested a stay in order to negotiate a settlement with McDonald’s. Surprisingly, the following month the NLRB vacated the Hy-Brand ruling after its Inspector General reported a conflict of interest for Trump appointee William Emanuel that should have led to his recusal from the case. Nevertheless, in March, the General Counsel and McDonald’s proposed a settlement that would give back pay to the fired workers but would not acknowledge joint employer status and would leave the case without a full record or ruling on the issues (DePillis 2018; Scheiber 2018a). In July, Judge Lauren Esposito rejected the settlement, though observers expected the General Counsel to appeal the decision to the NLRB, on which Republican members hold a majority (Scheiber 2018b).

In the workplace, fast food strikers have been threatened with job loss but have not had to maintain durable solidarity over an extended, open-ended strike, and the campaign has been criticized for using the protests in a media “air war” strategy rather than building worker organization on the job (Gupta
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2013; Rosenblum 2017). The JfJ approach follows the historic precedents of the coal miners and garment workers of the early 20th-century United States in organizing small workplaces in a highly competitive market (Greenwald 2005), but the fast food industry may not follow the same model. With the janitors, SEIU built on its surviving base and leverage in the industry, but there is no similar history in fast food, and the resources of the brand corporations dwarf those of the building owners and cleaning contractors (Finnegan 2014).

In the political arena, the movement has faced strong countermobilization from business interests, particularly under Republican-dominated state governments. Using models promoted by the American Legislative Exchange Council (ALEC), by July 2017 at least 25 states had passed laws pre-empting cities from adopting higher minimum wages and other employment protections, including measures in Alabama, Iowa, and Missouri, and to take away increases already passed by cities and counties in their states (Chang 2017; National Employment Law Project 2017). In Ohio, Raise Up Cleveland submitted a petition for a $15 minimum wage with 28,000 signatures to the Cleveland City Council in May 2016, but opposition from the councilors delayed a ballot referendum until May 2017. In the meantime, city officials in December asked state legislators to pass a lame-duck–session bill to prohibit Ohio cities from raising the minimum above the state level, and within three weeks, Republican Governor John Kasich signed the law, blocking the ballot vote in Cleveland (Atassi 2016; Pelzer 2016).

The political successes of the movement are further tempered by a classic dilemma of the American labor movement: it may win policy gains that benefit a broad range of both union and non-union members, but it is much harder to win reforms that strengthen workers’ associational power. The barriers to political success also illustrate the importance of the industrial campaign for collective bargaining rights. If the Fight for $15 could win a national or even regional settlement with McDonald’s or any of the brand corporations, it could extend workers’ associational power into states where the political alignments are currently less favorable.

Even where the campaign has had legislative success, ensuring compliance with new regulations can be a challenge for overburdened and underfunded local governments. The challenge can provide an opportunity for the movement to demand stronger administration of the laws and to allow community-based organizations to participate officially in “co-enforcement” (Fine 2015; Sanchez 2017). In this way, community organization partners may perform functions similar to a union in the workplace, through investigating and reporting incidents of noncompliance and reaching out to workers, especially immigrants, who may be reluctant to come forward on their own.

Perhaps the greatest concern for the movement, though, is sustainability (Greenhouse 2015; Zahn 2016). The campaign remains dependent on both
the financial investment and the organizational and political clout of the 1.9 million–member SEIU, but as yet it has produced no new dues-paying union members in fast food. The union faces enormous challenges of its own, not least a hostile federal government under the administration of President Donald Trump and a widely anticipated Supreme Court decision allowing public sector union bargaining unit members to avoid paying dues. In December 2016, SEIU president Henry announced a 30% cut in the union’s budget to preserve needed resources, though the effect on the Fight for $15 is not yet clear (Eidelson 2016a).

In addition, SEIU has contended with internal organizational challenges. In the wake of the #MeToo movement, in late 2017 the union began a public reckoning with longstanding issues of sexual misconduct and abusive behavior among its top campaign staff. By early November, SEIU executive vice president and leading Fight for $15 strategist Scott Courtney and national organizing director Kendall Fells had resigned, and local chapter leaders Mark Raleigh in Detroit and Caleb Jennings in Chicago had been fired. The campaign had already made ending sexual harassment in the fast food industry a key part of its agenda, and, in September 2018, it mobilized strikes in nine major cities demanding that McDonald’s do more to prevent sexual harassment on the job (Abrams 2018; Eidelson 2017; Lewis 2017b).

The Fight for $15 has helped win union recognition and contracts for airport workers, among others, and SEIU as a whole gained more than 13,000 members in 2016, a turnaround after five years of decline (Lewis 2017a). At the same time, the campaign is experimenting with new forms of member organization. In June 2017, New York City passed the Fast-Food Worker Empowerment Act, which requires fast food employers to allow employees to authorize payroll deduction of contributions to a qualified nonprofit organization, and upon the law’s passage, the New York campaign immediately launched a new nonprofit, Fast Food Justice (Miller 2017). Unlike a union, the nonprofit (like a worker center) cannot engage in collective bargaining with employers, but it can provide services and advocacy for its members or engage in co-enforcement activities. This approach could increase the participation of fast food workers and help fund the movement, but it also poses a question: will the Fight for $15 continue to fight for unionization and collective bargaining rights in fast food, or will it abandon the union goal and seek alternate support through local worker centers?

The Fight for $15 shows the importance of symbolic power, and particularly strike action, in mobilizing workers’ grievances over income inequality and low-wage work. In the political arena, the campaign has already succeeded in winning policy gains far beyond initial expectations. The key test of whether it can be transformative nationally, however, will depend on its capacity to convert symbolic power into institutionalized forms of workers’ associational
power, as in the rise of industrial unionism alongside and shaping the New Deal order, or the upsurge of public sector unions in the wake of the civil rights and women's movements of the 1960s and 1970s. “Since the campaign began, the workers have always had two demands,” said one leading organizer. “It’s $15 and a union, not $15 or a union” (Zahn 2016). The movement is still in the process of determining exactly what that will mean.

ENDNOTES

1 Fine (2015) defines worker centers as “local NGOs that organize low-wage workers largely in communities and not primarily at the workplace or for collective bargaining purposes.”

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Chapter 12

Governing the Market from Below: Setting Labor Standards at the State and Local Levels

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As the share of workers in unions has declined, unions and alternative worker organizations have increasingly turned to public policy to legislate labor standards. Thirty-nine cities and 29 states now have minimum-wage standards well above the federal level. Unions and worker organizations have also successfully advocated for state policies concerning paid sick days, worker scheduling, wage theft, paid family leave, and other standards that were traditionally addressed in collective bargaining agreements. They have been extraordinarily successful in passing public policies to benefit workers. Nonetheless, major challenges remain in ensuring enforcement of the newly passed laws and turning the policy successes into sustainable worker organization.

INTRODUCTION

Since the late 1970s, incomes for the bottom half of the American population have stagnated or declined while earnings at the top have soared. In the post–World War II period, wages rose in tandem with productivity and income gains were widely shared, but by the end of the 1970s, the link between wages and productivity was broken (Bivens and Mishel 2015). In the 1980s, the bottom 50% of earners received 20% of national pre-tax national income while the top 1% of earners received 10.7%. By 2014, the income shares were basically reversed, with the top 1% now receiving over 20% of the national income and the bottom 50%, only 12.5% (Piketty, Saez, and Zucman 2016). During this same time period, the share of workers in a union fell from 27.8% in 1970 to 10.8% today. The share of private sector workers who are union members is down to 6.4%, from 24.2% in 1973.¹ The federal minimum wage of $7.25 has lost 25% of its real value from its height in 1968;² the federal tipped minimum wage remains at $2.13 an hour.³

Strategies to address declining real wages through traditional collective bargaining face significant barriers. Since the 1940s, changes in federal law, unfavorable court rulings, and an industry of anti-union consultants have made organizing difficult under the best of circumstances (Logan 2006; Riddell...
Decisions by the Obama administration’s National Labor Relations Board (NLRB) opened up some new prospects for union leverage, but those openings are likely to fade quickly with a conservative NLRB and Supreme Court.

Strategies to revitalize labor face other challenges brought about by the changing structure of our economic institutions. Even as capital has become more concentrated, workplaces are more disaggregated/fissured—or aggregated in ways that reduce worker power (Weil 2014). Economists note that much of the increase in wage inequality over the past 20 years is due to growing inequality between firms rather than within firms (Song et al. 2015). One contributing factor to this trend is the rise in contracting out of services that were once performed by in-house employees. Industries such as building services (janitors and security guards) and air transportation services have seen wages fall sharply as more and more of the positions have been outsourced (Dietz, Hall, and Jacobs 2013; Dube and Kaplan 2010). In low-wage contracted service industries, there is greater pressure on wages resulting from low barriers to entry and labor’s high share of the operating expenses. The contractor is the “employer of record”—the party that sets wages and that would engage in any collective bargaining—but the contractor is not the party with the economic power. In manufacturing and warehousing, the use of temporary workers plays a similar role in putting downward pressure on wages while creating additional barriers to organizing and to enforcement of worker protections (Jacobs, Perla, Perry, and Graham-Squire 2016; Kalleberg 2000).

Franchising in the fast food industry reflects another form of “fissuring” in Weil’s terminology. While companies like McDonald’s Corporation hold the economic power and maintain significant control over franchise operations, each franchise legally operates as a separate independent business with liability for its workforce. This puts tremendous pressure on franchises to keep down labor costs (Rolf 2016a; Weil 2014).

As union density and the reach of collective bargaining has declined, unions and other worker organizations have increasingly turned to using legislative strategies to set new labor standards in order to improve conditions at the bottom end of the labor market. Standards around key issues that were traditionally addressed in collective bargaining agreements—wages, health care, sick leave, and work hours—are becoming enshrined in law.

Fine (2005) argues that worker centers have had much more success in raising wages and improving working conditions through public policy than through organizing strategies designed to put direct economic pressure on employers. Though low-wage workers have little direct bargaining power with multinational companies, Fine argues, they still have political power in a democratic system of one person/one vote. This has allowed organizations of
low-wage workers to make the difference in key elections and consequently are able to move cities to pass policies that improve working conditions for their members.

With Republicans in control of both the executive and legislative branches of the US federal government, any near-term policy changes aiming to improve labor standards will likely be state based or at the local level. Urban areas have a greater presence of unions and community-based organizations (CBOs) with the power to win policy changes, as well as electorates more likely to support pro-worker public policy interventions. Worker organizations have also had success in raising wages in more conservative states where they can bring the issue directly to the voters through ballot initiatives. These state and local efforts serve as Supreme Court Justice Louis Brandeis’s “laboratories of democracy,” where policies can be tested, refined, and expanded to wider geographies.

In this chapter, I will start with a historical background on state and local strategies for establishing labor standards. I will then discuss the rapid expansion of state and local labor standards in the 1990s and again in the past five years following the Fight for $15. Finally, I will discuss the potential for industry wage standards and next steps in going beyond the goal of a $15 minimum wage.

HISTORICAL BACKGROUND

There is a long history of state labor standards regulation in the United States. Kansas passed the first prevailing wage law for construction workers in 1891. Massachusetts adopted the first minimum-wage law in 1912. By 1919, 14 states, Puerto Rico, and the District of Columbia all had their own minimum-wage laws (Nordlund 1997: 13). These early laws only applied to women and minors. In the 1905 *Lochner v. New York* case, the Supreme Court had ruled that labor standards laws covering men were unconstitutional as a violation of liberty of contract. Reformers turned their focus on legislating labor standards for women under the legal theory that their dependence on men created a need for special protections (Zimmerman 1991).

The early state minimum-wage laws took many forms. Most had wage boards that set the minimum wage annually, based on the calculation of a living wage in the state for a single woman. In a few states (Colorado, Massachusetts, and Nebraska), the wage was voluntary and relied on both a calculation of a living wage and employer financial considerations. Three states (Arizona, Arkansas, and Utah) established a flat minimum-wage rate directly in statute; this is the most common method of establishing state minimum wages in the United States today (Nordlund 1997: 13–14).

The Washington, D.C., minimum-wage law was struck down by the Supreme Court in 1923 in *Children's Hospital v. Adkins* on the grounds that,
after receiving the right to vote through the 19th Amendment, women no longer needed special protection (Zimmerman 1991). Nevertheless, states continued to enforce existing laws and to enact new ones. Eight more states passed laws; altogether 16 states had mandatory policies in place by 1935 (Nordlund 1997: 26). In 1937, the Supreme Court reversed its earlier position and upheld state minimum-wage laws in *West Coast Hotel Co. v. Parrish* (Grossman 1978).

The Fair Labor Standards Act (FLSA), passed in 1938, largely supplanted state minimum-wage laws, and it covered men as well as women. However, the FLSA excluded agricultural, domestic, and retail workers—positions that comprised half the national workforce and that were far more likely to be held by women and African Americans. Coverage under the FLSA was expanded to 80% of the nonagricultural workforce during the 1960s and 1970 (Reich 2015).

The federal minimum wage reached its peak in real dollars in 1968, at $9.66 an hour in 2016 dollars. But by the end of the 1980s, the real value of the federal minimum wage had fallen by 30%, and states once again began to fill in the gap (Reich 2015). By 1990, 16 states and the District of Columbia had minimum-wage levels higher than the federal government.5

**THE LIVING-WAGE MOVEMENT TAKES LABOR STANDARDS LOCAL**

The modern living-wage movement started in Baltimore in the early 1990s. Pastors associated with Baltimoreans United in Leadership Development (BUILD) were concerned about the surprising number of working people making use of food pantries at the end of each month. Among the low-wage workers in their communities were janitors and school bus drivers working on city contracts. With the support of the American Federation of State, County and Municipal Employees (AFSCME), BUILD created the Solidarity Sponsoring Committee to organize workers across low-wage industries into a community union (Fine 2005).

Any strategy to organize workers on city contracts raises a dilemma: if these private sector workers are successful in forcing contractors to agree to higher wages, the contractor would lose the contract next time it went out to bid because public sector contracting rules require the city to choose the lowest bidder that met the general criteria. BUILD proposed a living-wage law for Baltimore that would require all city contractors to pay a wage rate that was set higher than the state minimum. This would directly improve low-wage workers’ earnings while improving conditions for organizing. The living-wage law also reduced the city’s incentive to contract various services out.

In the end, the city brought back in house some of the jobs that it had contracted out, which again became public jobs with protections and benefits.
While BUILD’s efforts aimed at organizing a community union of low-wage workers in Baltimore was ultimately not successful, the policy succeeded in raising the floor for low-wage contracted service jobs (Fine 2000). It also helped to spark a living-wage movement that quickly spread across the country.

The success in Baltimore helped to open the floodgates to living-wage laws. Within a little over a decade, more than 129 cities, counties, and other local government agencies had passed such laws (National Employment Law Project 2010). The Association of Community Organizations for Reform Now (ACORN) had pursued similar efforts in a number of cities around the country attempting to win wage standards for businesses receiving subsidies from local governments prior to the passage of the law in Baltimore. Learning from the success of BUILD, ACORN began running living-wage campaigns directed at local government contracting with a strategy of building labor–community coalitions (Tilly 2004).6

In California, the Los Angeles Alliance for a New Economy (LAANE) took the living-wage concept a step further (Fairris, Runsten, Briones, and Goodheart 2015). In 1997, LAANE developed a law for Los Angeles that set a higher minimum-wage standard not just for city contractors but also for the three regional airports (LAX, Burbank, and Oxnard) as well as development projects receiving a certain level of city subsidies. The Los Angeles living-wage law also went beyond wage setting: firms were required to provide a higher wage if they did not provide health insurance and a minimum number of paid days off. Los Angeles also put in place robust enforcement provisions including protection against retaliation.

With LAANE’s leadership, Los Angeles passed the first worker retention ordinance in the country a few years earlier, requiring any new contractor to retain the existing workforce when a contract changed hands. This provided an essential protection for workers in industries where the contractor might change any time the contract comes up for renegotiation. Worker retention rules also give workers more confidence in reporting safety violations because they have less fear that they will lose their jobs if their employer loses the contract as a result.

The living-wage campaigns of LAANE and its California sister organizations affiliated with the Partnership for Working Families were conducted in alliance with union partners, mainly the Hotel and Restaurant Employees Union (now UNITE HERE) and Service Employees International Union (SEIU); a specific goal of these campaigns was to aid union organizing and collective bargaining (Zabin and Martin 1999). In San Jose, for example, Working Partnerships USA successfully advocated for a living-wage law that included labor peace provisions, which helps the city avoid work disruption and costly labor disputes by encouraging neutrality agreements during an organizing drive.
Over time, the laws began to expand both in terms of who was covered and what benefits were provided. Living-wage stipulations have been applied to government service contracts, property leases, subsidies, geographic areas within a city that benefit from public investment, and a growing number of airports. Provisions have included minimum-wage levels, higher wages when health care is not provided, paid time off, training standards, and protections against retaliation in case of employee complaints.

The main limitation of local living-wage laws has always been the relatively small number of workers affected. With the exception of a few cities, notably Los Angeles, New York, and San Francisco, the number of workers who received wage increases as a result of the laws tended to be small—with as few as 100,000 nationwide in 2002 (Freeman 2005). Enforcement was also spotty, with many cities not putting in sufficient resources or attention to ensure contractors meet the higher standards (Luce 2004).

Perhaps the most important legacy of the living-wage movement was in building a local organizing and policy infrastructure around the country. The organizations and labor–community coalitions built through the living-wage movement were central to the expansion of minimum-wage laws more than a decade later. Organizations such as LAANE, Working Partnerships USA, the Working Families Party, and the National Employment Law Project (NELP), as well as many of the local organizers later affiliated with the Center for Popular Democracy, that were engaged in living-wage campaigns in the late 1990s and early 2000s later played imported roles in winning passage of city and state minimum-wage laws that reach much greater numbers of workers. In some cases, the living-wage movement also built an infrastructure for local wage enforcement that could be built on for enforcement of local minimum-wage laws. Finally, living-wage laws contributed to union organizing and bargaining efforts in multiple cities (Zabin and Martin 1999).

**SAN FRANCISCO AND THE TURN TO CITYWIDE LABOR STANDARDS POLICIES**

San Francisco is the US city with the most expansive local labor standards regime. Starting in the late 1990s, a shifting coalition of unions and CBOs waged successful campaigns to pass a series of laws to raise labor standards. As in other cities, organizers in San Francisco started by passing laws that applied to city contractors, if only on a bigger scale than other cities compared with the size of the workforce. The local coalitions and progressive members of the Board of Supervisors than turned to passing laws that applied to all or most employers operating in the city, significantly expanding the reach of who benefited. These included policies designed to improve wages and benefits, expand access to health care, provide paid sick leave, create more predictable work schedules, reduce discrimination against the formerly incarcerated, promote family-
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friendly workplace policies, and provide more generous paid parental leave (Reich and Jacobs 2014).

The movement to pass local labor standards policies in San Francisco started with the Equal Benefits Ordinance in 1996, which required firms doing business with the city to extend to employees’ domestic partners the same benefits provided to married spouses. While essentially a human rights law rather than a labor standard, the ordinance nonetheless expanded the availability of job-based health coverage to a wider range of workers. Firms were required to provide equal benefits only to those employees whose work was directly related to the contract with San Francisco, but many of the contractors extended the provisions across their entire national workforce. The law, which applied to firms doing business at SFO, survived a legal challenge from United Airlines, Federal Express, and the Air Transport Association, and became a blueprint for the development and passage of subsequent labor standards policies in the city.

The following year, San Francisco passed a “labor peace ordinance” that applied to employers in hotel and restaurant developments where the city had a proprietary interest as a landlord, lender, or loan guarantor. The ordinance required covered employers to enter into card-check agreements upon the request of a labor organization; under card check, an employer agrees to recognize a union if a majority of workers sign authorization cards indicating they want the union to represent them.

In 1998, San Francisco passed a prevailing wage law for janitors working on city contracts. That was followed by prevailing laws covering a wide range of contracted city work including window washing, security, parking lot attending, loading and unloading vehicles on city property, broadcast service work on city property (including the ball park), theatrical work, solid waste hauling, moving services, and trade shows.7

The first success in passing a living-wage policy in San Francisco was at the San Francisco International Airport (SFO), which was approved in the context of a multi-union organizing effort at SFO. Turnover rates for some of the contracted jobs at the airport were was 80% per year, which raised concerns about airport safety and security (Reich, Hall, and Jacobs 2003). The Airport Quality Standards Program required permits for contracting firms to operate at the airport and created minimum-wage and training conditions for any firm receiving a permit. At the same time, the Airport Commission also agreed to a labor peace policy for the airport, which led to 2,000 workers organizing and gaining collective bargaining agreements. An estimated one third of the 30,000 workers at SFO received wage increases in April 2000 when the policy went into effect, and employee turnover fell sharply.

Later that year, following an extensive campaign by a labor–community coalition, the Board of Supervisors passed a living-wage policy on city and
county contracts. Along with for-profit contracts common in other living-wage laws, it included the city’s 12,000 homecare workers organized through SEIU and workers in nonprofit human service agencies, as well as requiring that the higher wage rate be used in calculating the work hour requirements for workers on general assistance. Each of these reflected the concerns and interests of different organizations in the coalition.

Buoyed by the successes in winning labor standards conditions on city contracts, local CBOs and progressive politicians turned their attention to citywide policies. In 2003, San Francisco joined Santa Fe in passing the first citywide minimum-wage laws outside of Washington, D.C. San Francisco set a minimum wage of $8.50 an hour, 26% above the state minimum. The campaign, led by the Chinese Progressive Association and ACORN, placed the issue on the ballot. At the time it was the highest minimum wage in the country, affecting about 54,000 workers—11% of the city’s workforce.

Three years later, Young Workers United (YWU) spearheaded the first successful effort in the United States to pass a law requiring paid sick days. As Young Workers United set out to organize workers in fast food and retail establishments in the city, they found that many of their members lacked access to paid sick leave on the job. YWU placed an initiative on the ballot to require businesses operating in the city to provide a minimum number of paid sick days. It passed with 61% of the vote (Lester 2014; Reich and Jacobs 2014).

That same year, a coalition of labor and community organizations ran a campaign to expand access to affordable health care in the San Francisco. The resulting Health Care Security Ordinance had two central components: it created a new health program, Healthy San Francisco, which provides comprehensive health services to uninsured residents of the city, and it required all businesses with 20 or more employees in the city to meet minimum health spending requirements. The requirement was set on a per-worker per-hour basis, with larger firms paying a higher amount than smaller firms. Those firms not directly providing health insurance could meet their obligation by paying into Healthy San Francisco, the city’s public option; if they do so, their workers receive a discount on the program’s sliding scale enrollment fee.

In a ten-year time span, San Francisco established a robust body of labor standards policies. In 2004, the minimum wage in San Francisco matched the state’s at $6.75 an hour; in 2013, the mandated minimum compensation cost for a large firm in that city was $13.31 an hour, including $2.33 in health care spending and $0.43 an hour toward paid sick leave (Reich and Jacobs 2014). As a result of these policies, an estimated 77,500 San Francisco workers (12% of the workforce) received pay increases, 59,000 gained access to paid sick leave, and more than three quarters of San Francisco firms covered by the health law reported improving health benefits in response to the law in a subsequent survey (Colla, Dow, and Dube 2013; Reich, Jacobs, and Dietz 2014).
San Francisco was able to implement these improvements for workers with no measurable negative effect on employment. Between 2001 and 2012, employment trends in San Francisco matched those of the surrounding counties while employment in restaurants—the sector most likely to be affected by the higher wage increases—grew even more in San Francisco (17.7%) than in the surrounding counties (13.2%).

Local organizations in San Francisco continued to build on these successes. In the last three years, San Francisco adopted a policy requiring large retailers to provide workers more predictable schedules, a “ban the box” law prohibiting employers from asking about criminal records prior to offering workers a job, an expanded parental leave policy, and a $15 minimum wage.8

Several elements were central to the organizing successes in San Francisco. The city retains a relatively strong labor movement—which was united in support of the standards policies during the time the main laws were passed. It also has a robust network of CBOs. The service unions, which make up the largest share of union membership in the city, have a history of community unionism and deep relationships with CBOs. Of course, San Francisco is not unique among major cities in these ways. The ability to take these issues to the ballot was essential in giving local organizers leverage, even when they negotiated the policies with political leaders. A history of successfully using ballot initiatives to fight the business community also weakened the salience of “job-killer” arguments (Lester 2014). While the business community engaged in a major campaign against the earlier living-wage law, opposition to later efforts was much more muted. When San Francisco went on to pass a $15 minimum wage, the largest tech advocacy organization in the city supported the measure while other business organizations stayed neutral.9 Once the minimum wage is fully phased in, the effective minimum compensation rate for employees of firms with 20 or more employees will be $17.90 an hour including health spending and paid sick leave.10

THE FIGHT FOR $15—RAISING THE BAR
The rise of the Fight for $15 movement radically changed the discussion around state and local labor standards. The demand for $15 an hour altered the perception both of what constitutes a fair wage and what is possible.

The Fight for $15 started when New York Communities for Change began organizing fast food workers in the city with support from SEIU. In November 2012, 200 fast food workers held a one-day strike (Rolf 2016a). The following spring, fast food strikes spread to Chicago, Detroit, Kansas City, Milwaukee, and St. Louis as a result of organizing by SEIU in concert with local coalitions. The demand of the fast food workers was $15 an hour and a union.
The first effort to translate the demand for $15 from rallying cry to public policy took place in the city of SeaTac, home to the Seattle–Tacoma Airport. In 2005, Alaska Airlines fired 500 baggage handlers and outsourced the work to Menzies Aviation. Union jobs that averaged $13.81 an hour and provided benefits were replaced with jobs paying $8.75 an hour with minimal benefits (Dietz, Hall, and Jacobs 2013; Rosenblum 2017). An effort to organize contracted workers at Sea-Tac Airport quickly ran up against the Railway Labor Act (Rosenblum 2017). The union could petition only for an election among all of the contractors’ workers nationally, or gain voluntary recognition from the company (which the company refused). In response, the Teamsters and SEIU, along with a large community coalition, made the decision to set basic labor standards via ballot initiative. The 2013 initiative applied to the Sea-Tac Airport and other large tourist-related businesses. It included not only a $15 an hour wage and paid sick days but was also the first measure in the country requiring businesses to offer additional work hours to existing employees before expanding their workforce. The initiative passed by 77 votes (Rolf 2016a).

In 2014, Seattle became the first city to pass an across-the-board $15 minimum-wage law, followed in quick succession by San Francisco and Los Angeles. In 2012, at the time of the first fast food strike, six cities and counties had local minimum-wage laws (Albuquerque; Bernalillo County, New Mexico; San Francisco; San Jose; Santa Fe; and Washington, D.C.), with the highest wage at $10 an hour. Five years later, the total was up to 40 cities and counties (most recently Minneapolis), 21 of which will reach $15 an hour when fully phased in, as shown in Table 1. In 2016, California and New York passed the first $15 an hour state minimum-wage laws. By 2017, 29 states and Washington, D.C. (which collectively include 61%11 of the national working population) had minimum wages above the federal maximum of $7.25 an hour.12

The National Employment Law Project (2016) estimates that the higher state and local minimum-wage laws passed between 2012 and 2016 will increase workers’ incomes by $60 billion when fully phased in, benefiting 17 million workers. The new state and local minimum-wage laws in California alone will raise wages for low-wage workers by an estimated $23 billion a year by 2023.13 This does not take into account two recent increases in the California state minimum wage prior to passage of the most recent law. To put this in perspective, it is greater than the total annual state and federal spending for the largest nonhealth public assistance programs for low-income families in the state (the Earned Income Tax Credit and Temporary Aid to Needy Families cash assistance and food stamps, which totaled $18.2 billion in 201414). While there is a great deal of variation across industries, economists estimate that union workers earn approximately 15% more than their nonunion counterparts after controlling for industry, occupation, and worker demographic characteristics (Mishel 2012; Schmitt 2010). If we assume that holds true in
GOVERNING THE MARKET FROM BELOW

TABLE 1

<table>
<thead>
<tr>
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<td>0</td>
<td>3</td>
<td>35</td>
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<tr>
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<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Local predictable scheduling</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<td>4</td>
</tr>
</tbody>
</table>

Note: Local minimum wage, paid sick days, and scheduling denote when the law was passed. State minimum wage above the federal is the number of states where the state minimum wage was on average above the federal during the year; declining numbers between 1990 and 2000 are due to increases in the federal minimum wage that went above the minimum in certain state laws.

Minimum Wage
Author’s analysis of Vaghul and Zipper, Historical State and Substate Minimum Wage Data Set (http://bit.ly/2pXK7Oy)
UC Berkeley Center for Labor Research and Education, Inventory of Local Minimum Wage Ordinances (Cities and Counties) (http://bit.ly/2q08kU8)

Living Wage

Paid Sick Days

Predictable Scheduling

California, the total projected wage increase from the $15 minimum-wage laws is equal to or greater than the current total additional wages in the state earned as a result of unionization—albeit less than the increase in compensation for union members if benefits are factored in.15

MORE THAN WAGES

Paid Sick Days
The United States is rare among highly developed countries in not mandating any paid sick leave for workers (Heymann, Rho, Schmitt, and Earle 2010). As of 2010, only one third of those in the bottom 25% of the wage distribution
and 42% of service workers had access to this benefit (Hill 2013). Without paid sick leave, workers face a financial risk if they take time off work for their own health or to take care of a dependent. Many see no alternative than to work while they are ill because they risk losing income or even their job if they call in sick (Lovell 2014).

In 2006, San Francisco was the first US city to pass a mandated paid sick days ordinance; it was followed by Milwaukee and Washington, D.C., in 2008. Connecticut became the first state to pass such a law in 2011. By the end of 2016, 34 cities and counties as well as four states (California, Connecticut, Massachusetts, and Oregon) had passed paid sick days policies. Following implementation of these laws, the share of workers in the bottom decile with access to paid sick leave rose nationwide from 18% in 2012 to 27% in 2016 (Gould and Schieder 2017).

**Fair Scheduling and Part-Time Work**

In recent years, fair scheduling in the retail and restaurant industries emerged as a major focus of organizing around local labor standards. Hourly workers in the retail and restaurant industries face a high degree of volatility in their schedules and total work hours. Henly, Fugiel, and Lambert (2014) found that 90% of early-career (ages 26 to 32) food-service workers had fluctuations in their work hours, with an average variation of 68%. More than 10% of workers in the United States are given irregular or on-call shifts, most commonly in the personal service, retail, restaurants, agriculture, and entertainment industries (Golden 2015). An additional 7% have split shifts or rotating schedules. Schedules for retail and restaurant workers may only be available a few days in advance and are often subject to additional last-minute changes. Unpredictable schedules have been found to result in financial insecurity, greater stress, worse health outcomes, and less time with children (Schneider and Harknett 2016). Week-to-week scheduling uncertainty makes it difficult for workers to arrange childcare, establish regular schedules with children, hold down additional jobs, or attend school.

In 2014, San Francisco Jobs With Justice led a campaign to establish the first city policies addressing unpredictable scheduling for workers employed by formula retail establishments. These are defined as chain stores with at least 40 establishments worldwide and 20 employees in San Francisco. The laws mandate premium pay if schedules are not provided two weeks in advance, worker retention if the establishment is sold, on-call pay if workers are not called in, wage parity for part-time workers, and offering of additional hours to current part-time workers before new workers are hired. Predictable scheduling laws have since been passed in the California city of Emeryville, New York, and Seattle. In November 2016, a labor–community coalition in San Jose passed a ballot initiative requiring right of first refusal on additional work
shifts for part-time workers. In June 2017, Oregon became the first state to pass a predictable scheduling law.

**BEYOND $15**

A $15 minimum wage in many areas of the United States meets the self-sufficiency standard for a single individual working full time, but it is still well below what is needed for most families to meet their basic needs (Howell, Fielder, and Luce 2016). Laws regulating standards for employees do not reach workers classified as independent contractors. In this section, I explore further directions in state and local policies to raise the standards and extend the reach of the policies.

**Sectoral Wage Setting**

In the past several years, there has been a renewed interest in exploring models of industry wage setting in the United States and the potential for using state and local policy to create a framework for new forms of sectoral bargaining or directly set standards on an industry basis (Andrias 2016; Madland 2016; Madland and Rowell 2017). An across-the-board minimum wage covering all workers and industries provides an essential floor but is too blunt an instrument to raise incomes to the level that will meet the full needs for families with children. Industry wage standards can be tailored to the conditions in specific industries and occupations.

Enterprise-based bargaining is an important factor for the relatively low share of workers covered under collective bargaining agreements in the United States compared with other wealthy democracies (Madland 2016; Organisation for Economic Co-operation and Development 2017). When collective bargaining agreements apply at the enterprise level, the resulting differential in labor costs between firms in the same industry puts the unionized enterprises at a competitive disadvantage, creating a strong incentive to resist unionization. This dynamic can be altered with an industry wage-setting strategy.

Industry wage standards can be achieved in a variety of ways. Historically, the main method in the United States was through pattern bargaining in auto, ports, and other high union–density industries. As union density declined in the United States, the power to set industry standards through collective bargaining fell sharply. Some European countries (e.g., Austria, Denmark, and Germany) have industry-wide collective bargaining systems that operate through voluntary employer participation in industry councils. However, these systems have eroded under pressure of European integration and the governing rules of the European Economic Council, which give companies the right to provide time-limited services in other countries using their own workers (Bosch and Weinkopf 2013).
Other wealthy democracies expand the terms of collective contracts across the industry through law. In countries such as Belgium, France, and the Netherlands, the negotiated wage standards are extended across the industry, either automatically or through approval of the labor ministry. The pay scale in the collectively bargained sector is mandated across firms within the industry. Bosch and Weinkopf (2013) note that this creates two minimum wages: the national minimum wage that sets the lower limit, and collectively bargained minimum wages that vary by industry sector and pay grade. Not surprisingly, among the countries analyzed in the paper, the authors find that the percentage of workers who are low-wage workers in countries with industry extensions of negotiated wages is well below that of countries with enterprise-based bargaining or bargaining through voluntary employer organizations.

The concept of wage extenders is not completely alien in the United States. Prevailing wage laws serve this function for construction firms contracting with a public entity. The McNamara-O’Hara Service Contract Act of 1965 similarly extends the prevailing wage in an industry to workers on federal contracts across a wide range of services. Another recent example can be found in Los Angeles, where in 2016, a coalition of labor and tenant organizations successfully passed a ballot initiative setting minimum affordable housing and labor standards for certain residential developments.17

Finally, wages can be set for an industry through an industry-specific minimum-wage law. Hotel living-wage policies do this in the California cities of Emeryville, Long Beach, and Los Angeles. Wage standards policies are in place in multiple US airports including Boston, Ft. Lauderdale, Los Angeles, Miami, New York City, Oakland, San Francisco, San Jose, Sea-Tac, and St. Louis.18 In New York State, a wage board was used to establish a $15 minimum wage for fast food workers. Australia has a very well-developed sectoral minimum-wage system that details minimum-wage settings for 156 industry groups, with multiple occupations and classifications within each industry.19

Andrias (2016) argues for the use of wage boards as a form of social bargaining. Wage boards would be made up of worker, industry, and government representatives. Worker organizations would negotiate through the wage board, which would set standards across industry sectors. Unlike a legislated sectoral minimum wage, standards would be set through tripartite bargaining at the industry level. The negotiation process would create a locus for worker organization. Pointing to New York’s fast food wage board as a model, workers in the industry could exercise power in the negotiations by holding strikes, turning out en masse for hearings and demonstrations, and engaging in political action. The tripartite nature of the bargaining would help to ensure that agreements were tailored to the specific needs of each industry and to society at large.
These strategies are not mutually exclusive and could be combined. Sectoral wage strategies are especially promising in subcontracted industries where the economic power to increase wages lies higher up the supply chain. Of the various methods to set sectoral standards, wage extenders arguably have the greatest potential to support worker organizing—but are limited to geographies and industries where unions already have significant wage-setting power. Many of the European wage extender laws require a threshold of coverage under the collective bargaining agreement before the standards are extended to the rest of the industry (Organisation for Economic Co-operation and Development 2017).

**Broadening the Definition of Employee**

A second area for expansion of state and local labor standards is in the definition of employee and, by extension, who is covered under the laws. The gig economy and its implications for labor standards and worker organizing is receiving significant attention in the popular media. There is a widely held belief that the gig economy is expanding rapidly and will soon encompass a high share of the workforce. If true, this would suggest that legislated labor standards will fail to reach large sectors of the workforce and, worse, might incentivize employers to shift work away from employees to gig workers.

Conflicting definitions of who is considered a gig worker have led to very different estimates of the size of the gig economy, ranging from 600,000 to 55 million workers (Bernhardt and Thomason 2017). Recent data on self-employment and tax filings tell a different and more nuanced story. The share of workers reporting that their main job is unincorporated self-employment has been remarkably stable over the past 40 years; it was 6.3% of the workforce in 2016 while an additional 3.7% report they are incorporated self-employed. Tax data give a different picture, with the numbers of 1099s increasing by 42% between 2000 and 2014 (Jackson, Looney, and Ramnath 2017). One possible explanation is that rather than seeing a shift away from W-2 jobs to independent contracting as the main source of income, we are seeing an increase in workers taking on extra part-time work or taking on gig work for short periods of time between other jobs. Gig work could be understood, at least in part, as a response to wage stagnation. Another possible part of the story could be that the new electronic platforms have brought a share of traditional moonlighting work into the formal economy. Bernhardt and Thomason (2017) make the important point that the vast majority of low-wage workers continue to have an employer and thus, labor standards policies are still an important tool for improving wage and benefit standards.

Even if the use of independent contractors is much smaller than discussed in the popular media, the use of independent contractors in many low- and
middle-wage industries presents an important challenge for state and local labor standards regimes. Independent contractors are not covered by the FLSA and are excluded from the National Labor Relations Act. Economic strategies by independent contractors through strikes or boycotts to demand higher wages could face legal constraints under anti-trust law.

Union and community-based worker organizations have a range of options for raising labor standards for independent contractors. One option is to expand who is covered by state and local labor standards laws to reach workforces currently treated as independent contractors (National Employment Law Project 2017; Rogers 2016). While some of these may be cases of worker misclassification, expanding the definition of employee under specific state and local labor standards laws would eliminate any legal ambiguity for the purposes of those laws. This could be done through a broad expansion of the definition of employee (e.g., NELP proposes including “independently establishing the price of labor” in the employee test), or through statutorily declaring certain workers as employees (e.g., those who work driving for transportation network companies [TNCs] such as Uber or Lyft).

Another option is to use wage boards, as discussed above, to set minimum labor standards in an industry where workers are treated as independent contractors (whether or not they should be so treated). Seattle went a step further and created a framework for collective bargaining between drivers and TNCs (Madland and Rowell 2017). 21

**CHALLENGES AND LIMITATIONS**

**Enforcement**

One of the central challenges for local labor standards laws is enforcement. Luce (2004) documented the highly uneven enforcement of local living-wage laws, finding that 50% of the laws had minimal—if any—enforcement while only 14% had strong enforcement. Local minimum-wage laws create an additional challenge. While living-wage enforcement could build on existing systems for contract compliance, local governments are starting without a base of existing infrastructure or experience in enforcing across-the-board labor standards policies such as the minimum wage. The challenge is especially great for smaller cities, which typically lack the resources and capacity to build their own enforcement systems. Nonwage labor standards tend to be less familiar to both workers and employers, and they require significant education and outreach as a crucial part of any enforcement effort. Surveys of workers conducted within a few years of implementation of San Francisco’s paid sick days and scheduling policies found low worker knowledge of the laws and widespread employer violations (Ben-Ishai, Lopez Marchena, and Ziliak Michel 2017; Lovell 2014).
Effective enforcement of local labor standards policies requires three main elements: strong provisions within the law for enforcement, a proactive enforcement agency, and collaboration with community-based organizations (Koonse, Dietz, and Bernhardt 2015). Most of the new laws name an enforcement agency and include fines, penalties and damages, private right of action, posting requirements, ability to revoke licenses, and protection against retaliation. Some go further, and provide for criminal penalties or the ability to place liens to prevent an employer’s assets from disappearing during an investigation. Enforcement agencies will need to, along with other functions, both educate employers and employees about the laws and receive and investigate complaints.

A growing number of cities, including Los Angeles, San Francisco, and Seattle, are contracting with local worker organizations for outreach and education (Koonse, Dietz, and Bernhardt 2015). Worker organizations bring cultural competence and relations of trust in diverse communities. They can play an important role in educating workers about their rights, identifying violations, and building trust between workers and investigators. They may also bring knowledge of specific industries (Fine and Gordon 2010).

**State Preemption**

Efforts to raise labor standards have been most successful in states and cities where labor has political power and where elected officials are more progressive. Minimum-wage campaigns have also been successful in Republican-controlled states where citizens are able to bypass the legislature and bring the issue directly to the voters through ballot initiatives. States without the right to ballot initiative and where Republicans control the legislature and/or governorship have resisted raising labor standards and are in fact passing laws to take the power away from cities. As of May 2017, 24 states had preemption laws. In some cases, cities never had the authority to regulate wages while in others, such as Alabama, Missouri, and North Carolina, laws were passed more recently in response to the local minimum-wage movement following model legislation promoted by the conservative American Legislative Exchange Council (DuPuis, Langon, McFarland, and Rainwater 2017).

**Building Sustainable Organizations**

Pursuing public policy strategies can assist, but it does not supplant the need for workers to build self-sustaining organizations. Even as a new nontraditional organization of fast food workers was developed through the Fight for $15, the financial and organizational support from a traditional union, SEIU, was central to their successes (Ginsburg 2017). The threat of a Supreme Court ruling overturning fair-share fees for public sector unions could constrain funding for similar efforts in the future (Walker 2017). Contracting with cities for enforcement is providing a limited source of ongoing funding for workers’
centers. Rolf (2016b) sees portable benefit funds as one way to build and sustain membership, on the model of the Ghent system in Scandinavia, where unions play a central role in administering publicly subsidized benefits. Nevertheless, the challenge remains of winning the second half of the workers’ demands in the Fight for $15: “$15 and a union.”

**Care Industries**

Childcare, homecare, and services to people with developmental disabilities provide a unique set of challenges in raising minimum wages at the state and local levels. The added difficulty comes in the fact that many of these agencies rely completely or in part on federal, state, or county funding with set reimbursement rates. The governmental body raising the minimum wage may be different than the governmental body responsible for setting these reimbursement rates. Even where they are same, addressing the funding needs may require going beyond our existing minimum-wage strategies. Doing so successfully will require organizing for a greater investment of public funding in these essential services and in some cases, restructuring existing programs or creating new programs to better address the funding needs.

Workers engaged in care work provide vital services for families, seniors, and people with disabilities. The vast majority of the workforce is female, the services are often underfunded, and wages are very low (Professional Healthcare Institute 2016; Whitebook, Howes, and Phillips 2014). This has a significant impact on worker turnover and quality of care (Hewitt and Larson 2007; Howes 2002; Whitebook, Howes, and Phillips 2014). Developing additional strategies to raise labor standards in the care-giving industries is therefore vital for both workers and consumers.

**CONCLUSION**

The turn toward what Fine (2005) terms “re-governing the market from below” through organizing around state and local labor standards has had real success in improving wages and working conditions for millions of low-wage workers, creating a focus for local organizing and shaping the public debate. In California, the combined value of the increased wages from the new $15 state and local minimum-wage laws is greater than the combined values all of the existing income support programs (EITC, SNAP, WIC, TANF) in the state; it is also equivalent to the estimated union wage premium from collective bargaining across industries. Local organizations are creating and testing new policy models, which are being successfully moved to higher levels of government and other geographic areas.

Re-governing the market from below through raising labor standards does have several important limitations. Building models of sustainable worker organization outside of traditional collective bargaining arrangements remains
a challenge. State preemption of local policies and the absence of the right to take issues directly to the voters through ballot initiatives limit the geographical scope of these strategies. Moving the locus of power from the worksite to public bodies cannot substitute for the role of a union in providing voice at work and the direct engagement of workers at their workplace in fighting for dignity on the job.

Finally, the election of Donald Trump is a reminder of how state and local efforts can be dwarfed by actions of the federal government, which is attempting to roll back 50 years of social policy. Progressive cities and states can continue to play an important role in creating models that demonstrate “another world is possible,” but more organizing resources will need to be deployed in states and areas within states with the greatest capacity to influence national politics. This will include many states where local labor standards are not legally possible. To organize in those states, strategies will need to be developed that address local conditions.

ACKNOWLEDGMENTS

I wish to acknowledge my colleagues Ian Perry, Sara Thomason, and Gabriel Sanchez for their assistance and Jenifer MacGillvary for her editorial suggestions.

ENDNOTES

1 Unionstats.com, Union Membership and Coverage Database from the CPS.
4 Author’s calculation adjusting Schmitt (2012) to 2016 dollars.
6 In his analysis of the rapid diffusion of living-wage laws, Martin (2001) found the presence of ACORN was the most important factor in predicting whether a city would pass one.
8 Ibid.
10 Author’s calculation. Assumes the health spending requirement increases at the average annual rate for the past ten years of 4.1% a year. Paid sick leave is estimated based on actual utilization following the method in Reich and Jacobs (2014).
11 Author’s calculation using Quarterly Census of Employment and Wages, 2016.
13 Author’s calculation using Reich, Allegretto, and Montialoux (2017); Reich, Jacobs, Bernhardt, and Perry (2014); and Reich, Jacobs, and Bernhardt (2015).


17 Establishing wage extenders that are closely tied to collectively bargained wages through state and local law raises the prospect of federal pre-emption under the National Labor Relations Act. See Chamber of Commerce of the United States v. Harvey Bragdon, US 9th Cir. FindLaw (1995).

18 Personal communication with Amy Sugimori, SEIU 323BJ, January 16, 2016.


REFERENCES


Domestic workers in the United States have explored a wide range of tactics and strategies in their organizing for labor rights. In the late 19th century, washerwomen in Atlanta staged a work stoppage, demanding better pay for their services (Hunter 1997). In 1917, domestic workers who crossed the Mexican border from Juarez to El Paso to work in American homes vigorously protested the daily humiliations inflicted by border-crossing agents, who called their action a riot (Romo 2005). Throughout the 20th century, in addition to millions of acts of individual resistance, workers engaged in joint action to set informal wage floors, refuse demeaning work, develop and share sample contracts, and celebrate the inherent dignity—and necessity—of the work (Nadasen 2015).

The 1935 National Labor Relations Act (NLRA) and the 1932 Fair Labor Standards Act (FLSA) established the legal parameters that frame contemporary domestic worker organizing—and against which that organizing must push. These pieces of legislation, landmark victories for labor organizing, carved domestic workers and farmworkers out of the federal codification of the expansion of the rights of workers to organize and to decent conditions of work. Domestic workers have no federally recognized right to form unions, choose representatives, or bargain collectively. The product of compromise with southern congressmen intent on preserving control over Black labor, one scholar calls the exclusion of domestic workers and farmworkers from the NLRA an “echo of slavery” (Perea 2011). Most domestic workers are also excluded, on a de facto basis, from the protections of federal anti-discrimination law, and they are expressly excluded from OSHA protections. To the extent that legal constraints on organizing and an absence of federal labor protections remain the norm today, those echoes of slavery resound into the 21st century. The exclusion of domestic workers from labor rights and protections at the federal level is mirrored by explicit exclusions in many states.
In addition to the exclusion of domestic workers from collective bargaining rights, the dispersed and disaggregated character of both the workforce and the employers presents a set of organizing hurdles. While enhancing the capacity of individual domestic workers to negotiate for better conditions with their employers is central to the process of workers stepping into their agency, it does not substitute for a bargaining unit and cannot accumulate into legally recognized and enforceable change. This, together with the absence of a corporate entity with which to bargain, has meant that domestic workers have been considered “unorganizable.”

The contemporary domestic worker movement takes shape against this legislative and structural backdrop. Beginning in the latter half of the 1990s, local projects and organizations committed to mobilizing and providing services for domestic workers cropped up in immigrant communities across the country. Each group had its own unique character, but all wrestled with how to meet the needs and improve the working conditions of a low-wage, predominantly female, largely immigrant workforce. The vulnerabilities of the workforce rendered it especially subject to labor exploitation and abuse, including sub-minimum wages, wage theft, forced overtime work, no overtime pay, no rest or meal breaks, health and safety hazards, threats and intimidation. As recent news and research have revealed, domestic workers are also susceptible to the far extremes of labor exploitation and human rights violations, including trafficking and semi-enslavement (Hafiz and Paarlberg 2017; Tizon 2017). Finding effective levers to address these conditions has been the core preoccupation of each iteration of domestic worker organizing.

Over the past decade, the domestic worker movement has successfully pursued a strategy of building campaigns to pass legislation at the state level to expand the labor rights of domestic workers. Domestic worker bills of rights have been won in eight states, led by the National Domestic Workers Alliance and its local affiliates, breaking new ground for a long neglected sector of the US labor force.

In 2001, well before the national domestic worker movement took shape, the New York Domestic Workers Justice Coalition, led by Domestic Workers United, launched a citywide campaign to improve working conditions. Two years of coalition building, worker mobilization and winning over key allies on the city council culminated in the passage of Local Law 33 in 2003. The law mandates employment agencies that place domestic workers to provide written statements informing prospective employees and employers of worker rights under New York State and federal law. It requires that agencies inform applicants in writing about the wages, hours, services, and agency fees of each potential position and includes record-keeping and enforcement provisions (Greenhouse 2003). Local Law 33 did not shake up the domestic work industry in a fundamental way, but it was the very first enforceable policy change in
nearly 30 years to uphold the employment rights of domestic workers, won through the organizing efforts of domestic workers themselves.

New York’s domestic workers were energized by the victory. In short order, they decided to launch a campaign for a statewide Domestic Worker Bill of Rights. They did not anticipate that it would take seven years and countless trips to Albany to wrest a victory from the state legislature. But on August 31, 2010, Governor Paterson signed the bill. Among other provisions, domestic workers won the right to overtime pay and rest days, as well as explicit protection under New York State human rights and anti-discrimination law (Hobden 2010; New York State Senate 2010; Poo 2010).

Between the New York City win for domestic workers in 2003 and the 2010 statewide victory, domestic worker organizing that had been locally based and dispersed began to cohere nationally. In 2007, at the U.S. Social Forum in Atlanta, 13 organizations came together to form the National Domestic Workers Alliance (NDWA). The alliance created a new container in which organizers could share campaign strategies and lessons. No bill of rights campaigns had been won at the state level at that point, but New York and California were well underway. In the ten years between NDWA’s founding and today, domestic worker bills of rights have been won in eight states: New York (2010), California (2013, 2015), Hawaii (2013), Massachusetts (2014), Connecticut (2015), Oregon (2015), Illinois (2016), and Nevada (2017) (see appendix).

Bill of rights campaigns have become a signature strategic initiative of the domestic worker movement. The campaigns have achieved substantive gains for a marginalized segment of the workforce that, traditionally, has had few effective ways to win broadly applicable enforceable rights (Shah and Seville 2012). Domestic workers have been leveraging their collective power to convince states to expand and protect worker rights. The New York campaign provided a general template for the successful campaigns that followed. But domestic workers and organizers in each state contended with distinct sets of political actors and unanticipated challenges. Each campaign forged a unique path to victory. This article examines two of those wins—California and Massachusetts.

CALIFORNIA DOMESTIC WORKER BILL OF RIGHTS CAMPAIGN

In the early 2000s, Latina immigrant women gathered in the meetings rooms of Mujeres Unidas y Activas (MUA), an organization with offices in San Francisco and Oakland, California. MUA offered support group meetings, CPR training, and occupational safety and health trainings to help immigrant women get jobs as nannies, housecleaners, and caregivers. The women, many of whom had experienced domestic violence, needed the jobs to support their families and become economically self-sufficient. Time and time again, they
shared stories of abuse at work. The very jobs that were supposed to be pathways to freedom from violence in the home were perpetuating abuse in their lives.

Founded in 1989, MUA had a long track record of developing the leadership of Latina immigrant women. MUA mobilized and engaged the community on issues of immigrant and worker rights, domestic violence, health access, and building women’s economic independence. The organization was intent on developing an organizing model and leading campaigns that would grow its membership, building an even stronger bench of immigrant women leaders. In 2003, MUA hired its first community organizer. Together with the Women’s Collective of La Raza Centro Legal (La Colectiva) and the Data Center, which had been fighting wage theft cases for many years, MUA embarked on a research project focused on the working conditions of domestic workers in San Francisco. The goal of the survey was to move past anecdotal evidence, gain a more comprehensive understanding of the industry, and identify key issues for potential organizing campaigns. “Behind Closed Doors: Working Conditions of California Household Workers” documents the low pay, wage theft, overwork and health and safety problems endemic to domestic work (Mujeres Unidas y Activas, Women’s Collective of La Raza Centro Legal and Data Center 2007). It provided a guide to the many issues to be tackled to bring domestic work up to a reasonable standard.

Meanwhile, in Los Angeles, three other groups were also organizing immigrant women: the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA), a community organization with deep roots in the Latino community; the Institute of Popular Education of Southern California (IDEPSCA); and the Pilipino Workers Center (PWC). Leaders of the Northern and Southern California organizations began to discuss how the systematic exclusion of domestic workers from labor protections, combined with the cultural devaluation of “women’s work,” heighten the vulnerability of a largely immigrant and female workforce.

These organizations, together with San Francisco–based People Organized to Win Employment Rights (POWER) and the Graton Day Labor Center, became the core of the long-standing coalition dedicated to winning new labor rights for domestic workers in California. Organizers and member leaders decided that changing state law to remedy the exclusion of domestic workers from labor protections was an important avenue to pursue. Little did they know that they were embarking on a path that would demand more than a decade’s commitment. The campaign for labor protections for California’s domestic workers unfolded in four main stages:

- The formation of the coalition and the initiation of the campaign for a California Domestic Worker Bill of Rights in 2005 through
Governor Arnold Schwarzenegger’s veto of AB 2536 in September 2006 (California State Assembly 2006).

- The coalition’s recommitment and introduction of a new bill, AB 889, through Governor Jerry Brown’s September 2012 veto (California State Assembly 2011).
- The coalition recommits yet again and introduces AB 241, which clears the state legislature and is signed by Governor Brown in 2013, with a three-year sunset provision requiring reauthorization (California State Assembly 2013).
- The coalition campaigns for and wins permanent labor protections with the passage of SB 1015 in 2016 (California State Senate 2016).

Ultimately, the coalition’s campaign to extend labor rights to domestic workers became the longest-running organizing and advocacy drive in the recent history of the domestic worker movement.

The Bill of Rights Campaign Begins

In 2005, domestic workers convened for a statewide gathering, held at the Women’s Building in San Francisco. They identified and prioritized the unique problems domestic workers encounter on the job and collectively reviewed the legislative process. The meeting, conducted in English, Spanish and Tagalog, generated a 13-point program. CHIRLA had already reached out to Cindy Montañez, a young woman who had won a seat in the state assembly representing California’s heavily Latino 39th assembly district. Montañez, whose mother was a domestic worker, promised to champion the domestic workers’ cause. Shortly after the gathering in San Francisco, a small group of domestic workers traveled from across the state to meet with Assemblymember Montañez and discuss what to include in the proposed legislation.

Though domestic workers were eager to right numerous wrongs, Montañez was reluctant to introduce an expansive bill with multiple provisions. Instead, in the 2006 legislative session, she introduced AB 2536, which contained just two provisions: the inclusion of “personal attendants” in overtime laws—with personal attendant defined as a private-pay worker employed to care for a child, an elder, or a person with a physical or mental disability; and the right of household workers to recover liquidated damages from employers who have withheld wages or failed to pay overtime (California State Assembly 2006).

The nascent California Household Workers Coalition (later renamed California Domestic Workers Coalition, CDWC) was committed not only to winning policy change but also to developing the leadership of domestic workers, raising the visibility of domestic work, and advancing the idea that domestic work is as dignified as any other and as deserving of basic labor protections. Legislative change was understood as critical to creating a new
legal framework of labor rights and protections and challenging institutional racism and sexism as codified by the state. But, given that noncompliance with existing labor laws is so common in the sector, legislative change was understood to be only one part of a comprehensive strategy for change. This orientation informed choices the coalition made throughout the campaign.

The campaign’s most significant hurdle was opposition by the Sacramento-based California Association for Health Services at Home (CAHSAH), advocates for the interests of for-profit agencies that link home health aides and elder caregivers with individuals and families in need of their services. Disability rights advocates, including Disability Rights California, also lobbied against the bill, based on concerns that the legislation would result in people with disabilities and seniors having to pay more for personal attendants. Opposition emerged early in the campaign, was sustained throughout, and was a major factor in campaign setbacks. Dozens of people with disabilities, some assisted by their attendants, were present at the state assembly’s labor committee hearing to register their opposition to the Montañez bill. Domestic workers who attended the hearing were shaken and demoralized. Esther Savinon, a long-time care worker disabled by knee problems and failing vision, said, “I don’t understand. I gave my life to caring for people. I love the people I have taken care of. Why won’t they stand up for us, our equality, and our rights?”

The bill passed the committee, but the mood on the trip back from Sacramento was bleak. The coalition began to research the disability rights advocacy community, reaching out to anyone who could offer perspective and insight. It became very clear that protecting worker rights would require a robust coalition capable of exerting sufficient influence and power to change the law.

Through extensive outreach and one-on-one meetings, the coalition was able to bring labor unions, faith leaders, employers of domestic workers, and people with disabilities on board, expanding well beyond the founding organizations. However, the unrelenting opposition proved to be insurmountable. On the advice of Montañez, domestic workers decided to consent to significant amendments to the bill, ultimately limiting overtime protection to nannies while exempting elder caregivers and attendants to people with physical or mental disabilities. The revised bill made it through both houses of the legislature only to be vetoed by Governor Schwarzenegger (California State Assembly 2006).

Recommitment
When domestic workers gathered in San Francisco’s Dolores Park to mourn the defeat and discuss next steps, they took out their frustrations on a Schwarzenegger piñata. Luz Sampedro, a campaign leader, passionately de-
clared, “Governor Schwarzenegger may have vetoed the bill, but he cannot take everything we have learned. We will keep fighting until justice is served.” It was a prescient battle cry. Luz had reminded everyone that, in contrast to traditional legislative advocacy, the coalition had invested its time and resources in popular education, a democratic and participatory process, and leadership development.

In doing so, CDWC had, in a short time, developed a cadre of committed leaders and passionate spokespeople. Domestic workers were fully engaged in the campaign and took ownership of it. In addition, through the coalition’s work with ethnic media, word was out that domestic workers had rights and strong allies they could turn to for support. The investment in relationship building among the lead organizations and among campaign organizers, the development of the coalition’s structure and decision-making process, a commitment to the ongoing development of worker leaders, and sustaining relationships with key allies would be the foundation of the collective effort in the hard years to come. Though they had lost the first round, attention to these values and processes enabled the coalition to weather leadership transitions, stinging defeats, competition for resources, and strategic differences.

Schwarzenegger had refused to sign the significantly watered down version of the domestic worker bill. CDWC realized he would never sign a substantive bill into law and that its resources would be better spent building the coalition, deepening relationships with leaders in the disability rights movement, and expanding the coalition’s geographic reach while waiting for the next governor to take office. They took an extended timeout.

While waiting for a more favorable political alignment in Sacramento, the coalition found ways to keep its base of domestic workers organized and focused. It participated in two Bay Area cases, demonstrating support for workers who had been robbed and exploited.

Vilma Serralta, in her late 60s, kept house and cared for a tech investor’s child in Atherton, 20 miles south of San Francisco. Her employers lived in a 9,000-square-foot house with an assessed value of $13 million while paying Serralta between $3 and $4 an hour. The case exemplified exactly the kinds of abuses the coalition was working to remedy. Serralta decided to sue her employers for back wages (New America Media 2010; Smith 2008). The pursuit of justice through the courts, led by La Raza Centro Legal, was accompanied by demonstrations on the streets in front of the employer’s home, intensive media work, and public education about abuses endemic to the domestic work industry.

Zoraida Peña Canal was lured to the United States from Peru on the promise of decent work and decent pay. Once in Walnut Creek, a Bay Area suburb, her employer confiscated her documents and she was forced to work without pay as a nanny, cook, and cleaner (Salonga 2008). After two years of 15-hour
days with no days off, Peña Canal heard a media story about Vilma Serralta’s case on the radio. With the support of employees at the school where she dropped off her employers’ children, she found the courage to escape the household. Peña Canal decided to take her employers to court as well.

The domestic worker movement in the Bay Area sustained momentum. Serralta reached a settlement for stolen wages. Peña Canal’s employer went to trial for labor trafficking and was convicted and sentenced to three years, the first conviction of its kind against an employer of a domestic worker.

In 2010, the coalition partnered with Assemblymembers Manuel Pérez and Tom Ammiano to pass a state resolution recognizing the economic and social contributions domestic workers and their exclusion from labor protections, and resolving that inclusion in state and federal labor law, together with industry-specific protections and labor standards, would be an expression of the dignity and importance of their work (California State Assembly 2010). The resolution was a vehicle to re-engage domestic workers in the legislative process, build relationships in Sacramento, and educate legislators and their staff on domestic worker issues.

**New Governor, New Campaign**

Hopes rose when Jerry Brown took office in 2011. This was a governor who had championed farmworker rights. Cindy Montañez had lost her bid to become a state senator, so organizers sought a new legislative champion. Assemblymember Tom Ammiano, a respected progressive legislator from San Francisco, had deep relationships with disability rights advocates, together with the combination of experience and political values the coalition was looking for.

The coalition closely studied the New York Domestic Worker Bill of Rights campaign, which had finally registered a win the year before. They decided to push for a more comprehensive set of remedies, understanding that provisions of the bill would inevitably be negotiated out along the way. In addition to overtime compensation, the new bill included provisions for meal and rest breaks, uninterrupted sleep for live-in workers, and workers compensation coverage (California State Assembly 2011).

In spite of Ammiano’s relationships with disability rights advocates and numerous conversations address their concerns, a few prominent disability rights organizations swiftly went public with their opposition to the new bill. At the same time, the private homecare companies mobilized by CAHSAH embarked on a smear campaign, dubbing the Domestic Worker Bill of Rights “the babysitter’s bill.” The California Chamber of Commerce also came out in opposition.

The communications offensive misled legislators and the public to believe that the state would begin regulating a family’s relationship with the neighborhood teenager who occasionally watched over the kids. It also raised the fear that
disabled people and the elderly who could not afford to pay overtime would be in jeopardy of being institutionalized. Though the coalition had built up a strong network of employers and disability rights leaders to publicly support the bill and had launched a counter-offensive, published op-eds, spoke to dozens of community groups, and gathered signatures of support from hundreds of academics, labor leaders and faith leaders, the bill was unable to withstand the heat. It got stuck in the Senate appropriations committee, where it languished.

California operates on a two-year legislative cycle. When the campaign picked up again in 2012, the coalition made the assessment that the bill would not move forward without a stronger, more consistent presence in Sacramento. The coalition hired a lobbyist who worked on progressive causes to keep the issue in front of legislators and their staff. The coalition began to invest even more resources in communications and media work. Dozens of nannies, housecleaners, and care workers mobilized to every hearing on the bill. Often with their children in tow, they lobbied legislators and shared not only their experiences but also about the policy solutions they had crafted. Regularly turning out hundreds of domestic workers and their allies at the state capitol, in combination with the ongoing presence of a lobbyist, gave the effort a significantly higher profile. The National Domestic Workers Alliance leveraged national relationships to support the campaign. Richard Trumka, president of the AFL-CIO, came to lobby on behalf of the bill—his first time lobbying in Sacramento for any issue. The bill finally made it out of committee and built momentum.

Determined to run a participatory campaign, decisively shaped by the voices and experiences of domestic workers, coalition leaders created a structure to ensure clear decision making by domestic worker leaders on strategy, tactics, and the content of the bill itself. Democratic decision making was logistically complex. Hearings were often scheduled only a few days in advance. Getting to the state capitol from Los Angeles could require an overnight road trip, and many domestic workers feared retaliation if they asked for the day off to participate in the campaign. When concessions were on the table, narrowing the scope of the bill, decisions were especially difficult. And yet domestic workers rose to the occasion. The coalition developed a rapid response system in which each of the organizations with a domestic worker base had at least one organizer and two domestic worker members serve as emergency contacts who were authorized to make collective decisions on changes to the bill. Over time, the workers who participated most consistently became more and more savvy about analyzing who had influence and how it was being exercised and about the relationship between broader movement-building goals and winning in the legislature.

The coalition also learned to seize every opportunity in which domestic workers were part of the public discourse to raise awareness about the issues addressed in the bill. Organizers used the buzz about The Help, a 2011 film
about midcentury Black domestic workers in the South, and Amy Poehler’s Time 100 Gala acceptance speech in which she thanked her nanny, to highlight the dignity and hard work of California’s domestic workers.\(^3\) The campaign also developed a strong cultural component. Women like Guillermina Castellanos and Maria Luna wrote songs and composed poems about the fight for labor rights. Domestic workers choreographed dances and performed them in front of the state capitol. The Children’s March in January 2012 brought together the children of domestic workers and children cared for by domestic workers to walk side by side around the capitol building. The march affirmed the importance of the workers as economic pillars of their own families and as indispensable caregivers in the homes of their employers.

The coalition won the support of organizations like Senior and Disability Action, which mobilizes and educates seniors and people with disabilities to fight for individual rights and social justice. Numerous disability rights activists were willing express their solidarity with care workers. For example, Nikki Brown-Booker, a family therapist who uses a wheelchair and relies on several personal attendants, became a consistent and powerful proponent of the bill. In partnership with Hand in Hand, a strong chorus of employers mobilized repeatedly to speak out for clear industry standards.

On the legislative front, the bill was amended to, among other things, explicitly exclude from the definition of employee babysitters under the age of 18, workers employed through California’s In-Home Support Services, and workers employed by licensed health care facilities. It also excluded from the definition of employers agencies that refer workers to domestic work jobs. The amended bill finally passed the legislature. The coalition was shocked by Governor Brown’s veto. It was a hard blow. Hundreds of domestic workers who had mobilized to Sacramento repeatedly and sacrificed their time for long strategy meetings and street outreach were dejected. To highlight the governor’s chicken-hearted refusal to stand up for domestic worker rights, live chickens were featured at press conferences in front of state buildings in Los Angeles and San Francisco. Once again, campaign leaders had to get past their disappointment and frustration, take stock of everything they had learned, and commit to reintroducing legislation.

**From Defeat to Victory**

Moving forward, CDWC developed a robust inside/outside strategy that focused on strategic mobilizations and communications, while also leveraging every relationship with influencers who had the ear of the governor. The coalition got reports that Jerry Brown was being asked about the domestic worker bill at receptions and fundraisers, even in the locker room of his gym.

In a final round of hard negotiations, the coalition agreed both to narrow the bill to overtime protection and to accept a sunset provision (California
Neither of these compromises was easy to swallow, but it was clear that domestic workers could either cap their long campaign with a limited win—or take nothing at all. The legislation required reauthorization in three years. Governor Brown signed the bill on September 26, 2013, with dozens of domestic workers and a new generation of organizers looking on. Emiliana Acopio, a Pilipina care worker in her 70s, was there. She had traveled to Sacramento in support of the bill over 19 times in the course of the campaign. Her face was lit with joy and pride. Against all odds, domestic workers had prevailed in the state with the largest number of domestic workers in the nation and won the right to overtime for nannies and personal attendants.

In the wake of its hard-won victory, the coalition redirected its efforts to public education, worker outreach, and implementation of the law. It maintained and strengthened relationships with the disability rights community, partnered with the UCLA Labor Center to research the impact of the law, and continued organizing and advocacy to win a permanent bill (Waheed et al. 2016). On September 12, 2016, the California Domestic Worker Bill of Rights was signed into law, removing the sunset provision and permanently guaranteeing domestic workers the right to overtime (California State Senate 2016). More than a decade after the initiation of the campaign, the coalition finally rejoiced in a lasting victory.

The California campaign was a means by which hundreds of domestic workers from across the state, many of them undocumented and monolingual in Spanish or Tagalog, learned to decipher and navigate the legislative process. They became skilled spokespersons about their own experiences and advocates for women too fearful to speak up themselves. Organizers and workers created and sustained long-term relationships among diverse organizations and remained centered on campaign goals despite transitions in personnel and changes at the capitol. Perhaps most important, workers and organizers remained steady in the face of fierce opposition, absorbed lessons from stinging defeats, adjusted and re-adjusted strategies and persevered until victory was in hand. In so doing, they both changed labor law and transformed California’s domestic worker movement.

MASSACHUSETTS BILL OF RIGHTS CAMPAIGN

On June 26, 2014, Governor Deval Patrick signed into law a bill granting domestic workers a broader set of rights and protections than they enjoy in any other state. The legislation eliminated provisions in prior law that excluded domestic workers from labor protections, amended labor law to explicitly include domestic workers, and enacted new provisions that address the industry-specific conditions domestic workers face (Commonwealth of Massachusetts 2014). Among other rights and protections, the Massachusetts Domestic Worker Bill of Rights:
• Guarantees a weekly 24-hour rest period and a monthly 48-hour rest period for full-time workers.
• Bars food and lodging deductions for live-in workers that reduce pay below minimum wage and provides that no deductions for meals, rest periods, lodging, or sleeping periods may be made without written consent.
• Clarifies the right of domestic workers to privacy and protects against trafficking, including prohibitions against forced domestic service, monitoring of private conversations, or taking identity or immigration documents.
• Guarantees live-in domestic workers the right to written notice and 30 days' lodging or two weeks' severance pay if terminated without cause.
• Requires that employers keep written pay records and requires a written employment agreement that sets out employment rights and benefits if a domestic worker works more than 16 hours a week for the same employer.
• Brings domestic work under the jurisdiction of the Massachusetts Commission Against Discrimination for claims of sexual or other harassment.
• Protects domestic workers who work under 16 hours a week from employer retaliation for making a wage complaint. These workers had previously been exempted from protection.
• Guarantees eight weeks of maternity leave for the birth or adoption of a child for employees working for the same employer for three months.
• Requires the development of a multilingual outreach program to inform domestic workers and their employers of their rights and responsibilities.

The Massachusetts Domestic Worker Bill of Rights, in addition to encompassing a wider range of provisions than other states, was won in a single two-year legislative session. The bill was introduced in January 2013 and passed fewer than 18 months later. The campaign for the bill was intense, complex, and hard fought, but it did not require the multi-year grind of either the New York or California campaigns. How to account for the unique dynamics of the campaign for domestic worker rights in Massachusetts?

Massachusetts organizers were directly inspired by New York’s victory in 2010. Natalicia Tracy, executive director of the Brazilian Immigrant Center, visited with Domestic Workers United staff and members to learn about how they had built the New York Domestic Workers Justice Coalition and their strategic approach to legislators in Albany. Tracy had arrived in Boston from Brazil in 1990. A teenager at the time, she spent two years as a highly exploited, semi-enslaved domestic worker for Brazilian professionals pursuing medical fellowships at Boston’s famed medical institutions. After freeing herself from
servitude, she continued in domestic work for many years, learning English, raising a family, and ultimately gaining a doctorate in sociology. Tracy had a personal stake in expanding domestic worker rights.

Monique Nguyen, now executive director of MataHari, attended a regional conference of domestic workers held at Barnard College in 2009. It was the first time she witnessed domestic workers “in their light.” She talked with workers and organizers from Damayan Migrant Workers, Adhikaar, and Domestic Workers United—groups that were central to the long-running New York campaign. MataHari, which had been founded to provide legal and support services to victims of trafficking, was in the midst of a leadership transition. Nguyen returned to Boston inspired and determined to shift toward an organizing model that centered on developing a membership base of domestic workers capable of campaigning for their rights. Nguyen became the field director for the Massachusetts Domestic Worker Bill of Rights campaign.

The New York bill became law in August 2010. By December of that year, the Brazilian Immigrant Center (now the Brazilian Worker Center), MataHari, the Dominican Development Center, Via Verde, the Women’s Institute for Leadership Development, and the Massachusetts Association of Professional Nannies came together to form the Massachusetts Coalition for Domestic Workers (MCDW). In their first year working together, they focused on gathering data about domestic workers in Massachusetts as part an NDWA-initiated research project, the first national survey to study the conditions of domestic workers in the United States (Burnham and Theodore 2012). Apart from gathering crucial data, the survey project served as a training ground for outreach to other workers, as well as a testing ground for diverse organizations with distinct constituencies to work together. Once the survey was completed, the coalition turned its attention to the challenge of creating better conditions for domestic workers by changing public policy. Together they planned a domestic worker conference to provide a space to discuss the problems they encountered on the job—and to propose solutions.

### From Wish List to Draft Legislation

More than 100 domestic workers attended the June 16, 2012, conference in Boston. It was the first major event organized by MCDW that brought together the members of the coalition’s constituent groups. The conference was conducted in four languages: English, Mandarin, Portuguese, and Spanish. An OSHA representative put up big butcher-paper drawings of the human body and workers affixed Post-it notes to indicate where they experienced work-related pain. By the end of the day, the drawings were covered in little slips of paper. Workers sat at round tables talking about problematic or exploitative work experiences, as well as the measures they would like to see enacted to check employers’ power to overwork and abuse their employees. They answered the question, “What is just and fair employment for you?” Each table
reported back to the whole group, and the day’s work was reflected in a comprehensive list of measures that should be taken to improve the working conditions of domestic workers.

The road from a wish list to credible draft legislation is long. MCDW engaged Greater Boston Legal Services (GBLS) to lead them down that road. Monica Halas, lead attorney for GBLS’ employment law unit, had just come off a grueling, ultimately successful, ten-year campaign to win employment rights for temp workers in Massachusetts. Though weary from a long legislative battle, Halas was eager to take on the Domestic Worker Bill of Rights. Domestic work was not abstract. Her parents had escaped near-certain death in Eastern Europe at the hands of the Nazis by applying for and getting jobs as a butler and a maid just outside London. Halas had worked on nearly a dozen legislative campaigns. She knew her way around the statehouse, which was brand-new terrain for most of the coalition organizers.

Halas and the GBLS staff combed through Massachusetts state law to find the labor protections from which domestic workers were explicitly excluded, either as a class of workers or because the law applied only to workplaces with multiple employees.

They had in hand the visionary wish list created by domestic workers. They had the New York law and New York’s strategic playbook. They had California’s pending legislation. And then they stumbled on something they didn’t know they had: precedents extending rights to domestic workers enacted in 1970 through the determined advocacy of one Melnea Cass.

Cass was head of the Boston NAACP’s Women’s Service Club. Among many other things, the club provided support and guidance to Black domestic workers arriving in Boston from the South—women who were part of the great wave of Black migration northward and westward from the post-World War I years through the 1960s. Cass heard firsthand about how commonplace the mistreatment of Black domestic workers was. She pushed through legislation that amounted to the first statewide bill of rights for domestic workers. Included in the legislation, signed by Republican Governor Sargent, were the rights to workers compensation, minimum wage, overtime pay, and unionization. The full story of exactly how Cass accomplished this groundbreaking feat has yet to be told, but 40 years later, MCDW and GBLS found her sturdy shoulders to stand on.

With Cass as inspiration and draft legislation in hand, it was time to find a legislator to act as lead sponsor and carry the bill. MCDW turned to representative Mike Moran. The Brazilian Immigrant Center was in the district Moran represented. His mother had been a domestic worker. Tracy collected the signatures of 200 of Moran’s constituents in support of a bill of rights for domestic workers. Moran agreed to sponsor the bill on the condition that he could run it up the flagpole to gauge the opposition. He determined that the
bill had a chance at success—but only if the campaign for it was relatively low-key. He was concerned that a high-profile campaign with lots of media coverage and repeated mobilizations and demonstrations at the state capitol would spark entrenched resistance. On the spectrum of US politics, Massachusetts has a liberal reputation. But anti-immigrant sentiment, both among the general public and within the legislature, was a factor to be reckoned with. Because the members of the organizations pushing the legislation were primarily immigrant workers, Moran felt that high-profile advocacy by these organizations would likely tank the bill.

Moran’s approach posed a challenge to the coalition. It was not that they distrusted his political instincts. To the contrary, Moran had the respect of his colleagues and of the labor movement. But for the coalition, the campaign for a Massachusetts Domestic Worker Bill of Rights was about more than winning in the legislature. It was also about lifting the voices of domestic workers, developing their leadership, developing their confidence to speak directly to power, and building the membership base of participating organizations across the arc of a complex campaign. How could they do this in the course of a stealth campaign? Working with this conundrum became one of the central dynamics of Massachusetts organizing for domestic worker rights.

**Indispensable Allies**

With a lead sponsor in place, MCDW turned its attention to building support for the bill. Labor’s support was critical, a lesson from both the New York and California campaigns. Fortunately, GBLS is organized, part of United Auto Workers Local 2320 (the National Organization of Legal Services Workers). Halas, who represents the UAW as a vice president on the Massachusetts AFL-CIO executive board, has strong ties to labor. But strong ties alone were not enough. Tracy spent months going to labor breakfasts and union meetings across the state. Over and over again, she explained the conditions of the workforce, the purpose of the legislation, and the importance of endorsements from union locals and labor councils. Ultimately, MCDW got endorsements from 29 different labor organizations, from the Greater Boston Labor Council to the Insulators and Asbestos Workers Local 6. The Massachusetts AFL-CIO promoted the bill as one of its top ten legislative priorities.

Building relations with the disability rights community was also critical to successfully moving the bill, as had become abundantly clear in California. Lydia Edwards, a coalition leader and lawyer who was the director of legal services at the Brazilian Immigrant Center, and who had created the first mediation clinic to resolve disputes between domestic workers and their employers, took on the job of reaching out to the key disability rights organizations. She took the draft legislation to disability rights organizations and activists, listened intently to their concerns, and asked them to review and mark up the bill to make sure their concerns were incorporated into subsequent
drafts. The coalition took to heart the disability rights community’s motto “Nothing about us, without us.” The disability rights community had supported SEIU’s unionization of personal care attendants in Massachusetts and, because they were protected by a union contract, the final legislation carves these workers out of the definition of who is a domestic worker. The coalition gained the endorsements of the Disability Law Center and independent living centers across the state, along with the supportive voices of disability rights activists at key junctures in the campaign. In the course of building strong relationships, Edwards became an advocate for disability rights and now sits on the board of trustees of the Boston Center for Independent Living.

**Campaigning to Win**

Given the commitment to a relatively under-the-radar campaign—no mass mobilizations at the statehouse, no drumbeat of publicity—the coalition looked to other opportunities to focus the organizing energy of workers. Workers testified at in-district events designed to win over state senators and representatives. They lobbied cities and towns to pass municipal declarations endorsing the state bill and local ordinances in support of domestic worker rights. They did outreach and workshops to inform domestic workers about the provisions and progress of the bill. And they spoke at a traveling exhibit of photographic portraits of Brazilian domestic workers, intended to give face and voice to an invisible workforce.

The bill provided the relatively young Massachusetts domestic worker movement with a specific focus for outreach to new workers, identification of “high road” employers, and alliance building with faith-based, civic, labor, and social justice organizations. It established the domestic worker movement in Massachusetts as an integral and effective force on the worker rights landscape.

Bills pile up and die in committee. The coalition was determined that this would not be the fate of the Massachusetts Domestic Worker Bill of Rights. They did the legwork of accumulating sponsors for the bill and organized strong testimony for the Labor and Workforce Development Committee. MCDW met with every member of the committee and, through relentless calls and visits, lined up an impressive roster of co-sponsors.

Meanwhile, Halas and GBLS staff attorneys drafted dozens of versions of the bill, speaking to the questions and concerns of potential supporters while maintaining the core rights and protections for domestic workers. At the committee hearing, four people testified in support of the Domestic Worker Bill of Rights: two domestic workers and two employers, one of the latter an individual with a disability. The stories mattered, as did the countless meetings. The coalition positioned the bill as a broadly popular opportunity to stand for worker rights and civil rights that was also risk free because there was no mobilized opposition. The bill passed out of committee with no “no” votes.
No piece of legislation makes it through the legislative process entirely unscathed, and the bill of rights was no exception. The bill became the unintended temporary hostage to a power struggle between the House and Senate. It endured a spate of ping-ponging and deal making before, in the end, the stand-alone bill passed in the Senate 39 to zero and cleared the House by a wide margin. It was one of the few bills chosen for a governor’s signing ceremony, which was attended by workers, organizers, legal advocates, legislators, Boston’s mayor, and a raft of supporters who had gone the distance.  

An enormous amount of thoughtful strategizing and plain hard work went into the win. MCDW was under considerable pressure to get the legislation passed while a Democratic governor was in office to sign it. Though the coalition suffered from difficult internal dynamics and personality clashes—MDWC burnt out at least one talented coordinator—it was, in the end, a successful instrument of progressive policy change. Many of those most central to the campaign still talk about it in semi-mystical terms: “the stars aligned,” “there were magical things that happened.” In an era when much of labor is on the defensive or in retreat, the Massachusetts Domestic Worker Bill of Rights broke new ground by creating a far more robust legal framework to protect domestic workers from abusive conditions on the job and broaden the parameters of their rights as workers.

Post Win
The Massachusetts Office of the Attorney General is charged with both enforcing the bill and informing workers and employers of their rights and responsibilities. Their website outlines the law in English, Portuguese, and Spanish; makes it clear that the law applies regardless of immigration status; provides a sample employment agreement, timesheet, and performance review; and directs workers to a hotline to report problematic working conditions.

In June 2017, the Office of the Attorney General recovered $35,000 in back wages and penalties for a live-in domestic who cared for a couple’s children. Her employers neglected to comply with the domestic worker law by failing to pay minimum wage, overtime, or vacation pay (Attorney General of Massachusetts 2017). It is highly unlikely that this action would have been undertaken or successfully pursued had the Massachusetts Domestic Worker Bill of Rights not been on the books.

The bill of rights made it through the legislature relatively quickly in part because it was unimpeded by organized employer opposition. Once the bill had passed, though, the au pair industry rallied to try to exempt au pairs from the protections of the bill. Au pairs are young people from abroad, usually young women, who are recruited by agencies and placed with US families to care for their children for one year. They are expected to work
up to 45 hours per week. Once food and lodging are deducted, au pairs are paid far below minimum wage, and au pairs have reported being overworked and denied rest days and vacation time (Kopplin 2017). Cultural Care Au Pair, an au pair agency, brought suit in federal court, arguing that the au pair program is a cultural exchange opportunity not an employment program, and that Massachusetts state law covering domestic workers should not take precedence over the provisions of the J-1 visa program administered by the federal government (Woolhouse 2016). This challenge to the bill by the au pair industry—another indication that the bill’s provisions constitute a significant gain for workers—was dismissed in federal court.

CONCLUSION

Both the California and Massachusetts campaigns rested on and embodied the broadening of domestic worker organizing from providing support and services to grassroots organizing for policy change. Both campaigns were serious about winning but also determined to implement a model of organizing that strengthened the leadership capacities of domestic workers and built the domestic worker movement. Both wins depended on coalitions that extended beyond domestic workers and garnered the support of organized labor, the disability rights community, and progressive faith-based, feminist, legal, and academic individuals and institutions.

The support of organized labor was critical to both the California and Massachusetts campaigns. Coalition organizers in both states depended on the legislative expertise and relationships that had been accumulated over time by labor leaders, together with the credibility signified by the endorsements of local, statewide, and national unions and federations.

Grassroots lawyering was indispensable to both victories. Beyond their legal skills and commitments to worker justice, the lawyers at Golden Gate University’s Women’s Employment Rights Clinic and Greater Boston Legal Services were also prepared to respect and engage with processes that required complex, multi-layered democratic decision making. They also assumed the responsibility of extensive and ongoing education in current law, legislative processes, and the potential and limitations of new legislation (Shah 2014).

Both campaigns also elevated culture change as a key element of the organizing. The dignity and value of care and cleaning work was a constant theme, asserted in the voices and through the stories of the workers themselves. The voices of ethical employers spoke both to how important domestic work is to families and communities and to the need to change social norms in relation to the work. Transforming public consciousness and discourse about domestic work informed the communications strategies in both states.

Despite these similarities, the arcs of the two campaigns and the scope of the wins were dramatically different. The California campaign, from the very
beginning, encountered headwinds in the form of recalcitrant governors and an organized, determined opposition. That opposition narrowed the range of labor protections the coalition could win and repeatedly forced workers and organizers to recommit and restrategize across the long arc of a campaign that, at some moments, must have seemed unwinnable. Though the domestic worker movement in Massachusetts was less seasoned than that in California, the coalition there was able to exploit more favorable political terrain and faced little organized opposition on its path to victory.

The maturation of the domestic worker movement can, to a substantial degree, be attributed to the strategic decision to pursue policy wins at the state level as a way of both creating the necessary legal framework to protect and expand the labor rights of domestic workers and, at the same time, to increase the capacity of the movement to mobilize, organize, advocate, and shift the narrative about the rights and dignity of low-wage women workers.

In states in which new labor protections have been won, the domestic worker movement faces challenging issues of education and enforcement—educating workers and employers about the rights to which domestic workers are entitled and making sure those rights are enforced by bringing action against those employers who exploit or abuse workers. In states and municipalities where rights have not been expanded, the domestic worker movement faces the challenge of assessing the political terrain and determining whether a policy win is possible. The California and Massachusetts campaigns, different though they were, each added to the power of the domestic worker movement, confirming its ability to make gains for workers despite a national political environment generally hostile to worker rights.

Bill of rights campaigns have carved out new terrain for domestic workers in eight states. They serve as a model for ongoing organizing. The campaigns have won new rights and protections for low-wage workers long overlooked by organized labor. And they have eliminated exclusions from worker protections that are a direct legacy of slavery and racially discriminatory lawmaking. The new laws generated by bill of rights campaigns provide a far sturdier framework to raise the wage floor and improve working conditions for nannies, housecleaners, eldercare givers, and personal attendants in the states in which they have been won.

At the same time, the bill of rights victories demonstrate that organizations outside of the traditional labor movement—what some call “alt-labor”—can play a significant role in mobilizing sectors of workers, focusing their power and winning policy change that improves their conditions on the job. The arc of each statewide campaign differed. Each bill of rights coalition had distinct domestic worker organizations at its center, crafted its own tactics, and encountered distinct political dynamics and personalities in their state legislatures. Each coalition launched their campaigns with high hopes and
long lists of wrongs to be righted. The specific measures won vary from relatively narrow to more broad ranging and comprehensive. In every instance, new ground was gained to expand and protect the labor rights of domestic workers.

APPENDIX: STATE BILLS AND PROTECTIONS

California

Wages and Overtime Pay
- Requires overtime pay for personal attendants who work more than nine hours per day or more than 45 hours in a workweek.

Enforcement Mechanism
- Claims must be filed with Division of Labor Standards Enforcement.

Connecticut

Discrimination and Harassment
- Eliminates the exclusion of domestic workers under anti-discrimination and harassment protections, thereby extending such protections in workplaces of three or more workers.

Other Protections and Provisions

Hawaii

Wages and Overtime Pay
- Closes wage and hour exemptions for domestic service.
- Provides minimum-wage protection and overtime pay after 40 hours of work per week.
- Exempts those working “on a casual basis” and those providing “companionship services for the aged or infirm.”
Discrimination and Harassment
- Protects against discrimination/harassment in compensation or terms and conditions of work on the basis of race, sex, sexual orientation, gender identity, age, religion, color, ancestry, disability, or marital status.

Enforcement Mechanism
- Complaints must be filed with the Wage Standards Division of the Department of Labor and Industrial Relations.

Illinois

Wages and Overtime Pay
- Entitles workers to state minimum wage.
- Requires overtime pay after 40 hours of work per week or, for live-in workers, after 44 hours.

Meal Breaks, Rest Breaks, Vacation Time
- Provides for 24 consecutive hours of rest per week. Applies to workers who work for one employer for 20 or more hours per week and to live-in workers.

Discrimination and Harassment
- Includes domestic workers in the definition of employees protected by the Illinois Human Rights Act.
- Provides protection against sexual harassment for one or more workers and discrimination in workplaces of 15 or more, except for pregnancy or physical or mental disability discrimination (workplaces with one or more workers).

Enforcement Mechanism
- Workers have the right to file administrative complaints or civil claims to recover the difference between wages paid and fair wages to which they are entitled.

Massachusetts

Wages and Overtime Pay
- Requires workers be paid at least the state minimum wage, as well as overtime pay after 40 hours of work per week.
• Requires overtime pay for workers who voluntarily agree to work on their days of rest.
• Prohibits employers from deducting costs of food and/or lodging from the wages of live-in workers unless that food and/or lodging is freely chosen.
• Prohibits employers from deducting costs of meals, rest periods, lodging, or sleeping periods without written consent.
• Requires employers to keep written pay records.

**Meal Breaks, Rest Breaks, Vacation Time**

• Provides for 24 consecutive hours of rest per week and 48 consecutive hours rest per month for workers employed 40 hours or more per week by the same employer.
• Requires 40 hours of sick time per year be provided, as well as a 30-minute unpaid rest break after no more than six consecutive hours of work.
• Workers on duty for fewer than 24 hours must be paid for all meal, rest, and sleeping periods, unless they are free from work duties.
• Workers on duty for 24 hours or more may agree in writing to exclude up to eight hours of meal periods, rest periods, and/or sleep periods from their paid work hours.

**Family and Pregnancy Leave**

• Includes domestic workers in the state standard of eight weeks of unpaid maternity leave.

**Discrimination and Harassment**

• Protects against discrimination and harassment for employers (with one or more workers) based on sex, sexual orientation, gender identity, race, color, age, religion, national origin, or disability.

**Right to Organize and Protection Against Retaliation**

• Provides workers with anti-retaliation protections and allows them to make wage complaints, including those who work fewer than 16 hours per week.

**Health and Safety**

• Requires that housing for live-in workers meet the state’s sanitary code.

**Other Protections and Provisions**

• Live-in workers who are terminated without cause have the right to written notice and 30 days lodging or two weeks of severance pay.
• Live-in workers have the right to privacy.
• Employers are prohibited from confiscating workers’ documents.
• Workers may request a written work evaluation after the first 3 months of work.
EXPANDING DOMESTIC WORKER RIGHTS

- A written employment agreement is required if an employee works more than 16 hours per week.
- Employer must provide notice to worker of all applicable federal and state laws protecting domestic workers.

**Enforcement Mechanisms**
- Workers have enforcement rights by making claims to the attorney general’s office or by taking private action in court.
- Office for Labor and Workforce Development developed a multilingual outreach program to inform domestic workers and employers about their rights.
- Workers may bring discrimination and harassment complaints to the state Commission Against Discrimination.

**Nevada**

**Wages and Overtime Pay**
- Entitles workers to state minimum wage.
- Requires overtime pay after 40 hours of work per week or eight hours per day. (Live-in workers are exempted from overtime protection upon written agreement between the worker and the employer.)
- Requires that value of lodging for live-in workers be computed at no more than five times the minimum hourly wage per week. Prohibits employer from deducting for lodging if living in is a condition of employment.
- Sets limits on the amount of wages or compensation that may be withheld to cover the cost of the worker's food. Such compensation may be withheld only with the written consent of the worker.
- Requires employers to keep track of workers' hours and pay.

**Meal Breaks, Rest Breaks, Vacation Time**
- Provides for 24 consecutive hours of rest per week and 48 consecutive hours of rest per month for workers hired to work for 40 or more hours per week.

**Other Protections and Provisions**
- Removes the domestic service exemption for child labor.
- Requires a written agreement at the start of employment that includes rate of pay, scope of duties, frequency and method of payment, deductions from wages, if any, and notice of federal and state laws related to domestic employment.
• Workers may request a performance evaluation after three months of employment and annually.
• Live-in workers terminated without cause have the right to notice of termination and 30 days of paid lodging.
• Employers are prohibited from monitoring workers’ private communications or taking or holding workers’ personal documents.

Enforcement Mechanisms
• Labor commissioner is to adopt regulations to carry out provisions of the law and provide multilingual notice of employment rights.

New York

Wages and Overtime Pay
• Requires overtime pay after 40 hours of work per week or, for live-in workers, after 44 hours.

Meal Breaks, Rest Breaks, Vacation Time
• Provides for 24 consecutive hours of rest every seven days. If worker agrees to work on rest day, worker is paid at overtime rate.
• Provides three paid days of rest each year after one year of work for same employer.

Unemployment and Workers Compensation
• Amends state workers compensation law to (1) require employers to extend its provisions on disability benefits to workers who work fewer than 40 hours per week, and (2) require employers to provide workers compensation insurance coverage to employees who work 40 or more hours per week.

Discrimination and Harassment
• Creates a special cause of action for workers subjected to harassment based on gender, including sexual harassment or harassment on the basis of race, religion, or national origin.

Right to Organize and Protection Against Retaliation
• Requires New York State to conduct a feasibility study on collective bargaining for domestic workers.
• Prohibits retaliation against workers in response to worker complaints to the employer or the Department of Labor, or for complaining about harassment.
Enforcement Mechanism

- Protections from harassment and/or discrimination, and from retaliation for complaining, are enforced through the state’s Division of Human Rights.
- Includes private right of action.

**Oregon**


Wages and Overtime Pay

- Requires overtime pay after 40 hours of work per week or, for live-in workers, after 44 hours.

Meal Breaks, Rest Breaks, Vacation Time

- Provides for 24 consecutive hours of rest per workweek. If worker agrees to work that day, worker is paid at overtime rate.
- Provides three personal leave days per year if the employee worked at least 30 hours per week during previous year.
- Gives workers a right to meal and rest breaks.
- Provides for eight hours of consecutive rest for live-in workers in a 24-hour period.

Discrimination and Harassment

- Provides protections against harassment and discrimination based on race, color, sex, sexual orientation, religion, age, and marital status.

Right to Organize and Protection Against Retaliation

- Offers protection against retaliation and discrimination with respect to hiring and employment for making an inquiry, reporting a violation, or lodging a complaint.

Health and Safety

- Requires that a living space with adequate conditions for uninterrupted sleep be provided for live-in workers.

Other Protections and Provisions

- Employer may not have possession of the worker’s passport.
- Live-in workers have the right to cook their own food.

Enforcement Mechanism

- The Bureau of Labor and Industries enforces civil rights and wage and hour laws.
• The commissioner of the Bureau of Labor and Industries is to adopt regulations for calculating overtime during periods of travel and medical emergencies.

ENDNOTES

1 The organizations that co-founded the National Domestic Workers Alliance included CASA de Maryland, Casa Latina, Coalition for Humane Immigrant Rights of Los Angeles, Damayan Migrant Workers Association, Domestic Workers United, Haitian Women for Haitian Refugees, La Colectiva de Mujeres, Las Señoras de Santa María, Mujeres Unidas y Activas, People Organized to Win Employment Rights, Pilipino Workers Center, Unity Housecleaners Cooperative of the Hempstead Workplace Project, Women Workers Project of CAAAV: Organizing Asian Communities.

2 In a civil suit, a judge determined that Peña Canal was entitled to two years of back wages at $25 an hour. She is still trying to recover those wages (Correspondence with Rocio Avila, 12/10/2017).

3 Amy Poehler at Time 100 Gala (https://www.youtube.com/watch?v=zpV6tsvn-WI).


REFERENCES


EXPANDING DOMESTIC WORKER RIGHTS


Section Four:
Working Up the Chain
Chapter 14

Worker-Driven Social Responsibility: A Replicable Model for the Protection of Human Rights in Global Supply Chains

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INTRODUCTION
In a shrinking world of increasingly globalized markets, low-wage workers at the base of corporate supply chains remain isolated, vulnerable, exploited, and abused. Governments, which should be responsible for protecting the rights of those workers, often lack the resources or political will to do so. State-based enforcement agencies and policy frameworks consistently fail to protect workers from dangerous sweatshop conditions and even severe abuses, including forced labor, sexual harassment, and rape, in no small part because those suffering the abuse are largely powerless. Where collective bargaining rights exist and are enforced, unions can provide effective workplace protections. But even when those rights exist in the law, they are ignored in practice for millions of workers, while millions more are excluded from the legal right to form a union altogether.

Corporations, of course, also bear responsibility for ensuring that human rights are respected in their suppliers’ operations, but they tend to treat the discovery of abuses in their supply chains as public relations crises to be managed rather than human rights violations to be remedied. Seeking to protect their brands from reputational harm, corporations embrace strategies that profess adherence to fundamental human rights standards but establish no effective mechanisms for enforcing those standards. This approach, known broadly as corporate social responsibility (CSR), is characterized by voluntary commitments, broad standards that often merely mirror local law, ineffective or nonexistent monitoring, and the absence of any commitment to or mechanisms for enforcement of the meager standards that do exist (Finnegan 2013; Gordon 2017; Locke 2013; Marosi 2014).
Multi-stakeholder initiatives (MSIs) have sought to address the shortcomings in the traditional CSR model by bringing nongovernmental organizations and other institutions into standard-setting and monitoring roles. While they have been successful in setting higher standards and shifting expectations, MSIs have generally failed to secure the commitment necessary to implement sustainable change. This has been reflected in the lack of effective monitoring and—most tragically—enforcement in most MSI efforts (Asbed and Gordon 2014). In Pakistan, both the Ali Enterprise fire that killed nearly 300 workers and the Tazreen fire that killed 112 workers occurred at factories that were certified by MSI monitors (Clifford and Greenhouse 2013; Greenhouse and Walsh 2012; Manik and Yardley 2012). In the United States, the two farms that used workers held against their will in the prosecution of a particularly brutal slavery operation from 2008 in Florida were certified “socially accountable” by an industry-controlled MSI (Marquis 2017).

CSR and MSIs have failed to address the ongoing human rights crisis in global supply chains in large part because they do not put workers—the very people whose rights are in question and who have the most direct knowledge of the relevant environment—at the center of developing and enforcing solutions to the problem. This failure is evident at all levels of these schemes—in their structure, governance, operation, and allocation of resources—and it is this fundamental design flaw that makes the failure of these systems inevitable. In recent years, however, this bleak portrait has begun to change. Both in the United States and abroad, workers and their organizations have forged effective solutions that ensure the real, verifiable protection of human rights in corporate supply chains. This new paradigm is known as worker-driven social responsibility (WSR). This highly flexible model has been tested in some of the most stubbornly exploitative labor environments in the world today—including the agricultural fields of Florida, which were once dubbed “ground zero for modern slavery” by federal prosecutors, and the apparel sweatshops of Bangladesh, the locus of some of this century’s most horrific factory fires and building collapses (Bowe 2003). In these oppressive environments, WSR has proven its ability to eliminate long-standing abuses and change workers’ lives for the better every day. Consequently, interest in the model is growing beyond these initial sectors.

ORIGINS OF WSR
The concepts and analysis informing the WSR model arose from parallel efforts in agricultural and manufacturing supply chains. The Coalition of Immokalee Workers (CIW) was formed in the early 1990s by farmworkers in Immokalee, Florida, to confront rampant labor abuse in the fields, including frequent sexual assault and, in the most extreme cases, forced labor. Meanwhile, in 1997, North American students and labor unions, in consultation with gar-
ment workers and their unions in Central America and Asia, began to de-
velop corporate accountability campaigns to win improvements for workers
in the garment industry, where conditions are also horrific and, in some cases,
fatal. In analyzing their respective industries, both groups realized that it was
the corporations at the top of the chain—not the workers’ direct employers—
that had the resources and power to improve wages and working conditions.

**Florida Agriculture**

In 2011, after a decade of organizing in partnership with a national network
of student, faith, labor, and community allies, the CIW launched the Fair
Food Program (FFP). The FFP was the first comprehensive, fully func-
tional model of the new WSR paradigm. In the case of the FFP, the CIW’s
Fair Food Agreements (FFAs) leverage the brands’ wealth and purchasing
power to ensure workers’ fundamental human rights in the workplace. The
CIW designed the FFP to include multiple redundant mechanisms—includ-
ing worker-to-worker education, a 24-hour complaint investigation and
resolution process, and in-depth field and farm office audits—to ensure
that workers not only participate in the monitoring process but in fact drive
and inform enforcement of the FFP’s standards as the frontline monitors
of their own rights.

The FFP emerged from the CIW’s successful Campaign for Fair Food.
Because farmworkers are excluded from the National Labor Relations Act, the
CIW had no access to the traditional collective bargaining process and was
obliged during its first decade of existence to pursue a voice on the job through
community-wide strikes and other labor actions. By 2000, the CIW had
shifted its focus from directly confronting local growers through traditional
labor mobilizing tactics to instead holding fast-food brands accountable for
conditions in their supply chains. In 2005, the CIW won its first FFA follow-
ing a four-year boycott of Taco Bell, establishing several fundamental precedents
for the emerging paradigm, including

- A binding legal agreement between workers at the bottom of a global
  supply chain and a retail brand at the top, conditioning the brand’s
  purchases from the workers’ employers on human rights compliance
  in the workplace—even when those rights are not guaranteed by exist-
  ing law
- The first-ever ongoing payment from a food industry leader to its sup-
  pliers dedicated to addressing workers’ sub-standard wages
- One-hundred-percent transparency for tomato purchases in Florida,
  allowing workers to monitor conditions on participating growers’
  farms and communicate with the buyer when sanctions are required
  (Asbed and Hitov 2017)
CIW has since incorporated and expanded these principles, including a worker-drafted code of conduct, into 13 subsequent FFAs with corporate buyers.

Over the past six years, the FFP has been implemented across 90% of the Florida tomato industry (approximately 30,000 workers) and currently operates in seven Eastern seaboard states and three crops. The FFP has, without exaggeration, transformed these workplaces. The program has been widely hailed by human rights observers from the United Nations to the Obama administration for its unique success eliminating and preventing slavery, sexual assault, and violence against workers. Less extreme abuses such as wage theft and health and safety violations have become the rare exception rather than the rule, and when they do occur, workers have access to a protected complaint investigation and resolution program that is fair, expeditious, and effective (Fair Food Standards Council 2016; Greenhouse 2014). To date, nearly 2,000 worker complaints have been brought forth under the FFP, and most have been resolved within days and often with systemic reforms that benefit workers beyond the individual who brought forward the complaint (Fair Food Standards Council 2018). This degree of participation is a remarkable achievement given the culture of impunity and retaliation that long reigned in the fields and which still haunts many low-wage industries. The complaint investigation and resolution process has allowed workers to identify bad actors and bad practices and fix them, backed by the purchasing powers of the signatory buyers, gradually but inexorably reshaping the industry from the ground up, complaint by complaint.

Health and safety committees provide another structured channel for worker voice on FFP farms. The program is jointly administered and monitored by the CIW and an independent third-party monitor created specifically for that purpose, the Fair Food Standards Council (FFSC). In addition to staffing the 24-hour FFP complaint line, the FFSC conducts in-depth field and office audits, interviewing thousands of workers and all levels of management, to verify compliance with the code. Recently, the FFP provided the blueprint for the Milk with Dignity program that is being implemented in the Vermont dairy supply chain by another worker-based human rights organization, Migrant Justice (Scheiber 2017). CIW developed the term worker-driven social responsibility to refer to this new paradigm (Asbed 2014).

Global Manufacturing
In global garment supply chains, students and the Worker Rights Consortium (WRC), the body created in 2000 by students and universities as an independent monitor of factory conditions, developed and won the right to implement several related models. First, students successfully pressed universities to integrate legally binding labor codes of conduct into their licensing contracts with companies that produced logo apparel, such that apparel companies that failed
to respect workers’ rights could lose their license and thus their ability to produce university logo apparel. The WRC was given the mandate to assess compliance, and licensees were required to publicly disclose their factory names and locations. While workers were not a party to these agreements, this was an early attempt to create legally binding agreements with financial consequences to protect workers’ rights in supply chains. Workers and advocates have used these codes to successfully press for improved conditions—and for new forms of binding agreements between workers and brands, including both bilateral agreements between specific unions and brands and preferential procurement initiatives such as the WRC’s Designated Suppliers Program.

The WRC combined lessons learned from its work enforcing apparel industry labor codes, from the CIW’s Fair Food Program, and from the early efforts of labor unions to curb sweatshops in the United States to develop with its partners the Accord on Fire and Building Safety in Bangladesh. Union and witness signatories to the 2013 Accord included two global labor unions (IndustriALL and UNI), eight Bangladeshi labor federations (Bangladesh Textile and Garments Workers League; Bangladesh Independent Garments Workers Union Federation; Bangladesh Garments, Textile and Leather Workers Federation; Bangladesh Garment & Industrial Workers Federation; IndustriALL Bangladesh Council; Bangladesh Revolutionary Garments Workers Federation; National Garments Workers Federation; and United Federation of Garments Workers), and four nongovernmental organizations, or NGOs (Worker Rights Consortium, Clean Clothes Campaign, International Labor Rights Forum, and Maquila Solidarity Network). Formed in 1989, the Clean Clothes Campaign (CCC) had seen the failure of voluntary CSR play out in their own efforts with workers and unions around the world. The CCC was, like WRC, developing new approaches to more effectively compel brands to ensure that workers’ rights are respected in global garment supply chains.

The second largest exporter of clothing in the world, Bangladesh was also the site of a series of factory fires and building collapses that killed nearly 2,000 workers between 2005 and 2013. The WRC and its partners developed the Accord in 2010. By 2012, despite their proclaimed concern for worker safety, only two brands had agreed to implement the Accord. It was not until the Rana Plaza building collapse in April 2013, the deadliest disaster in the history of the global apparel industry, that brands felt sufficient pressure to join the Accord. As a result, more than 200 companies signed the agreement to make their supplier factories safe. Under the Accord, signatory brands are legally obligated to do the following:

- Require their supplier factories in Bangladesh to undergo fire, building, and electrical inspections conducted by qualified engineers (most of these buildings had never undergone such an inspection before, despite being in operation for many years)
• Publicly disclose the results of those inspections (virtually all brand inspection reports had previously been kept confidential)
• Require suppliers to carry out the renovations and repairs necessary to make their factories safe, pursuant to the inspection results, and provide financial support that allows them to do so (such support can take a variety of forms, including direct payment for renovations, a higher price per piece, upfront payment for goods, or the provision of low-cost loans)
• Maintain purchase orders for at least two years at factories that implement the necessary renovations and operate safely
• Require suppliers to allow worker representatives access to their factories for the purpose of educating workers about workplace safety and their rights
• Terminate business with any factory that fails to comply with the terms of the agreement

As a result, Accord-covered factories have undergone a tremendous transformation. Many factories have installed fire doors and proper fire exits, which were virtually nonexistent in Bangladesh prior to the Accord’s implementation, while others have reinforced dangerously weak building structures or finally installed code-compliant electrical wiring. As of February 2018, the Accord reports that more than 90% of remediation has been completed at 726 factories, while 136 factories have completed remediation (Accord 2018). Moreover, for the first time, workers have access to a protected complaint mechanism if they experience retaliation for speaking up about unsafe conditions and are learning about what constitutes a safe workplace (Accord 2017; Associated Press 2017 Brown 2015; James, Miles, Croucher, and Houssart 2018). On the factory floor, the Accord trains and develops joint labor–management safety committees to conduct factory inspections and identify safety hazards, respond to employee complaints about health and safety, review accident reports with an eye toward prevention, and communicate about health and safety goals to the workforce. To date, 846 safety committees are undergoing training, another 196 safety committees have completed training, and nearly 998 all-employee meetings have reached more than 1.3 million workers at Accord factories (Accord 2018). Today, the Accord affords robust implementation of WSR in the garment sector and has led to unprecedented improvements in safety for approximately two million workers.

**PRINCIPLES OF WSR**

Drawing on the success of the Fair Food Program and the Accord, the Worker-driven Social Responsibility Network was founded in 2015. The objective of the network is to build understanding of the model among a
wide range of actors, to provide support and coordination for worker-led efforts to replicate the model, and to create a paradigm shift within the field to establish the model as the baseline for workers’ rights programs within global supply chains. Currently, the network’s coordinating committee is comprised of the Alliance for Fair Food, Bangladesh Center for Workers Solidarity, Business & Human Rights Resource Centre, Centro de Trabajadores Unidos en la Lucha, Coalition of Immokalee Workers, Migrant Justice, National Economic and Social Rights Initiative, and T’ruah: The Rabbinic Call for Human Rights, and United Students Against Sweatshops. The Worker Rights Consortium and Fair Food Standards Council serve as technical advisors.

Over the past two years, the network has carefully cultivated collaborative practice and strategic alignment among its members, often against a backdrop of complex political terrain and varied experiences in the domestic and international arenas. Additionally, the network has provided extensive on-the-ground technical support for the WSR adaptation effort now taking root in the Vermont dairy industry. Another important early milestone has been the publication of a statement of principles regarding effective programs to protect the rights of workers in global supply chains based on agreements between global corporations and worker organizations. These principles are as follows:

- **Labor rights initiatives must be worker driven.** Workers are the only actors in the supply chain with a vital and abiding interest in ensuring their rights are protected. If, therefore, a program intended to improve their situation is to work, workers and their representative organizations—global, national, or local labor unions; worker-based human rights organizations; or other organizations that genuinely represent workers’ interests—must be at the head of the table in creating and implementing the program, including its priorities, design, monitoring, and enforcement. An initiative’s labor standards must be based on universal labor and human rights principles, which are embodied in the Universal Declaration of Human Rights and defined by the Conventions of the International Labour Organization.

- **Obligations for global corporations must be binding and enforceable.** Respect for human rights in corporate supply chains cannot be optional or voluntary. Effective enforcement is key to the success of any social responsibility program. Worker organizations must be able to enforce the commitments of brands and retailers as a matter of contractual obligation.

- ** Buyers must afford suppliers the financial incentive and capacity to comply.** Corporations at the top of supply chains place constant price pressure on their suppliers, which inexorably translates into downward pressure on wages and labor conditions: the market...
incentivizes abuse. Corporations must instead be required to incentivize respect for human rights through a price premium, negotiated higher prices, and/or other financial inducements that enable suppliers to afford the additional cost of compliance with the agreed labor standards.

- **Consequences for noncompliant suppliers must be mandatory.** The obligations of global brands and retailers must include the imposition of meaningful, swift, and certain economic consequences for suppliers that violate their workers’ human rights, whether or not ending the supplier relationship suits the economic and logistical convenience of the brand or retailer. Only programs that include such economic consequences can ensure protection for workers.

- **Gains for workers must be measurable and timely.** The ability of brands and retailers to obscure the failure of voluntary labor rights initiatives is greatly aided by the absence from these initiatives of the obligation to achieve concrete, measurable outcomes at the workplace level within specific time frames. To ensure accountability, any program designed to correct specific labor rights problems must include objectively measurable outcomes and clear deadlines.

- **Verification of workplace compliance must be rigorous and independent.** Workplace audits—often infrequent and perfunctory and never free of buyer influence—are the exclusive monitoring mechanism in traditional CSR programs and have proven inadequate time and again. Effective verification of supplier compliance is essential and must include the following components: inspectors who have deep knowledge of the relevant industry and labor issues and who operate independently of financial control and influence by buyers or suppliers; in-depth worker interviews, carried out under conditions where workers can speak freely, as a central component of the process; effective worker education that enables workers to function as partners with outside inspectors; and a complaint resolution mechanism free of retaliation that operates independently of buyers and suppliers and in which workers organizations play a central role.

More than 50 leading organizations and individuals from the field of labor and human rights—from the AFL-CIO and Clean Clothes Campaign’s International Office to Human Rights Watch and Freedom Network USA, as well as several leading scholars and researchers—have endorsed the WSR statement of principles in a short span of time, demonstrating growing support for this new paradigm of human rights protection.
CONDITIONS FOR WSR

As interest in WSR grows, the network has also begun to reflect on the conditions that are necessary to successfully establish the model on the ground. These factors pertain to the problem, the industry, and the practitioner organization in question. While some of the characteristics discussed are highly resistant to change (e.g., the market structure of a given industry sector), others are more malleable with sufficient time and determination (e.g., the capacity and power of a worker organization). Still others may be addressed with even shorter time horizons and in collaboration with other parties (e.g., the documentation of abuses). Therefore, assessment, or self-assessment, with these criteria should be viewed as a dynamic, iterative process that may help to inform an organization’s ongoing strategic choices and paths of development, as well as the eventual design of a WSR campaign and program.

Problem

There are several considerations for assessing whether or WSR is an appropriate strategy given the specific nature of the abuses prompting calls for change. First, there must be credible documentation of the problems facing workers. Third-party documentation of human rights abuses within a supply chain may be demonstrated through a combination of academic and NGO research, media exposés, regulatory agency findings (departments of labor, health, etc.), and successful litigation or criminal prosecutions that spotlight routine or worst-case examples. It is also possible for the practitioner organization to publish firsthand research, though collaborating with an external partner such as a university may improve the credibility of the final product for some audiences.

Additionally, any WSR effort must be tailored to the scope of the problem. Around the world, low-wage workers at the base of corporate supply chains experience similar human rights abuses, which are the result of underlying economic pressures that are similar across countries and industries. At the same time, factors unique to a given sector, location, or specific worker population may result in particular concerns and priorities for workers that must be reflected in program design. Ideally, a WSR agreement would address human rights abuses at a broad regional or global level in order to impact the greatest number of workers. It is possible, however, that there are other factors—such as highly concentrated levels of production, the uniqueness or quality of a product, and logistics considerations such as geographical proximity to consumer markets and delivery timelines—that could strengthen the relative bargaining position of workers in those industries and improve the feasibility of a more delimited solution.
It is important to bear in mind the intense price competition that exists between suppliers, and the consequences this can have when WSR agreements are relatively limited in scope. If a supplier’s costs increase because it has implemented improvements mandated by the WSR program, there is a danger that buyers will terminate the supplier and switch to lower-cost suppliers with worse conditions. This is known as “cutting and running.” The scope of a WSR agreement should be as broad as possible to prevent this dynamic. The challenge of achieving a living wage in the garment industry is illustrative. Were a garment-producing country to significantly raise wages, buyers would simply shift their purchases to a competing country with lower wages. In this instance, regional or even global approaches, with a WSR program spanning multiple countries, may be optimal for a sustainable solution.

Lastly, a mapping of the landscape should summarize the histories and track records of other worker organizations and supply-chain initiatives in the sector or geographic area. Similarly, if previous attempts have been made to address the problem, it is useful to assess their origin, structure, and outcomes. A comprehensive analysis can be performed by utilizing the principles of WSR as metrics. This assessment can be performed based on media, academic, and NGO reports, the program’s own publicly available data (often more revealing for omissions than content), and through firsthand experience that the practitioner organization or others in the field may have with the program. Key to any analysis are two factors: The presence of certain key elements, such as an effective monitoring regime and market consequences for violations; and concrete, measurable outcomes that demonstrate the on-the-ground changes achieved, or not achieved, by the existing initiative.

Industry
There are also specific considerations for assessing whether or not WSR is an appropriate strategy given the specific nature of an industry and supply chain. For example, understanding the structure, layers, and timing of the supply chain, including product and financial flows, is a necessary precondition for designing a WSR program with an enforcement mechanism that applies to both buyers and suppliers. In the case of buyers, the agreement is enforced through legal mechanisms via judicial systems or private arbitration. In the case of suppliers, enforcement is enacted through market consequences, whereby the buyer is legally obligated to cease doing business with any supplier that commits violations and fails to effect remedies. If the product or service is not traceable or cannot be segregated within the supply chain, there must be an alternative method for establishing supply-chain responsibility. There must be an ability to separate bad and good actors within the supply chain so that those that are in compliance with program standards can be rewarded and those
that are in violation can be effectively identified and consequences, including market consequences, can be applied.

Relatedly, a similar level of knowledge about end buyers is also required. Corporate accountability campaigns have repeatedly demonstrated that brands are sensitive to public revelations of worker abuse in their supply chains and have proven effective in compelling concrete changes. The bigger the brand’s market and cultural footprint, the more susceptible the brand may be to external pressure. A successful WSR program requires the presence of brands that can be effectively pressured through public campaigns to address conditions in the supply chain. It is imperative that the target markets of the brands will be likely to respond favorably to such a campaign. Given that many corporations are vulnerable to this approach, a cottage industry of public relations and crisis management consultants has arisen to help companies navigate these turbulent waters; indeed, CSR and many MSIs are a part of this industry (Deegan 2001). A brand’s history, if any, of responding to similar issues or campaigns may reveal its strategic tendencies when responding to human rights issues in its supply chain. Taken together, these factors can help illuminate the likely fit of a WSR approach to any given brand.

**Practitioner**

Finally, there are also considerations for assessing whether or not a worker organization has the capacity to campaign for and implement WSR. To start, on a practical level, effective application of the WSR model requires deep participation from the worker community. In effect, the WSR model should offer tangible and concrete opportunities for further strengthening of worker organizations. This participation is necessary for such tasks as identifying workplace problems and solutions for an enforceable code of conduct/standard, creating an effective and credible worker education program, evaluating and refining the program’s workplace inspection protocols, assisting as needed in the investigation of worker complaints filed under the code/standard, and providing overall strategic direction for the program. Therefore, an organization’s ability to engage workers in a participatory and sustainable manner is a necessary condition for it to be able to serve as an effective spearhead for a WSR program. This participation is best channeled through a worker organization—including trade unions, worker-based human rights organizations, or other organizations that genuinely represent workers’ interests—that is viewed as accessible, trustworthy, and credible by its members.

Because deep power imbalances exist within corporate supply chains, there is no shortcut or “trick” that will offset the worker organization having insufficient power to secure a WSR agreement. The most reliable way for the worker organization to build that necessary power is through a public campaign driven by a worker—consumer alliance. In the absence of such a
campaign and the leverage it provides, it is highly improbable that a worker organization will be able to negotiate a strong agreement with a corporation. Accordingly, it is useful to review the scope, arc, and impact of the organization’s previous campaigns. This will establish whether the organization has the experience and capacity to negotiate and enforce settlements stemming from these campaigns. This will also reveal the nature of the organization’s relationship to employers. A list of previous partners may provide a window into the organization’s milieu and identify active and passive allies, as well as active and passive opponents, for the WSR campaign and program. In the final analysis, an organization must understand or be willing and able to learn negotiating strategies and positioning; have a history of regular planning, persistence, and focus in its campaigning practices; demonstrate an ability to engage and challenge employers strategically (with power but also dialogue); and demonstrate it either has an existing web of strong and willing allies or has the capacity to develop one.

A worker organization’s ability to develop effective strategy—a plan of action to achieve an objective within the constraints of limited resources—is necessary for the organization to become a successful WSR practitioner. Exploring the organization’s strategy development process will likely intersect with its campaign history and leadership model. While successful outcomes are a clear indicator of effective strategic planning, it is also important to understand the planning process itself, including how key decisions are made and on what timelines. Specifically, it is important to assess whether decisions are made deliberatively and with broad participation within the organization (and even input from key allies) and whether there is follow-through on implementation and accountability to the plan. Additionally, the organization must demonstrate a willingness and capacity to enter into a long-term planning process leading to a focused multi-year campaign, and the ability to accurately assess its internal capacity in relation to its planned activities.

There are also resource access issues to consider. Though the “return of investment” is quite remarkable in terms of WSR’s ability to protect workers’ rights, these programs cannot be done on the cheap. Even as WSR programs incorporate self-financing mechanisms, such as buyer support payments to underwrite implementation costs and labeling agreements, there will be a need for resources for the worker organization and an independent monitor. Possible sources of funding may include dues, broad-based consumer sponsorship, foundation grants, and a fee for service. If a program generates buyer support payments to underwrite monitoring costs, practitioners must be careful that the overall proportion of funding from this source does not pose the risk of undue influence or introduce potentially compromising dependencies. A diversity of funding streams serves as a necessary check against this risk. Similarly, legal support is necessary for navigating the fine lines required by a corporate accountability campaign as well as for drafting the code/standard and binding
WSR agreements with corporate buyers. If the organization does not have in-house legal counsel, it must evaluate whether external support can be attained and whether that support will be sufficient for and attuned with the identified objectives. In this context, it is important to determine whether there are legal constraints the worker organization could face in pursuing WSR agreements and/or implementing a WSR program.

Finally, the worker organization’s external environment must be reasonably conducive. The WSR model requires that workers enjoy sufficient access to their rights of assembly and expression. While organizing is dangerous in many contexts, it is particularly difficult to imagine a WSR program taking root where worker organizations cannot operate above ground in a formal and relatively secure manner. The model may not then be suited the current realities of China, to cite one prominent example, where independent worker organizing is forbidden by the state. However, even in environments as difficult as Bangladesh, the model has proven effective at leveraging sustainable change.

**IMPLICATIONS OF WSR**

Worker-driven social responsibility has several important implications for the broader field of labor standards enforcement. First, WSR presents a superior alternative, and should therefore displace, CSR and MSI schemes. In the case of WSR, enforcement of program standards is mandatory and binding; in the case of CSR and MSI schemes, enforcement is voluntary and nonbinding. This is particularly relevant when one considers the proliferation of supply chain–focused initiatives that claim to address high-profile problems such as forced labor, child labor, or gender-based violence. Second, WSR provides a redistributive mechanism for addressing the downward price pressure in global supply chains that exacerbates worker abuse and often renders compliance with labor standards virtually impossible. Third, WSR has demonstrated its potential to achieve fast and efficient remediation in the workplace, which is particularly valuable given the increasingly precarious nature of employment in many low-wage industries; workers cannot afford to wait years for a resolution. Lastly, since WSR is a model for rights protection, it is possible in some contexts that programs could protect workers’ right to unionization and collective bargaining.

Additionally, there are areas of interplay between WSR and the state worth mentioning. In an era of resource scarcity, the existence of an effective WSR program in one sector may complement public enforcement by allowing agencies to focus strategically on another sector. The state can also collaborate with WSR programs that uncover abuses that become the basis of criminal complaints, from slavery to sexual assault, again augmenting the effectiveness of the state’s resources with the power of workers engaged in the defense of their own rights. Similarly, there may be practices and
insights which emerge from WSR programs that can improve the effectiveness of public agencies, such as the importance of a worker-centered enforcement framework that provides relief in case of retaliation. Moreover, the state can support WSR programs through its own procurement practices. Finally, the state could explore strategies that encourage the development of WSR programs by protecting them under law rather than attacking them as they are, in some cases, today. Such topics provide lines of inquiry for future research. In the meantime, we expect ongoing efforts and innovations on the ground to help advance WSR and create more dignified workplaces for the most vulnerable people laboring within global supply chains.

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Chapter 15

Taming Globalization: Raising Labor Standards Across Supply Chains

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Global economic integration, and the intensifying capital and product flows it has enabled, has called into question existing frameworks of labor protections that rely on national governments to independently regulate their domestic economies. Many government officials are quick to assert that heightened capital mobility creates a regulatory dilemma. Governments must do what they can to attract foreign investment to support business development and spur job creation. But because corporate investors search for jurisdictions where labor and environmental regulations only minimally impinge on business operations, governments are constrained in their efforts to implement and enforce the types of protections that are needed to ensure that the gains from investment benefit domestic labor forces. Officials fear that investors will shun jurisdictions that institute strong labor protections, worrying that this will lead to disinvestment and decline.

The logic of such arguments is flawed, yet this has done little to undermine their authority. Without effective labor protections, the gains from trade overwhelmingly benefit firms and investors, and domestic workforces remain mired in a low-level equilibrium where low wages leave workers unable to climb out of poverty, limiting growth in per capita national incomes and placing a drag on domestic economic performance. The global race to the bottom that has resulted from the false choice between pursuing economic development objectives and instituting strong labor protections has set in motion successive rounds of regulatory undercutting, leading to the degradation of work, an erosion of labor standards, and deepening inequality.

In response to these conditions, nongovernmental organizations have launched a series of innovative initiatives to strengthen labor protections. These initiatives have sought to fill the void created by inadequate government enforcement of labor standards, and they are signs a new global movement is forming to develop strategies that place a floor under wages and working conditions. This chapter examines two approaches for raising labor standards across global supply chains. Focusing on the Asia Floor Wage campaign and the workers’ rights campaign at C.J.’s Seafood, this chapter highlights efforts by labor groups to hold powerful corporations accountable for the employment
practices of supplier firms. The campaigns featured here are notable because they target supply chains that span political jurisdictions, link product markets, and mobilize labor forces from various countries. Moreover, while they seek to leverage national laws and enforcement mechanisms, the strategies documented here reflect the regional character of production networks, and by doing so, they reconceptualize the terrain for worker organizing, bargaining, and activism. The next section introduces the Asia Floor Wage campaign and examines the challenges of raising standards in the apparel industry. Section two describes the supply-chain organizing campaign among guestworkers at C.J.’s Seafood. The concluding section outlines an agenda for strengthening labor protections and raising workplace standards.

RAISING LABOR STANDARDS ACROSS THE GLOBAL APPAREL INDUSTRY

The apparel industry is the epitome of a globalizing sector. Apparel production systems are highly decentralized, both in terms of the number and location of firms. Apparel production systems also are highly integrated, with commodity chains linking producers and consumers across continents. The globalization of apparel manufacturing has been driven by large retailers, principally those based in the Europe, Japan, and the United States. “The highly concentrated purchasing power of the large retail chains gives them enormous leverage over clothing manufacturers,” and they have used this leverage to drive down supplier costs in an effort to boost profits and increase returns to shareholders (Dicken 2015: 466).

With its high labor intensity and low barriers to entry, the apparel industry has been eager to exploit the vast differentials in labor costs that exist between countries (Figure 1). Differentials between production sites in the Global North and South have been widening over the past two decades, and newly industrializing economies have emerged as the key sites of production in this restructuring industry (Werner International 2015). Lured by the creation of special economic zones that lower the costs of doing business; the ready supplies of workers who are employed for a pittance, particularly those who comprise the growing ranks of home-based production in the most informalized segments of the industry; and the weak enforcement of labor protections and the advantages it confers to businesses seeking to boost profits, manufacturers have targeted Asia in their search for low-cost labor (Cowgill and Huynh 2016; Dicken 2015; Ford and Gillan 2016; Kelly 2002). The locus of apparel industry production is now centered in the region, primarily in Bangladesh, Cambodia, China, India, Indonesia, and Sri Lanka.

In governing their distended supply chains, industry leaders have pursued a strategy of regionalization, leading to the rise of “triangle manufacturing” within Asia. Under this system, retailers place orders with lead
suppliers, which in turn outsource some or all of this production to lower-tier contractors:

The triangle is completed when the finished goods are shipped directly to the overseas buyer. ... Triangle manufacturing thus changes the status of ... manufacturers [in newly industrializing countries] from established suppliers for US retailers and designers to “middlemen” in buyer-driven commodity chains that can include as many as 50 to 60 exporting countries. (Gereffi 1996: 97)

With global supply chains crisscrossing national boundaries, and with international competition for inward investment mounting among the newly industrializing economies, the apparel industry has been able to reap enormous benefits by engaging in global labor arbitrage. Governments have been unable—or unwilling—to effectively monitor and enforce labor protections. This absence of effective mechanisms for protecting workers’ rights has led to an entirely predictable result: the widespread deterioration of labor standards.

Strategies to raise wages and strengthen labor protections cannot proceed employer by employer or, for that matter, country by country. The globalization of apparel production systems exposes a flaw in the traditional paradigm...
for enforcing labor standards, one that relies on lower-income countries to police firm behavior and sanction violators. For newly industrializing countries that are reliant on foreign direct investment, this approach carries with it clear risks of divestment. The threat of firm exit has dissuaded many government officials from fully enforcing employment laws, while heightened competitive pressures among lower-tier apparel suppliers mean that rising costs resulting from labor standards enforcement in one country might result in a shift in production to other countries where standards are less adequately enforced.

The globalization of production also reveals a fundamental weakness in newer, firm-based models of standards enforcement that rely on employer goodwill and voluntaristic actions in the name of corporate social responsibility. The orientation of buyer firms toward their supply-chain networks is one that prioritizes cost minimization and flexibility enhancement—objectives that too often are at odds with the enforcement of worker protections (see Bhattacharjee, Gupta, and Luce 2009; Christopherson and Lillie 2005; Compa and Hinchliffe-Darricarrere 1995; Luce 2009; Werner 2016). In addition, in the context of global sourcing, corporate accountability to distant publics in lower-income countries provides incentives to protect brand reputations that are weak, at best. Furthermore, the multiplication of subcontracting tiers under triangle manufacturing means that it is increasingly difficult for buyer firms to adequately monitor—and sanction—subcontractors that violate labor standards. Firm-based enforcement is a necessary component of a wider enforcement regime, but its limitations render reliance on this approach inadequate to the task of ensuring subcontractor compliance with labor protections (for an assessment of the effectiveness of private regulation of the apparel industry see Esbenshade 2012).

Rather than relying on the altruistic impulses of global corporations, next-generation strategies are needed to safeguard labor standards and ensure corporate social responsibility by institutionalizing labor protections. This requires that standards be applied and enforced throughout supplier networks and across national borders. In other words, it requires a regional approach to standard setting, one that extends protections to workers while also leveling the playing field between countries. The Asia Floor Wage campaign is a one such effort that could alter the prevailing paradigm of labor standards enforcement.

The Asia Floor Wage Campaign
The Asia Floor Wage (AFW) campaign seeks to establish “a new framework for the global economy: one that is based on labor rights and prioritizes the demand for a living wage” (Bhattacharjee, Gupta, and Luce 2009: 72). From the vantage point of global production networks, the regional characteristics of the labor market of a given industry in large part determine the cost structure of its products, with each producing country accounting for a share of
average product costs. Within the apparel industry, when workers seek to unionize or otherwise assert their labor rights, employer threats of capital flight, or threats to reallocate production among establishments within a supply chain, are typically confined to Asia—in other words, they are not spread globally. In short, the geography of potential production relocation is primarily regional.

The AFW is founded on the recognition that Asia is home to large labor reserves as well as more than one third of the global working poor. Therefore, the large-scale relocation of labor-intensive apparel production away from Asia is highly improbable, at least until Asian labor supplies are exhausted. These factors suggest that the field of action for the defense of labor rights and protections should be Asia.

Garment workers in Asia, the majority of whom are women, currently earn roughly half of what they require to meet the basic needs (such as for food, water, education, and health care) of themselves and their families. For this reason, the establishment and enforcement of a living-wage standard has been a key demand among workers and labor activists. The demand has been presented to major apparel brands for years, with very little progress beyond rhetorical gestures of support. Trade unions and labor rights organizations across Asia, after years of negotiating with leaders in the apparel industry, collaborated to frame a demand that is both bargainable and deliverable—and that is appropriately targeted given the structure and economics of the industry. The campaign’s objectives include (1) raising wages and strengthening labor protections by removing wage differentials as a key source of competition within the apparel industry, (2) strengthening workers’ ability to collectively bargain with their employer, and (3) increasing the gains from trade for workers and newly industrializing countries. The AFW does this by setting “a wage that is higher than the poverty-level, national minimum wages in producing countries, and that brings workers within the parameters of a living wage” (Bhattacharjee, Gupta, and Luce 2009: 73).

**Setting the Asia Floor Wage**

The AFW has been designed using a basic-needs approach to the setting of a living wage based on a basket of goods that includes food and other items. It accounts for national differences in food consumption by establishing a measure of nutritional adequacy based on calories, and it has adopted the Indonesian threshold of 3,000 calories as the benchmark standard. The AFW also takes into account a range of nonfood costs, such as housing, clothing, health care (including maternity care), childcare, education, fuel, transportation, and savings—estimating the cost of these items as a percentage of spending on food items. The resulting wage level is then adjusted assuming a family size of two adults and two children. The AFW is thus set as follows:
• The cost of food is based on a standard caloric intake—3,000 calories per adult (and 1,500 per child).
• The ratio between the cost of food and of other basic needs is 1:1.
• Family size adjustment (two adults and two children) = three consumption units.
• A family is supported by one income, as this is a credible way to account for childcare.
• The wage is earned during each country’s legal maximum workweek, though not above 48 hours.
• The wage is a basic wage that excludes overtime and benefits.

The costs associated with food and other basic necessities are calculated in the local currency to establish a monthly minimum-wage requirement for a given country. The concept of purchasing power parity (PPP), the notion that a bundle of goods should cost the same between countries once the exchange rates have been taken into account, is then used to index costs to the US dollar, allowing comparisons to be made across countries. In 2017, the AFW was set at PPP$1,181 per month.

The AFW campaign presented its demands through an international public launch in October 2009. The Asia Floor Wage Alliance (AFWA) wrote letters to nearly 60 brands requesting meetings in order to present the AFW. From 2009 onward, the AFWA has engaged in debates and discussions with brands, as well as several meetings with the International Labor Organization and global labor federations. Over two years, the AFW achieved international credibility and legitimacy and began to be used as a benchmark by some brands and quasi-governmental agencies, and it became a key feature of the global living-wage debate.

The AFW bargaining process targets the leading brands—who are, after all, the firms that govern the buyer-driven global commodity chains that comprise the apparel industry’s production networks and that establish the competitive terrain within the industry—to ensure decent wages for workers in the industry. Within the apparel industry, global buyers (brands and major retailers) exert the predominant influence over the organization of production systems by setting prices and determining where production takes place. These practices decisively impact the scope for suppliers to pay a living wage. Scholars have found that brands orchestrate interfirm competition with supply chains, thereby forcing suppliers to provide goods at prices that are below actual production costs, leading firms to recoup these costs by driving down workers’ wages (Vaughan-Whitehead 2010). If brands and retailers would share just a fraction of their profits, millions of workers and families could be lifted out of poverty.

Central to the demands of the AFW is the need for concerted efforts by brands and retailers to address the issue of unfair pricing as an important first
step toward the implementation of a living wage in the apparel industry. Global sourcing companies pay approximately the same prices to their supplier factories in Asia: around 25% of the retail price. Because apparel workers’ wages comprise a very small proportion of the final retail price for clothes—around 1% to 2%—substantial wage raises could be achieved without increasing retail prices.

Since the AFW was unveiled in October 2009, it has gained recognition as a credible benchmark for a living wage in the apparel industry. It has become a point of reference for scholarly living-wage debates, it has been adopted as a living-wage benchmark by the multi-stakeholder forum, the Fair Wear Foundation, and it is a point of reference for brand-level associations such as the Fair Labor Association. In addition, the AFW has been adopted by a few brands as a comparative benchmark for wage analyses.

For its part, the AFWA has developed the Asia Brand Bargaining Group (ABBG), consisting of Asian unions, to enable greater coordination and regional bargaining that complements national priorities and struggles. The ABBG has four common demands for the welfare of garment workers in Asia: a living wage, freedom of association, abolition/regulation of contract labor, and an end to gender-based discrimination. The AFWA has conducted four National People’s Tribunals—in Cambodia, India, Indonesia, and Sri Lanka—on the issue of living wages and working conditions in global garment industry supply chains, revealing troubling deficits in labor standards and dangerously low wages. For example, in Cambodia, the mass fainting by women workers was clearly attributed to malnutrition and poverty wages. The juries in all four tribunals have unanimously recommended that living wages need to be paid immediately. In terms of its social impacts, the implementation of the AFW would help decrease the gender gap in pay by raising the wages of lowest-paid workers in the apparel industry. Worldwide, women comprise the vast majority of the garment-manufacturing workforce, and they face systemic obstacles to upward mobility in the sector.

A Regional Approach to Labor Standards

As a policy intervention aimed at reducing poverty by raising wages and strengthening labor protections, the AFW is unique in its emphasis on leveling the playing field across a major apparel-producing region. It does not rely on the governments of newly industrializing countries to operate in a way that is out of step with other economies in the region, and it does not rely on corporate self-regulation, which has proven difficult to maintain in an industry characterized by the decentralization of production. Instead, it proposes to shift the paradigm of labor standards enforcement by instituting a regional policy that is sensitive to conditions within countries while also setting a floor under wages, thereby limiting the downward drag on working standards that is produced by global labor arbitrage.
Crucially, this is an intervention that appears to be viable in terms of garment prices and the dynamics of competition within the industry. Pollin, Burns, and Heintz (2004) have suggested that even substantial increases in the wages of workers engaged in apparel production would result in minor increases in the price of final products, perhaps as little as 1% to 3%. Furthermore, as Weller and Zuconi (2008) have argued, enforcement of labor standards can create a virtuous circle of economic development: rising wages allow low-paid workers to increase their consumption, thereby stimulating domestic demand, which in turn creates jobs locally. In short, increasing the wages for garment workers is a strategy to reduce poverty, redistribute a greater share of the gains from global production to workers in lower-income countries while stimulating local economic development, and institute a more sustainable wage floor while reinforcing the importance of labor protections (Merk 2009). Moreover, there is a possibility that such a strategy could be “scaled up” to include other major garment-producing regions, such as Africa, the Caribbean, Central America, and Eastern Europe, thereby further taking the wages of the lowest-paid workers in the apparel industry out of competition and urging producers in the industry to make in situ investments that improve worker health and safety as well as productivity.

**HOLDING RETAILERS AND SUPPLIERS ACCOUNTABLE FOR LABOR STANDARDS**

Beginning in the 1980s, a series of changes swept through the retail sector in the United States and elsewhere, forever altering the relationship between retailers and their suppliers. “Big box” stores achieved market dominance, their large sales volumes enabling them to undercut competitors’ prices based on increasing economies of scale. Advances in communications technologies allowed order volumes to be more closely calibrated to consumer demand, and large retailers responded by requiring new forms of flexibility, responsiveness, and cost cutting from supplier firms. The advent of just-in-time production and logistics systems as an industry best practice meant that suppliers would have to adapt to the demanding uncertainties of fluctuating consumer markets or risk exclusion from retail supply chains. As retailers’ expectations of suppliers came to include not just the timely production and delivery of goods but also cost minimization and improved quality control, the relationships between retailers and firms in their expanding supply chains grew more complex and, paradoxically perhaps, even closer. Large retailers became price-setters in a range of consumer-goods markets, a leadership position that was achieved through the market dominance of the largest retail firms and the influence they now exert over their suppliers.

Walmart, the largest retailer in the world, provides an example of the changes that have been under way in the sector. Walmart maintains ties with
approximately 60,000 supplier firms. The company’s “Plus One” initiative requires that each of these suppliers reduce product prices, increase quality, or increase speed of delivery year after year. As the pre-eminent retailer, Walmart is able to push such demands through its subcontracting chain, thereby progressively narrowing the margins of its suppliers. Supplier firms have responded by outsourcing production activities, automating manufacturing processes, reducing labor costs by hiring contingent workers, and, in some cases, violating employment and labor laws as a means of maintaining competitiveness and profitability. A report by the National Employment Law Project succinctly summarizes the relationship between Walmart and other large retailers and the spread of substandard labor conditions in US firms:

Walmart’s policy of enforcing ever-lower prices implicates wages and working conditions throughout Walmart’s supply chain. … As Walmart and its big-box retail peers have grown, they have achieved a level of dominance that affects—indeed, sometimes dictates—their suppliers’ own pricing, profit margins, and operational decisions. (Cho et al. 2012: 6)

The proliferation of subcontracting chains in retail and other sectors presents a challenge to workplace monitoring of labor standards, particularly in highly competitive industries with narrow operating margins because it is here that incentives to violate workplace protections are greatest. Lead firms may indeed be dictating the pricing and operational decisions of their suppliers, yet they also strive to maintain the appearance of an arm’s-length relationship with these very same suppliers and the decisions they make. Increasingly, however, workers’ rights organizations are bringing pressure to bear on lead firms to demand they use their market power and influence to raise employment standards within supply chains. Arguing that price-setting and other operational decisions within supply chains are driven first and foremost by the demands of lead firms, workers’ rights organizations are seeking to hold these firms accountable for violations that occur within the production and logistics spheres. The C.J.’s Seafood campaign of the National Guestworker Alliance (NGA), a US-based workers’ rights organization, is an example of an emergent form of supply-chain organizing that seeks to leverage the influence of lead firms to improve working conditions within supplier facilities.

The Campaign at C.J.’s Seafood
C.J.’s Seafood was a supplier to Walmart’s Sam’s Club division, providing the discount retailer with crawfish tails that had been cooked, peeled, and frozen. C.J.’s Seafood sold approximately 85% of its production output to Walmart. Located in Breaux Bridge, Louisiana, a small city that bills itself as the “crawfish capital of the world,” C.J.’s Seafood employed between 50 and 60 workers, many of whom were migrants from northern Mexico. The workers were
recruited through the H-2B visa program, a temporary worker program that allows companies in the United States to hire foreign nationals to fill nonagricultural jobs. To be eligible for the program, employers must demonstrate that they face a labor shortage and are unable to hire a sufficient number of US workers to fill jobs, and that in hiring guestworkers, they will not undercut the wages of US workers in similar fields. In fiscal year 2017, the US government authorized the issuance of 66,000 H-2B visas.

C.J.’s Seafood had been meeting its demand for seasonal workers through the H-2B program for many years, hiring guestworkers for periods ranging from a month or two to six months or more. Many workers would return to the company year after year. The work was demanding and the pay was low, but at least employment was consistent and bearable, if only short term. Then a change in company management altered conditions on the shop floor. Workers reported being required to work shifts lasting 16 hours to as many as 24 hours, with no overtime pay; new surveillance equipment was installed to monitor not only the workplace but workers’ residences as well; workers were frequently locked in the production facility; and threats of deportation became commonplace, as were threats of physical violence if workers did not comply with a supervisor’s orders to work faster (Eidelson 2013). Faced with untenable working conditions and growing uncertainty about whether the company would continue to employ them, a group of workers approached management with a list of modest demands: provide workers an adequate lunch break, remove a supervisor who was threatening workers, and turn off some of the surveillance cameras. The owner refused to comply. Following subsequent threats of violence against workers’ families in Mexico by company management, eight of the workers went on strike (Eidelson 2013).

The strike at C.J.’s Seafood was notable for several reasons. First, guestworkers generally are reluctant to report workplace violations out of fear of employer retaliation. Loss of current employment, and with it the ability to legally reside and work in the United States, as well as the risk of being blacklisted by future employers and labor recruiters, has a chilling effect on the willingness of guestworkers to come forward to contest labor standards violations. Yet, in this case, that is exactly what workers did—confronting company management directly, and when unsuccessful in effecting changes in the workplace, seeking the support of NGA and government authorities.

To stabilize the workers’ leadership committee at C.J.’s Seafood, NGA successfully secured U visas for workers, a nonimmigrant visa for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity. In advocating for the U visa, NGA successfully reframed old-style workplace coercion (threats of retaliation, physical violence, economic hardship) as management’s efforts at obstruction of justice through worker intimidation.
Second, the campaign exposed flagrant violations of workplace laws within the Walmart supply chain. The NGA filed complaints against C.J.’s Seafood with the US Department of Labor and the Equal Employment Opportunity Commission. The alliance also notified Walmart of the charges, in part because Walmart’s own contracting standards prohibit suppliers from using forced labor or requiring employees to work more than 60 hours in a week. Furthermore, an audit by NGA of US Walmart suppliers that employ guest-workers found that 12 of 18 had been cited by the US Department of Labor for violations related to workplace safety and health conditions or wage and hour practices, had been accused of discrimination and violations of the right to organize, or both (National Guestworker Alliance, no date).

Through NGA, the workers at C.J.’s Seafood launched a broad-based campaign built around worker organizing. In so doing, its activities reached far beyond this particular employer, targeting consumers and forcing Walmart to uphold its stated principles pertaining to corporate social responsibility. The campaign centered on Walmart and its position atop a vast supplier network. Arguing (1) that the company wielded enough influence and authority to ensure labor standards compliance among its suppliers and (2) that Walmart was profiting by awarding supply contracts stipulating operating margins so narrow that they essentially compelled suppliers to violate workplace standards as they strove to meet exacting price and delivery conditions, NGA sought to “move up the value chain” to the business entity that was responsible for structuring competitive conditions for its suppliers. The strike by workers at C.J.’s Seafood was designed to raise public awareness of this problem.

An online petition urging Walmart to terminate its relations with the seafood supplier was launched, receiving 149,750 signatures. The NGA also enlisted the Worker Rights Consortium, a university-based monitoring group, to investigate allegations of workplace violations at C.J.’s Seafood (Worker Rights Consortium 2012). Scott Nova, executive director of the Worker Rights Consortium, summarized the findings of the investigation:

> It’s one of the worst workplaces we ever encountered anywhere. … The extreme lengths of the shifts people were required to work, the employer’s brazenness in violating wage laws, the extent of the psychological abuse the workers faced and the threats of violence against their families—that combination made it one of the most egregious workplaces we’ve examined, whether here or overseas.” (quoted in Greenhouse 2012)

Finding that the supplier had in fact violated a number of Walmart’s own supplier standards, including wage requirements, the retailer suspended its contract with C.J.’s Seafood (Plume 2012).

The US Department of Labor concluded its own investigation and ordered C.J.’s Seafood to pay $214,000 for wage and hour violations, and it levied a
$34,000 fine for safety violations. The department also found that the company had violated laws on the use of temporary foreign workers under the H-2B program by misrepresenting its need for such workers, including the number needed, and by not paying them the required wage. Labor Department officials determined that the company owed $76,608 in back pay to 73 workers for paying less than the minimum wage, not paying overtime for working more than 40 hours in a week, and illegally deducting wages for items required to do the job, including gloves, hairnets, and aprons. The Labor Department also determined that C.J.’s Seafood was liable for an additional $70,014 in liquidated damages, $32,120 in civil damages for overtime violations, and $35,000 for knowingly violating H-2B visa rules (Greenhouse 2012).

The campaign did not end there. A fundamental imbalance of power remained between Walmart and the workers employed by the tens of thousands of suppliers that produce the goods sold by the retailer. Through NGA, workers at C.J.’s Seafood proposed that a forum be created so that workers could bargain directly with Walmart over the contractual terms governing suppliers. They also sought to join other workers in the Walmart supply chain to form a workers’ committee that would monitor supplier practices and the contracting process under which they all were employed.

In addition to these proposals, the NGA sought to undermine a key source of employer intimidation and retaliation through the adoption of an anti-forced labor accord. Arguing that employment at workplaces that violate employment standards in itself constitutes a prima facie case of forced labor, in large part because if the extent of worker coercion is so great that employees cannot bring those workplace practices to light (whether because of threats of deportation or other forms of extra-economic coercion, such as the use of law enforcement or immigration authorities to intimidate workers), workers’ rights under the 13th Amendment of the US Constitution had been violated. Similar to a code of conduct, the anti-forced labor accord was modeled on the highly regarded Accord on Fire and Building Safety in Bangladesh that stipulates that wherever safety issues are identified, retailers will ensure that repairs are undertaken, that sufficient monies will be made available for the repairs, and that workers at affected factories will continue to be paid a salary during the time that repairs are being made. The anti-forced labor accord instructs suppliers to become signatories; it challenges temporary rehire provisions (which are often used as a form of retaliation and workplace discipline); it contains anti-blacklisting provisions, including calling for the presumptive rehiring of workers for seasonal jobs through a private contract between retailers and NGA; and it puts in place dispute-resolution procedures through a board comprised of US worker and employer advocates.
CONCLUSION: THE SHIFTING GEOGRAPHIES OF LABOR ORGANIZING

Global economic integration is expanding access to new and emerging markets, and the increasing ability of firms to enter into relationships with suppliers operating in these markets has contributed to downward pressures on product prices—and on wages and working conditions. In an increasingly integrated world, countries where low wages are prevalent and labor rights are widely disregarded can be standard setters that negatively impact industry dynamics and employment conditions. They offer mobile capital an escape route when labor unrest erupts or when regulatory measures increase the costs of doing business. In terms of global regulatory standards, they also send market signals, so to speak, to other countries that are considering ways to strengthen labor protections. As a result, low wages and substandard working conditions serve to restrain wage demands in both developed and developing economies.

The problems facing workers in this era of globalization defy simple solutions. In many low-wage industries, workers’ bargaining positions have been undermined, and the ability and willingness of national governments to effectively enforce worker protections has been eroded. New sources of leverage will be needed if workers are to realize greater economic gains from globalization.

In this time of global economic uncertainty, the organizing and advocacy efforts of workers’ rights organizations represent some of the primary defenses against the downloading of the costs and risks inherent in a volatile economy onto low-wage workforces, and they are an important means through which widening inequalities can be redressed. Transnational strategies are central to these efforts because they attend to two key dimensions of the current global order—the increasing interconnectedness of product markets and the growing interpenetration of labor markets by globalizing production networks. In this context, advocacy to improve labor standards in a given country is necessary but not sufficient. Transnational strategies to create new labor market institutions and norms, and to develop regional approaches to raising labor standards, are urgently needed.

Devising new sources of leverage will require experimentation, and the list of possible strategies is long. This concluding section identifies a few emerging approaches that are being developed by workers’ rights organizations, labor unions, and advocacy groups.

Setting Regional Labor Standards

Globalizing production networks extend across jurisdictions, linking countries and spanning regions. The geographical extent of these networks, and with it the ability of lead firms to shift production from country to country,
challenges the traditional structure of national employment and labor laws. Reducing the threat of exit that is implicit in global value chains, as well as narrowing the scope for practicing global labor arbitrage, requires regional approaches to standard setting. The Asia Floor Wage is an example of such an approach (Bhattacharjee, Gupta, and Luce 2009; Merk 2009). By instituting living wages across supplier networks, it seeks to set standards across a major apparel-producing region.

**Supply-Chain Organizing**

It is generally understood that firms in the upper tiers of global supply chains are able to monitor their suppliers and exert pressure on those that are violating labor standards. It is also understood that lead firms benefit from the unscrupulous practices of suppliers that violate labor standards, practices that hold down labor costs, accelerate delivery times from points of production to the marketplace, and provide production flexibilities that allow lead firms to rapidly change product offerings and fluctuate order volumes. In the unequal relationship between lead firms and suppliers, the former outsources risks to the latter, which in turn negatively impacts labor conditions farther down the supply chain. Supply-chain organizing seeks to increase the transparency of contracting and labor practices across production networks, to make employment relationships explicit and subject to enforcement oversight, and to hold lead firms responsible for the practices of supplier firms that violate labor standards, often by extending contractual obligations to supplier firms. In addition to efforts to hold lead firms accountable for supplier practices, supply-chain organizing targets “downstream” links in production networks where worker organizing has been actively dissuaded, providing a means for collective bargaining and for redressing labor standards violations (Quan 2008).

**Developing Alternative Forms of Labor Market Intermediation**

A variety of labor contractors—recruitment firms, temporary staffing agencies, labor brokers, and other intermediaries—are involved in the recruitment, hiring, and placement of workers in a range of service, manufacturing, agricultural, and construction industries. These intermediaries can be directly involved in setting labor market norms and structuring employment pathways into industries and occupations (Fudge and Strauss 2014; Guevarra 2010; Martin 2017; Tyner 2003). Workers may be employed under a variety of employment arrangements, including as guestworkers, temp workers, contracted labor, pieceworkers, direct-hire employees, and on-call workers. Labor contracting can have significant implications for the enforcement of labor standards. It may (1) obscure employment relationships and reduce accountability by creating uncertainty regarding the entity that is the employer of
record under national labor laws; (2) allow worksite employers to establish an arm’s-length relationship with their employees, thereby facilitating the misclassification of employees and reducing workers’ recourse against employers that violate labor standards; and (3) complicate government enforcement of labor standards, especially when “fly by night” contractors shutter and then reopen operations when enforcement investigations reveal workplace violations.

Alternative staffing agencies operated by nonprofit organizations (Carré, Herranz, and Dorado 2014) and worker centers established by workers’ rights groups (Fine 2006; Visser 2017) can inject needed transparency into opaque contingent labor markets. Because they are not governed by profit motives, these labor market intermediaries can devote energies toward improving workers’ earnings and monitoring worksite conditions. Worker centers, in particular, can provide a mechanism through which workers can exercise collective decision making and standard setting in contingent labor markets, thereby partially rebalancing power asymmetries in job markets dominated by labor contractors and other employment brokers, or where processes of informalization have undermined labor standards. Through the use of hiring halls, such as those developed to regulate day-labor markets in the United States, worker centers can establish and enforce minimum-wage rates while also regularizing the employment of temporary workers (Theodore 2015; Theodore, Meléndez, and Valenzuela 2009). Such interventions help meet employer demand for contingently employed workers while also placing a floor under wages and working conditions in job markets characterized by rampant violations of labor standards.

**Extending Labor Rights to Migrant Workers**

Even in cases, such as the United States, where all workers, regardless of citizenship and immigration status, are covered by labor protections, the status of unauthorized migrants exposes them to heightened vulnerabilities, including employer reprisals when they assert their rights. Employers in many low-wage industries exploit undocumented migrants’ vulnerabilities, using their precarious status to pay below-market wages and violate basic labor standards (Bernhardt, Spiller, and Theodore 2013; Wills et al. 2010). In addition to compounding the hardships faced by workers, exploitation of migrant workers can have far-reaching impacts on competitive pressures in these industries. As greater numbers of employers pursue low-road employment practices, competitive dynamics can shift, rewarding low-road firms with increasing profits and expanding market share while placing employers that “play by the rules” at a distinct disadvantage. Extending labor rights to all workers, regardless of citizenship—in law and in practice—is a crucial step toward raising the floor on wages and working conditions in low-wage industries and reducing the scope for employer violations of labor standards.
The spatially variegated character of economies is such that any attempt to raise standards for workers will be prosecuted across a highly uneven institutional landscape (see Peck and Theodore 2007; Pike, Rodríguez-Pose, and Tomaney 2014). The reach of governmental regulatory authorities, the strength of worker organizations, the nature and timing of corporate responses to enforcement efforts and organizing campaigns, and the will of government officials to hold businesses accountable for employment practices are among the key factors that will shape the institutional terrain across which the defense of worker protections will be undertaken. This is not simply a question of a north-south binary borne out of the vast differentials in market opportunities and institutional capacities that exist between the privileged economies of the Global North (with their lead firms that typically govern global production networks) and those relatively disadvantaged economies of the South that often are on the receiving end of degraded employment systems. The internationalization of supply chains is remaking connections and conditions in and between economic spaces, and arguably few if any economic zones around the world are left untouched by these processes. Studies of capitalist variegation point to the necessity for analyses of the opportunity structures for pro-worker initiatives to be attentive to the relational geographies of contemporary capitalist formations, both at the macro and micro levels. Corporate exploitation of the profit-making opportunities afforded by uneven development and the unevenness of institutional capacities—conditions that so often are mutually reinforcing—requires that worker protections be rescaled (as the Asia Floor Wage and supply-chain organizing campaigns seek to do), economic rights be extended (the immigration status of workers), and alternative organizations be created to intervene in local labor markets on behalf of workers in precarious and otherwise substandard jobs. Taming globalization through these emergent strategies will be crucial for defending workers’ rights and reducing global and domestic inequalities.

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ENDNOTES
1 This section is based on Merk (2009).
REFERENCES


Chapter 16

Mobilizing High-Road Employers and Private Sector Strategies: National Domestic Workers Alliance

Ai-jen Poo
Palak Shah
National Domestic Workers Alliance

Leydis has worked as a nanny for more than 15 years in New York City. She gets up every day at 6 a.m. to get her son ready for school. During the day, she nurtures, protects, and educates her employer’s children. Like many domestic workers, Leydis felt her work was important and deserved more respect than she received. But she didn’t know what she could do to change the ways she was treated, or that she even had rights.

Then she joined the National Domestic Workers Alliance (NDWA). NDWA creates the space for people like Leydis to step into their leadership, find confidence through connecting with their peers, and receive support as they advocate for respect and fairness. Now she spends her free time leading trainings for other domestic workers, to help them see the sense of power that coming together offers—the power to achieve dignity on the job.

Leydis is one of the millions of nannies, housecleaners, and caregivers who work in our homes—and her story is not unique. When the private home is a workplace, and workers are isolated from their peers, the balance of power is severely skewed. Domestic work is typically characterized by poverty-level wages, without basic employment benefits such as health insurance or sick pay, usually without any tax withholding, no retirement benefits, and little to no control over work schedule. In essence, the workforce we count on to care for our families and homes cannot care for their own families as professionals in this industry.

THE ORIGINAL GIG ECONOMY WORKERS

The domestic work industry, both because it functions in an informal and often “off the books” context and because it has been systematically excluded from basic labor protections, is often compared to the “Wild West.” There are no standards or guidelines; one never knows what one might get in terms of employment conditions. As a result, some workers have extremely positive experiences and others are met with human trafficking,
sexual assault, and modern-day slavery-type conditions. And everything in between.

These conditions used to be seen as extremely unusual, at the margins and edges of our economy. Today, domestic work serves as a canary in the coal mine to the new economy. The conditions that have always defined domestic work—low wages, long or unpredictable hours, lack of job security and access to benefits—have come to define more segments of the US labor force. As the gig economy grows, more and more of the American workforce faces conditions like those domestic workers have faced for generations.

The movement to win rights and protections for domestic workers, then, becomes almost an “advance team” for the labor movement. New strategies will be needed for the labor movement to continue to be relevant and effective in improving working conditions for increasing numbers of nontraditional or independent workers. Many of the strategies that have been tested by the domestic worker movement can serve as models. Certainly if the labor movement wants to effectively respond to the changing nature of work, it will have to adapt its strategies accordingly.

Cleaning, food and grocery delivery, getting a ride, walking a dog, and performing tasks such as assembling Ikea furniture—these are all gigs that can be ordered on an app with the click of a button and sometimes even completed without the customer having to do any more than that. Platform companies funded by Silicon Valley venture capital connect worker with customer, minimizing the tasks of the customer and reducing the role of the employer. The challenges presented to workers in this new environment are significant and often misunderstood.

Technology has created new means of connecting, finding employment, and matching qualified workers with employment opportunities. While there are many positive associations with this new technology, in too many instances these new opportunities are without the advantages or benefits associated with stable employment, increasing the vulnerability and economic insecurity of the workforce. As technology makes it easy to aggregate people in need of a service and those willing to provide the service, workers find themselves parceling together gig work outside of important protections provided by employee status.

This new generation of workers is assigned to gigs without a manager to assist them when they have questions or problems with the gig. Work hours can be unpredictable and schedules changed last minute, leaving workers vulnerable to loss of income. Fees can be deducted from a paycheck by an algorithm, leaving workers out of pocket and with no clear path for recourse. Workplace safety becomes more difficult to enforce through an app; the gig economy can be particularly dangerous for women, who are disproportionately more vulnerable to violence and abuse.
Workers accrue even more expenses, providing the supplies and equipment they need to complete each job as independent contractors. While the gig economy often attracts workers in need of a flexible schedule, gig economy workers have discovered that the trade-off includes all the other important forms of security that traditional employment offers. Benefits can’t be accrued because no one is taking responsibility for being an employer, even when you’re working 40 hours or more per week. The customer is shielded by the platform company, the platform company is shielded by the technology, and the technology is shielded by doing only what it was designed to do, in a circular “not my responsibility” way for the actual quality of work—and quality of life for the worker.

The gig economy has been most successful in markets where the extra layer can disproportionately add value. Transport has always struggled with inefficiency. Technology enabled the easy identification of passenger and driver locations in order to match rides for greatest efficiency. The domestic work sector—work done inside homes such as cleaning, childcare, and caregiving—has historically been an informal market, operating behind the closed doors of people’s homes. Platform companies have aggregated this workforce at a scale that hasn’t existed before now, with apps that can get a cleaner to your home the next day or a babysitter recommended by your community to your home the same day you request them, or that can help you screen a caregiver for your elderly or sick family member. Domestic and care work is now available at the push of a button, and a workforce that has historically been disaggregated and informal is now aggregated and online.

Without question, many of the same challenges exist for domestic workers in the gig economy. However, for our movement, this new aggregation also creates unprecedented opportunities. As a workforce, domestic workers have always faced extraordinary challenges to improving their working conditions. Working behind the closed doors of private residences, usually with a 1:1 worker to employer ratio, domestic workers are not only disaggregated but invisible to most forms of data. There is no registry or place where employment is documented. These and other realities render traditional methods of building worker power, such as collective bargaining, almost irrelevant. The structural challenges of organizing a disaggregated, informal workforce has forced the domestic worker movement to be entrepreneurial and experimental, discovering nontraditional methods to raise standards of work, including leveraging this new tech-based aggregation to both raise standards and organize.
A FRESH LOOK AT OPPORTUNITIES AND THREATS OF THE GIG ECONOMY TO GOOD WORK

The gig economy has grown so rapidly and reached so many sectors that it has now fundamentally changed the way we think about getting what we want. Need a ride somewhere? Reach for your cell phone (or other mobile device) and hail a car just by clicking a button. Had a party on the weekend and don’t want to clean your house? Just request a cleaner online, and they can even get the job done while you’re out. Need someone to walk your dog? No problem; they’ll pick her up before the end of the day. Tasks that once were burdensome are now easily outsourced, quickly and conveniently, by parsing them into gigs and creating marketplaces where they can be allocated to gig workers willing to do the work.

Several factors have contributed to the rapid rise of the gig economy. First, as digital technology advanced, we witnessed the rise of automation; many tasks that required simple calculations or repetition were easily replaced by software. An algorithm can assign a common task to a worker with matching skills, manage work schedules for workers performing many tasks in a day in multiple locations, or process payments from customers, disburse payments to workers, and collect fees. Even collecting job information and requirements from customers can be automated with a responsive Web form.

Second, digital technology gave birth to mobile technology, which created the potential for a degree of efficiency previously impossible. Have a new job request near to where a worker is currently finishing a job? Notify her via the app on her mobile device and have her go directly there when she’s done. Need to manage a workforce where the workplace is private homes and there is no central HQ for workers to regroup? Simply coordinate them via the app on their mobile devices, dispatching them to jobs, collecting feedback on completed tasks, and managing all HR requests online. Suddenly, workers can be always available and work from anywhere—and, while the workforce remained disaggregated offline, it was very much aggregated online.

Third, online platforms that serve as marketplaces for gigs are multiplying, and there are now platforms for anything ranging from design work to translation work to buying a home-cooked meal from your neighbor. Online platforms have not only aggregated workforces, they have reduced the startup costs—such as marketing your services—for earning money in various jobs that can be done from home or in someone else’s home, creating work opportunities by reducing the barrier to entry. In some cases, the rise of online platforms has shifted a workforce online that previously operated offline only, such as the nannies who usually found work by word of mouth but can now be listed online with recommendations by past clients. In other cases, it has attracted workers to types of work that have a newly reduced barrier to entry such as drivers for transportation network compa-
nies such as Uber or Lyft that allow people to earn money using the car and driver’s license they already have.

The rise of online platforms has not only changed how we get what we need and want, it’s also changing how we think about work. Where does work start and end when we can work from anywhere or when we can log on or off at the click of a button on our phone? Who are we working for when work is assigned by an algorithm for a customer we don’t have a direct relationship with? Who is responsible for the safety and well-being of workers when there is no manager or even a phone number to call when a worker needs assistance. When work is flexible, how can a worker be sure she will earn what she needs to pay her bills? Is a worker really “her own boss” when the work is prescribed by the platform company? When no one is responsible for the worker, how are we making sure that the work we are creating is good work?

The future of work is more automated, more flexible, and more mobile but also more vulnerable, less predictable, and with less support for workers. More and more, the future of work is looking like work of the past: piecemeal gigs without the worker protections that were so hard won in the early 20th century. Without intervention, technology will continue us on this path where the worker is inserted into a calculation that connects supply with demand rather than as a person to be invested in and protected—both to benefit business and to benefit society.

Rather than interrupt technology’s disruption of work, we should be intervening so that it automates the parts of work that then allow us to work less and live more. We should be using technology to help us maximize our income through efficiency rather than minimize it. We should be using technology to help us work in a way that fits our lifestyle rather than dictates our lifestyle. And we should be using technology to build power among those for whom it has been most difficult and the usual methods ineffective. The future of work will be affected by technology, but how that affects the worker is up to us.

THE TECH-BASED CARE AND CLEANING MARKETPLACE

Domestic work has always been challenged with workplace safety issues, vulnerability to loss of wages, no recourse for issues with employers, and worker isolation. Domestic work via online platforms hasn’t solved these problems, and in many cases it has simply added a digital layer to the issue. Some experiences by members of NDWA describe the challenges experienced.

Rachelle started working for an online gig economy platform that connected cleaners with people who need their homes cleaned, after a car accident left her unable to stand for the long periods required for her job in cosmetology. She wanted flexible hours, and some of her customers were kind. But not every customer is kind; one customer told Rachelle that she had to monitor her while she was in her house—to make sure she didn’t touch
anything—because Rachelle was Black and the customer didn’t know her. “I
was so uncomfortable, I didn’t know what to do with myself. If I walked in or
out of the bathroom I had to let her know. If I was taking out the garbage, I
had to let her know. It was very uncomfortable.”

Despite being subjected to such racism—which would be a clear
violation of anti-discrimination laws—Rachelle completed the job so well that
the customer asked her if she would come back. Rachelle politely
deprecated. Still, the customer requested her services again via the app, for three
more jobs. When Rachelle declined the jobs, she was penalized with a $40 fee
by the company for refusing the job. Rachelle reached out to the company to
explain her reason for refusing the job and they returned her fee to her—but
canceled the remainder of her jobs for that week. Not only was Rachelle not
protected from discriminatory treatment in her workplace, she was punished
for protecting herself, with real financial consequences.

Another domestic worker, Angela, cleans for a gig economy platform
company. While she was attracted to the idea of being her own boss, she was
concerned about the risk of entering a stranger’s home without knowing any-
thing about them. “You don’t know what’s waiting for you behind the door,”
she explains. “We should have something that says that this customer is ‘okay’
so that we’re not going into a situation blind. The company says if you feel
unsafe, get out of there quickly and call the cops. Who’s to say you can get out
of there.” Angela’s solution has been to keep family members notified of her
job locations while she’s working, in case something happens. Her safety con-
cerns are amplified by the fact that the platform company she works for is dif-
ficult to contact for support: “That’s a big thing. If I have a concern, I don’t
want to constantly communicate through an app. I want to talk to someone
with information. There’s no physicality.”

Alongside these challenges, the digital revolution also presents opportu-
nities. One of the greatest opportunities to the domestic work sector is the chance
to cultivate and reach “high-road employers”—employers who believe their
employees should work in safe environments, earn a decent living, and have
access to support to address their concerns on the job. This is very difficult to
implement when a sector operates mostly with 1:1 relationships between em-
ployer and worker. But an unprecedented opportunity to establish new norms
and improve standards at scale is created by the aggregation that platform
companies enable. Rather than implementing new standards with each em-
ployer one by one, platforms can implement floors, such as minimum hourly
wages, which impact thousands of workers at once. Platforms also have an
opportunity to educate employers about fair standards to aspire to, massively
decreasing the cost of educating employers when the workforce is disaggre-
gated. There are many employers who use platforms who would willingly take
steps to ensure workers have good work if those steps were clear and easy to
take, and the aggregation enabled by platforms makes it much easier to
communicate those steps and establish new norms and standards, creating “high-road employers” at scale.

**SHAPING THE FUTURE: INNOVATION IN ORGANIZING AND RAISING STANDARDS**

This strategy of educating employers on the right thing to do—and supporting them to do it—led to the creation of the Good Work Code by NDWA’s innovation hub, NWDA Labs. The Good Work Code is a set of eight overarching values that are the foundation of good work:

- Safety
- Stability and flexibility
- Transparency
- Shared prosperity
- Fair pay
- Inclusion and input
- Support and connection
- Growth and development

They were developed in consultation with people working across various gig economy platforms about their experiences and challenges working on the platforms.

With the growth of gig economy work, and the controversy surrounding worker conditions that culminated in multiple lawsuits against gig economy platform companies, it was clear that Silicon Valley needed guidance from labor leaders in creating good work in the online economy. Organizations are testing different approaches to both addressing the threats and seizing the opportunities. NDWA’s experience working with domestic workers turned out to be uniquely relevant for addressing the challenges experienced by gig economy workers.

NDWA Labs launched the Good Work Code in November 2015, with 12 online economy companies who endorsed the entire code and committed to improving their practices in at least two of the values or areas of the code. Commitments included implementing a bonus program for workers, exploring ways to offer workers health care benefits, and offering salaried positions to some workers.

While platform companies can span a wide variety of work—from domestic work to legal services—many of these companies are dealing with similar problems. How do you design software to better integrate with workers’ schedules? How do you ensure safety when a job has been requested online by a customer who has never been seen? How do you help workers feel less isolated when there is no water cooler to gather around? These are all challenges faced by many platform companies, and sharing solutions with their
peers as well as brainstorming challenges together has proven invaluable as they tackle old problems in a new context. Platform companies are learning that not only are worker standards good for workers, they are good for business because the success of the platform company must be connected to the success of the workers who power it. Workers who better understand how the platform works are able to work better on the platform, workers who receive a share in the profits of the platform company are more invested in its success, workers who are able to provide input into the way the platform operates can provide valuable feedback for the platform designers and engineers, and workers who are more connected to their coworkers are more connected to the platform company. As worker marketplaces become more competitive for platforms competing for workers who provide the highest-quality service for customers and create the most value for companies, these worker standards are becoming more important to attract, and retain, the workforce critical to powering the online economy.

The rise of the gig economy also creates opportunities for social movements to partner with private sector companies to work on initiatives that educate their community on ways they can engage to raise worker standards. In 2015, NDWA, Hand in Hand (a domestic employers’ network), and Care.com announced the Fair Care Pledge at the Clinton Global Initiative. The Fair Care Pledge is a way for employers to commit to and promote being a fair and respectful employer of a caregiver or domestic workers. The pledge was promoted to the Care.com community and created an important opportunity to raise awareness among families about the obligations of employers to workers. In 2017, NDWA members who work as housecleaners advised Airbnb on a living-wage standard for housecleaners, which was announced to over 300,000 Airbnb hosts. The living-wage standard set a living wage at $25 per hour for independent housecleaners and $15 per hour for those working at companies that cover other expenses. These types of initiatives create the opportunity for mass education about good work standards among employers and consumers on every platform where services are being bought and the structure of work is changing.

NDWA Labs is also developing new tools and products that have the potential to raise standards of work. One product, Alia, helps housecleaners collect contributions from their clients to pay for benefits, including everything from paid time off to a product such as health or dental insurance. Because most of our social safety net has been tethered to traditional, full-time employment, the entire system is jeopardized when work is structured outside the traditional employment framework. For domestic workers, this has long been the case. For gig economy workers, they are quickly learning that the benefits they might have taken for granted in other jobs are not available to them as gig workers. By bringing benefits to independent cleaners—some of the most vulnerable workers in the US economy—
NDWA Labs can tailor a program to a workforce where those benefits are most critically needed, while simultaneously building a product that will benefit the many more workers who are locked out of traditional benefit structures.

NDWA Labs has also created a contract tool called Contracts for Nannies to help nannies and employers come to clear agreement about employment arrangements. Because domestic work arrangements have historically been very informal, domestic workers are vulnerable to terms made in the context of a severe imbalance of power. Without any HR department oversight, employers can create and change employment agreements at will, and even disregard their own agreements without repercussion. By creating a tool that makes it easy for employers and nannies to discuss expectations and each element of employment and by presenting each element in the context of working toward both parties feeling successful in the relationship, workers can feel more empowered in the employment relationship, and potential conflicts can be addressed before they arise. While the worker is still without an HR department to report grievances to, the tool can be effective for worker self-advocacy and for beginning a working relationship on the right foot—addressing needs and concerns up front.

The digital revolution is driving tremendous change in our economy. Advocates and organizers in the labor movement who seek to make life better for working people must also change. Much of this change is unstoppable, but it is also, by definition, malleable. There are real threats to the dignity and security of workers in the future—we must seek both to understand and prepare for those threats. There will also be opportunities to uplift the dignity and value of work and shape the future. But only if we’re focused on doing so. Protests and campaigns that target the bad practices of companies remain important strategies that we should never give up. And we must expand the tools in our toolbox for the new era. The same values—dignity and voice at work—that have always been at the heart of the labor movement still hold. Driven by those values, we can innovate new ways to improve the quality of work and the ability of workers to shape the quality of their work and the future of the economy if we orient toward it and challenge ourselves to meet the moment.
Chapter 17

Union–Cooperative Alliances: Conditions for Realizing Their Transformational Potential

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Labor unions and worker cooperatives have long shared a similar goal of worker empowerment as both were “integral parts of the same movement during the early growth of the working class under capitalism” (Mellor, Hannah, and Stirling 1988: 17). Both labor unions and cooperatives were designed to “give the common people a larger share in the national income and a greater control of the economy” (Rees 1946: 327) and both aimed to protect “the interests of the common man with limited means against exploitation by intermediaries and privileged class” (Galor 1992). While some radical labor unions critiqued cooperativist goals of reforming the capitalist system by turning workers into capitalists themselves, there still were many synergetic efforts between the two institutions in the early years of industrialism to “achieve mutually desirable goals in a number of areas” (Staples 1954; also cited in Wetzel and Gallagher 1987: 518). For such reasons, Rees, a labor activist in the 1930s, argued that cooperatives gave labor unionists “the other blade of the scissors” (Rees 1946: 327).

However, synergistic cooperation has not always been embraced by labor unions and worker cooperatives. In fact, unions and cooperatives have often departed from each other, building independent movements and organizations of their own, and typically engaging in only limited collaboration as agents of worker empowerment. This typical disconnection is unfortunate for workers facing the challenges of the global economy today because both organizations have weaknesses that mutual alliance might help to address. In terms of their respective weaknesses, the traditional organizing model of labor unions simply doesn’t match the decentered, outsourced, and flexible production chains of today’s global capitalism, while worker cooperatives face their own challenges of small size, low resources, and little networking with other groups. In terms of their possibly complementary strengths, worker cooperatives are well suited to addressing the growing challenges of union organizing in an informal economy through the cooperative model of organizing precariat workers into small-scale cooperatives, while labor unions are well suited to enlarging the
social horizons of cooperative workers by pursuing broad-based political power through collective bargaining, social mobilization, and political advocacy. Considering the potential benefits, is there a way that these two institutions can come together better to advance their ultimately shared goals of worker empowerment and economic justice? Can their respective strengths be synergistically joined?

This chapter explores to what extent a unionized worker cooperative can be a part of a new form of labor movement with potential to address the challenges of neoliberal globalization. The article examines conditions under which unions and worker cooperatives might build alliances with the potential to seed meaningful political–economic changes that go beyond simple improvements in economic outcomes for workers at a particular workplace. Drawing on theoretical and historical analysis, the chapter posits two necessary conditions in order for the two labor organizations to form transformational collaborations. First, worker cooperative members should identify themselves as workers rather than as business owners. Second, worker cooperatives and labor unions should both align themselves with a stronger sense of political congruence where worker cooperatives and labor unions go beyond a goal of individualistic pursuits of income growth and engage in broader social and political movements as expressions of worker and civic solidarity.

Following this theoretical framework, the article presents a case study of a transformational union–cooperative model in the United States: New Era Windows Cooperative in Chicago. New Era Windows is a rare worker takeover case where a meaningful level of labor militancy accompanied the conversion of a company to a worker cooperative, an unusual model for US union cooperatives. This example is a good case study of a unionized cooperatives led by rank-and-file workers with a militant sense of their social role and power as workers and who share strong political congruence with supportive unions and other community groups in engaging in broader social movements for change. The New Era Windows union–cooperative alliance is a manifestation of the kind of transformational labor mobilization that can emerge when strong social movement unionism undergirds a worker cooperative with a clear sense of worker control.

GLOBALIZATION, THE INFORMAL ECONOMY, AND LABOR UNIONS

According to Neuwirth (2011), the economic activity in the world’s informal economy is worth about $10 trillion a year and involves approximately 1.8 billion people. The definition of the informal sector, by Women in Informal Employment Globalizing and Organizing (WIEGO), includes “self-employed, paid workers in informal enterprises, unpaid workers in family businesses, casual workers without fixed employer, subcontract workers
linked to informal enterprise and subcontract workers linked to formal enterprise” (Gallin 2001: 537). Informal employment is particularly significant in developing countries, where informal employment patterns are the dominant form of economic activity (Schurman and Eaton 2012).

The explosion of informal employment in the developing world is partly driven by the dramatic growth of the informal manufacturing sector there, due partly to the relocation of first-world manufacturing enterprises into the less formalized developing world. Outsourcing has become more common, as labor intensive and high productivity sectors such as manufacturing have been out-competed by low cost producers (International Labour Organization 2012). According to WIEGO, “more than one-half of nonagricultural employment in most regions of the developing world” is in the informal sector (Vanek et al. 2014: 1–2).

Although the number of informal workers in the United States is somewhat lower than in developing countries, the United States’ informal sector is steadily growing. According to data from the Federal Reserve Bank of New York’s Survey of Informal Work Participation (with data supplemented by a review of US Bureau of Labor Statistics estimates), 37% of nonretired US adults participate in paid informal work: “When we remove those who engage exclusively in informal renting and selling activities, we find that 20% of the respondents engage in informal work” (Bracha and Burke 2016: 1). US Department of Labor statistics on informal and contingent workers similarly show that 42.6 million workers, or about 30% of the workforce, were self-employed, independent contractors, or contingent/temporary workers at the turn of the decade (Neuner 2013). Also, according to the US Department of Commerce, 2.9 million people as of May 2015 relied on temporary-help services for jobs, accounting for “2.4% of all private sector jobs in the US economy” (Nicholson 2015: 2).

Though such contingent and informal workers earn very low wages and face poor working conditions, labor unions have not been very successful in organizing contingent workers and have been in almost steady decline in both density and coverage for the past half century. Numerous strategies have been adopted to reverse the trend of union decline, ranging “from associate membership arrangements, to labor law reform, to adoption of the ‘organizing model’ to card check organizing to community organizing, to strategies that have little to do with collective bargaining or workplace representation” (Godard 2009: 82; see also Freeman 2007; Freeman and Rogers 2002). Nevertheless, the reality is that unions have been losing the battle, and membership has been waning for years.

According to the US Bureau of Labor Statistics, the unionization rate of all US workers fell to 10.7% in 2016. The unionization rate for the private sector was a paltry 6.4%, while the public sector unionization rate was at 34.4%.
Unsurprisingly, Rosenfeld, Denice, and Laird (2016) report declining wages as a result of union decline. In the retail sector, union membership fell to 700,000 by 2012, down from 1.2 million in 1983 despite the rapid growth in the retail sector to account for 8.6% of the GDP in the United States (Luce 2013: 6). However, many of these retail jobs are part time or temporary and are located in often dispersed small shops that don’t match the large factory shop floors of old. The traditional way of “organizing shop by shop” in “appropriate units” as defined by the National Labor Relations Board is simply less relevant to a contingent, precarious, and fluid workforce—and unions are suffering as a result.

In short, external conditions such as the rapid explosion of informal workers—and the lack of legal protections for these workers in terms or organizing unions—have made it more difficult for the labor movements to alter their “representational strategies” (Schurman and Eaton 2012). In the preceding historical era of full-time employment in large workplaces, labor unions were a powerful tool to build the “representation/voice” of workers vis-à-vis management and to improve worker livelihood through better pay and benefits. But, in an era of an increasingly informal and contingent workforce, facing increasingly flexible and mobile capital, this traditional view of a collective bargaining union no longer works for many workplaces.

**WORKER COOPERATIVE TRENDS IN THE UNITED STATES**

According to the United States Federation of Worker Cooperatives (no date), worker cooperatives are defined as “business entities that are owned and controlled by their members, the people who work in them.” Since the late 1700s, there have been hundreds of worker cooperatives formed in various industries in the United States, with the cooperative heyday occurring during the days of the Knights of Labor in the 1880s (Jackall and Levin 1986: 35). Worker cooperatives have always grown during times of unusual labor organizing and agitation, such as during the 1880s until the turn of the century, and again during the Depression and early New Deal years of the 1930s. During the 1960s and the 1970s, a time of general social and labor upheaval, there was another wave of hundreds of worker cooperatives and collectives that operated at small scales across the nation (Jackall and Levin 1986: 35; see also Levinson 2014).

Recently, there has been another surge of worker cooperative formation following the economic crisis in 2008, resulting in the creation of at least 80 new ones between 2010 and 2013 (Palmer 2015: 5). The total number of worker cooperatives was estimated at 256 as of 2013, according to a survey by Democracy at Work Institute. These worker cooperatives have 6,300 worker–owners and a median workforce of ten members per worker cooperative, and they have generated a collective annual revenue of $367 million (Palmer 2015: 5). Worker
cooperatives have shown diversity in composition: 71% of cooperative members are female and 66% are nonwhite (Palmer 2015: 17). The largest worker cooperatives are in manufacturing, making up 16% all worker cooperatives and retail trade (14%), while the health care sector makes up only 7% of the worker cooperatives (Palmer 2015: 3–4).

In terms of worker cooperative growths, three major actors have played an important role in the development of this recent wave of worker cooperatives. First, in some locales, “anchor institutions” have emerged as important supporters of worker cooperatives because some large institutions in various locales have adopted a mission of supporting worker cooperatives in the local economy. An example is the Evergreen Initiative in Cleveland, where leaders of anchor institutions such as universities, foundations, and notable businesses united to incubate and build out an expanding network of worker cooperatives in 2009 (Alperovitz, Williamson, and Howard 2010; Johnsen 2010). This initiative resulted in more than $11 million being raised to support three worker cooperatives with a goal to create jobs and co-op ownership opportunities for low-income residents in Cleveland (Camou 2016: 8; see also Pinto 2016: 10).

City leaders have been the second actor in developing the recent wave of worker cooperatives. Some major cities such as Cincinnati, Jackson (Mississippi), Madison, New York, Pittsburgh, Reading (Pennsylvania), and Richmond have stepped up to support worker cooperative initiatives as a strategy for job creation (Flanders 2014; Scher 2014; Truthout 2013). New York allocated $3.3 million in 2015 and 2016 to develop worker cooperatives, enacting Local Law 22 in 2015 to encourage worker cooperatives to bid on city contracts (Camou 2016: 14). Madison also passed legislation to allocate $600,000 in city funds over five years (2016–2021) to support worker cooperatives.

Labor unions have been the third actor in developing recent worker cooperatives (Clay 2013; Ji 2016; McFellin 2013). The idea of a union–cooperative alliance resurfaced in particular force after 2009, with the announcement of a collaboration agreement between the United Steelworkers (USW) and Spain’s Mondragon network of worker cooperatives (Clay 2013: 2; McFellin 2013; Witherell, Cooper, and Peck 2012). The vision of the USW–Mondragon agreement was to develop a series of worker-owned manufacturing facilities with a commitment to economic democracy shared by both unions and the Mondragon co-ops. The unionized cooperatives envisioned under this partnership are ones in which “worker–owners all own an equal share of the business and have an equal vote in overseeing the business … one worker, one vote” (Witherell, Cooper, and Peck 2012: 6). In 2011, USW also passed Resolution No. 27, articulating a vision of “Workers’ Capital, Industrial Democracy and Worker Ownership” that is to be pursued by creating more union cooperatives as “a profitable and sustainable means to create jobs and invest in our community.” And as a result of the partnership between USW and Mondragon, 17 union–cooperative initiatives have been explored in recent
years, such as the Cincinnati Union–Cooperative initiative, which announced a specific goal of building a stronger labor movement in general (Barker 2015; Schlachter 2017).

Though progress has been very slow on actually launching new worker cooperatives in accordance with this union–cooperative model, advocates continue to believe that the vision offers a promising strategy for organizing workers in an era very hostile to organized labor. The president of the USW, Leo Gerard, has expressed his optimism for the union–cooperative model because of the fact that a union–cooperative partnership could begin in an open environment, which is the opposite of how labor union organizing often gets started in a workplace. “You have to organize in secret,” Gerard noted, regarding typical union organizing. “There are very few places where you’re going to go from an unrepresented workplace and organize right out in the open. You start off in a hostile environment” (Truthout 2013). Because union–cooperative organizing is typically so much more open from the start, and free of the hostility that often comes with organizing a union at a privately owned workplace, Gerard was hopeful that a unionized cooperative might be a new model for organizing workers without encountering management or even worker hostility toward a labor union.

McCarthy et al. (2011) have similarly argued that worker cooperatives and unionization can complement one another. While worker cooperatives share the union goal of distributing the rewards of capitalism more broadly, unions can be crucial in enhancing “workplace productivity by providing voice mechanisms” that decrease workplace turnover and in giving workers the “means and incentives to speak up about ways to improve performance and company survival” (Doucouliagos and Laroche 2003, cited in McCarthy et al. 2011: 51; for an older statement of the same vision, see Cornforth 1982; Delmonte 1990; Eiger 1985). In similar fashion, Schlachter (2017) has argued that unions can bring a vision of organized, collective bargaining to a cooperative workplace—a vision in which the organized voice of workers is “a more continuous process that does not simply begin and end with a contract.”

**CONDITIONS FOR RADICAL UNION–COOPERATIVE ALLIANCES**

Though growing partnerships between unions and worker cooperatives have promising implications in terms of labor empowerment, these partnerships are not necessarily associated with new forms of progressive labor action, nor may it be assumed that the power and scope of labor movements will necessarily grow through such alliances. One problem is the simple reality that even though the union–cooperative vision is energetically expressed by advocates, and though the number of worker cooperatives since the economic crisis of 2008 has grown, the fact is that worker cooperatives
are still rare, and very small, in terms of making a significant impact on the economy (Kerr, Kelly, and Bonanno 2016). Worker cooperatives in the United States are small (a median size of ten workers) and are concentrated in low-wage industries like housecleaning, daycare, lawn care, and food services—which means that average wages among cooperatives tend to be low as well. For all its aspirational vision, the USW–Mondragon alliance has yet to find real success in reopening steel mills or other such high-wage manufacturing operations on a union–cooperative model.

But even if union–cooperative advocates were to find more success in launching large cooperatives in high-value economic sectors, they would face other important challenges. Notably, both unions and worker co-ops face deep dilemmas in balancing their practical work as “simply business” against broader aspirations to wage a “battle for socialism” (cited in Prychitko 1989: 3). When the two organizations come together, these dilemmas can be resolved in a way that advances or undermines progressive alternatives to capitalism. The result will be contingent on actual strategic and organizational pathways followed by labor activists in response to their local political and economic milieus. Two kinds of available pathways are particularly important in shaping the nature of union cooperative alliances that emerge on the ground: the pathway of workers or owners? and the pathway of shopkeeper or social movement?

Workers or Owners? Worker-Owned Cooperatives and the Degeneration Thesis

In 1921, the Olympia Veneer plywood cooperative—the nation’s first plywood cooperative—began operations in the Pacific Northwest, when 125 workers invested $1,000 each to become worker–owners of their own cooperative, committed to the idea of replacing traditional capitalism with an example of an egalitarian and participatory worker-managed company (Lindenfeld and Wynn 1995; Zwerdling 1978). At Olympia, all staff members, from floor sweepers to plan managers, were paid the same rate. All workers, of whatever rank, received an equal vote in important company decisions. The successful cooperative soon inspired around 30 plywood cooperatives to open across the Pacific Northwest, operating with similar principles. By 1974, eighteen plywood cooperatives were operating in the Northwest, accounting for 12% of all US plywood production (Berman 1982).

However, by the mid-1980s, almost all of these cooperatives had gone out of business, with many of them being bought out by larger, privately owned corporations such as Weyerhaeuser. One of the first to go, decades earlier, was Olympia itself. At Olympia, as the company grew larger in the post-WWII years, the company began to hire nonmember workers when the original founding members left the mill, cashing out substantial equity
as they left (Bernstein 1976). At Olympia, like other plywood co-ops, members became increasingly focused on their own economic interests as *business owners*, which were achieved mainly by strictly limiting the circle of new co-op owners and giving new owners less of a stake in the cooperative. Regarding this plywood cooperative, Bernstein argues that “the most basic reason nonowning workers are not brought in as equal partners is that shareowners are reluctant to devalue their stock by adding more shareowners” (Bernstein 1976: 29). For these worker–owners, adding new worker–owners meant “you’d be cutting the melon into thinner slices,” so worker–owners began to hire nonowners for part-time or seasonal work, which resulted not only in higher profits for worker–owners but also in growing tensions between worker–owners and nonowners at the workplace.

At the same time, the initial share price that a new member had to pay to become a member of this plywood cooperative became too high for a new worker–owners to afford. The value of shares jumped from an initial $1,000 to $2,000 to a price of $25,000 to $50,000, and thus, “precisely because they were so successful,” it became easier to sell shares to outside investors, who were not even co-op owners, rather than selling shares to new worker–owners. “New young workers did not have the money to buy into the co-op, so retiring members found it easier to sell their shares to capitalist lumber companies that wanted to acquire their very profitable business” (Bernstein 1976; Lindenfeld and Wynn 1995). By the 1950s, worker–owners of the small startup of the 1920s were increasingly retiring and cashing out their equity; the larger Weyerhaeuser corporation gained controlling interest, and the cooperative fully converted to a traditional corporation in 1954.

The degeneration story of the Pacific Northwest plywood cooperatives is replicated in other examples. Burley, an Oregon-based worker cooperative founded in the 1970s that made bicycle trailers, ended up failing in 2006 after years of successful cooperative operation based on democratic principles. Although the reason for its failure was partially due to fierce global competition, the major problem for Burley had to do with too rapid growth and the need to hire more workers to keep up with market demand. However, too sudden growth of worker ownership by hiring more worker–owners without appropriate training, and without sufficient time for testing out hired members, became a major problem later on. Normally, Burley had a six-month trial period to test out workers before voting them into full membership, but waiting on a new worker–owner for six months became an obstacle when the company grew rapidly, which put them in urgent need to hire more workers.

As a result of including new worker–owners without appropriate training, Burley started having problems, including growing rifts between original co-op owners and new workers who did not share the same level of commitment to cooperative principles. As these rifts widened and Burley lost some of its original sense of social mission, values of economic self-interest began to drive
many worker–owners. For instance, Burley’s practice of bringing in new members

fundamentally altered the cooperative’s culture and created rifts that prevented it from effectively responding to market changes. … The membership became more concerned with protecting its dividends, and individuals prioritized the security of their own wealth rather than the general health or mission of the collective. (cited in Semuels 2015)

In the end, Burley failed.

In this way, numerous worker-owned cooperatives have historically lost their original identity as collective social communities and “degenerated into a capitalist firm” (Pencavel 2012: 110)—hiring nonmember employees, selling to a private investor, or adopting a conventional corporate stock ownership structure. In this way, as “a product of capitalist society,” worker cooperatives often face a danger of degeneration in terms of any broader goals of social transformation, in that they face pressure to “adopt the same organizational forms and priorities as capitalist businesses in order to survive” (Cornforth 1995: 488).

Adopting those traditional capitalist forms means that degeneration from high-minded social mission principles can occur when worker–owners sell ownership shares to outside investors to make profits or when they introduce a divisive two-class system within the cooperative so that not all workers have equal power or equitable incomes. Degeneration also can occur when cooperatives face competitive pressures to outsource and make operations more efficient, and whenever cooperatives face the reality of accommodating to the existing capitalist system by sacrificing some of their own founding principles (Hochner 1978).

Related to the degeneration thesis, there is a strong tendency of “shopkeeper spirit” developing among cooperative members once a worker cooperative becomes larger. When worker cooperatives are small in scale, democratic principles can be easily maintained. But, as the company becomes competitive and profitable, it becomes a challenge to maintain the co-op principles. In 1922, Malatesta (1922/2015) identified this danger that the “shopkeepers’ spirit” would undermine the cooperative challenge to capitalism, while Schoening (2007: 299) more recently reiterated this same danger that “cooperatives come to view themselves as owners, entrepreneurs, and capitalists.”

For just these kinds of reasons, many union advocates have long believed that the cooperative form of ownership “would require workers to give up the adversarial role vis-à-vis management and would undercut the traditional union as an organization” (Hochner 1983: 347). Slott (1985: 84) similarly argues that “worker ownership may not necessarily be in the best interests of the labor movement.” Once workers gain ownership of a company, Slott (1985: 87)
argues, they tend, “over a period of time, to identify less with workers employed by other companies than with the company they now own” (see also Moene and Wallerstein 1993). In similar fashion, and Kruse and Blasi studied employee attitudes and firm performance and found that “ownership status made little or no difference in desired participation or allocation of power” (1997: 129) and that “employee ownership does not magically and automatically improve employee attitudes and behavior whenever it is implemented” (1997: 143).

From this perspective, the most promising strategies of worker empowerment in the face of factory closures or other capitalist inequities don’t involve turning workers into employee owners; rather, they are to nurture effective resistance at the local level by organizing the rank and file into mobilized workers confronting the inequities of individual workplaces and capitalism in general. Stannard (2014) argues that “the movement for worker-owned cooperatives needs organized labor’s insistence on the identity and interests of workers as workers.” José Orbaiceta, the president of CICOPA, an international organization of industrial and service cooperatives, similarly argues as follows:

Our concept is that it is the trade unions which represent dependent workers and the cooperative federations which represent the cooperative enterprise, and they can work together because we are all workers, some of whom are in dependent relationships while others own the means of production—but all are workers. (2014: 11)

The emphasis on the characteristic of workers instead of “owners” helps worker cooperatives to develop the radical concept of worker control of the workplace rather than the more conservative notion of participation in management, from the perspective of business owners.

Hunnius, Garson, and Case (1973: 1) explain that “workers’ control means democratizing the workplace: the office, the factory, the shop, the company or institution.” It means “that a firm’s management should be accountable to its employees.” More broadly, the notion of workers’ control can go beyond workplace concerns; Case defines worker control as “a strategy, a series of demands aimed at extending popular control of the enterprise and the economy” (1973: 444). Gorz also understands worker control in this far-ranging, radical sense, arguing that worker control means “the capability of the workers to take control of the process of production and to organize the working process as they think best” (1973: 339).

For real worker ownership, it is not enough to simply allow workers to buy substantial shares of stock ownership in a company, which might result in worker ownership but not likely result in a change in management philosophy to reflect a labor-managed firm. Mandel (1973) argues that the benefit of work-
ers’ control over the product of their own work is that it contributes to the well-being of workers while also decreasing their alienation from the work process and product (Azzellini 2015; Gorz 1982; Marcuse 2015; Wolff 2012). Some have called this a process of “dealienation,” in which worker control becomes an important factor in restoring dignity and satisfaction in work itself (Gorz 1982: 409).

These far-reaching and radical ideals of building a transformational cooperative by fostering workers with a deep commitment to comprehensive democratic control of the workplace, and with the personality characteristics and professional skills to actualize that commitment, have always meant that the actual size and scope of radical worker cooperatives in practice has been quite limited. Building a worker cooperative with deep commitment to democratic practice among all worker–owners, and filled with members with congruent political and economic ideologies of equality and de-alienation from work, requires careful selection processes and long mentoring of new worker–owners. It is unrealistic to expect that such a demanding and lengthy worker-cultivation process could result in a large enough worker-cooperative sector with the potential to measurably transform the broader political–economic system. The dilemma seems to be that worker cooperatives can either cultivate radically transformational worker–owners (and thus be small and hard to replicate) or they can adopt more traditional forms of “shopkeeper” cooperativism, following normal business practices (and thus grow in size and become more economically sustainable). This is exactly the dilemma that the degeneration thesis recognizes explicitly and that certainly remains a challenge to union–cooperative advocates.

**Shopkeepers or Social Movement?**

Another factor to achieving a radical union–cooperative model is that both union and cooperative leaders in this partnership should share a congruent commitment to political activism to achieve social change, which goes beyond the “shopkeepers’” goal of enhancing workers’ income through co-op ownership. Both worker cooperatives and labor unions have a dual roles as economic entities and as social–political institutions. While a labor union is an economic organization seeking to enhance workers’ wages, a worker cooperative also has an economic role to improve the income of cooperative members. While a labor union defends workers against employers through the collective bargaining mechanism, a worker cooperative seeks to secure better income for its members through the employee ownership mechanism that delivers all business income and profits directly to workers themselves. These are well-recognized economic roles of both institutions. However, when either labor unions or worker cooperatives focus only on these economic roles, broader goals of community and social change—and the broader role of unions and
The cooperative is a genuine, two-faced Janus. It combines two distinct if not conflicting dimensions: the economic dimension of an enterprise that operates within the market and accepts its logic; and the social dimension of an institution that pursues meta-economic aims and produces positive externalities for other agents and for the entire community. This dual nature is what makes the cooperatives difficult to explain and so hard to govern. (2010: 1)

Facing this dual nature, worker co-ops often must consider the path of an efficient, business-like approach because, in the end, worker cooperatives are economic organizations that need to survive in the capitalist system and therefore must operate like any other business—that is, seeking to build profits through efficient business practices. As “a product of capitalist society,” the goal of the cooperative is simply to operate an efficient business so as to “improve the income of members as part of the private enterprise system” (Abrahamsen 1976: 11). However, worker cooperatives also have transformational potential because of their concerns for a sustainable and equitable community and because of their commitment to workplace democracy as part of a radical critique of capitalism (Clay 2013; Engler 2010; Malleson 2014; Restakis 2010). From this perspective, economic democracy through a worker cooperative becomes one way to practice political democracy and build a “broader social democracy” (Bernard 2008–2009).

Though many co-ops naturally have such broader social and political goals, worker co-ops often find it difficult to build new forms of competitive businesses while also staying connected to broader political goals. In their focus on operating a successful business, for example, worker cooperatives typically are “disassociated from the labor movement” (Hochner et al. 1988: 16). It is often challenging for cooperatives to be efficient economic entities and provide “a high living standard for their members” while also participating in progressive campaigns and advancing “egalitarian and participatory values” across their community (Lawrence 2001). Pointing out this dilemma, Zamagni and Zamagni (2010: 1) argue that “whenever one of these aspects is sacrificed to the other, the cooperative is denatured, losing its identity” (see also Esim and Katajamaki 2017). In this regard, achieving a balance between their economic role (individual income gains) and their social role (communality) has been a challenge for many cooperatives.

Labor unions share a similar dilemma of having a dual role of enhancing union members’ income and benefits, while also seeking to build a more equitable and just society more generally. When a labor union emphasizes its economic role to enhance the wages of its members only, scholars describe it as conservative “business unionism.” In this business unionism
model, collective bargaining focuses only on winning benefits for dues-paying union members (avoiding broader community concerns), and the union works like a business enterprise, “effectively selling their members services for a fee. … Much like insurance companies, they act as vendors of certain important employment protections” (DeMartino 2004: 34), delivering the goods to paying union members and leaving the broader capitalist system unchallenged.

However, if a labor union goes beyond seeking a better wage for only its members, then there is a potential to build a stronger labor movement. Though Marx was critical of many labor unions’ conservative tendency to adopt forms of business unionism, he also argued that trade unions could be “important as an organized means to promote the abolition of the very system of wage labour” (cited in Dridzo 1935: 17). In this logic, labor unions can fight for the entire working class as a revolutionary organization, though such a stance will necessarily entail adversarial relations between unions and employers and might distract unions from winning incrementally better collective bargaining agreements with individual employers (Kelly 1998).

When both labor unions and worker cooperatives share a goal of broad-based political activism, they may be better able to create new sources of transformational power for workers. Many (Dean 2013; Ranis 2014; Wright 2014) are optimistic about the recent growth of worker cooperatives, regarding them as tool to catalyze a more effective labor movement. Curl (2009, 2010) and many others have argued that the current worker cooperative movement has characteristics of a social justice movement because the worker cooperative movement is best characterized not as an isolated number of individual cooperatives but as a collective movement, united through cooperative associations with self-defined goals of broader social transformation.

Through collective associations of cooperatives, and by joining directly with unions in labor organizing campaigns, worker cooperatives may develop a more well-articulated commitment to their “social change” roles. In his study of worker cooperatives in the United States, Ciplet points to such possibilities and emphasizes that “the worker cooperative activists should embrace cooperative principles for the movement, and strategically engage in the tensions of building a democratic movement in the context of global capitalism” (2007: 3). This social change perspective is advocated by a wide range of union—cooperative activists and scholars, who argue that cooperatives can only maintain their transformational “values and culture through ongoing connections to social movements” (Langmead 2017: 82; see also Levinson 2014).

In short, union—cooperative collaboration is fraught with many ontological and organizational dilemmas, and how those dilemmas (owners or workers? shopkeepers or social movement activists?) are resolved leads to substantially
different organizing outcomes on the ground (Ji 2016). Thus, the question of how a labor union and a worker cooperative should come together so as to best advance their transformational potential requires both organizations to find a common thread of solidarity in standing as worker organizations first and foremost. To best realize the transformational potential of allying with a labor union, therefore, worker cooperative members should identify as workers instead of owners. At the same time, both worker cooperatives and unions both are in need of emphasizing their social and political roles that go beyond the limitations inherent in “becoming simply a ‘collective egoist’ concerned only with the well-being of its membership” (Schweickart 2011: 70). When broad social and political movement goals are shared by both labor unions and worker cooperatives who emphasize the importance of political organizing, their collaboration can build a stronger labor and social movement. It all depends on whether or not labor unions and worker cooperatives “limit themselves to their real function as defenders of the immediate interests of their members or are animated and influenced by the anarchist spirit, which makes the ideas stronger than sectional interest” (Malatesta 1922/2015: 110).

A CASE STUDY IN UNION–COOPERATIVE COLLABORATION: THE NEW ERA WINDOWS COOPERATIVE

This case study highlights the story of the New Era Windows union–cooperative collaboration that emerged in Chicago when a direct-action window factory takeover by workers on the shop floor catalyzed an alliance between the United Electrical, Radio and Machine Workers Union (UE) and a self-started workers cooperative. Although cases of worker takeover in the United States are rare, the takeover of Chicago’s New Era Windows represent an approach where workers became critical in taking over the factory in order to save jobs and to create a democratic ownership structure.

In December 2008, after decades of successful operation selling vinyl replacement windows and patio doors since 1965, the owner of Chicago’s Republic Windows and Doors, Richard Gillman, declared bankruptcy and shut down the operation with only three days of notice to workers. Unionized workers were told their jobs were immediately terminated, with no back pay or severance pay, and with immediate termination of medical benefits. At the same time, the company continued to operate at a profit, and owners of the family business were busy planning new window factories in other regions—and hiring non-unionized temp workers through low-wage labor agencies. The owners also ended up in court fighting allegations of financial fraud in their allegations of bankruptcy.

In response to the crisis, and without prior authorization by their national union, 270 Republic Windows workers decided to occupy their factory floor in December 2008. As workers mobilized on their own to gain control of the
factory, the UE came to their aid; a massive unionized sit-down strike captured the attention of Chicago and the nation for six days. Republic Windows workers had been with the UE Local 1000 since 2004 after rejecting a preceding alliance with a different union, the Central States Joint Board (CSJB), which workers found to be “conservative, undemocratic and corrupt” (Wright 2014: 204). Before their switch to an alliance with the more radical UE union, Republic Windows workers had actually launched a wild strike against the CSJB union in 2002 to show discontent with their union representation; with the window company that employed them; and with the police, who encouraged strikebreakers to cross the picket line (Wright 2014: 205).

After the factory occupation by workers in 2008 and the ensuing legal troubles for the factory owner, a bankruptcy court judge ruled that a different company out of California (Serious Energy) “could purchase the plant’s assets and employ the 260 workers involved in the occupation of the factory” (Ranis 2016: 115). Serious Energy soon took over the factory with a promise to rehire all the workers. However, that company didn’t keep its promise and in fact only rehired 30 workers, leaving hundreds without jobs (Ranis 2014: 65). Even with such dramatic labor-shedding practices to save money, ineffective management and constant changes in company leadership eventually led to declining profits for Serious Energy, and a second factory closure notice was announced in February 2012. When no one emerged to purchase the factory after 90 days, workers finally decided to take over the company directly, resulting in a 12-hour sit-in strike (Lavender 2012; Ranis 2014: 65).

Facing severe economic problems and facing growing labor militancy, the owners of Serious Energy decided to transfer ownership directly to workers, giving workers time to raise the capital necessary to purchase factory equipment. But finding secure capital to purchase factory equipment was not an easy task for workers, confirming a Federation of Protestant Welfare Agencies (FPWA) report in 2015, which concluded that worker cooperatives typically face financing troubles because of "lack of financials to support the loan application, insufficient collateral, and the requirement of a personal guarantee" (Jaffe 2015). However, a nonprofit organization that provides investment capital to worker cooperatives (The Working World) emerged at the critical moment and provided Republic Windows workers with the entire capital package needed ($665,000) to purchase the equipment and to convert their company into a worker cooperative (Jaffe 2015; Lydersen 2013a; Ranis 2016).

To cut the cost of operation, workers relocated to a smaller place and restarted their business as the New Era Windows Cooperative in May 2013 (Lydersen 2013b; Ranis 2016: 115). The reason for the downsizing of the worker cooperative was that the majority of workers who were workers at Republic Windows left when the company closed the doors on them—most of them felt they had to search for new jobs immediately. Also, the majority of workers
were rather skeptical about a worker cooperative because the majority did not have any knowledge regarding how worker cooperatives operated or how a cooperative might be in the economic interests of workers (Martin 2014). Initially, 25 workers were committed to the worker cooperative, paying their buy-in fee of $2,000. But by the time that the company reopened, there were only 16 worker–owners and one associate member who had seen the vision through to completion (Martin 2014).

While New Era Windows didn't generate profits for the first two years, its annual gross revenue grew to $500,000 in 2014 and doubled to $1 million in 2015, with 23 cooperative members and two staff (van Gelder 2015, 2017; also http://bit.ly/2GIj0k8). In 2016, the New Era Windows Cooperative also received a settlement of $295,000 from a bankruptcy court, which found that Republic Windows failed to negotiate with the union over the closing of the factory in 2008. As a result, workers received two weeks of back pay (Lydersen 2016; Ranis 2016).

This financial payout, together with healthy and growing annual revenues, has allowed New Era Windows to survive as a worker cooperative, with a horizontal governing structure in which workers run the entire business by themselves without outside owners or management directing operations in any way. Helping this model succeed, the UE union has been an important ally in developing and sustaining this worker cooperative. The workers at New Era Windows retained their union membership with UE and established a union contract that “covers work rules, grievances, and mediation in case of conflict” (Jaffe 2015). At the same time, UE is responsible for educating and training workers regarding business operations, leadership strategies, and business marketing techniques such as various social media strategies (Fried 2014).

**Direct Action and Total Participation by Workers Not Owners**

Novkovic, Prokopowicz, and Stocki make a case for “the application of the total participation approach,” which is defined as the idea that “individuals decide to participate in the life of an organization of their own will and that they act for a common goal” (2012: 8; see also Stocki, Prokopowicz, and Zmuda 2010; Zamagni and Zamagni 2010). This total participation approach well summarizes the strategy of New Era Windows workers, where co-op members “actively engaged in the processes, structures and strategy of their organizations” (Novkovic, Prokopowicz, and Stocki 2012: 8–9) and demonstrated a commitment to “labour as action” rather than “labour as toil” (Novkovic, Prokopowicz, and Stocki 2012: 8). This emphasis on the total participation of workers in sustaining an effective worker cooperative is echoed in the study by Kruse and Blasi, which finds that “employee attitudes are better under employee ownership only if perceived worker influence or participation in decisions is higher” (1997: 129).
The unionized worker–owners of New Era Windows remain represented by UE, which has been “democratized to become more responsive to the needs of the rank and file and [which is] less prone to be incorporated by the employers with whom they negotiate” (DeMartino 2000: 32). Whereas typical American unions have been mostly run by professional staff, and therefore worker ownership campaigns have often not been well supported by union leadership (Early 2008; Tillman and Cummings 1999), the UE has maintained “rank-and-file unionism” to ensure that members run their union, set all the policies of the union, and make all decisions at the local level. The UE was actually one of the first members of the Congress for Industrial Organizations (CIO)—a relatively radical arm of the US labor movement in the 1930s and 1940s, and the UE became the CIO’s third largest affiliate, with 500,000 members (Early 2008: 33; Wright 2014: 206). However, the UE was expelled from the CIO in 1949 owing to its union radicalism.

Although the UE has faced substantial declines in membership in the past few decades, especially severe from the loss of manufacturing jobs in the 1970s and the 1980s, it has continued to maintain its radicalism and its commitment to rank-and-file leadership as the key to organizing. Upchurch, Croucher, and Flynn argue that the problem of many labor unions in the era of neoliberal globalization lies in their “unwillingness, hesitation, or limited commitment” to “mount attacks and fight back, combined with rank-and-file workers’ lack of confidence to act independently” (2012: 91).

However, UE’s case is different because it has consistently emphasized a bottom-up organizing strategy to develop working-class consciousness of all workers. UE members are the ones who select “local officers, stewards, negotiators, and delegates to national conventions” and they also choose “when to strike and to end a strike, when to accept a contract, and what terms to demand and how to use local dues” (Wright 2014: 206).

Richard Bensinger, director of the AFL-CIO Organizing Institute, describes the importance of such rank-and-file leadership in bringing a more comprehensive movement philosophy to the union world: “We need more staff, and unions need to hire more organizers. But I think unless the fight is owned by the membership, and unless union leaders give ownership to the membership, it won’t succeed” (cited in Robinson 2002: 125). This call to action is what Moody calls a “rank-and-file strategy,” which argues that organizers should orient themselves toward mobilizing the strata of worker activists at the base of unions, who are the most engaged in shop-floor militancy and resistance to management, rather than “attempt to gain influence by sidling up to the incumbent bureaucracy or its alleged progressive wing” (2014: 115; see also Early 2009: 241).
It is natural that large labor unions, over time, form “hierarchical and bureaucratic structure with their own specialized personnel” and that this structure provides union officials with “authority and power over the rank and file” (Darlington and Upchurch 2012: 83). But this kind of structure tends to isolate union leaders from the rank-and-file base and, thus, labor unions fall into the trap of being bureaucratic organizations with enervated organizing initiatives because they see themselves only as a business agent that provides members various services in return for membership fees.

In workplace takeovers like New Era Windows, however, rank-and-file workers and their union representatives have turned away from such tendencies toward “business unionism” and instead have built up a culture of leadership development and mobilization of workers. In a personal interview, UE Local 1000 organizer Leah Fried (2014) reflects the view that

this plant takeover could happen because leadership of workers was already in place, even before taking over the plant. I am doubtful if this kind of worker takeover would happen to other unions unless there is strong worker leadership coming from the bottom. Having a rank-and-file culture within the union is critical in making this kind of worker takeover possible.

In short, the New Era Windows Cooperative is an example of how strong rank-and-file leadership by co-op members, demonstrating strong “worker consciousness” (rather than simple pursuit of an “owner’s” equity gains), and in partnership with a similarly radicalized and class-conscious labor union like UE, can foster a radicalized union—cooperative organization.

**Political Congruence**

Upchurch, Croucher, and Flynn argue that political congruence is “shared political values and vision … similar values, norms, and expectations,” which are vital in order to achieve “trade union renewal” (2012: 865). The collaboration between the UE and New Era Windows has shown just this sort of strong political congruence, evidencing a strong commitment to broader social change goals. When the unionized workers of New Era Windows took to the factory floor and forged a new model of unionized worker ownership, they weren’t just substituting one group of owners for another. When workers launched a six-day strike to occupy the factory, UE tied the issue of the economic crisis and the very expensive bank bailout to the challenge of closing of the local window factory in order to create a broader sense of community outrage and political protest—not only against the individual owner of Republic Windows and Doors, but also against larger systemic problem. Six-day worker strikes occurred around the same time that large banks received the $700 billion federal bailout of the Wall Street, in which Bank of America received $25 billion in taxpayer funds. Because Bank of America refused to renew loans to Republic
Windows, which contributed to an abrupt closing, workers could mobilize broader protests under the slogan of “you got bailed out, we got sold out” (United Electrical, Radio and Machine Workers of America 2016). As a result of massive public protests, Bank of America eventually agreed to pay a $1.75 million settlement to the UE, and workers received the payment of lost wages and $6,000 each in severance pay (United Electrical, Radio and Machine Workers of America 2016).

In this light, the birth of New Era Windows Cooperative is aligned with the goal of offering the local community a different model of how to run a company with concern for broader social health. The Working World website describes the story as follows.

In many ways, this is not the story of a few workers, but of all of America. The old window factory was closed despite being profitable, its workers sent into unemployment despite their immense potential.

As we watch our once proud workforce dismantled and impoverished by forces and motivations not of their own, we ask if these crises present opportunities. The workers of New Era want to succeed not just for themselves, but for their country, to show that downsizing does not have to be the end of the story, that there is way forward if we take our fate into our own hands. The possibilities that are emerging within the walls of this new factory have potential to flower across the country. (The Working World, no date)

This effort to frame actions as a response to the broader neoliberal globalization contexts is also well matched by the UE union, which has actively engaged in organizing in various regions to transform the condition of workers, not only through collective bargaining but also through “worker control over workplaces, community institutions, and the policies of the federal government itself” (Fields 2017). With this kind of broad social change horizon, the UE union has helped workers to look beyond their own workplace and become active in a broader range of initiatives to “sustain community” across their region—a form of wider-ranging political engagement that addresses community challenges while also enhancing their own cooperative’s success. The president of UE Local 1000, Armando Robles, describes how:

Our workers have been very active with the union for the past four years, and we learned of many social struggles. The option of worker ownership was not available in the beginning. But, when the second owner failed, we thought that we could be our own bosses, and we were ready because we have been receiving so much education for the past four years. (Robles 2014)
Similarly, one worker–leader at New Era Windows describes how worker involvement with broader social and political struggles is necessary to address both the individual challenges of the window factory and larger economic challenges facing the entire community. “There should be governmental help to keep factories open and allow the workers to try to keep their jobs,” says this worker. “When there is no government help, at least there should be social help, community help, anything. The loss to a community is overwhelming when a whole factory closes” (Flanders 2013). Standing with New Era co-op owners against such dangers, the UE union is increasingly proactive about supporting union–cooperative models such as the New Era Windows model. For example, Leah Fried argued that UE passed a resolution at a national convention in 2014, committing the union to fostering more union–cooperative alliances nationwide by helping educate workers, providing mutual support for existing partnerships, and seeking to unionize those cooperatives (Fried 2014).

In this way, militant direct action by rank-and-file workers at New Era Windows Cooperative demonstrates a collective expression of workers’ consciousness that goes beyond the pursuit of income gains by individualistic workers. “It’s not just about profits,” claimed one worker–leader at New Era Windows Cooperative. “It’s about sustaining communities, keeping jobs in places where people need them” (Flanders 2013).

CONCLUSION

The case of New Era Windows union–cooperative alliance illustrates how the current florescence of union–cooperative collaboration may presage a “new direction for the labor movement” (Alperovitz 2012)—an era of union–labor collaboration in which labor unions find common ground with the radical notion of worker control embedded in worker cooperatives. A key factor bringing these two institutions back together is the recent articulation of an increasingly harsh political–economic system in which organized labor unions are finding limited room to secure gains for their members. Confronted by increasingly harsh world of global capitalism, unions and cooperatives are rediscovering their old common principles.

We can predict that some of these emerging union–cooperative alliances will pursue accommodating paths of “business unionism” and “business cooperativism,” but others will pursue paths seeking a broader and more transformational challenge to the extant political–economic order. We can also identify some of the necessary conditions for building union–cooperative alliances with these more radical potentials. Two of these conditions are that worker-cooperative members should identify as workers rather than owners, and a second condition is that both union and co-op members should share politically congruent goals of engaging social movements for broad community change. When union activists stay within the
boundaries of workers’ economic self-interest (business unionism) or when cooperative members display only a “shopkeeper spirit” (business cooperativism), a union–cooperative partnership will be very unlikely to move forward with progressive social movement characteristics.

However, when both organizations build from the foundation that they are both workers’ organizations striving toward better working conditions across the general community and seeking to create workplace democracy and broad social reform, more radical partnerships can emerge. Rob Witherell of USW argues as follows:

Solidarity may sound like an old, foreign word to many in the United States, conjuring up images of old black-and-white photographs during the Great Depression of the 1930s. But solidarity means supporting each other, helping each other. It may be an ancient idea, but it is one that is critical to achieving a better future. (2013: 267)

Regardless of such high hopes for labor solidarity, it must be admitted that the economic scale and impact of unionized worker cooperatives today remain very small. Even as worker cooperatives blossom across the globe, with a model of decentralized, small-scale employee ownership that responds well to the growth of the precariat in the increasingly informal global economy, these small businesses still lack mass numbers, organizational power, and—most important—adequate access to capital resources to finance worker-owned cooperatives. As the case of New Era Windows shows, however, unions can play a critical role in solidifying community support, developing worker leadership, negotiating with banks for financing, or providing financing of their own (Flanders 2012).

Uniting labor union political, technical, and financial muscle with the grassroots innovations and growing membership numbers of worker cooperatives is the kind of partnership that some call broad-minded “social unionism” or “stakeholder unionism” (Biyanwila 2008; Clawson 2003; DeMartino 2004; Lambert 2002; Moody 1997; Waterman 2005) in which labor activists do not restrict themselves to struggles to involving workers at specific worksites. Instead, labor activists conceive of themselves as a broader alliance of people committed to similar economic and social goals, including both union members and circles of co-op owners and members of the broader community as well.

As these new and more inclusive forms of social movement unionism emerge, in response to the profound challenges of the neoliberal global era, we may be witnessing a revitalized labor movement through new alliances between unions and worker cooperatives. Although these alliances may take significant time to bring scale and to impact the broader economy, the potential is real. What we are witnessing are serious efforts for unions and worker cooperatives
to rediscover their common roots in shared commitments, and the enhanced power of each through alliance. In realizing the full potential of such alliances, however, it is vital to get the first principles right: workers—not owners; broad political horizons—not business unionism.

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**Kyoung-Hee Yu** focuses her research on how work and employment experiences are impacted by and can motivate institutional and organizational change. Her recent research has examined the influence of commitments to social causes—such as social and environmental justice—on the employment relationship. Her research also addresses the impact of international migration on individual migrants and collective action, as well as implications for diversity and inclusion in organizations. Yu is the recipient of a US–Korea Fulbright Fellowship. She served as book review editor and editorial board member of...
the journal *Organization Studies* and is currently on the advisory board of the *Journal of Industrial Relations*. Her papers have been recognized by the American Sociological Association (Best Student Paper, Labor and Labor Movements Section), the Labor and Employment Relations Association (Best Dissertation Award Runner-Up), the Academy of Management (Best Paper Runner-Up, Careers Division), and the Australian and New Zealand Academy of Management (Best Paper, Critical Management Studies Division).
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