SHAPING THE FUTURE OF WORK: CHALLENGES AND OPPORTUNITIES FOR U.S. LABOR MANAGEMENT RELATIONS AND WORKPLACE DISPUTE RESOLUTION∗

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The fundamental tasks of a labor management relations system are to provide workers an effective voice in shaping their terms and conditions of employment, to support and enhance productivity and efficiency of employers and the overall economy, and to provide equitable and efficient resolution to workplace problems and disputes. At the macro level of society, an effective labor-management system plays an essential role in fostering and sustaining a healthy democracy, one in which the voice of the workforce is heard and business, labor, government, and other civic group leaders engage in respectful discourse on the key political and society challenges facing communities, the nation, and the world.

On all these accounts, the American labor management relations system is failing. Union membership has declined from its peak of 35% in 1945 to 10.5% in 2018 and to 6.4% in the private sector.1 Unions have less than a 10% chance of achieving a collective bargaining agreement if management strongly resists their organizing efforts.2 The implicit social contract that generated tandem improvements in compensation and productivity between the end of World War II and the mid-1970s broke down in the 1980s resulting in a persistent productivity-compensation gap, rising income inequality, and a decline

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in the share of national income going to labor. The decline in collective bargaining coverage has produced a parallel decline in coverage of dispute resolution systems that meet accepted standards of due process while lower quality mandatory arbitration systems imposed, designed, and administered by employers have grown to cover just over half of those employed in non-union employment relationships. Despite at least three attempts (1977-78; 1994-95; 2008-09), efforts to update labor law to deal with its demonstrated problems have failed. Today, in contrast to a prior era when labor was a more powerful force, there is little positive engagement of worker representatives with business leaders and labor has lost a great deal of its influence in political affairs.

Now comes another challenge: How to adapt to advancing technologies that are likely to have profound effects on work practices and structures that are core features of the U.S. labor management system. While there is not yet a consensus on the specific effects technology will have on the future of work, this issue is gaining enormous attention from the media as well as from technology, work, management, and labor experts today. And there is general agreement that the effects are likely to be substantial and widespread.

Given these stark realities, I, along with an increasing number of other labor policy researchers, believe it is time to propose fundamental, not incremental, changes in the policies, institutions, processes, and relationships governing labor management relations in particular and employment relations more generally. In discussing this challenge I often call for business, labor, government, and education leaders to work together to build a new social contract governing work and employment relations. In this paper I want to build on this theme and to begin a dialogue with my fellow professionals in the dispute resolution community about our obligations to face these realities, be


5 See for example the work of a large number of labor law/policy scholars working on the “Clean Slate” project sponsored by the Center for Labor and Work Life at the Harvard Law School. https://lwp.law.harvard.edu/clean-slate-project.

informed about them, and to adapt our roles in ways that might contribute to a new social contract.

The good news is that despite this evident decline, there are signs that American workers have not lost their interest in gaining a meaningful voice at work or in having access to worker representation and fair procedures for resolving disputes. Indeed, if recent actions and research findings are an indication, American workers may be well ahead of existing labor law and institutions in identifying the types of voice they want and need to have to help build a new social contract governing work of the future. I will draw on this evidence later in this essay. But first I want to propose a framework for taking a proactive approach in addressing how advancing digital technologies are changing work today, and will do so even more in the future.

I. REFRAMING THE DEBATES ABOUT TECHNOLOGY AND WORK OF THE FUTURE

Not a day goes by without some pundits making wild predictions about how advancing technologies—robotics, artificial intelligence, machine learning, big data, etc.—will transform work as we know it. Some fear a robot apocalypse that will eat up all jobs, leaving mass unemployment in its wake. Others are techno optimists and see a future where advancing technologies will create more new jobs than they eliminate.

There is no question that technologies of the future will, as have technologies of the past, eliminate some jobs and create new ones. But trying to predict which effect will dominate is not worth the effort. A recent Pew survey of technology experts found 52% believed new technologies will create more jobs than they destroy; 48% said the opposite.7 So even the experts do no better than flipping a coin.

There is, however, growing recognition that perhaps the biggest effects of future technologies (like those of the past) will be to change how people work: i.e., it will change what job design specialists call the tasks that make up jobs and then are combined to determine how individuals and groups or teams combine tasks into work systems. If true, this has profound implications for labor management relations since it strikes right at the heart of how the rules governing jobs will

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be pressured to change, a process that will provoke considerable workplace tension and conflict and, if handled well, innovations that can generate improvements in productivity and job quality.

For example, a detailed study of the task structures of occupations carried out by the McKinsey Global Research Institute concluded that while less than 5% of current occupations are likely to disappear in the next decade, about 30% of the tasks affecting 60% of current occupations are likely to either be eliminated or change significantly.\(^8\)

To date robotics and other digital technologies have had their biggest effects on mostly routine tasks\(^9\) and often those that are most dangerous, dirty, or hard for humans to do. But advances in artificial intelligence and machine learning will likely expand the array of tasks and occupations affected in the future.

While it may be unsettling for some, taking this task-based approach has two advantages. First, it lays bare some of the profound potential effects changing technologies could have on labor management relations and therefore offers an opportunity to be proactive in managing the change process. Those who design new technologies have an array of choices over how to reconfigure not just what tasks are absorbed by technology and what tasks are done by humans, but also how these tasks might be reallocated to different people within a work system. For example, the availability of and shared access to electronic medical records and big medical data repositories open up a range of options for reallocating tasks among physicians, nurse practitioners, nurses, medical assistants and community health care providers in ways that transform health care delivery and change job boundaries and responsibilities in ways that can cut across different bargaining units, represented and non-represented employees, and create entirely new jobs such as “community navigators.” Similar examples are likely to play out in a wide array of industry settings, requiring flexibility in conceiving how work can be restructured while dealing with interrelated compensation, training, and associated issues. Second, this approach illustrates that there is no deterministic path or outcome of technological

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change. Instead, it—and the changes in work and job responsibilities—can be shaped by the people who design, implement, and use advancing technologies. A key issue, therefore, becomes who makes these decisions?

II. A COMPREHENSIVE TECHNOLOGY STRATEGY

If advancing technologies will eliminate some jobs, create others, and change how many if not most people work, a comprehensive strategy for managing these changes has to address all three effects. Moreover, if as suggested above, these effects can be shaped by those who design and implement new technology, the obvious question for labor management relations and employment policy is how should worker and employer representatives responsible for structuring work participate in making these key decisions? Today most of the critical decisions are left to technologists, vendors, and employers and, consistent with labor management norms and labor law, workers and their representatives only have rights to negotiate over the impacts of these decisions on terms and conditions of employment after the critical choices are made. This will need to change if there is any hope of using technological innovations to improve rather than further erode the U.S. labor management relations and employment relations systems. I propose a four-part strategy outlined in Figure 1 to take up this challenge.

A. Defining the Problems Technologies Are Expected to Solve

The standard economic view of technology is that it is labor saving. That is, employers will invest in new technologies to substitute for human labor in an effort to raise productivity through lower labor costs. If left to employer agents alone, this will be the dominant objective driving technology designers. But this is not the only function advancing technologies can serve and could serve if a broader set of voices participate in defining how technology can be used to solve big (and small) problems facing society.

Consider, for example, that one of the most visible illustrations of the current wave of technological change is the quest to build autonomous vehicles, i.e., driverless cars. Auto firms and Silicon Valley firms are competing to be the first to achieve this objective. But one could ask: Why is this the central objective? Wouldn’t society be better off asking the broader question of how can advancing vision, learning, and related technologies be used to create safer, more efficient, and more accessible
transportation systems? Indeed, some of the leading experts on vehicle technology are now asking that question and raising considerable doubts about the likelihood of eliminating human control of driving altogether. Another tragic example, the deadly crashes of two redesigned Boeing 737 Max aircraft, should serve as a reminder that decisions about how much control of critical tasks should be allocated to technology and how much allocated to human judgement and control should not be left solely to the firms developing the technologies.10 In this particular case, pilots might have been able to, as a Japanese phrase notes, “…give wisdom to the machines,” that is, to offer the wisdom of their experience for how to best design this technology-human interface and control process. Indeed, there are reports that pilots did protest the design and lack of information about it after the first crash—far too late in the design, build, and implementation sequence.11 Thus a first element of a comprehensive technology and work strategy should be to ensure that the full range of societal stakeholders that will be affected have a voice in making or at least in carefully reviewing the design choices made by technologists.

B. Technology and Work Design Processes

Both the electronic medical records and the aircraft examples noted above illustrate that a second element in a comprehensive strategy for managing technological change lies in linking the design of new technologies and the design of work systems—to consider new ways of performing the tasks people do individually and together in groups or teams as part of the technology design process. This approach has been shown to produce better results than the more typical sequential strategy of designing technology and then asking what to do about the jobs and the workforce affected.12

Auto industry manufacturers learned this when they began implementing lean production technology and work systems decades

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ago. Toyota did it right by taking an integrated approach to introducing robotics into their assembly lines, training the workforce to help track and analyze ways to use the technology to continuously improve operations, and implementing flexible job designs and team-based work systems that drove incremental improvements and innovations. In doing so Toyota achieved productivity and quality outcomes double those of companies like GM that invested heavily in stand-alone automation before it began to change its work systems.\textsuperscript{13} Similar results have been found in IT: companies that integrated introduction of IT with work system innovations outperformed those that adopted IT or new work systems as stand-alone innovations.\textsuperscript{14} More recently Kaiser Permanente and others in health care learned the same lesson in introducing electronic medical records (EMR) technologies.\textsuperscript{15} The best patient outcomes were achieved when they involved nurses, medical assistants and their unions in implementing EMR systems and retrained those displaced to take other jobs that were available to them.

Integrating technology and work design processes in this way requires significant change in the typical way technology decisions and designs and workforce issues are decided today. Consider the two different design and implementation processes illustrated in Figure 2. Today sequential design processes reign. That is, new technology is purchased or designed and then the human resource (HR) and labor relations (LR) staff are asked to deal with how the new technologies will be deployed, to make sure the workforce has the skills needed to make the technology work, and to deal with those who are no longer needed. In US labor relations, it is only at this later stage of the process that mandatory issues of bargaining come into play, \textit{i.e.}, the


requirement to deal with the effects of changes in technology on wages and working conditions. This approach dominates not just because of labor law but also because most human resource and labor relations professionals and labor union representatives lack the technical expertise or power to engage in the design process. Similarly, few engineers and technology designers have knowledge of work processes nor are they held accountable for the consequences of their design decisions on the workforce. Workers, the ultimate users of the new technologies, lack the power to assert their voices and interests until well after the critical choices are made, if at all.

An integrated strategy would join the technology and work design processes so that employees who know best the tasks critical to getting the work done can inform the technologists who know the various ways the technology can be designed or adapted to support the work humans do. Early involvement of lead users also encourages ongoing innovations as those working with the technologies find new uses and applications of the tools generated that the initial designers can’t anticipate. This approach is now gaining momentum as organizations turn to what some call user led or crowd sourced or human-based software and related AI innovations. But taking this approach remains the exception rather than the norm in most settings. Turning it into the norm will require shifts in the relative power, status, and knowledge of both the HR and LR management professionals and the workforce itself. This leads to a third key element in a comprehensive technology and work strategy.

C. Continuous Training

If “workers (and HR, LR, and union staff) are to give wisdom to the machines” they must have sufficient technical literacy and problem-solving skills to add value to these design processes. So too will the workforce itself. The key is to invest in continuous training to prepare for new technologies before new technologies appear at the workplace door. Moreover, training needs to focus on building so-called hybrid technical (i.e., science, math, and engineering) and behavioral (i.e., problem solving, communications, negotiations, and leadership) skills. These hybrid skills are in high demand because they are critical to

putting the technologies to productive uses in specific industry and organizational contexts.\textsuperscript{17} Unfortunately, the amount private sector firms spent on training from 2001 to 2009 appears to have declined, especially in large firms.\textsuperscript{18} While anecdotal data suggest this trend may be reversing, it is clear that there will need to be massive increases in both public and private sector investments in workforce training. This is an area where labor management relations has a solid foundation to build on. Unions have historically been the largest sponsor of apprenticeships and jointly funded (through collective bargaining) and administered training programs, although this too may be changing. A variety of non-profit groups are working with union and nonunion firms and vocational educational schools and community colleges to expand and modernize apprenticeship training so as to provide workers the technical and the social/behavioral skills employers are calling for. Expanding apprenticeship programs and other joint labor management training programs will need to continue to be a high priority in the years ahead.

D. Comprehensive Adjustment Strategies for Those Displaced

Because some workers will be displaced, a fourth element of a comprehensive technology strategy involves assisting displaced workers to find new jobs and compensating those unable to do so. Failure to treat these workers equitably will deepen and widen the gaps that have grown in recent years between the winners and losers from changes in the economy. The U.S. ranks near the bottom of OECD countries in the percentage of GDP spent on labor market adjustment policies. Thus, the public sector will also need to substantially strengthen workforce adjustment policies and increase income supports for workers whose jobs and incomes are most adversely affected by technological displacement.

III. BEYOND TECHNOLOGY

While the popular rhetoric is fixated on these technological challenges, it is also important to recognize that other factors will change work of


the future, many of which have been taking a toll on our labor management relations system for a long time. Reviewing all of these forces is beyond the scope of this paper. Instead let me focus on one positive development: Workers themselves are becoming increasingly clear that they want a voice in shaping work of the future.

IV. WHAT DO WORKERS WANT?

We have explored the question of worker expectations and views of the current state of voice at work in two national workforce surveys. The first survey measured the extent to which there is a gap between the amount of say or influence workers experience on their jobs compared to their expectations for the amount of say or influence they believe they ought to have. We call this the “voice gap.” We felt it was time to take stock of this question since it had not been the subject of a national survey for several decades and because the issues of concern in today’s workplace have changed considerably over this time period. So too have the strategies offered by firms, unions, and emerging forms of worker advocacy. Here is what we learned.

Figure 3 reports the extent to which there is a voice gap (the percentage of workers who report having less influence than they believe they ought to have) across a broad array of issues relevant to today’s workforce. A majority of American workers report a voice gap on benefits, compensation, promotions, job security, respect, protection against abuse, the role of new technologies. Between one-third and 50% report a voice gap on other important issues such as their employers’ values, training, discrimination, the quality of their organization’s products or services, safety, how workplace problems or conflicts are resolved, and so on. In short there is a significant voice gap present in American workplaces.

Figure 4 reports workforce use of various options for addressing these issues. We specifically included options that organizations might make available within the firm and options offered by independent agents such as unions and other worker advocacy groups. The results

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are rather sobering. Not surprisingly, the first avenues the majority of workers turn to when they have problems are their supervisors and co-workers. But then there is a big falloff in the percentage of workers who use other options either provided by their employer or by independent agents. Less than 20% have turned to joint committees, unions, grievance procedures, occupational associations, ombuds systems, demographic groups such as women’s or minority group caucuses, petitions, protests, or strikes. This list aimed to capture both internal processes that some firms have developed (joint committees, ombuds systems, demographic groups, etc.) and services offered by unions such as grievance procedures or strikes and by some of the emerging worker advocacy groups such as assistance in filing petitions, protests, online ratings of employers. Further analysis found there is, at best, moderate levels of satisfaction among those who have used these various options. Clearly, there is a long way to go in providing large numbers of workers with effective options for having a voice at work on the issues of greatest concern to their futures.

A. What About Unions?

Given the long-term decline in union representation in the U.S., an obvious question is do workers still see unions as relevant? We replicated a question that was asked in national surveys in the 1970s and 1990s, namely, if a union election was held on your job would you vote yes or no? The results are displayed in Figure 5. There is a large increase in the percentage of nonunion workers who would vote to join a union if given the opportunity today. In the 1970s and 1990s one third of the nonunion workforce indicated they would vote to join a union; in 2017 that percentage increased to 48% of the nonunion workforce (83% of current union members would vote to retain their union membership). Combining the responses of union and nonunion workers, this means that over half of the workforce would prefer to have union representation on their jobs today. This indicates that not only is there a sizable voice gap in today’s workforce, there is a very sizable representation gap as well.

This increased interest in unions led us to ask a further question in a second national survey: What forms of worker representation are most attractive to the workforce? To address this question we used a survey design that allows us to estimate the relative weights workers assign to different attributes of organizations that might represent them. We chose the attributes to reflect the range of ideas now either in debate
or that are in effect, ranging from collective bargaining over wages, hours, and working conditions, to provision of individual services such as health insurance, retirement savings, training, and legal services, to expanded roles for workers in organizational decision-making at the workplace up through company boards of directors. We also asked about the role of strikes and political activities of unions.

Figure 6 displays the basic results. We draw four conclusions from the choices respondents made among the different organizational forms and strategies: (1) there remains strong support for collective bargaining; (2) there is equally strong support for organizations that provide a range of labor market services (health care, retirement, training, etc.) to individuals; (3) there is support for expanding the roles workers play in organizational decision making from participation in informal processes to improve their work and operations to organization-wide committees or councils to representation on company boards; and (4) strikes and political endorsements reduce the attractiveness of organizations that seek to represent the workforce. Further analysis of these data indicate that the highest levels of endorsement are given to organizations that provide a combination of collective bargaining, individual labor market services, and roles in organizational decision-making. These results suggest that the American workforce does not want to choose between existing unions that focus on collective bargaining and the various emerging forms of worker advocacy that focus on providing services. Significant numbers also value informal participation processes offered by employers. Thus, today’s workforce wants to go beyond existing labor law to have a wider range of options for gaining a voice at work and more robust roles in advising and sharing decision-making with their employers.

B. Beyond the Surveys: Workers in Action

While these survey data may be instructive, it is becoming apparent that workers are beginning to demonstrate their determination to exercise their voices and assert their interests more emphatically today than at any time in recent memory.

Statewide actions by teachers from West Virginia, Oklahoma, Kentucky, Colorado, and Arizona and by teachers in the city of Los Angeles suggest that the strike is still a potentially powerful instrument for both voicing workers’ concerns and getting results, particularly if
combined with a narrative and set of demands that resonate with the public.\textsuperscript{20} The term “bargaining for the common good” captures the essence of many of these strikes. That is, the teachers’ list of demands included but were not limited to improvements in wages. They also called for increased budgets for student services and broader support for public education.

A number of recent protests have also challenged norms and legal doctrines governing labor management relations. For example, the 2014 strike of 25,000 nonunion managers, clerks, truck drivers, and warehouse workers at the New England grocery chain Market Basket focused on the demand to reinstate the CEO the company’s board had fired because the board felt the CEO was sharing too much of the profits of the firm with employees rather than returning them to the family shareholders.\textsuperscript{21} The workers acted oblivious to a number of well-established labor law doctrines and processes. For example, there was no union recognition process; no bargaining unit determination; supervisors and managers participated (in fact led) the strike; and the central issue in dispute arguably would not have been deemed a mandatory subject of bargaining. And, like the teachers, the workers appealed to and gained strong support from customers who boycotted Market Basket stores during the strike while being vocal about their desire to return if the company met the employees’ key demand. Customers understood that the workers were fighting to save Market Basket—a firm that not only had historically provided good jobs but also low prices and high quality services. The customers stood firm with the workforce in support of these objectives and, after a six-week strike, the CEO was reinstated (he bought out the other family members’ shares) and the employees and customers returned.

In November 2018, Google professionals and managers staged a one-day walkout to protest a range of company practices, again without paying heed to the particulars of existing labor law (in the U.S. or other countries).\textsuperscript{22} The dispute was triggered by the discovery


that Google had paid large severance packages to several high-level executives accused of sexual harassment. The list of demands included calls for strengthening the company’s policies on harassment and elevating the role of the Chief Diversity Officer. But these nonunion professionals and managers also demanded an end to forced arbitration for discrimination disputes for both regular Google employees and contract workers, greater transparency in pay setting to judge equities across gender lines, and representation on the company’s board of directors. Like the Market Basket example, both the range of participants and the range of issues extended far beyond the protections provided under the National Labor Relations Act.

The same pattern characterizes worker actions at companies like InstaCart\(^{23}\) and Uber.\(^{24}\) In both cases a mix of nonunion regular employees and contractors staged protests to change compensation systems they deemed unfair. In the InstaCart case the protest, supported by petitions and threats of class action law suits, focused on a change in how tips were divided between the company and the drivers/shoppers. In the Uber case, the protest coincided with the initial public offering (IPO) of Uber stock and again raised the issue of whether drivers were sharing fairly in the revenue they help generate. Apparently, the General Counsel of the National Labor Relations Board didn’t get this message. In May 2019 he issued an opinion letter suggesting that Uber drivers were independent contractors excluded from coverage under U.S. labor law.\(^{25}\)

These direct actions by unorganized workers, professionals, and managers reinforce the findings in the surveys: American workers are out ahead of current labor law, current labor organizing models, and current labor management relations practices.


V. IMPLICATIONS FOR THE U.S. LABOR MANAGEMENT RELATIONS SYSTEM

Taken together, changing technologies and the growing demands of workers for a greater voice at work suggest that fundamental, not incremental, changes in labor policies are needed. These changes might be grouped into three interrelated categories: (1) more and better options for voice and representation are needed, (2) the scope of issues open to joint discussion, negotiations, and resolution need to be expanded, and (3) the range of workers included under and protected by labor and employment laws needs to be expanded.

A. No One-Sized Shoe Fits All: Expand the Available Options for Worker Voice and Representation

In 1935, through passage of the National Labor Relations Act, the Congress and the President enshrined collective bargaining as the centerpiece process for giving workers a collective voice at work. Over the years, the doctrines and norms built up in collective bargaining essentially made this an all or nothing arrangement: Either a majority of workers in a specified bargaining unit gained the right to collective bargaining and therefore they had a voice in determining wages, hours, and working conditions, or none of the workers in that particular unit got a voice. Today, this system is not only nearly impossible for workers to access if management resists, workers are calling for more flexible and varied forms of voice and representation. Thus, the forms of worker voice and representation protected under labor law need to be expanded to allow for the different participation and representation options workers want today, including informal participation in workplace activities, organization-wide committees or works councils, and representation on company boards or other means of participating in strategic decision-making.

In past labor law reform debates unions lined up in favor of fixing the problems that limited worker access to collective bargaining and opposed informal, management-led participation processes. Employers lined up on the opposite side of both issues. Neither group showed interest in alternative voice arrangements such as board representation or enterprise-wide works councils or representational processes involving the full workforce. To date this political impasse has proven to be unbreakable. If the evidence from our surveys and the direct actions of workers today are indications, workers are out ahead of both employers and unions. They do not want to choose between the
entrenched positions of labor or business. They want to have access
to collective bargaining and informal participation processes as well
as more individual career services and a voice in the governance
processes of the firms that employ them.

This suggests that unions and worker advocacy organizations need
to coalesce and work together to expand the array of services unions
provide and to provide opportunities to negotiate with employers on
the range of issues of concern at the firm and perhaps at the regional
or sectoral levels of the economy. Employers in turn need to get over
their knee-jerk opposition to any expansion of voice and representation
options. And perhaps to break the business-labor induced political
impasse, new voices need to be brought to bear in debates over the
future of labor law and policy.

B. Expand the Scope of Issues Discussed

The distinction between mandatory and non-mandatory subjects
open to bargaining/negotiations needs to be abandoned. If gaining a
voice in the early stage design decisions is critical both to workers’
jobs and to the success of the new technologies, legal constraints should
be lifted so workers and their representatives have the information and
access needed to participate and add value to these early stage processes.
Indeed, some parties have broken through the mandatory/non-mandatory
barrier on technology issues. In 2018 and 2019, UNITE-HERE and
various hotel chains negotiated agreements that address the elements of
the comprehensive technology strategy listed in Figure 1: (1) advance
notice of technological changes and rights to discuss the design and
implementation processes, (2) enhanced workforce training, and
(3) stronger adjustment and income supports for those adversely
affected by new technologies. 26 Whether these negotiations set a
pattern for others to come remains to be seen. 27 I expect these types of
issues will arise with increasing frequency in negotiations and arbitration
cases

26 Katie Johnston, “Progressive Marriott Union Contract Could Have Ripple Effects,” The
progressive-marriott-union-contract-could-have-ripple-effects/VljiCqd8IKev9R7OaFRSGJ/
story.html.
27 Jonathan Vanian, “How Unions are Pushing Back Against the Rise of Workplace
Technologies,” Fortune, April 30, 2019 http://fortune.com/longform/unions-workplace-
technology/.
C. Expand the Range of Workers Covered by Labor and Employment Laws

Supervisors and managers need to be provided the same rights as non-supervisory employees to exercise voice on issues of concern to them without fear of retaliation. So do the small but growing number of workers in the so-called gig economy who are often treated as independent contractors exempt from labor and most other employment laws.

Rules regarding unit determination that draw sharp separations across occupations need to be reconsidered, especially as job structures will continue to change as technologies blur distinctions between jobs and as new jobs are created that don’t fit comfortably within existing rules governing bargaining units and/or existing rules governing which organization(s) are deemed to be the responsible employer(s).

VI. IMPLICATIONS FOR DISPUTE RESOLUTION AND DISPUTE RESOLVERS

Finally, it is appropriate to discuss what these developments imply for the future of dispute resolution and for the professional arbitrators, mediators, facilitators, and consultants who are active in resolving workplace disputes.

If the range of issues of concern at work today and in the future is expanding, so too must the understanding of those who seek to help resolve workplace problems and conflicts. The clearest example is changing technology. Changes in the task structures of jobs and who performs these different tasks are likely to give rise to a growing number of workplace disputes involving workers represented by different unions and/or nonunion employees or contractors. Does management have the right to assign new work to vendors or outside contractors or to individuals in a different bargaining unit? If the unionized system is considerably more constraining in making these choices one can expect employers to look more aggressively for non-union opportunities to do this work. This is another reason why the clear lines of demarcation across jobs, union jurisdictions, and union/non-union status need to be revisited. I expect these types of issues will arise with increasing frequency in negotiations and arbitration cases.

Given the increased visibility and sensitivity to how harassment and discrimination claims are resolved, it is time to once again revisit whether it is possible to reclaim the bad name employment arbitration
has earned. Thanks to the protests of Google employees, the term “forced arbitration” has now become part of the public discourse. Google did agree to end forced arbitration for discrimination and harassment disputes but kept that system intact for disputes involving other employment issues. While several other high technology firms followed Google’s lead, arbitration systems that require employees to give up their right to take a legal claim to the court system as individuals or via class actions continue to be widespread. I believe it is time to return to the debates started in the 1990s in the Dunlop Commission about how to design an integrated dispute resolution system for resolving legal violations that incorporate the due process standards of union-management arbitration and that do not cut off access to the courts. \textsuperscript{28} My hope is that dispute resolution professionals—arbitrators, mediators, and others—will join the workforce in calling for fair systems for resolving all workplace disputes.

\textbf{VII. A CALL TO ACTION}

The issues noted here are only meant to illustrate, not exhaust, the range of workplace issues needing new avenues for engaging workers and employers in joint and productive means to shape work of the future. While the focus in this paper has been on the micro-level of engagement—the workplace—achieving the fundamental changes in institutions and policies governing work will require leadership and sustained efforts to reestablish constructive dialogue across interest group lines at all levels of society. This is the task ahead if a new social contract is to be achieved that works for all those who have a stake in work. Let’s get to work to help make it happen!

Figure 1

A Comprehensive Strategy for Technology and Work

1. Define the Challenge: Make Technology Work for All in Society:
   
   *What problems are we trying to solve?*

2. Shift from sequential to an Integrated Technology and Work Design Process:
   
   *“It is workers who give wisdom to the machines”*

3. Train before the technology is deployed:
   
   *Make Lifelong Learning a Reality for All*

4. Compensate those most adversely affected:
   
   *We cannot afford another winners and losers scenario!*

Figure 2

Sequential and Integrated Models of Technology Design and Implementation

Figure 3

*Voice Gap: Percentage of Workers With Less Involvement Than They Want*

Note: Calculated as the share of respondents who, on a given issue, rate higher on how much say they ought to have compared to how much say they actually have.


Figure 4

*Use of Voice Channels*
Figure 5

Interest in Joining a Union

Notes: Each year’s sample excludes self-employed. The 1995 sample also excludes all management occupations.

Sources: Adapted from Kochan et al. (2018). Based on Kochan et al.’s analysis of 1977 Quality of Employment Survey (Quinn and Staines 1979), Worker Representation and Participation Survey (Freeman and Rogers 1999) and 2017 Worker Voice Survey data. Data for 1995 were pulled from Freeman and Rogers (1999, 99).