

Worker Voice, Representation, and Implications for Public Policies*

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Executive Summary

There is growing evidence that shaping work of the future to achieve a more broadly shared prosperity will require rebuilding worker voice and making fundamental changes in American labor and employment policies. As noted in the initial report of our MIT Task Force on Work of the Future:

“...Although we are uncertain precisely what rules should govern worker representation in the United States, we are certain that the nearly ‘voiceless’ model the nation has embraced over the last four decades is out of balance.”¹

The enormous impacts of the COVID-19 virus on work and employment increase the urgency to rethink policies and institutions supporting worker voice at all levels of the economy. Industry and workers/labor representatives are in the throes of the biggest changes in workplace practices, workforce redeployments, and job losses since the Great Depression. The devastating effects of the crisis laid bare the weaknesses in both the safety net governing work and in the policies governing worker voice. American workers need a stronger voice in determining when and under what conditions it is safe to work through the duration of the health crisis and in deciding what changes in workplace practices and policies will make their workplaces and the overall economy more resilient, safe, productive, and equitable in the future. Labor, industry, and government leaders need to work together at national, state, and local levels of the economy to help determine and facilitate the massive changes taking place that will shape work of the future.

Aside from the weaknesses in worker voice made visible by the current crisis, the need to rebalance the rules (policies) governing worker voice and representation arises out of two long term trends and their consequences: (1) the decline of American union membership and bargaining power has been a contributing factor to why American workers have shared little of the economy’s productivity growth over the past four decades, (2) labor law, carried over from the 1930s, provides a more limited form of worker representation than contemporary workers want and need if they are to have a significant voice in the range of decisions affecting their lives and welfare, including decisions about technology.

This paper places the need to rebuild worker voice and representation in the context of a broader challenge to build a new social contract at work capable of better meeting the needs of all the stakeholders—workers, employers and their investors, and the overall economy and society. While the primary focus is on how to better share the benefits achieved through the use of advancing technology we place this issue in the broader set of challenges workers and employers face in rebuilding the economy and shaping work of the future. To do so we draw on evidence from two recent national surveys on worker voice and representation and on the growing number and diverse range of new efforts emerging aimed at rebuilding worker voice both within and outside of the confines of current labor law.

¹ David Autor, David A. Mindell, and Elisabeth B. Reynolds, *The Work of the Future: Shaping Technology and Institutions*. Report of the MIT Task Force on Work of the Future, p. 43. Fall, 2019.
<https://workofthefuture.mit.edu/report/work-future>

Survey 1 produced two key findings: (1) a majority of American workers report experiencing less influence than they believe they ought to have on a wide range of workplace issues, including compensation, job security, promotions, respect and harassment, and technology, and (2) a near majority (48%) of non-union workers would join a union if given the opportunity to do so, up from about one third of the workforce in prior decades. Survey 2 followed up the first survey's results to better identify the *forms* of worker representation the workforce would prefer to join and support by paying dues. The results show strong support for collective bargaining both at the firm and industry level but also for organizations that provide a range of labor market services and broader roles in organizational decision making and governance (i.e., participation workplace improvement processes, organization wide advisory committees, and employee representation on company boards).

Consistent with these survey results, recent years have witnessed an increasing number of workers taking direct actions to achieve a stronger voice at work both within existing unions and collective bargaining relationships and in groups and organizations experimenting with new approaches, some of which go beyond the structures and processes protected under current labor law.

The central conclusion we draw from these studies and worker actions is that labor policies need to be updated to provide for *multiple forms* of worker voice and representation that can be tailored to better match the features and needs of different industries, occupational groups, and employment relationships. The specific policy changes proposed here include:

- Removing existing legal barriers that deter worker organizing and strengthening penalties for violating labor law.
- Expanding the scope of mandatory issues in collective bargaining to provide workers and their representatives a voice in the design and implementation of new technologies and other critical issues that will shape work of the future.
- Encouraging regional and sectoral forums for worker-employer engagement and bargaining.
- Opening up labor law to allow and encourage a broader range of participation and representation processes including workplace committees, establishment level councils, and worker representation on corporate boards of directors.
- Strengthening protections against retaliation or discrimination for workers engaged in forms of voice and representation that lie outside the coverage of the National Labor Relations Act.
- Supporting Innovative, Collaborative Labor Management Relationships.

These recommendations flow directly from the results of our prior research. The COVID-19 crisis amplifies the urgency of these policy changes and illustrates the need to mobilize the collective resources of industry, labor, and government organizations to work together to address workforce issues. Recommendations for how to do this include:

- Establishing a National Workforce and Industry Council composed of industry, labor, and government leaders to oversee and support workforce redeployment, training, implementation and monitoring of safety practices, and labor market adjustment programs.
- Encouraging equivalent industry and state level councils.
- Ensuring workers in all enterprises have a voice in the implementation of government-supported programs, safety practices, and other changes in working conditions both during this emergency period and as businesses reopen and rebuild the economy.

These changes in policy will only be successful if complemented by supported institutional changes in industry, labor, and educational institutions. Specifically:

- Labor unions and emerging forms of worker advocacy should treat each other's efforts as complements not substitutes for restoring worker voice and representation.
- Industry leaders should apply the Business Roundtable's recent statement on corporate responsibilities to multiple stakeholders by engaging workers and their representatives in technology design and implementation processes and other critical workforce issues.
- Educational institutions such as MIT and others should increase their capacity for research and teaching current and next generation engineers, managers, and the workforce on changes in practices that support high quality jobs and use of advancing technologies to foster innovation and productivity and a more broadly shared prosperity.

Worker Voice, Advancing Technologies, and a New Social Contract

There is growing recognition that the long-term decline in union representation in the United States² has contributed to increased income inequality and a breakdown in what is often referred to as the social contract at work. As shown in Figure 1, from the end of World War II through the mid-1970s growth in national productivity and compensation of production and non-supervisory workers moved up in tandem. This tandem pattern of growth has often been described as the defining feature of the post-World War II social contract.³ Since the 1980s, however, the social contract broke down as productivity continued to grow at modest rates while the median rate of compensation for hourly workers stagnated. While there is no single cause of this growing gap between compensation and productivity, part of the difference is due to the declining bargaining power of unions.⁴

Recognition of the consequences of union decline has recently sparked broad-ranging debates among labor policy experts, candidates for political office, labor movement leaders and other worker advocates, and the general public over whether and how this decline might be reversed in ways that fit with the features of today's workforce and economy. Doing so becomes all the more critical as emerging technologies pose critical choices to decision-makers that strike right at the heart of workers' interests and expertise. Workers need to have a voice in these decisions both to ensure their interests are addressed and to contribute their knowledge about how these technologies can be integrated with organizational practices and work systems to achieve maximum productivity, augment how they work, and build high quality jobs.⁵ But there is a growing recognition among work and employment researchers and some labor and management practitioners that achieving these joint gains will require significant innovations in the institutions and public policies governing work. Our formulation of this challenge is that a *new social contract* governing work will be needed, one that engages all the

² Union membership has declined from its peak of 35 percent in 1945 to 10.5 percent in 2018 and to 6.4 percent in the private sector. Bureau of Labor Statistics, Union Membership, 2018 <https://www.bls.gov/news.release/pdf/union2.pdf>.

³ See Thomas Kochan and Lee Dyer, *Shaping the Future of Work: A Handbook for Building a New Social Contract*. 2nd edition, Routledge, forthcoming, 2020. We define the social contract at work as “the mutual expectations and obligations workers employers, and their communities and societies have regarding work and employment relationships.”

⁴ For evidence on effects of union decline on wages and inequality see, David Card, “The Effect of Unions on the Structure of Wages: A longitudinal Analysis.” *Econometrica* 64, no. 4, 1996; David Card, Thomas Lemieux, and W. Craig Riddell, “Unions and Wage Inequality,” *Journal of Labor Research*, 25, 4, 2004, 519-559; Bruce Western and Jacob Rosenfield, 2011). “Unions, norms, and the rise in us wage inequality.” *American Sociological Review*, 76 (4), 513–537, Thomas Kochan and William Kimball, “Unions, Worker Voice, and Management Practices: Implications for a High Productivity-High Wage Economy,” *Russell Sage Journal of the Social Sciences*, 2019, 5, 5, 88-108; Henry S. Farber, Daniel Herbst, Ilyana Kuziembo, and Surish Naidu, “Unions and Inequality over the Twentieth Century: New Evidence from Survey Data.” NBER Working Paper 24587. May, 2018. <https://www.nber.org/papers/w24587.pdf>

⁵ Thomas Kochan, Susan Helper, Alex Kowalski, and John van Reenen, “Interdependence of Technology and Work Systems.” Baseline memo for Work of the Future Task Force. December, 2018; Dani Rodrik, “Technology for All,” Project Syndicate, March 6, 2020. <https://www.project-syndicate.org/commentary/shaping-technological-innovation-to-serve-society-by-dani-rodrik-2020-03>. <https://gcgi.mit.edu/sites/default/files/imce/resource-uploads/Kochan%20et%20al%20Interdependence%20of%20Technology%20and%20Work%20Systems%20Memo%20rev%20Dec%202018.pdf>

stakeholders in new ways to use advancing technologies to both drive innovations and productivity and share the benefits achieved fairly and broadly.

This paper begins by briefly summarizing the results of two national workforce surveys designed to assess how to rebuild worker voice by asking what does the contemporary workforce have to say about these issues. Then we provide illustrations of the range of new forms of voice and advocacy emerging around the country. The final section offers recommendations for policy actions, complementary changes in institutional and organizational practices needed for the policy changes to meet their objectives, and further research on these issues.

What do Workers Want?

Our research group has explored the question of worker expectations and views of the current state of voice at work in two national workforce surveys.⁶ 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.”

Figure 2 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, and the role of new technologies. Between one-third and fifty percent 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 and the issues workers value include but go considerably beyond those typically addressed in collective bargaining.

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 displayed in Figure 3 show 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 percent of the nonunion workforce. (Eighty-three percent of current union members would vote to retain their union). Combining the responses of union and nonunion workers thus produces an estimate that over half of the workforce would prefer to have union representation on their jobs today. While this is just an estimate of worker preferences unconstrained by arguments for or against unions that

⁶ Thomas A Kochan, Duanyi Yang, William T Kimball, and Erin L. Kelly, “Worker Voice in America: Is there a Difference Between what Workers Expect and What they Want.” *ILR Review*, 72, 1 January 2019: 3-38; Alex Hertel-Fernandez, William T. Kimball, and Thomas A. Kochan, “How U.S. Workers Think About Workplace Democracy: The Structure of Individual Worker Preferences for Labor Representation” MIT Institute for Work and Employment Research Working Paper, 2019.

typically are raised when an actual vote is held, it does indicate that not only is there a sizeable 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? This question was addressed via 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 being debated among worker and labor union advocates and labor policy experts, ranging from collective bargaining at the firm or industry levels 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 4 displays the basic results. We draw four conclusions from the choices respondents made among the different representational forms and strategies: (1) there remains strong support for collective bargaining at firm and industry levels, (2) there is equally strong support for organizations that provide a range of labor market services (health care, retirement, training, etc.) to individuals as they move across jobs throughout their careers, (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 summarized in Figure 5 indicate that the highest interest in joining and paying dues⁷ is in 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 available a wider array of options for gaining a voice at work and more robust roles in advising and sharing decision-making with their employers.**⁸

Emerging Forms of Worker Voice and Advocacy

A growing number of workers and labor advocates are now taking actions to expand the array of voice and representation options that fall outside the structures of collective bargaining and prevailing labor law.⁹ (See Figure 6) Some of these are national in scope, some focus on particular industries or occupations, and others are start-ups that provide job matching and other labor market services.

⁷ Respondents were also asked how much in dues they would be willing to pay for alternative forms of representation. The results are essentially equivalent to those presented in Figure 5 and are presented in Hertel-Fernandez et al cited in footnote 5.

⁸ For an interview-based study of workers in food and retail services that reaches similar conclusions, see Molly Kinder and Amanda Linhart, "Worker Voices: Technology and the Future of Work." New America Foundation, November, 2019. <https://www.newamerica.org/work-workers-technology/reports/worker-voices/>

⁹ For descriptions of the range of new approaches see David Rolf, *The Fight for \$15*, New York: The New Press, 2016; Barbara Dyer, "Workers Voice in America's Working Future," Good Companies Good Jobs Initiative.

Broad-based Initiatives. Some of the earliest types of broad-based initiatives are known as Worker Centers. At last count 226 Worker Centers are located in communities around the country. They mainly focus on providing labor market advice, support, and legal assistance to immigrants and low wage workers who experience wage theft or other violations of their labor rights.¹⁰ Another effort popularly known as the “fight for \$15” has had considerable success in raising minimum wages in a number of state and local governments and in getting firms with locations across the country such as Amazon, Walmart, and others to increase their starting wages without having formal union representation in these organizations. Jobs with Justice is another national organization with community level branches that engage in a mix of education, research, communications, political action, and mobilization to promote worker rights. Working Washington is one of the most successful state level worker advocacy organizations that has helped put that state at the forefront in raising labor standards including minimum wages, collective bargaining rights, long term care insurance, and paid sick and family leave.

Industry, Occupational, and Firm-Based Initiatives. An early example of an occupation-specific form is The Freelancers Union, an organization that provides a variety of professional services to independent contractors in media and related occupations. It reports having 350,000 members, many of whom are located in New York City region. The National Domestic Workers Alliance has organized home care workers who are excluded from the National Labor Relations Act as has the Coalition of Immokalee Workers and the National Guest Workers Alliance. Professional employees and contract workers at Google have engaged in short protests to address a broad array of issues from sexual harassment to forced arbitration to a demand to put a worker on the Google board. At Instacart employees and contractors mobilized several times in recent years to protest changes in compensation practices. Coworkers.org assists workers in companies such as Google, Instacart, Starbucks and others in filing petitions to change issues such as those mentioned above as well as scheduling, personal hygiene, and other policies. OUR (Organization United for Respect) uses artificial intelligence tools to help employees at Walmart and other firms understand their rights and compare experiences in trying to enforce them. Most recently OUR expanded its reach to assist employees at Toys R Us to negotiate severance payments and to create a “mirror board” in which employee representatives meet with the CEO and other private equity owners to discuss how to rebuild the business as it comes out of bankruptcy. Uber workers in New York have formed an Independent Drivers Guild and lobstermen in Maine have formed a lobstermen’s cooperative. Both of these organizations are supported by an existing union, the International Association of Machinists. The Restaurant Opportunities Centers work with restaurant employees and employees to promote “high road” business practices.

Labor Market Matching and Service Initiatives. Jobcase uses a variety of data base tools to help match low wage workers with job opportunities. The Workers’ Lab serves as an incubator and funding

<https://gcgj.mit.edu/our-work/digests/worker-voice-america%E2%80%99s-working-future>; Jeremy Arvins, Megan Larcom, and Jenny Weissbourd, “Time for a new Grand Bargain,” The Milken Institute Review, January 6, 2020. <http://www.milkenreview.org/articles/time-for-a-new-grand-bargain-with-american-workers>, and Gabriel Nahmias, “Beyond the NLRA: Innovations in the Labor Movement.” Working Paper, MIT Task Force on Work of the Future. Forthcoming.

¹⁰ Janice Fine, Victor Narro, and Jacob Barnes, “Understanding Worker Centers,” in Janice Fine, Linda Burnham, Kati Griffith, Minsun Ji, Victor Narro, and Steven Pits, *No One Size Fits All: Worker Organization, Policy and Movement in a New Economic Age*. Champaign, IL: Labor and Employment Relations Association, 2019; 10.

source for start-ups that serve workers in a variety of new ways such as providing labor market information, training and job matching services, mobilizing and advising migrant workers in dealing with their employers and government agencies, and building worker co-ops.

Other initiatives such as the Working Families Party focus on mobilizing the broader public to support candidates for public office or specific political reforms. Another effort currently under development that is modeled in part after the American Association of Retired Persons intends to build a national advocacy organization open to the general public.

These illustrate but don't exhaust the range of new forms of worker advocacy being developed and tested for different purposes, occupational groups, and industry settings. Many of them make ample use of social media, machine learning, and social networking to share information and attempt to mobilize workers to use online petitions, short (often one day) protests and/or walkouts, and other pressure campaigns to change employer practices. Many operate outside the bounds of the National Labor Relations Act and would find it more of a constraint than a benefit to be brought under the existing law. For example, the Coalition of Immokalee Workers would be prohibited from pressuring or boycotting retail companies since their direct employers are the farmers that hire them rather than the retailers. Yet the retailers hold considerable power in setting the prices farmers are paid for their products and in turn what workers are paid for their labor. However, none of these emerging models have achieved large scale, identified sources of power equivalent to what unions historically achieved through collective bargaining, or have yet developed sustainable business models (i.e., a revenue stream to support their work independent of foundation support). But these examples illustrate that many in the workforce are searching for new, more flexible, ways to rebuild worker voice and representation.

Labor Union Innovations

Innovations are also occurring in a number of existing unions, some in support of advocacy groups such as Worker Centers, the Independent Drivers' Guild, and the Maine Lobstermen's Association, and some within existing union structures. The AFL-CIO recently completed a year long study of The Future of Work and the Future of Unions.¹¹ It is now implementing one of its key recommendations, namely to create a "Technology Institute" by working with major universities to help educate its members in what they need to know to engage in technology decisions at their workplaces. UNITE-HERE, a union that represents employees in the hotel and food service industries, has been active in negotiating new provisions with major hotel chains such as Marriot, Hilton, and the casinos in Las Vegas that provide advanced notice of major technological investments, a voice in the early stage design and implementation processes, training in advance of implementation, and reassignment rights and adjustment assistance for those displaced from their jobs.¹² Two coalitions of labor unions are working in partnership with Kaiser Permanente to adapt to the future of work. Among other joint actions, they have created regional Workforce of the Future Committees and negotiated changes in job structures to support teamwork and outreach to patients in what they call "Next Generation Clinics." Workers participate in teams to adapt electronic medical records' technologies to support the new work processes in these clinics and work together with managers and information technology technicians before the clinics open to design the workflow for serving patients and to train their peers in the new

¹¹ <https://aflcio.org/reports/afl-cio-commission-future-work-and-unions>

¹² Katie Johnston, "Marriott Agreement could have Ripple Effects." *The Boston Globe*, December 15, 2018.

processes. Recently, teacher organizations in states and cities across the country from West Virginia to Kentucky, Arizona, Colorado, Oklahoma, Los Angeles, and Chicago have organized protests and strikes around the theme of “Bargaining for the Common Good.” By pursuing demands for increasing budgets for education and student services as well as wage increases these organizations have been successful in building coalitions and support from parents and others in their communities.¹³

These and other innovative initiatives underway within the labor movement are promising examples of what can be done within existing union-management relationships and processes. But they face a number of legal and institutional obstacles that will need to be overcome if they are to be sustained and become the norm. We will discuss some of these constraints in the section that follows.

Rebuilding Worker Voice for Shaping Work of the Future

To understand how the workforce preferences and actions seeking to rebuild worker voice and representation fit with the charge to our MIT Task Force to ensure that future technological innovations help produce a more broadly shared prosperity, we need to review number of limitations of the labor law governing workplace relationships. The intent of the National Labor Relations Act passed in 1935 was to provide workers the rights to organize unions and engage in collective bargaining over wages, hours, and working conditions. Since then four features of this law have been shown to be ineffective and/or no longer adequate given the nature of work today.¹⁴

First, it is extremely difficult for workers to gain union representation via the election process provided in the law, especially if employers resist union organizing efforts as they nearly always do. The most complete study of this process found that only 20 percent of unions that file for a representation election make it through the process to achieve a collective bargaining contract. If management resists to the point that an unfair labor practice charge is filed, the success rate falls below 10 percent.¹⁵ This implies that employers and their consultants and lawyers have the dominant say in whether workers gain the union they want, not the workforce.

Second, representation available to workers is highly circumscribed by (a) labor law’s limits on the scope of issues employers are required to bargain over (wages, hours, and working conditions) and (b) the forms of worker voice and participation that the labor law protects. For example, the scope of “mandatory bargaining issues” specified in labor law generally does not extend to issues about the *choice or design* of new technologies; only the *effects* of technology decisions on wages, hours, and working conditions are mandatory subjects of bargaining. There is also considerable uncertainty over

¹³ Marilyn Sneiderman and Joseph A. McCartin, “Bargaining for the Common Good: An Emerging Tool for Rebuilding Worker Power,” In Janice Fine, et. al., *No One Size Fits All*, *op. cit.*, 219-234.

¹⁴ The failure of the National Labor Relations Act to meet its central objectives or to keep up with changes in the economy, workforce, or workplace practices has been well documented. See, for example, *The Dunlop Commission on the Future of Worker Management Relations*. U.S. Commission on the Future of Worker Management Relations, December, 1994.

http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1004&context=key_workplace. See also Wilma B. Liebman, “Decline and Disenchantment: Reflections on the Aging of the National Labor Relations Board,” 28 *Berkeley J. Emp. & Lab. L.* 569, 570-71 (2007).; and Thomas Kochan, 2011. “Rethinking and Reframing U.S. Policy on Worker Voice and Representation.” *ABA Journal of Labor & Employment Law* 26 (2):231-48.

¹⁵ John Paul Ferguson, “The Eyes of the Needles: A Sequential Model of Union Organizing Drives, 1999–2004.” *ILR Review* 62 (1): 3–21, 2008.

whether employers are required to negotiate over the ownership and use of personal or job performance data obtained through various forms of artificial intelligence, machine learning, digital surveillance, or algorithms. These tools are now being used in a variety of human resource decision-making processes from recruitment and selection, to performance management, to retention or dismissal.¹⁶

Third, the law provides only a collective bargaining model of representation, based on a union's majority status in a bargaining unit. That is, 50 percent (plus one) of the workers voting must vote yes for anyone to obtain union representation. Absent a union achieving majority status, all workers remain nonunion, without representation rights.

Fourth, the law also does not mandate or provide structures for the types of workplace participation processes, enterprise wide committees or works councils, or employee representation on company boards that are common in many European countries and that American workers endorsed in our surveys.¹⁷ Indeed, some of these forms of participation and representation such as works councils are precluded by U.S. labor law. Yet these are precisely the forums that enable workers and employers in Europe to engage in joint discussions needed to plan ahead, design, and implement new technologies and to integrate them with the work design/workforce training processes needed to achieve the full return on investments in technology and to ensure workers share in the gains produced.¹⁸

Implications for Labor Policies

The evidence summarized in this paper suggest a number of changes in labor law and policy will be needed to rebuild employee voice and representation in ways that contribute to using technology both to drive and accelerate productivity and innovation and to create a more inclusive society and broadly shared prosperity. Changing labor law, however, is highly controversial and difficult. Past efforts

¹⁶ Prasanna Tambe, Peter Cappelli, and Valery Yakubovic. 2019. "Artificial Intelligence in Human Resources Management: Challenges and a Path Forward." *California Management Review*. 6, 14, 15-42. Thomas A. Kochan, "AI and the Future of Work." <https://gcgj.mit.edu/>.

¹⁷ The National Labor Relations Act (NLRA) prohibits employers from setting up company dominated unions. This effectively precludes creation of elected or appointed establishment or enterprise level committees or European-style works councils in nonunion firms and under some circumstances may also limit use of employee participation processes in nonunion firms. Neither the provisions of the NLRA nor case history under the law address the legality of having employees serve on company boards of directors. For a review of these issues, see the *Fact Finding Report of the U.S. Commission on the Future of Worker-Management Relations*, May 1994, 53-57. https://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1279&context=key_workplace

¹⁸ See, for example, Kathleen Thelen, *Varieties of Liberalization and the New Politics of Social Solidarity*. New York: Cambridge University Press, 2014. For a recent study of the effects of worker representation on supervisory boards on long term investments in German firms, see, Simon Jager, Benjamin Schoefer, and Jorg Heining, "Labor in the Boardroom," National Bureau of Economic Research Working Paper w2619, 2019. See also summaries of two workshops held to discuss different models for engaging workers in technology design and implementation processes: Thomas A. Kochan, Wilma B. Liebman, and Inez von Weitershausen, "Codetermining the Future of Work: Lessons from Germany." Good Companies-Good Jobs Initiative, September 18, 2018. <https://gcgj.mit.edu/sites/default/files/imce/resource-uploads/Codetermining%20the%20Future%20of%20Work%20Lessons%20From%20Germany%20.pdf> and "Involving Workers in Technological Change." Good Companies Good Jobs Initiative. June 7, 2019. https://gcgj.mit.edu/sites/default/files/imce/resource-uploads/June%205%202019%20Worker-Centered%20Technology%20Workshop%20Highlights_0.pdf

to reform the law while staying within the basic framework of collective bargaining all failed to gain Congressional approval.¹⁹ Yet there is a growing consensus among labor policy experts that even broader changes than those proposed in prior reform efforts are needed that provide access to collective bargaining for those who want this form of representation *and* that open up the law to support further experimentation and development of the new forms of worker voice illustrated above.²⁰ Here we focus here on changes that would be most useful for ensuring workers have an effective voice in the design and use of new technologies to help drive innovation and productivity, augment and support their work, and ensure that they share fairly in the benefits from technological change.

Removing Barriers to Organizing. Approximately sixteen million workers are currently represented under collective bargaining²¹ and, as our survey results indicate, a near majority of unorganized workers indicate they would join a union if given the opportunity to do so. Thus, any new labor law needs to respect these preferences and remove the barriers workers now experience when trying to organize and gain access to collective bargaining. This could include providing rights to workers who want to engage employers without having to achieve majority status (sometimes called “minority” unions) as well as streamlining the processes and strengthening the penalties for violations of the rules governing the election processes and first contract bargaining process for those seeking exclusive (majority) representation rights.

Expanding the Scope of Bargaining. The current limits on the scope of issues subject to bargaining need to be lifted to support collaborative approaches for engaging workers and their representatives in the design, implementation, and use of new technologies. This would enable workers to help shape technological innovations in ways that drive productivity and improve the quality of their work.

Encouraging Regional or Sectoral Engagement and Bargaining. A number of labor policy experts are proposing changes in labor law that would help promote sector or region-wide collective bargaining or other forms of industry-labor collaboration.²² Sector or region-wide processes would have particular value for overcoming the well-known market failure that leads to lower investment in training than is optimal, especially given the recognized importance of education and training as technology advances.²³

¹⁹ Significant efforts to amend the National Labor Relations Act were made in 1977-78 during the Carter Administration, in 1995 during the Clinton Administration, and in 2009 during the Obama Administration. None of these were passed by both houses of Congress.

²⁰ See for example Cynthia Estlund, *Regoverning the Workplace*. (New Haven: Yale University Press, 2010). A broad set of reforms is proposed by a consortium of labor law experts organized at the Harvard University Center for Labor and Worklife: *Clean Slate for Worker Power: Building a Just Economy and Democracy*. January 23, 2020. <https://www.cleanslateworkerpower.org/>.

²¹ “Union Membership Summary.” Bureau of Labor Statistics, January 22, 2020. <https://www.bls.gov/news.release/union2.nr0.htm>

²² See, for example, David Madland, “How to Promote Sector-wide Bargaining in the United States,” Center for American Progress, July 10, 2019 <https://www.americanprogressaction.org/issues/economy/reports/2019/07/10/174385/promote-sectoral-bargaining-united-states/>; or the Harvard report on “Clean Slate for Worker Power,” 37-44.

²³ See, for example, Daron Acemoglu, “Training and Innovation in an Imperfect Labor Market.” *Review of Economic Studies*, 64-1997, 445-464.

Many existing labor-industry apprenticeship programs are already negotiated and jointly administered at sectoral or regional levels.²⁴

Expanding these types of joint regional or sectoral initiatives would not only help solve this market failure and better prepare the workforce for work of the future, it might serve as a starting point for industry and labor representatives to work on narrowing the dispersion/inequalities in wages and other employment practices that have grown up in recent years across firms in the same industry.²⁵ Setting wages at a sector or regional level eliminates the competitive disadvantage an individual firm experiences if it negotiates a wage increase that others in their industry do not match. Given the low level of unionization in most U.S. industries, employers will not voluntarily agree to sectoral bargaining. Instead, it would likely require some form of a government initiated, tripartite wage board (a body composed of government, industry, and worker representatives) that sets minimum wage standards such as New York State has done in the fast food industry and California has done in a number of low wage industries.²⁶ Boards such as this might be especially appropriate for setting minimum employment standards and/or criteria considered in awarding government contracts.

The overriding objective of these changes in labor policy is not to simply reconstruct labor management relations in the mirror image of the system that has been in decline. Too often the adversarial tendencies of the past led to rigid work rules, limited worker engagement, resistance to change or other outcomes that hinder productivity or slow the pace of innovation. The changes proposed here aim to restore workers' basic rights to have a voice at work in ways that encourage more collaborative and productive workplace relationships and outcomes.²⁷

Opening Up Labor Law to New Forms of Participation and Representation. The above changes focus on improving labor management relations within the framework of current labor law. While necessary, they are far from sufficient. Labor law also needs to be opened up to encourage, support, and protect the new forms of voice many workers are calling for and experimenting with in different industry settings and employment relationships. Specifically, the options for worker voice and representation provided and protected under labor law should be expanded to support workplace level participation processes, establishment or enterprise wide worker-management committees or councils, and employee representation on company boards of directors. These options should be available to the full workforce regardless of whether or not they are currently covered under a collective bargaining agreement or classified as hourly, salaried, supervisory, or managerial employees.

²⁴ For descriptions of joint union-industry apprenticeship programs in construction see, "Building and Construction Trades Apprenticeship Programs. <https://aflcio.org/about-us/careers-and-apprenticeships>.

²⁵ See Jae Song, David J. Price, Faith Guvenen, Nicholas Bolum, and Till von Wachter, "Firming up Inequality." *The Quarterly Journal of Economics*, 134, 1, 2019, 1-49.

²⁶ David Madlund, "Wage Boards for American Workers." Center for American Progress, April 9, 2018. <https://www.americanprogress.org/issues/economy/reports/2018/04/09/448515/wage-boards-american-workers/>

²⁷ For analysis of the need to transform labor management relations from its arms-length traditions to more collaborative models, see Thomas A. Kochan, Harry C. Katz, and Robert B. McKersie, *The Transformation of American Industrial Relations*. New York: Basic Books, 1986. For a review of the empirical evidence on this topic see Eileen Appelbaum, Jody Hoffer Gittel, and Carrie Leana, "High-Performance Work Practices and Sustainable Economic Growth." March, 2011. https://www.researchgate.net/publication/228470237_High-Performance_Work_Practices_and_Sustainable_Economic_Growth.

Protecting Workers not Covered under Current Labor Law. All members of the workforce, including contract workers and independent contractors, should be protected from discrimination or retaliation for supporting and/or participating in new voice and representation processes not anticipated or explicitly sanctioned under current labor law. This is not to imply these groups or their activities should be brought under all of the provisions of the National Labor Relations Act, since as noted earlier, doing so would severely constrain much of the experimentation now taking place. Instead the task is to protect the rights of all workers to engage in collective actions without risk of retaliation or discrimination in order to encourage further experimentation and testing of the variety of new approaches different worker groups are using to assert their voices.

Opening up new options for representation is especially important for workers in industry or occupational settings in which the definition of who is the employer is ambiguous. Examples where this is a reality include franchise businesses such as are often found in restaurants and hotels, domestic work where an individual may provide services to multiple individuals or families, and platform businesses such as ride sharing or delivery services where the issue arises of whether workers should be classified as employees, independent contractors, or in some hybrid category.

Supporting Innovative, Collaborative Labor Management Relations. Changes in the laws governing employment relations won't achieve the desired results unless labor organizations and employers are actively encouraged or incentivized to work in collaboration toward these ends. Thus, another labor policy initiative is needed to ensure the ones suggested above achieve their desired effects. The U.S. Labor Department or some other appropriate agency should be given the responsibility and provided resources to experiment with and promote further experimentation with emerging forms of representation and collaborative forms of labor management relations. Particular emphasis could be given to new efforts to use advancing technologies to support innovation and productivity growth and to create a more inclusive society and broadly shared prosperity.

These changes in labor policy should not be viewed in isolation but instead be part of a broader set of changes in employment and training policies needed to ensure the workforce is well prepared for the work of the future and by active labor market adjustment and income support policies that address the needs of workers displaced by new technologies. These issues will be addressed in more detail in forthcoming Task Force Discussion papers.

Complementary Institutional and Organizational Changes

For these labor and employment policy changes to achieve their desired objectives complementary changes will be needed in union and worker advocacy strategies, management and workplace processes and practices, and research and educational institutions.

Labor Unions and Advocacy Groups. American labor unions have historically focused on collective bargaining as their central strategy for representing the workforce. Our research and the increased activism of both unionized and non-union workers demonstrate that a majority of the workforce wants unions to continue to provide collective bargaining *and* wants labor organizations to support broader forms of representation and voice at the workplace and in decisions that have been beyond the reach of collective bargaining. As noted earlier, a growing number of worker advocacy groups are experimenting with use of social media, artificial intelligence and machine learning tools, and other means of giving voice to worker concerns. The evidence from our research strongly suggests that

existing unions and worker advocacy groups would do well to treat their efforts as complements, not substitutes, for restoring worker voice and representation.

Business Organizations. Recently the Business Roundtable announced its support for the view that corporations should be held accountable for serving employee and other stakeholder interests as well as the interests of shareholders. Restoring worker voice and engaging workers and their representatives in constructive and collaborative processes to design and implement emerging technologies in ways that serve these multiple interests provide opportunities to put these words into practice. Another future Task Force discussion paper will outline evidence on the organizational strategies and processes that achieve the best results for these different stakeholders.

Educational Institutions. The changes in labor policies and employment relations practices called for here need to be tested and evaluated and research should continue to explore additional means of fostering collaborative strategies for developing and implementing the organizational transformations that lie ahead. MIT and its sister institutions should build the capacity needed to support research and evaluation on these topics. Moreover, translating these changes in policy into effective organizational practices will require considerable education and training for workers and their representatives, managers, engineers, executives, and technology vendors. What is called for here will require changes in organizational routines, cultures, and processes. MIT and other universities need to ensure that the next generation of leaders have the knowledge, skills, and perspectives needed to foster an era of collaboration among the multiple stakeholders that share an interest in using technology to achieve a more broadly shared prosperity.

Lessons from the COVID Crisis

The need for the policy and institutional actions suggested above were apparent before the arrival of the COVID-19 pandemic. The devastating impact of this crisis on workers, industry, and economy amplify the need to implement these changes now more than ever. It is essential that workers, their representatives, employers, and government leaders coalesce and work together to combat this crisis and its short and long-term effects on the workforce, communities, and the economy and society. Below are recommendations for additional actions society should expect from a robust and responsive labor management system in a time of crisis. They should be put in place now, with an eye toward learning what works well and what doesn't as input to when it is appropriate to consider changes in policies and institutions for the long run.

National Workforce and Industry Council

In prior periods of national emergencies, national level tripartite (industry, labor, and government) bodies were established to oversee critical work and employment issues such as avoiding work stoppages, setting wages and other terms of employment to avoid price increases, and developing new solutions or innovative practices to problems as they arose. Examples include the War Labor Boards of World War I, II, and the Korean War.

The COVID crisis could potentially require massive redeployment of personnel to backfill the workforce currently employed in critical services in health care, other human and public services, food services and transportation etc. Redeployment of technology, production processes, and the workforce to produce and distribute critically needed health care materials and supplies is another example of the

adjustments already underway. Restructuring of industries such as retail is likely to accelerate the rate of job displacement and/or transfer from in-person operations to on-line shopping and distribution, and/or the automation of tasks and jobs. Moreover, there is a significant likelihood that workplace tensions and conflicts will escalate and require national capacity for dispute resolution assistance and facilitation of problem solving that far surpass public resources such as those available from the Federal Mediation and Conciliation Service or the National Mediation Board. A National Workforce and Industry Council could support the adjustments and workforce services as needed. It would serve as the equivalent forum for discussions occurring among government, industry, and labor leaders in a number of countries in Europe.

State, Industry, and Regional Workforce Councils

Similar broadly representative councils could serve states, industries, and regions as each adjust to the world of work that is now playing out. As federal funds flow to states to support employment continuity, expanded unemployment insurance and sick/family leave benefits, and other services, state agencies are becoming overwhelmed with requests for information and processing of benefit claims. Shortages of health care and workers in other essential services are already occurring and will escalate as incumbents in those industries become overwhelmed, ill, or otherwise unavailable to meet rising demand. State level councils, supported by the various private sector online recruitment and job matching service firms, could help mobilize, train, and place supplementary workers as needed. Similar to wartime boards, these councils could provide and deliver the range of supportive services needed in their local areas. Industry specific sub-councils could help coordinate movement of personnel across organizational boundaries. Industry specific standards or recommended practices could be disseminated and applied to ensure fair treatment and safety of workers in critical sectors. If, as anticipated, a national infrastructure initiative is enacted as part of a recovery strategy, industry boards that establish minimum employment standards for government contractors could ensure employment practices are followed that support good jobs, safe practices, and make productive use of public resources.

Firm Level Institutions

The recommendations contained in this brief already call for opening up labor law to support development of the American equivalent of works councils, workplace level participation groups, and representation on company boards of directors. Allowing, encouraging, and/or making provision of further aid contingent on creating such forums would provide workers with the voice that our research and workers' direct actions are calling for and that would help ensure that workers have inputs into how to adapt the full range of workplace practices that affect their safety and welfare. Where collective bargaining relationships are in place these should be the central avenue and institutional structures for providing worker input, however, these too could be expanded and complemented with structures and processes that engage the total hourly, salaried, professional, contract, and managerial workforce employed within the firm. Moreover, these processes could be authorized to address issues that fall outside the mandatory scope of bargaining as provided in current law.

Evaluation and Learning

A good deal of innovation in employment policies, institutions, and benefits is already underway. Some is provided in the emergency legislation already enacted, such as loans and incentives

for employment continuity and short work hours, expanded unemployment insurance, paid sick and family leave, etc. Some is emerging from voluntary actions of companies and non-profit organizations that are redeploying their productive processes to meet the needs for critical goods and services. Some governors are calling on industry, education, and labor groups to support mobilization and redeployment of resources and workers in their states. These should be encouraged, supported with coordinated efforts where that is helpful, and all should be carefully evaluated so that the lessons learned can be considered in future policy and institutional reform discussions. Funds for evaluation should be provided in all future legislative aid programs or initiatives.

Toward a New Social Contract at Work

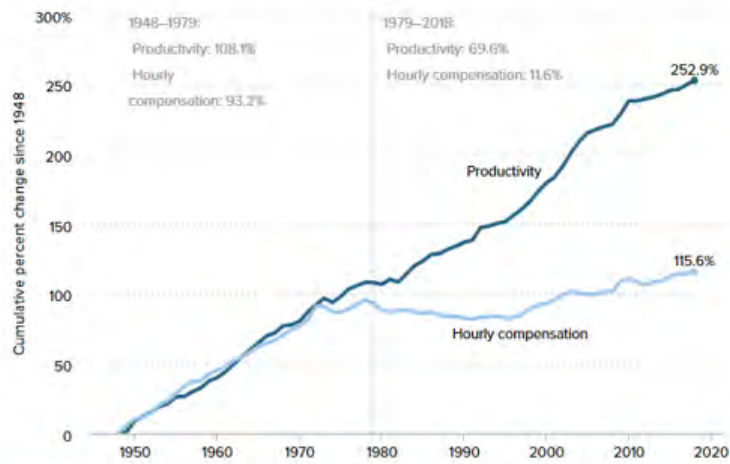
Rebuilding worker voice in ways suited to the current and future workforce and economy is critical to the broader effort of achieving a new social contract. The evidence expressed by the workforce, in surveys and in actions, demonstrate that American workers expect and are taking direct actions to gain greater influence in the key decisions at work affecting their future. This includes decisions about how advancing technologies can be used to drive innovation and productivity and how workplace policies and practices need to be updated in light of the COVID-19 crisis. The changes in the policies and institutions outlined here will help provide the opportunities workers need to participate constructively with others in building a new social contract and achieving a more broadly shared prosperity.

Figure 1

The Social Contract: Pre and Post 1980

The gap between productivity and a typical worker's compensation has increased dramatically since 1979

Productivity growth and hourly compensation growth, 1948–2018



**Productivity
–Pay Tracker**

Change 1979–2018:

Productivity

+69.6%

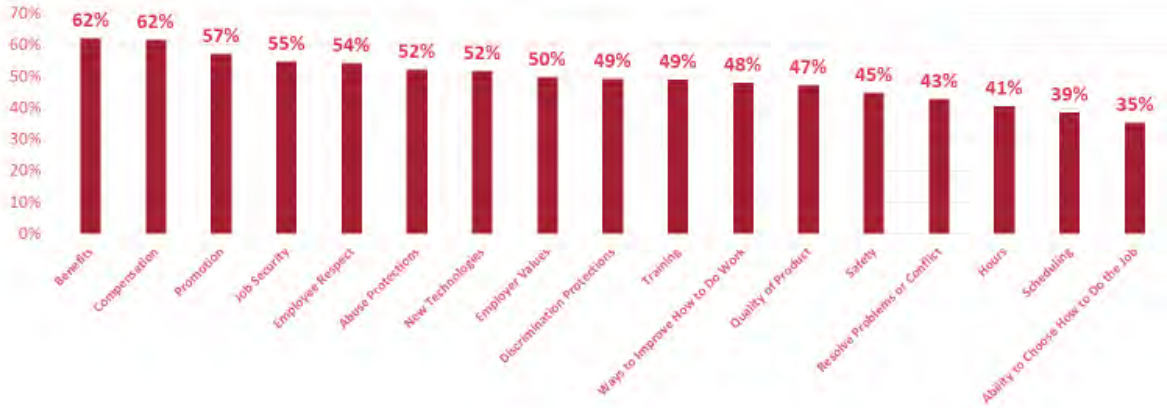
Hourly pay

+11.6%

**Productivity has
grown 6.0x more
than pay**

Figure 2

VOICE GAP: PERCENTAGE OF WORKERS WITH LESS INVOLVEMENT THAN THEY WANT

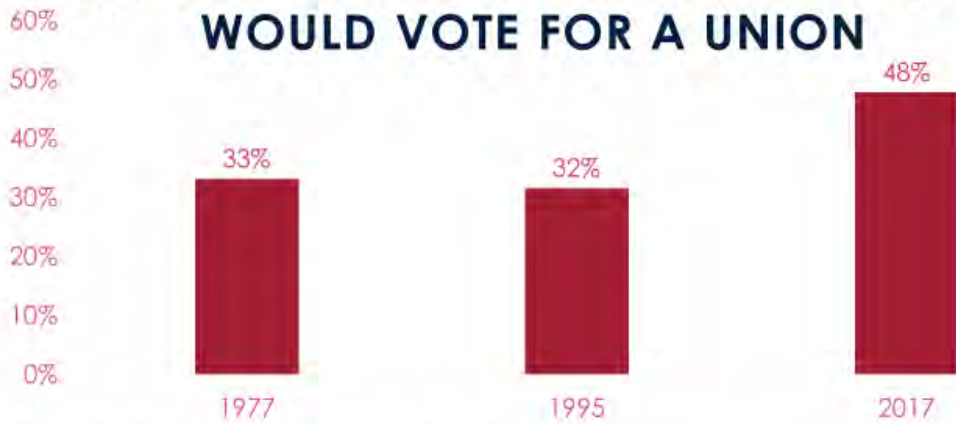


Notes: Calculated as the share of respondents who, on a given issue, rate higher on how much say they ought to have compared to how much say they actually have.
Sources: Adapted from Kochan et al. (2018). Data based on Kochan et al.'s analysis of Worker Voice Survey.



Figure 3

PERCENT OF NONUNION WORKERS WHO WOULD VOTE FOR 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).



Figure 4

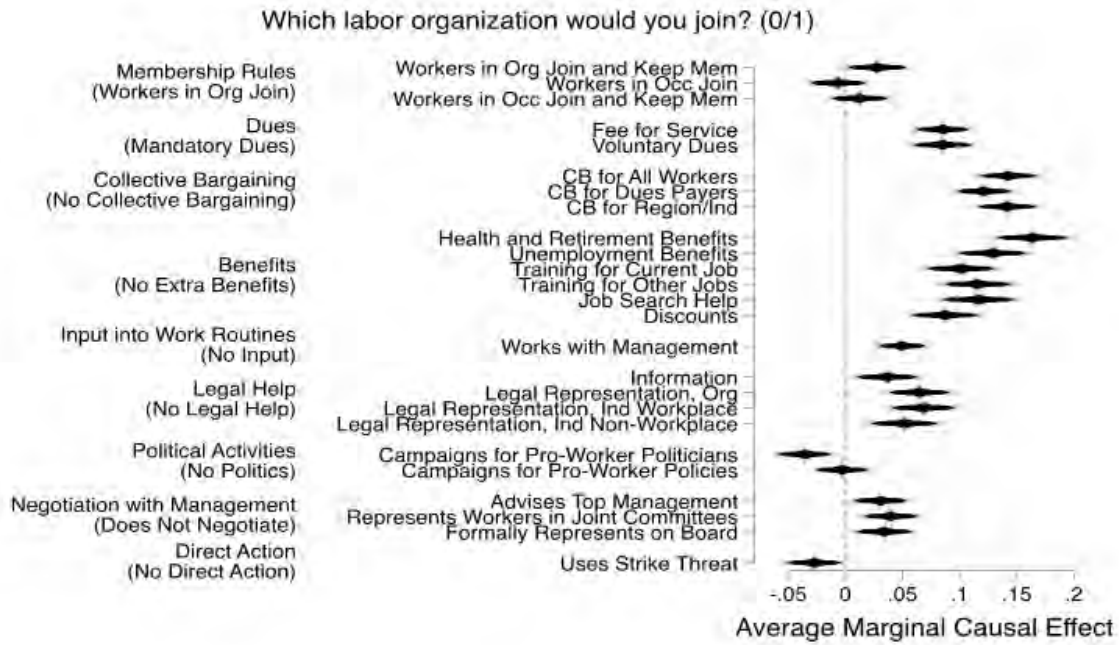
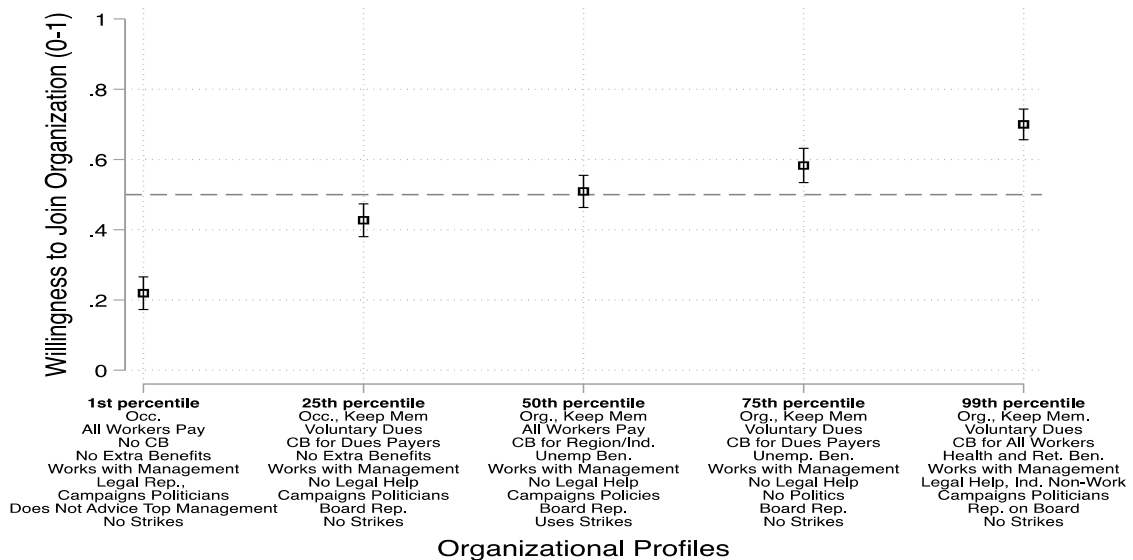


Figure 5

Predicted Willingness to Join Labor Organizations and their Associated Characteristics, by Percentile



Note: Lines reflect 95% confidence intervals. Because the question was forced choice, the baseline probability of joining an organization is indicated at 0.5.

Figure 6

Examples of Worker Advocacy Organizations

Coworkers.org https://home.coworker.org/	Organization United for Respect/OUR Walmart https://united4respect.org/
Fight for \$15 https://www.jobcase.com/	Worker Centers such as Interfaith Worker Justice http://www.iwj.org/network/workers-centers
Restaurant Opportunities Centers United https://rocunited.org/	The Freelancers Union https://www.freelancersunion.org/
National Domestic Workers Alliance https://www.domesticworkers.org/	National Guest Workers Alliance https://www.coworker.org/partnerships/national-guestworker-alliance
The Workers Lab https://www.theworkerslab.com/	Maine Lobstermen's Association https://mainelobstermen.org/
Los Angeles Alliance for a New Economy https://laane.org/	Job Case https://www.jobcase.com/
Coalition of Immokalee Workers https://ciw-online.org/	Independent Drivers Guild https://drivingguild.org/
Jobs with Justice https://www.jwj.org/	Working Washington http://www.workingwa.org/

