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Reimagining the Governance of Work and Employment

Edited By
Dionne Pohler
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PART I: INTRODUCTION
When I proposed this 2020 annual research volume to the Labor and Employment Relations Association almost two years ago, the title of the introduction chapter (which hasn’t changed) seemed completely banal to me. As I actually write the introduction to the volume in early April 2020, we are in the midst of a global pandemic. The world is changing more rapidly each day than I have ever experienced in my lifetime. Because of this, it is becoming difficult to imagine what work and employment will be like beyond 2020.

As of the time of writing, the number of confirmed coronavirus cases worldwide is approaching 2 million, and the number of deaths has surpassed 125,000. The pandemic is affecting at least 210 countries and territories. In an attempt to “flatten the curve” and avoid overwhelming healthcare systems, many countries have closed their borders and declared states of emergency. Many governments have ordered all nonessential businesses to cease in-person operations and have closed schools indefinitely. Labor-market statistics capturing the early effects of COVID-19 estimate that more than 20 million jobs may have been lost in the United States (more jobs lost than during the entire Great Recession) and that my own country (Canada) experienced the single biggest negative one-month shock to hours worked since 1976 (as far back as we have comparable data). I am sure the shock is similar for many other countries. It is unclear how long the physical distancing measures and de facto shutdown of the worldwide economy will last. And, even once governments slowly start to lift restrictions, it is unlikely we will see a return to normalcy in the near future.

Which does bring forth the question: Is a return to normalcy what we really want anyway? It goes without saying, of course, that we would all like to see people stop dying from the virus and once again enjoy in-person celebrations with family and visits with friends. But do we wish to return to the way we have been organizing the economy over the past four decades or more? Do we want to simply fall back on pre-crisis approaches to governing work and employment? Are we comfortable with the reality that many of our essential workers are also among the lowest-paid in our societies? As the communitarian political philosopher Michael Sandel recently opined in the *New York Times*, now is the time to “ask a basic question that we have evaded over these last decades: What do we owe one another as citizens?”
Perhaps then, this volume is timely because it is about reimagining old ideas and proposing some new ones for the regulation of work and employment and the governance of our economies and labor markets. The first part of the volume revisits classic approaches to the governance and regulation of employment that solidified in the period following the world wars. Unions and collective bargaining, labor and employment laws, and social partnerships are, and will continue to be, important institutions in many countries. However, the volume also (re)imagines both old and new ideas for the governance of work and employment in a global, digital, post-industrial, and rapidly changing world.

In the midst of a deadly pandemic, the world is slowly beginning to understand two things that will not surprise members of the industrial relations community: (1) society’s most important existing resource to fight COVID-19 is our workers, and (2) the meaning and value of work to society is not necessarily synonymous with what the people who perform that work are paid, nor even with their level of education.

Knowledge workers in the medical, epidemiological, and natural science communities are intently focused on modeling the evolving coronavirus and public health interventions, as well as on the rapid deployment of several countermeasures, including testing and diagnostics; production of ventilators, masks, and other technologies for clinical management; and, ultimately, the development of an effective vaccine. Other similarly essential workers include not only healthcare professionals such as nurses and doctors but also agricultural workers, long-haul truckers and delivery drivers, personal support workers in long-term care facilities, public servants, utility maintenance and sanitation workers, daycare workers, and warehouse and grocery store clerks. These workers grow our food, care for the sick, transport food and medical supplies, ensure households receive clean water and income support, fix our utilities, pick up our garbage, feed the public, and care for our children and the most vulnerable. Several of these jobs are among the lowest paid in our society, yet governments and businesses have deemed them essential. As Sandel pointed out, these workers “lack the luxury of working from the safety of their homes and holding meetings on Zoom.”

Several labor relations challenges have also arisen from the performance of “essential” work during the crisis. One example is disputes over the right to refuse unsafe work under occupational health and safety legislation and the lack of personal protective equipment available to front-line workers. Labor disruptions and work stoppages are occurring over legislated rights, as well as collective agreement provisions and conditions of employment that change in real time as organizations adapt their operations in response to the crisis. In Toronto, transit workers staged a brief work stoppage over COVID-19 health and safety matters, and many public-facing federal civil servants in Canada refused to work. Labor unrest during the pandemic also led to strikes and service disruptions among hospital staff in Hong Kong and police and museum staff in France. It is no
wonder that front-line workers and unions are raising health and safety issues when, as of early April 2020, almost fifty transit workers in New York City have died, and more than 6,000 have fallen sick and/or are self-quarantined.

At the same time, many other workers are now working full-time from home, without access to childcare or the appropriate tools to perform their jobs effectively. Inequities also exist among these workers. Some employees are unable to come into work or perform their work from home, yet they remain employed and on organization payrolls. Others have found that their work hours have been extended and/or they have had to adjust their job responsibilities and duties to cover key business operations. There is also differential access to sick-leave benefits across workers, which affects their decisions about whether to report to work when either they or a family member falls ill. At the same time, the demand for workers has increased in certain sectors of the economy, and some employees have even seen sizable hourly wage increases. Some workers are able to make the choice about their level of exposure to COVID-19, while other workers lack the power to say no to unsafe work for fear of losing their jobs. As a result, these workers must continually risk exposing themselves and their families to a potentially deadly virus in order to pay their bills and meet basic needs. This is fundamentally unjust—and also indefensible when we have shuttered our economies precisely to protect the most vulnerable.

That said, these front essential workers and those able to work from home are arguably the fortunate ones. A de facto shutdown of the world economy and restrictions on travel to “flatten the curve” led to millions of people finding themselves out of work almost overnight. Many small business owners were forced to lay off most/all employees as their revenues evaporated. The same pressures apply to self-employed workers, including those in the gig economy. And the economic effects of the labor demand shock will not be felt equally—early statistics in Canada suggest that jobs and hours lost are concentrated among low-income workers and young people. We will likely also observe gender and racial disparities in both jobs and hours losses and in which workers must continue to expose themselves to the virus and which ones are able to work from home.

The safety net for workers in most liberal market countries, particularly those with heavily decentralized labor markets, was woefully inadequate. Many of these countries heavily rely on long-standing programs like unemployment insurance to buffer workers from employment shocks. Yet these programs were unavailable to a large proportion of workers, and low-income workers were eligible for very small benefits. In Canada, when the government expanded the unemployment insurance program early in the crisis to include previously ineligible workers, the system could not handle the massive influx of applications. The federal government has since introduced the Canada Emergency Response Benefit, which is a hybrid between an employment insurance program and a basic income guarantee. The United States announced a $1,200 income-tested
cash transfer to individuals. Prior to the crisis, these kinds of programs and policies were rarely taken seriously by policy makers. And, notwithstanding these emergency efforts, major gaps remain in the crisis safety net for workers.

The field of industrial and employment relations is uniquely situated to help make sense of emergent labor relations issues affecting workers who continue to report to work, as well as those who work from home, and to help resolve labor conflicts. Our field is well versed in understanding how organizations might respond to the crisis and what types of government policies are most and least effective for helping workers adversely impacted by the economic shutdown. Beyond the question about how we would like to reorganize our economic and social systems post-crisis, other long-term questions that will be important to explore include the following:

- How are future working arrangements and labor relations affected by the crisis?
- Which businesses and workers thrived and which ones lost from the crisis?
- What changes should governments make to economic, social, and labor policies and programs to better prepare for future crises?

The ideas proposed in this volume’s chapters provide an excellent starting point to consider these long-term questions, as they explore several topics and questions relevant to the current crisis:

- Are unions still relevant in digitized workplaces?
- How could we design a politically feasible basic income?
- What are the benefits and drawbacks of a guaranteed jobs policy?
- Are multinational firms better regulators of global work than states?
- What are the tensions between immigration and employment relations?
- What are the regional impacts of national living-wage movements?
- Do employment laws work for nonstandard work?
- What would emancipation in transnational labor law look like?
- Can sectoral bargaining save the American labor movement?
- Are European social partnerships dead?
- How could we reimagine employee stock ownership templates for the digital economy?

Taken together, the chapters in the volume highlight that we need to think more systematically about connecting different policy domains (e.g., labor, health, development, immigration, business, fiscal and social policy) to address the complex challenges facing our society, both during and beyond the pandemic crisis. Many of the chapters suggest reviving decades-old policy ideas to help us navigate the changing nature of work and economies.
Twenty contributors shared their ideas and expertise for this volume, and I am so grateful to each one of them for dedicating their time to the project. Contributors came from both the academic and practitioner communities and from several countries, though the focus is primarily on liberal market democracies, with some discussion of coordinated market countries in Europe. All of the chapters and commentaries were completed prior to the exponential increase in COVID-19 cases worldwide. However, if some of the ideas proposed in this volume had been in place prior to the crisis, we might have been better prepared to weather this global pandemic and resultant economic shock. Indeed, some of the ideas proposed in this volume are being actively debated in several countries, and/or have been implemented in some form. It remains to be seen whether the crisis policies and programs will be permanent or temporary, and whether we have the collective will to rebuild our economic and social and political institutions to focus on citizen and worker solidarity and community rather than individual meritocracy and self-reliance.

The authors do an excellent job outlining their ideas and proposals across eleven chapters, and, at the end of the volume, three discussants provide a useful integration across these ideas, while also offering some critiques and additional ideas based on their own experiences and work. In her commentary, Lisa Jordan nicely captures both the strengths and weaknesses of the current volume in the following quote by Marx:

Ideas never lead beyond the established situation, they only lead beyond the ideas of the established situation. Ideas can accomplish absolutely nothing. To become real, ideas require people to apply a practical force.

To apply this practical force, we need all hands on deck and must require them to remain on deck post-crisis. The labor and employment relations community should be at the forefront of both the academic and policy debates outlined in this volume. The field should play a central role in charting a path toward implementation of some of these ideas post-crisis. Many of the ideas for reimagining the governance of work and employment discussed in this volume are not new. Some will be easier to implement than others. Some of the ideas may require more radical restructuring of current arrangements. All are worthy of discussion and thoughtful debate.

I hope the volume highlights the many possible options for achieving equitable outcomes for workers both within and beyond our current governance and economic systems. These options will inevitably need to be adapted to take into account unique histories, cultures, and institutions within and across countries. Unlike the major labor-policy innovations of the post-war period, it is unlikely that we will see the emergence of a new, widely accepted paradigm for governance.
of work and employment in the near future. However, we should not waste the opportunity that the pandemic crisis provides for each of our respective countries to take a giant progressive leap forward on reimagining the governance of work and employment. We may never see a better opportunity to do so within our lifetime.
PART II: REIMAGINING CLASSIC GOVERNANCE APPROACHES
Chapter 1

If Nonstandard Work Is the New Normal, What Should We Do About It?

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INTRODUCTION

There have been numerous transformations of workplaces. They include the Industrial Revolution with its shift from agriculture to the factory system; the putting-out system with the development of cottage industries; automation and mass production with its shift from craft-labor to assembly-line labor; the digital revolution involving computers and information technology with its shift to the service economy, outsourcing, global supply chains, and knowledge workers; and the more recent cyber revolution with its emphasis on artificial intelligence, robotics, 3D printing, genomics, machine learning, and the gig economy (Briken, Chillas, and Krzywdzinski 2017; Schwab 2016).

The phrase “disruptive technologies” is aptly used to describe these transformations because they displace existing industries with the new technology. All of these transformations of industries have also involved disruptive transformations of their workforces, with winners and losers and new skill requirements. The disruptive technologies have often led to disruptive actions—the machine-wrecking Luddites; predictions of the end of work (Rifkin 1995); and strikes and political protests, such as the maritime union strikes over containerization (Ross 1970) and the 2018 strikes at Marriott over labor displacement from self-check in kiosks, facial recognition technology, and robots delivering room service (Schwartz 2018).

Because disruptive technologies make old technologies obsolete, it is not surprising that they would also make many of our labor policies as well as business models obsolete (Olleros and Zhegu 2016), giving rise to the need to reimagine the regulation and governance of work.

The purpose of this chapter is to outline the implications of the rise of nonstandard employment for labor regulations. The analysis begins with a discussion of the various definitions/concepts of nonstandard employment, followed by an analysis of characteristics and their relationship to precarious employment and vulnerable workers. Reasons for the existence and rise of nonstandard employment are then analyzed, followed by a concluding discussion of the various policy options for dealing with nonstandard employment.
CONCEPTS AND MAGNITUDES OF NONSTANDARD EMPLOYMENT

Cappelli and Keller (2013a, 2013b) highlight that part of the difficulty in documenting the extent of nonstandard employment is the problem of agreeing to the common elements of such arrangements. Measurement problems are discussed, for example, in Pavlopoulos and Vermunt (2015). Likewise, as discussed subsequently, there is often confusion over how they relate to the concepts of precarious employment and vulnerable workers.

Cappelli and Keller (2013a) provide a classification system for nonstandard work, which they indicate is commonly defined as “anything but full-time regular employment” (2013a: 575, 583–584). Their classification includes the following:

- part-time employees
- on-call employees, such as substitute teachers
- direct-hire temporary employees on limited-term contracts
- professional employee organizations (PEOs) involving outsourced HR functions
- temp-agency workers
- leased employees with longer-term arrangements than temp-help workers
- self-employed independent contractors
- day laborers
- vendors on premises

Surveys of employees or employers typically are not able to precisely delineate each of these categories, so broader categories with more familiar wordings are generally used. Examples of studies that document nonstandard employment are given below for the United States, Canada, and the OECD countries.

US Estimates

Cappelli and Keller (2013b) use a definition based on questions asked of employers in the National Employer Survey. They document that, as of 2000, 23.4% of the onsite workforce of employers were in nonstandard jobs defined as part-time (15.5%), direct-hire temporary workers (2.6%), agency temporary workers (2.1%), independent contractors (1.5%), PEO workers (0.9%), and onsite vendors (0.9%). They highlight that most organizations do not use any form of such nonstandard workers, but those that did use them, use them extensively. They also highlight that nonstandard work has generally increased over time and that it is more prominent in new firms than in older firms.

Based on the Contingent Worker Supplement to the 2017 Labor Force Survey, the United States Bureau of Labor Statistics documented that 10.1% of workers are in alternative work arrangements, consisting of independent contractors
(6.9%), on-call workers (1.7%), temporary-help workers (0.9%), and workers provided by contract firms (0.6%) (US Bureau of Labor Statistics 2019a). The BLS does not include standard part-time workers in their definition of alternative work arrangements, although such workers can be in the above categories. The BLS figures also indicate that a maximum of 3.8% of workers were in contingent jobs; these workers are defined as employees who do not expect their jobs to last or who report their jobs as temporary. Importantly, the BLS data show a small decline in both contingent and nonstandard workers between 2005 and 2017. They also indicate that approximately 55% of contingent workers would prefer noncontingent work, while 33% preferred their contingent work and the remainder indicating it depends on the situation or not responding. With respect to nonstandard workers, the data indicate that a standard work arrangement would be preferred by 8.8% of independent contractors, 43% of on-call workers, and 46.4% of temporary-help agency workers.

Based on a special US survey of individuals that was conducted in 2015, prior to the BLS 2017 survey, Katz and Krueger (2019) document that nonstandard workers increased from 10.7% of the workforce in 1995 to 15.8% in 2015. The components in 2015 were independent contractors (9.6%), on-call workers (2.8%), temporary-help agency workers (1.6%), and workers provided by contract firms (5.4%).

In an addendum to their 2019 study, Katz and Krueger provided information to reconcile their results with those of the BLS:

- The BLS sample included fewer multiple job-holders, while theirs over-sampled multiple job-holders, and multiple job-holders are more likely to be in nonstandard jobs.
- The BLS involved proxy responses as well as self-responses, while theirs was only self-responses. Proxy respondents are likely to be less knowledgeable about the employment status of the person for whom they are responding and more likely to be biased against providing a nonstandard employment response.
- The BLS survey involved a time when the labor market was stronger (2017), while the market was weaker when theirs was conducted (2015).
- The BLS survey was conducted in person or over the phone, while theirs was conducted online.
- The BLS sample size was much larger.
- The BLS survey was likely to be more representative of the population, while their population was recruited through a variety of means.

Katz and Krueger (2019: 415) indicate that the first three of the items listed above, in rank order of importance, account for about 80% of the difference in their results and those of the BLS. They conclude that there has been a modest increase in nonstandard employment during the 2000s.
Both the BLS (2018) and Katz and Krueger (2019) analyses were restricted to those whose nonstandard work was their main job, and they excluded day laborers. They also did not include part-time workers or self-employed workers who were not in their nonstandard categories indicated above. Katz and Krueger document that part-time workers constitute about 25% of total employment, and the self-employed about 10% of total employment (2019: 386). If the (indeterminate) share of part-time workers and self-employed workers who were not already in their nonstandard workforce were added in, this broader concept of nonstandard work would be substantially larger than the BLS figures of 10.1% and the Katz and Krueger figure of 15.8% for nonstandard employment.

Abraham, Haltiwanger, Sandusky, and Spletzer (2018) provide an extensive discussion of various other surveys as well as administrative and tax data that provide information on different concepts of nonstandard employment. They highlight the different results on both the magnitudes and the trends.

The US Government Accountability Office (2015: 12) study provides an example based on a broader concept of nonstandard to include part-time workers and the self-employed who are not in other conventional categories of nonstandard employment. That agency found 40.4% of employment to be in nonstandard or alternative work arrangements in 2010, based on the General Social Survey. The components are agency temps (1.3%), on-call workers (3.5%), and contract company workers (3%) with those three components constituting the core contingent subtotal of (7.9%). The additional components are independent contractors (12.9%), self-employed workers who are not independent contractors (3.3%); and part-time workers, both voluntary and involuntary, who are in standard jobs (16.2%). Clearly, the inclusion of self-employed and part-time workers who are not in the more conventional categories of nonstandard work accounts for a large part of the difference in concepts of nonstandard work. Removing them from the broader concept would cut the 40.4% estimate in half, to about 20% of the workforce.

Clearly, there is wide variation in the concepts of nonstandard and their estimates in the United States. Examples from the above studies include the following: 10.1% in the BLS (2018), 15.8% in Katz and Krueger (2019), 23.4% in Cappelli and Keller (2013b), and 40.4% in the Government Accountability Office report (2015). Will the real number please stand up? It is beyond the scope of this chapter to reconcile these differences. It obviously depends upon such factors as what categories are included, and especially how part-time employees are counted.

Appelbaum, Kalleberg, and Rho (2019) remind us, however, that the majority of the workforce is still in standard employment, and the gig, or platform, economy component of nonstandard work is very small (1% or less). As such, we should not abandon the policy emphasis on protecting standard employment, and policy should focus on providing protection for all workers.
Canadian Estimates
For their “Changing Workplace Review” in Ontario, Mitchell and Murray (2017) provide a thorough discussion of the different concepts of nonstandard employment used in the literature. Based on Labor Force Survey data from Statistics Canada, they conclude that nonstandard employment in Ontario constituted 26.6% of the workforce in 2015, after removal of double counting (because employees could be in more than one category). The categories of nonstandard employment were the following:

- temporary employees (including term/contract, seasonal, and casual/other with a predetermined end date)
- solo self-employment (i.e., without paid help)
- involuntary part-time employees
- holders of multiple jobs (where the main job pays less than the median wage)

In earlier work based on the Labor Force Survey for all of Canada, Vosko, Zuekewich, and Cranford (2003) defined nonstandard employment as any work arrangement that differs from the standard employment relationship where an employee has one employer; works in a permanent, year-round, full-time position; enjoys extensive statutory benefits and entitlements; and expects to be employed indefinitely. Based on this definition, they concluded that nonstandard employment accounted for 34% of total employment in 2002. They note that this reflects some double counting because a given employee can be in more than one category at the same time. As well, their numbers include both voluntary and involuntary part-time employees and all multiple job-holders, irrespective of their wage.

OECD Country Estimates
The OECD (2015) defines nonstandard employment as temporary jobs (e.g., term/contract, seasonal, casual), permanent part-time jobs, and own-account or solo self-employment with no paid help. The OECD indicates that such nonstandard employment accounted for about one third of total employment in OECD countries in 2013, and it is roughly equally divided among those three components. Its share of employment is growing, with more than half of all jobs created since 1995 in nonstandard jobs.

The McKinsey Global Institute (Manyika et al. 2016) indicates that 20% to 30% of the working-age population in Europe and the United States does independent work, which they define as involving a high degree of autonomy, payment by task, and a short-term relationship with their client. They indicate that about 70% do such work on a voluntary basis (and therefore have higher job satisfaction than those in traditional jobs), while 30% do their work involuntarily.
CHARACTERISTICS OF NONSTANDARD WORK

While there is considerable variation in the concepts of nonstandard employment, there is much more agreement, in the studies cited above and from other studies, on the characteristics of such work.²

The characteristics of nonstandard employment jobs show considerable heterogeneity (Hipp, Bernhardt, and Allmendinger 2015); therefore, the generalizations below should be prefaced by the phrase “often, but not always”:

- They are associated with precarious/contingent employment, where the work is contingent on its being available, with the labor market risk being shifted from employers to workers.
- They are occupied by vulnerable and disadvantaged workers, including racial minorities, immigrants, women, youth, and people with lower levels of education.
- The jobs are characterized by low pay and few fringe benefits, including pensions.
- They provide little or no job security because the work is often contingent on its being available and has an actual or expected termination date.
- They offer limited or no training because neither employers nor workers have an incentive to train given the generally limited time period over which to recoup training investments.
- They have few opportunities for career development and advancement.
- The jobs offer workers little control or certainty over their work environment because it frequently changes.
- For many of the reasons above, the jobs are associated with stress, especially if the work is involuntary.
- The jobs provide little protection through employment standards, in part because of being excluded or in smaller firms, as well as the difficulty of determining who the employer is.
- There is little if any protection through unions and collective agreements; hence, workers do not receive union wage premiums or have access to grievance procedures and assistance in enforcing labor laws and regulations.
- Such jobs are associated with poverty. As indicated by the OECD (2015: 31), “People are more likely to be poor or in the struggling bottom 40% of society if they have non-standard work.”
- The number of these jobs has grown over time, mainly since the 1970s and 1980s, but growth has slowed considerably since the early 1990s.

Nonstandard jobs are often regarded as a “women’s issue” because such jobs are disproportionately occupied by women, in large part because of restricted “choices” related to their disproportionate burden of household tasks.³ Nonstandard
workers also often pose a threat to the standard workforce (von Hippel and Kalokerinos 2012).

Workers in nonstandard jobs are often the most in need of employment protection legislation because many are vulnerable, disadvantaged workers in precarious jobs. However, they are often the least likely to receive such protection for various reasons: many are excluded from coverage; many are in smaller firms where legislation is difficult to enforce; there is often difficulty in determining who the employer is, given the fissured workplace; many do not know their rights and are reluctant to complain; most do not have the assistance of unions to help enforcement; and the transitory and temporary nature of much of their employment makes it such that they have less incentive to rectify their situations.4

RELATIONSHIP TO PRECARIOUS/CONTINGENT WORK AND VULNERABLE WORKERS

The previously discussed characteristics of nonstandard employment highlight a strong relationship with precarious/contingent work and vulnerable, disadvantaged employees. Nonstandard work is generally regarded as negative, as evidenced by the following descriptors: contingent work, precarious employment, secondary work, just-in-time work, atypical employment, and even deviant employment and anti-social employment (Rubery 1998: 139, 151). But the overlap between precarious/contingent work and vulnerable, disadvantaged employees is imperfect, which complicates the appropriate policy intervention.

Not all nonstandard work is precarious and contingent [see Gomez and Gunderson (2005b) and references therein]. Seasonal work can be regularized with people returning to the same seasonal job the next season, with some doing alternative seasonal work in the off-season, and some undertaking other activities. Part-time work and self-employment can be permanent and voluntarily accepted for various reasons: to facilitate work–life balance (Drago and Hyatt 2003), to accommodate disabilities (Campolieti, Gomez, and Gunderson 2009; Schur 2003), or to work while in school and to facilitate transitions from school to work. Gig and other nonstandard work can facilitate transitions from retirement and a return to the labor force (Cook, Diamond, and Oyer 2019) and replace income that is lost from a negative shock (Koustas 2019). Some workers may not be concerned with the lack of fringe benefits because they already receive fringe benefits as the children or spouses of other workers, and they prefer cash wages to fringe benefits. Galarneau (2010: 5), for example, provides survey evidence indicating that temporary employees (seasonal, contract, casual, and others with a fixed termination date) are as satisfied with their work as are permanent employees. Parker, Griffin, Sprigg, and Wall (2002) find temporary contract work to be associated with lower stress because the reduced stress from lower work requirements more than offsets the increased stress from job insecurity and lower levels of participation.
Also, not all nonstandard work is associated with vulnerable, disadvantaged workers. The earnings of many professionals may be contingent on an uncertain client base, and the earnings of consultants may be contingent on uncertain contracts being available. Such people may be extremely well-paid, however, with some of that higher payment reflecting a compensating premium for that uncertainty.

The converse is also true. Precarious work can prevail outside of nonstandard jobs, as evidenced by the plant closings and mass layoffs involving previous full-time “good” jobs in declining sectors, such as steel, pulp and paper, and automobile manufacturing. Prior to those layoffs, such workers would be considered advantaged. The inter-related forces of technological change, globalization, trade liberalization, industrial restructuring, privatization, and offshore outsourcing have made many former “good” full-time jobs precarious.

Disadvantaged, vulnerable workers can exist in regular full-time jobs as well as nonstandard ones. This can be the case especially in low-wage service jobs that are disproportionately occupied by immigrants, racial minorities, women, and youth. They seldom have the protection of a collective agreement and have little training or possibilities for career advancement.

Nonstandard work can also be voluntary or involuntary, and for policy purposes that distinction can be important. Many who are involuntarily in a non-standard job would prefer to be in a standard job. Such can be the case with part-time workers who would prefer a full-time job, or with workers who are on a limited-term contract or with a temporary-help agency but who would prefer a regular standard contract. But many may also voluntarily be in nonstandard standard work because it meets their needs or serves other positive purposes.

For example, the nonstandard jobs may be temporary stepping-stones into more permanent jobs (Graaf-Zijl, Van Den Berg, and Arjan Heyma 2009). In effect, the nonstandard jobs may simply be substitutes for the probationary period that was common in the old standard employment contract. Kapsalis and Tourigny (2004: 7), for example, provide Canadian evidence indicating that 60% of unemployed people who had found a job within two years had first been hired into nonstandard jobs. Fang and MacPhail (2007) found that roughly half of temporary workers in Canada are in a permanent position within a year. Cappelli and Keller (2013b: 883) provide US survey evidence indicating that “more than 90% of establishments have converted temp-agency workers to permanent employees.” Autor and Houseman (2006) indicate how such conversion of temporary-help agency work into regular employment may be particularly effective for disadvantaged workers as a route out of poverty. In effect, employers may be reluctant to take on the risk of hiring such workers directly into employment, but they may be willing to hire them into temp-help work as a screening device for more permanent employment (Davis-Blake, Broschak, and George 2003; Houseman 2001; Houseman and Osawa 2003). Searching for a job through
a temp-help agency may be a better alternative than searching while unemployed. Chassin (2013: 3) cites the positive effects of temp-help agencies on subsequent employment from a number of European studies. For example, on the basis of Dutch data, those who found permanent work after having been temporarily employed received higher pay than those who transitioned directly into permanent work (Jahn and Roshlom 2012). On the basis of Italian data, temp-help agencies had a positive causal effect on the probability of finding a job (Ichino, Mealli, and Nannicini 2005). Fisher and Connelly (2017) identify the temporary to permanent transition as being the most cost-effective form of nonstandard work.

Clearly, there are both positive and negative aspects to nonstandard work. There is general agreement that policy attention should be paid to nonstandard jobs that are involuntary, held by vulnerable workers, and not stepping-stones to more secure, standard employment. But there is considerable disagreement about what policy responses are appropriate, as discussed at the end of this chapter.

REASONS FOR THE EXISTENCE AND RISE OF NONSTANDARD EMPLOYMENT

To understand the appropriate policy response to persistent nonstandard employment—especially for the portion that is precarious and involuntary and falls on vulnerable workers—it is important to understand the existence and rise of such employment. Otherwise, the policy responses may simply be dealing with the symptoms and not the underlying causes.

Employers have been under pressure to provide flexibility to meet their competitive challenges arising from such forces as globalization, trade liberalization, deregulation, and privatization. The pressure has been for a flexible, just-in-time workforce and to cut costs to meet their competitive challenges. They are no longer protected by tariffs and nontariff barriers to trade, as was the case with many of the old industries. The associated industrial restructuring has led to a bifurcated workforce of well-paid professional, technical, and administrative “good” jobs at the high-end, and low-paid “bad” jobs at the low end, especially in consumer services. This has been enhanced by the technological change that is biased toward skilled knowledge workers and away from routine tasks that can be done by robots or computer programs (Borjas and Freeman 2019; Ford 2015). The old well-paid, blue-collar unionized jobs in the middle have dissipated if not disappeared. Their decline has led displaced workers to look for jobs in the low end of the job distribution, with that supply influx putting further downward pressure on wages. While nonstandard work can provide flexibility to meet competitive challenges faced by employers, it can make displaced workers even more vulnerable.

The use of nonstandard workers can also be facilitated by technological change, especially associated with computers and the Internet (Katz and Krueger 2019).
This has enabled a more direct connection between customers and providers without the intermediation of the firm. This is evident in the case of platform systems, such as Uber, that connect customers with independent contractors, although that status is contested, as discussed later. It is also evident in the case of freelancers who interact with clients through the Internet.

As aptly described by Weil (2014), these various pressures have led to a fissured workforce where larger organizations have shifted many of their tasks to intermediary organizations at lower levels that use nonstandard and often vulnerable workers. Such organizations often operate under extremely competitive conditions that create an incentive to violate labor laws and regulations. For this reason, Weil (2014) argues for enforcement at the higher levels (e.g., franchisors and retail stores at the top of the supply chain) to change behavior at the lower levels (franchisees and firms at the bottom of the supply chain).

The use of nonstandard workers has also been facilitated by changes in the nature of the workforce. The rise of the two-earner family means that many families want flexibility in their hours of work (Mas and Pallais 2017). Part-time employment on the part of one member can facilitate work–family balance. Two-earner families may not need fringe benefits, such as healthcare, because one party is already covered. The risk that has often been shifted onto them in such forms as limited-term contracts may be diversified somewhat by the employment of the other party in the family. Students may want part-time work to help pay for rising tuition. The aging workforce may want part-time work and be willing to accept limited-term contracts as a way of phasing into retirement and perhaps back from retirement from their former lifetime jobs. Youth may accept limited-term contracts and internships as possible entrees into full-time employment—effectively the new probationary periods associated with the old world of work (Houseman 2001). Immigrants may accept limited-term contracts as ways to show their credentials and skills (Chassin 2013; Jahn and Roshlom 2012). People with disabilities may want part-time work or self-employment to facilitate accommodating their functional limitations (Campolieti, Gomez, and Gunderson 2009; Schur 2003). Millennials may want the flexibility of freelancing or self-employment to test their entrepreneurial possibilities.

These examples are not to say that nonstandard employment is always preferred by such groups. Rather it is to imply that this is the case in some circumstances and, in other cases, it provides a pool of labor that enables employers to meet their flexibility needs.

The rise of nonstandard employment has also been facilitated by institutional and legal changes that are occurring in the labor market. Unions have declined substantially in recent years. The decline of unions and their bargaining power has meant that unions have had difficulty in resisting the increase in nonstandard employment on the part of employers. Unions may also have had to allow such nonstandard employment as a defensive buffering strategy to protect their core
union members of “insiders,” allowing employers to get their flexibility through the use of nonstandard “outsiders” (Lindbeck and Snower 1986; Saint-Paul 1996).

Nonstandard employment has also been facilitated by the fact that legislation and labor market regulation have struggled to deal with such employment. In part, this reflects the fact that our current labor laws and regulations were established to deal with standard employment with lifetime jobs where enforcement was facilitated by large, fixed worksites with established human resources departments. This is in contrast to the majority of nonstandard work arrangements, which are often found in small establishments and where the employers are often not well defined.

Furthermore, labor laws and regulations have been hampered by the fact that governments are under increased pressure to compete for business investment and the jobs associated with that investment by being “open for business” through not imposing costly and burdensome labor regulations. Under globalization, multinationals are especially footloose and can relocate part or all of their business in countries or jurisdictions that have minimal regulations and export back into the jurisdictions with more costly regulations. This can foster a race to the bottom or harmonization to the lowest common denominator in terms of regulations that will accommodate more nonstandard employment (Gomez and Gunderson 2005a; Gunderson 1998). Such relocation of business does not have to occur; the threat of doing so can be sufficient.

Importantly, the rise of nonstandard employment may have been fostered by extensive regulation of the standard employment contract. Faced with the cost and burden of such regulations, employers may shift to using more nonstandard employment. Evidence on this is given in Autor (2003), Gramm and Schnell (2001), and Liu (2015), with early evidence given in Lazear (1990).

**POLICY OPTIONS**

As indicated, forces such as globalization and technological change associated with the new world of work have made many of our conventional jobs obsolete. Not surprisingly, our labor policies, which were designed for the old world of work with a standard employment contract, also may be in need of modification, as is also true with our theoretical perspectives on the relationship between employees and their organizations in the case of nonstandard work (Gallagher and Connelly 2012). A wide range of policy responses to deal with nonstandard employment and contingent/precarious employment has emerged. Some cautionary tales have also been advanced, especially by the dismal science of economics—to which this author pleads guilty as a member.

**Extending and Ensuring Coverage of Existing Laws**

An obvious common response to the lack of coverage of nonstandard employment under existing labor laws is to extend coverage to such workers (European
Commission 1999; Supiot 2001). This often takes the form of defining the employer appropriately so that nonstandard workers are covered under the appropriate labor law. This has been an ongoing issue, especially for temporary-help agencies, franchisors, independent contractors, and platforms, such as Uber. Extending such laws to cover nonstandard workers facilitates a level playing field so that employers who are otherwise not covered are not competing on the basis of violating labor laws. Jacobs (2018) outlines that such initiatives have been particularly effective at more local levels (governing the market from below) when labor has more political clout and when national initiatives are stymied by conservative governments.

While extending the laws can facilitate a level playing field, it can also be a thinly disguised form of regulatory rent capture whereby existing firms that already comply with the regulations want them extended to inhibit competition from new entrants or smaller firms that are not covered. In the early period of industrialization, for example, legislative protection was often applied only to women and youth for the alleged purpose of protecting their vulnerability, but the real purpose was to protect male jobs from such competition. Wage extension legislation that extends union wage agreements to non-union sectors by juridical decree can protect unionized workers from lower-wage, non-union competition in that sector. The recent support by some big box stores for higher minimum wages can reflect concern about their public image, but it can also reflect their wanting such regulations to protect them from competition from other low-wage retailers because big box stores already pay above the minimum wage.

Another concern with extending the regulations to nonstandard workers is that employers who otherwise rely on such workers for their flexibility may shift at least part of their activities offshore or to other jurisdictions where labor laws and regulations are less stringent. With the international mobility of footloose capital, this threat is now more credible.

Enhanced and Targeted Enforcement
Enhanced enforcement of existing laws and regulations is another policy option to protect all workers—nonstandard and standard. Lack of enforcement has been well documented, especially in times of government budget cuts to enforcement agencies, as is often the case when conservative governments are in power. Enforcement is also more difficult in smaller, non-union worksites compared with large, fixed worksites with stable workforces, unions, and human resources departments.

As described by Weil (2014), these various pressures have led to a fissured workforce where larger organizations have shifted many of their tasks to intermediary organizations at lower levels that use nonstandard and often vulnerable workers. Such lower-level organizations often operate under extremely competitive conditions that create cost-cutting incentives to violate labor laws and
regulations. For these reasons, emphasis has been placed on targeting enforcement at higher-level organizations at the top of the food-chain such as franchisors and prominent retailers with their supply chains (Weil 2010, 2014). Such organizations can be very effective in setting standards for their franchisees and suppliers in terms of their products and services, so it should not be an extensive leap for them to require certain standards with respect to labor.

To deal with the enforcement difficulties in a fissured workplace, various targeting strategies have been emphasized. Elements of those strategies include the following:

- focusing on vulnerable workers who are unlikely to file complaints, even though noncompliance is likely to be high
- focusing on lead organizations, such as franchisors or major retailers, with their network of subordinate firms that often employ nonstandard and vulnerable workers in the fissured workplace
- focusing on where enforcement is most likely to change behavior, such as with publicly visible employers whose brand image is likely to suffer by revelations of noncompliance on their part or on the part of linked organizations in their supply chain
- focusing on where enforcement is likely to involve ripple or spillover effects on other firms
- engaging with unions, employer associations, and community groups to detect where noncompliance may be prominent and they can enhance ripple effects
- engaging in strategic enforcement at the market level, which involves proactive inspections rather than on a case-by-case basis that relies simply on complaints
- engaging in blitzes of specific sectors where noncompliance is likely to be high and public awareness may be enhanced
- providing basic information to employees of their rights and to employers of their responsibilities, especially in the case of small employers who may not have such awareness
- protecting employees against reprisals, especially in situations where the protection of unions has dissipated
- invoking heavy penalties for repeat offenders who consciously violate the law

**Optimal Penalties**

Basic principles of economics provide some insights into optimal monetary penalties when enforcement is difficult and costly and enforcement resources are limited. The expected penalty for violating employment standards is the product of the probability of being investigated times the probability of getting caught if investigated times the probability of being found guilty times the penalty if found.
guilty. Enforcement agencies can strategically alter any of the components in response to their costs and expected effects. It is generally difficult and costly for enforcement agencies to utilize any of the first three components for employers of nonstandard workers. In such circumstances, the economic perspective emphasizes increasing the fourth component—the penalty for being found guilty of noncompliance. This can involve a large monetary fine, and/or by penalizing high-profile employers where the image costs of bad publicity are high (Gomez and Gunderson 2005a; Gunderson 2013).

Basic principles of economics also highlight problems with relying on complaint-based systems for enforcement. Individuals who bring forth a complaint generally bear the cost of carrying out a complaint. But if it is successful, other individuals who have the same issue will generally benefit by the redress—that is, a successful complaint can generate externalities or spillovers to third parties who can benefit by the redress, and these external benefits are not captured by the individual complainant who bears the costs. The costs can also include potential retaliation on the part of the employer. This concern can be mitigated by class-action law suits or by unions bringing forth the complaint or by proactive policies that do not rely on complaints.

The strategy of invoking high fines has various potential disadvantages. It can lead to bankrupting an employer and therefore killing its jobs, it can be unfair if only a few are penalized with high fines to deter others, it can encourage employers to devote considerable defense resources to fight prosecution as opposed to complying with the law, it can foster an adversarial mentality of focusing on an economic calculus of the costs and benefits of maleficence, and it goes against the “broken window theory,” which emphasizes deterring small infractions before they foster bigger ones.

Behavioral Nudges and Cooperative Initiatives
In part because of the problems associated with monetary penalties and policing for enforcement in the growing component of nonstandard employment, an alternative is to emphasize a cooperative strategy of assisting employers to comply with legislation. This “carrot as opposed to a stick” approach can be especially important for small employers that do not have sophisticated human resources departments, and when complying with the legislation can be complicated.

Developments in behavioral economics have emphasized the importance of norms of acceptable behavior (e.g., Carroll 1992; Keizer, Lindenberg, and Steg 2008; Messick 1999) and that trying to alter behavior through adversarial policing and penalties may “crowd out” positive intrinsic motivation based on norms of acceptable behavior (Benabou and Tirole 2003; Frey and Jegen 2001). Informing employers of norms of acceptable behavior through laws, and providing assistance in complying with them, may alter behavior in a positive fashion even if the expected penalty is low (Cooter 1998; Frey 2009). This is especially the case if
the laws are applied in a uniform fashion to provide a level playing field based on such norms.

Providing basic training in areas such as health and safety can be important for nonstandard employees and especially for temporary contract workers. Such workers tend to have high accident rates, although a large part of this is because they receive little exposure to safety issues or health and safety training. Amuedo-Dorantes (2002) provides such evidence and reviews the evidence from other studies.

**Institutional Perspective on Enforcement**

Similar to the behavioral perspective, the institutional perspective of enforcement downplays the role of sanctions and emphasizes normative pressures (Edelman and Suchman 1997; Hirsh 2009; Jain, Lawler, Bai, and Lee 2010; Suchman 1997). As stated by Hirsh:

Institutional theory focuses on the normative effects of regulatory efforts, identifying normative pressure as the driving force behind legal compliance and organizational change. … For institutionalists, the law plays a role in shaping organization behavior, not necessarily because sanctions deter violations, but because the law cultivates an external environment that discourages the sanctioned behavior. (2009: 248)

In the context of equal employment opportunity law, Hirsh states:

Individual charges and settlements may alter employers’ behavior, not simply by pressuring those who receive charges, but, more importantly, by cultivating a culture of compliance that draws attention to sex and race equity, renders discrimination normatively unacceptable, and communicates what constitutes fair employment practices. (2009: 246)

Hirsh concludes:

By heightening attention to fair employment practices through indirect enforcement efforts, regulatory agencies can cultivate a culture of compliance that compels organizations to voluntarily behave in ways consistent with the law. (2009: 268)

**Targeting a Safety Net for the Most Vulnerable Individuals**

Given the various types of nonstandard employment, and the fact that much of it serves the interest of both employers and employees, it is not likely that a “one size fits all” solution of trying to regulate all nonstandard employment is appropriate. Given scarce enforcement resources, targeting the most vulnerable individuals—those who are involuntarily and permanently in precarious nonstandard jobs—seems most appropriate and equitable.
The targeting approach also implies focusing on individuals and not jobs, especially given the growing instability and decline of lifetime, or even long-term jobs, faced by youth (Gunderson 2013). This approach implies more emphasis on providing portable benefits for nonstandard workers given their diversity of jobs, and perhaps surcharges paid by consumers when there is no formal employer to traditionally pay benefits (Etzioni 2018). It also implies a need to pay more attention to income-maintenance programs if the labor market cannot provide sufficient income for vulnerable workers (Zhang and Zuberi 2017). This can include basic income guarantees (Forget 2018; Koebel and Pohler 2019) for disadvantaged individuals and families, as opposed to relying on employment laws, which generally relate to jobs and are more difficult to enforce in nonstandard employment.

Busby and Muthukumaran (2016), for example, recommend moving away from labor market regulation—which can stifle growth and job creation—and into policies that can mitigate risk and improve the social safety net. These include reducing gaps in health coverage, improving employment insurance eligibility, boosting access to social programs, and ensuring uptake of programs that improve access to education and skills training programs for workers.

A similar emphasis is made by Policy Horizons Canada:

Labour standards, regulations and dispute mechanisms could become harder to implement where people can work for anyone, anywhere, and where work is task-based rather than time-based. … Social safety nets may need to be redesigned to support the growing number of people attempting to meet their needs through nonstandard and precarious work. (2019b: 10–11)

Fostering Full Employment, Growth, and Competitive Markets

Competitive market forces and the relentless pursuit of cost-cutting are generally regarded as a cause of much of nonstandard employment and the plight of vulnerable, precarious workers, especially in the fissured workplace. This is true. And it is also true that the competitive forces of globalization and skill-biased technology change have fostered growing inequality and a declining middle of the occupational distribution. But it is also true that competitive market forces can have positive effects, as can a full-employment economy. Harnessing these forces can be an important component of an effective strategy to deal with concerns associated with nonstandard employment, and especially the precarious, vulnerable component.

Competitive market forces, for example, can help dissipate discrimination because paying or promoting a favored group over a minority group of equal productivity should not have survival value in a competitive economy. Competitive market forces can help ensure that compensating wage premiums are paid for
undesirable aspects of work, such as job instability, lack of pensions, and risk of injury, as well as overtime, commute time, and shift work (see reviews of such studies in Benjamin, Gunderson, Lemieux, and Riddell 2017: 248–250). Such compensating wage premiums can raise the cost to employers of providing negative job attributes, but they require employers to compete for workers on the basis of providing desirable job attributes or paying compensating wages—and that scenario is more likely in competitive markets and a full-employment economy.

A full-employment economy can also foster job stability and facilitate workers moving from involuntary nonstandard work to voluntary standard work. There is legitimate debate over the extent to which “a rising tide raises all boats.” It may raise a luxury yacht more than a dingy, and it may not raise boats anchored to the bottom. Nevertheless, there is considerable evidence that an expanding economy with full employment has favorable distributional effects for otherwise vulnerable workers, including those who are involuntarily in nonstandard jobs.  

**Fostering Unionization and Reversing the Decline of Unionization**

Unions have a potentially important role to play in enforcing labor regulations through various means: informing workers of such regulations and their rights; monitoring enforcement; protecting against reprisals on the part of employers; incorporating legislative standards into their collective agreement, which would continue to provide protection should the legislation be rescinded and also enable use of the grievance procedure; bargaining for higher standards; and lobbying in the political arena for such standards. Unfortunately, the ability of unions to do this has been circumscribed by their difficulty in organizing nonstandard workers and their declining power as the forces of globalization have provided employers with a more credible threat to relocate their investments and the jobs associated with such investments.

The ability of unions to bargain effectively has also been hindered by policy initiatives. Slinn (2015) provides a thorough review of such initiatives that have hindered unions and fostered their decline, and she suggests a wide range of policy initiatives that could possibly reverse that trend. Examples include the following:

- Use card-based certification rather than mandatory votes, given the deterrent effect of votes on certification (Slinn 2004, 2005).
- Reduce delays in the certification process, especially through greater penalties on employer use of unfair labor practices during union organizing, given the negative effect of delays on certification (Campolieti, Riddell, and Slinn 2007; Slinn 2008).
• Impose first contracts more frequently in response to employer use of illegal union-avoidance tactics, given the importance of such illegal tactics on inhibiting certifications (Slinn 2008; Slinn and Hurd 2011).
• Reduce employer interference and intimidation in certification elections by providing alternative formats (e.g., Internet and telephonic elections) or offsite election locations (Slinn and Herbert 2011).
• Reduce restrictions on workplace access for union organizers and enable unions to contact employees at an early stage of organizing.
• Reduce occupational exclusions and requirements for separate bargaining units for certain types of workers.
• Allow post-certification modification of bargaining unit boundaries, including consolidation of units.
• Expand the definition of “employee”—an issue that is especially important for many nonstandard workers to be covered by legislation.
• Consider a role for minority unionism as an alternative to the conventional requirement for majority support and exclusive representation.
• Provide enforcement agencies with greater discretion to impose stiffer penalties as a deterrent, given the low penalties that tend to prevail (Slinn 2008).
• Consider broader-based bargaining and related initiatives, such as juridical extension by decree, multi-employer and sectoral bargaining, and mandatory centralized bargaining, especially for situations where workers are otherwise vulnerable and in precarious situations. Jacobs (2018) emphasizes that such initiatives can be particularly effective at more local levels (governing the market from below) when labor has more political clout and public support and when national initiatives are otherwise stymied by conservative governments.

Despite the declining power of unions, Gomez and Lamb (2019) highlight that unions can still be a force in improving the conditions of nonstandard workers. Specifically, they find the following for Canada:

• The union wage premium in the private sector is actually higher in nonstandard employment (around 7%) than in standard employment (around 5%).
• The higher union premium in nonstandard employment prevails throughout the wage distribution.
• The union pay premium has declined over time in both standard and nonstandard employment, although less so in percentage terms in nonstandard employment.
• The unionization rate has declined in standard employment but has remained steady and even increased somewhat in some nonstandard jobs.
The extent to which these results from Canada, where unionization rates are almost three times those of the United States, apply to the United States and elsewhere is an open question.

**Fostering Other Forms of Voice and Collective Representation**

In part because of the decline in unionization and its power, increased attention has been paid to other forms of collective representation. Gomez (2016) outlines a number of these and indicates that they could apply to nonstandard as well as standard employment. For example, minority unionization could provide varying degrees of rights without requiring majority support and exclusive representation. Legislation could require joint labor–management committees inside workplaces to give workers voice on plant-level issues, such as health and safety, technological change, training, mass layoffs, and plant closings. These committees could deal with many of the issues of mutual interest between labor and management, as similarly dealt with by the German works councils. Governments could also support more informal, nonstatutory collective representation whereby employers would voluntarily negotiate with employee groups that would not be certified as an exclusive bargaining agent. Governments could also support worker-owned co-operatives as an extreme form of worker voice and participation in the economy. Governments can also foster employee associations that endeavor to provide benefits (pensions, insurance, advocacy in the case of disputes with clients) and other forms of assistance to their nonstandard members, such as freelancers. Governments could also facilitate bringing stakeholders together in forums to advance employee voice and productivity in the workplace through various means, such as highlighting workplace best practices and developing voluntary standards.

Kaufman and Taras (2000) outline the early history of non-union forms of representation in the United States, and Taras and Kaufman (2006) discuss the complexity and diversity of their various forms in Canada and the United States, concluding that, although their future is uncertain, they are likely to remain a modest-size phenomenon in the short run. Kaufman (2013) provides a detailed history of the commitment model of employment relations at Delta Air Lines, highlighting its various forms of employee involvement through the turbulent times that are characteristics of airlines. Gollan, Kaufman, Taras, and Wilkinson (2014) offer examples of the successes and failures of the various forms of non-union representation in Australia, Canada, the United Kingdom, and the United States. Gomez et al. (2019) provide a current analysis of joint consultative committees and their relationship to unions and HR practices in Britain.

**Creating a New Category of Independent Workers**

Harris and Kreuger (2015) propose creating a new legal category of independent workers to include those for whom it is difficult to determine whether they are
employees or independent contractors, and who possess some characteristics of both. Independent workers, and especially gig workers, typically work with intermediaries or platforms that match workers to customers. On the one hand, independent workers are like independent contractors in that they can choose when to work and whether to work at all, they may work with multiple intermediaries simultaneously, they can conduct personal tasks while working on the platform, and it is difficult if not impossible to attribute their work hours to any employer. This is especially the case as work changes from more permanent and time based to temporary and task based (Policy Horizons Canada 2019a: 4). On the other hand, the intermediary is like an employer in that it can set fees and effectively dismiss workers by prohibiting them from using its service.

Harris and Kreuger (2015) propose giving independent workers some but not all the benefits and protections that employees receive through regular employment laws, including the right to organize and engage in collective bargaining, civil rights protections, tax withholding, and employer contributions for payroll taxes. However, such workers would not be entitled to overtime or minimum wage requirements because those benefits are based on hours, and it is not possible to attribute work hours to any single intermediary. The workers would generally not qualify for unemployment insurance benefits because they have discretion over whether they work.

Intermediaries are often reluctant to provide benefits to their independent workers for fear that doing so would deem them an employer. To mitigate this risk, intermediaries would be allowed to pool independent workers for purposes of purchasing and providing insurance and other benefits at lower cost without the risk that their relationship would be deemed an employment relationship.

Fostering “Smart” Regulation
As discussed previously, globalization has enabled employers to resist labor regulation by credibly threatening to move their mobile capital investment, and the associated jobs, to locations that have less costly regulations. The negative aspects of this are exhibited by phrases like a race to the bottom, a regulatory meltdown, harmonization to the lowest common denominator, and social dumping. But not all regulations need be costly, and many can yield benefits to employers (Gomez and Gunderson 2005a; Gunderson 1998). No-fault worker compensation can avoid costly litigation through the courts, as was the case in the days before worker compensation. Advance notice requirements in the case of mass layoffs and plant closings can facilitate efficient job searches that can benefit employers as well as employees, and workplaces that are free of bullying and harassment can improve morale and productivity. Health and safety regulations can save on costly absenteeism related to injury. Of greater potential relevance to nonstandard vulnerable workers in precarious jobs, a modicum of protection can reduce the stress that fosters health problems, family abuse, and antisocial
and criminal acts. Such protection can also reduce resistance to otherwise efficient but disruptive restructuring and be considered part of a public infrastructure that facilitates private investment.\textsuperscript{11}

Smart regulation involves regulation that has positive feedback effects on employers and society at large so as not to “kill the goose that lays the golden eggs.” Efficient regulation need not be an oxymoron.

Smart regulation also involves paying attention to design and implementation, given that “the devil is often in the detail.” New regulations are often announced in general terms so as to get political credit from the public, with the implementation and design details to be worked out later. When the details are subsequently worked out, they can be complicated such that they are not enforced, or they become costly to enforce, or they lead to negative unintended consequences. In contrast, small design changes can be very effective in meeting the requirements of nonstandard workers. For example, Canada recently changed its unemployment insurance eligibility from one that required a minimum number of weeks worked to one requiring a minimum number of hours worked so that part-time workers could be covered.

Smart regulation also implies paying attention to the “law of unintended consequences” whereby well-intended policy initiatives can lead to unintended negative consequences because of the behavioral responses on the part of different actors. Gunderson (forthcoming) provides numerous examples. Termination legislation that protects “insider” workers from layoffs can reduce the hiring of new workers and foster the hiring of nonstandard contingent “outsiders” who have little or no protection. Generous maternity leave policies may reduce the hiring of females or shift the cost to females in the form of lower compensating wages in return for the leaves. Requiring overtime premiums can lead to a reduction in the straight-time portion of wages. Raising minimum wages can encourage youth to leave school to take minimum wage jobs, and/or it can reduce employment and training opportunities for marginal workers, leading to increases in poverty. Extensive regulation around defined-benefit pension plans can incentivize employers to shift to defined-contribution plans that are subject to less regulation and that shift risk to workers. The portion of payroll taxes that is initially levied on employers can be shifted to workers in the form of lower compensating wages in return for benefits financed by payroll taxes. Requiring employers to provide accommodations for people with disabilities can lead to reduced hiring of such workers, or the cost can be shifted back to workers with disabilities in the form of lower compensating wages to pay for the accommodations.

This does not mean that these policy initiatives are undesirable—indeed, they may be very desirable from an equity standpoint. It does mean, however, that they can lead to negative unintended consequences that should be considered in the design and implementation of the policies. For regulations to effectively deal with the challenges nonstandard employment poses for workers, they must take
into account the potential behavioral responses of all parties in the employment relationship.

**CONCLUDING OBSERVATIONS**

Nonstandard employment is a reality of the new world of work and is likely to remain so; nostalgia for the old world of work is not likely to provide solutions. Consistent with the practical and policy-oriented nature of our field of employment relations, numerous policy initiatives to deal with the issues surrounding nonstandard employment have been outlined here. All have their pros and cons, and none on their own appear to be the silver bullet that can cut through the problems and provide immediate solutions.

More research needs to be undertaken to fully understand the issue of nonstandard employment and the possible solutions to any of its associated problems. We should rely on evidence-based policy making, where the evidence is causal and not just anecdotal or correlational. This step is especially important in overcoming the increased tendency toward policy-based evidence making. As an (uninvited) personal reflection, our policy emphasis should focus on the most vulnerable disadvantaged workers, whether they are in precarious jobs or standard employment. This is most consistent with the emphasis in our field on equity and worker voice, as well as efficiency.

**ENDNOTES**

1. Full disclosure: I was the research director for that review and benefited immensely from their deliberations as well as the background reports that were commissioned for it, many of which are cited here.


5. Not surprisingly, given the various types of nonstandard employment and reasons for doing it, the evidence of its impact on work–life balance is mixed, as indicated by a review of the literature by Girard (2010).
6. In the United States, unionization rates fell from 20.1% in 1983 to 10.5% in 2018, where they were 6.4% in the private sector and 33.9% in the public sector (US Bureau of Labor Statistics 2019b). In Canada, unionization rates fell from 33.7% in 1997 to 30.1% in 2018, where they were 15.9% in the private sector and 75.1% in the public sector (Statistics Canada 2019). In OECD countries, the unionization rate fell from 30% in 1985 to 16% in 2016 (OECD 2019).


9. I am indebted to Judy Fudge for the former metaphor and Sara Slinn for the latter.

10. Evidence that growth and full employment help dissipate discrimination and disproportionately help the most disadvantaged and vulnerable, including nonstandard workers, is provided in Boulware and Kuttner (2019), Freeman and Rogers (2000), Hines, Hoynes, and Krueger (2001), and further references cited therein.


REFERENCES


Over the course of two short decades, as labor’s share of income has dropped in the wake of declining unionization, globalization, corporate concentration, and technological change (Azar, Marinescu, Steinbaum, and Taska 2018; Levy and Temin 2007; Piketty 2014; Rosenfeld, Denice, and Laird 2016), the living-wage movement in the United States has grown from a minor municipal phenomenon into a nationally prominent “fight” for a $15 hourly wage, culminating most recently in the vote of the US House of Representatives for such a wage in July 2019. Reflecting the Fight for $15 movement’s “scale shift” (McAdam, Tarrow, and Tilly 2001; Soule 2013) from the local to the national stage, leading US presidential candidates and national elected officials have adopted the Fight for $15’s agenda, prominently featuring the movement’s goals in their election campaigns. More broadly, living-wage campaigns, from which the union-led Fight for $15 movement emerged, have also diffused internationally, most notably in other Anglophone “liberal market economies” (Hall and Soskice 2001) such as Canada, Ireland, New Zealand, and the United Kingdom (Hirsch and Valadez-Martínez 2017), which typically have weaker labor institutions than other high-income democracies.

Though living-wage movements are sometimes dismissed as a poor substitute for collective bargaining agreements (Hirsch and Valadez-Martínez 2017), the Fight for $15’s success in the United States has nonetheless been remarkable. Since 2012, Fight for $15 campaigns have achieved more than $68 billion in expected raises for more than 22 million low-wage workers (NELP 2018), as union–community coalitions have successfully shepherded $15 hourly minimum wage ordinances in cities and states into law, while also pressuring private and public employers to voluntarily adopt living-wage policies. Though critics of the
living wage have argued that a $15 floor would result in significant job losses and undermine its effects, evidence of such negative consequences thus far remains limited, although it is also still too early to assess the ultimate effects and outcomes of the movement’s efforts.

Despite this string of successes, we argue that the Fight for $15 now faces serious structural challenges, stemming from the fact that its advocates seek a nationally uniform wage floor in what is ultimately a regional economic world. Specifically, we argue that future success may depend on the movement’s ability to simultaneously address two challenges. First, as the movement develops its efforts on the national scale, it must navigate the regionally divergent economic effects of the very same forces of economic, technological, and institutional change to which it is partly a response. A wealth of scholarship in regional economics, urban planning, sociology, and economic geography has documented and explained why economic and labor market conditions have increasingly become regionally polarized, with some areas experiencing outsized economic and wage gains from globalization and technological change, while other regions fall further behind. In many prosperous regions, costs of living have also increased, such that the basic wage needed for social reproduction also varies greatly across the country. In a large country like the United States, which contains great internal economic diversity across regions, the local effects and significance of a single, national wage floor of $15 will accordingly vary.

Second, the Fight for $15 movement must also continue to coordinate its efforts across multiple political scales, the very structure of which is changing under proponents’ feet. Some states have moved to preempt “city power” to raise wages (Kim and Warner 2018; Schragger 2016). Courts are affirming their ability to do so, further complicating the political terrain the movement’s actors must negotiate. Though this latter challenge has recently received some scholarly attention, the former issue of inter-regional cost variation and the living wage has not been well examined; how these two challenges interact to affect the Fight for $15 has been wholly ignored. These two factors, both separately and taken together, have significant implications for its success.

After reviewing the literature on the costs and benefits of a living wage, regional economic variation, and the politics of scale shift, we consider the extent to which a regionally heterogeneous cost of living structure and multiscale politics have strategic implications for a national living-wage movement. Specifically, we show why it is important for advocates and scholars to understand the drivers of unaffordability in different regions—because different cost structures present different avenues for reform. Furthermore, depending on the nature of the political scales in question, some of those avenues may be less viable than others.

Living-wage gains in the new economy’s “winning regions” may be partly eroded by high and inelastic housing costs. As we show, housing expenses consume a higher proportion of expected family budgets in those areas, although
never an outright majority. Fight for $15 campaigns in these regions therefore may be more effective or successful if combined with strategies that demand affordable housing development policies, building on the rich legacy of the labor movement’s involvement in the construction and support of workforce housing. In contrast, in regions that have been “left behind” by technological change and globalization (as well as financialization and other broader, policy-mediated institutional changes), we review preliminary evidence as to whether a $15 wage floor may be poorly matched to lower cost structures in these areas. Using location-based family budget estimates and economic output data, we find that there are only a handful of metropolitan statistical areas (MSAs) in the United States where a $15 hourly wage is sufficient for a single person to subsist. Further, there are even fewer MSAs—just three—where $15 an hour is sufficient to meet the basic needs of two adults working full-time to support two children. And yet almost all of these regions have sufficient economic output, in theory, to provide their residents with incomes sufficient to meet their needs. In regions where costs are not typically driven by housing, which may also have state-level political obstacles to a living wage, union-community coalitions may wish to consider other strategies such as social welfare/child care expansion or employee ownership as supplements to living-wage campaigns. Finally, in states that contain a high degree of heterogeneity in their inter-regional cost structure, living-wage advocates may need to deploy more geographically nuanced approaches to achieve higher living standards in order to avoid state preemption efforts and political opposition from lower-cost regions, where concerns over job losses may be higher.

OVERVIEW OF THE FIGHT FOR $15 AS A LIVING-WAGE MOVEMENT: COSTS, BENEFITS, AND CRITIQUES

The Fight for $15, which commenced in New York City in late 2012 as a highly localized job walk-off campaign by 200 fast food employees for a $15 an hour wage (Draut 2016) and was supported by unions such as the Service Employees International Union (SEIU), rapidly diffused across the United States and internationally, with strikes and protests in 230 cities by late 2014 (Draut 2016). This ultimately led to state and subsequently federal efforts to enact a $15 minimum wage—double the federal minimum wage of the time (Doussard and Lesniewski 2017).

In many ways, the movement has followed the trajectory of many successful predecessors, using now well-established repertoires of contention (McAdam, Tarrow, and Tilly 2001) and framing techniques (Benford and Snow 2001; Klandermans 1988). Like the civil rights movement in the 1960s in the United States (McAdam 1982), the Fight for $15 has diffused laterally across cities, while scaling up to the state, national, and even global levels. As with other social movements, its seemingly rapid success has not emerged from the ether: working
closely with established institutional partners such as unions and community group coalitions, the Fight for $15 effectively extended and built on the efforts of the living-wage movement that had come before it, creatively deploying that movement’s legacy, organizational strategies, and tactics, while also leveraging the emergence of new political opportunities (McAdam 1982) and policy windows (Kingdon 1984) in the wake of the Occupy movement and the Global Financial Crisis.

In turn, the predecessor living-wage movement might seem a comparatively recent phenomenon, with some accounts of its origins focusing on the first successful US municipal campaigns for public sector and public contract/procurement workers in the 1990s (Hirsch and Valadez-Martinez 2017; Martin 2006). One could argue the fight for a living wage is much older, however, and can be traced back to the minimum wage fights of feudal guilds, tradesmen’s corporations, and mutual aid societies in Europe (Sewell 1980), forward through utopian socialism and the birth of the modern labor movement and trade unionism in the wake of the first and second Industrial Revolutions (Foner 1965). Though some of these efforts did not explicitly use the term “living wages,” some did, and, by the early 20th century, the term had currency in several English-speaking countries (see, for example, Ryan 1906). By 1933, after several states passed minimum wage laws resulting in a successful campaign for a national minimum wage, US President Franklin Roosevelt stated “No business which depends on paying less than living wages to its workers has any right to continue in this country” (quoted in Hirsch and Valadez-Martinez 2017). The minimum wage was originally intended to be more than a subsistence wage, but failure to update the federal wage with inflation has reduced it to less than a living wage, reflecting the well-known process of “policy drift” (Hacker 2004), in which a policy’s effectiveness and relevance declines as it fails to be updated or modified for changes in underlying conditions.

**Living Wages as a Targeted Strategy**

The broader labor movement has a long and extensive history of incorporating living and minimum wage discourses and objectives into its larger policy agendas and strategic goals. Living-wage movements such as the Fight for $15, however, are distinct in their logic and strategy from the labor movement’s broader collective bargaining and institutionalized approaches to wage setting. The living-wage movement does not target wages as one among many labor issues to be addressed as part of some larger comprehensive process. The living-wage movement targets wages alone, with framing that reflects this focus. This is not to imply that the living-wage movement is not complex. To the contrary, the living-wage movement deploys a diversity of rate-setting approaches. Living-wage efforts have targeted city governments and their contractors and certain private sector industries or specific employers, as well as all general employers in a geographic area, typically
over a certain minimum employee size threshold. Some campaigns have included voluntary efforts by employers to apply living-wage policies across their workforce as a job retention and workforce development strategy, while others have taken an adversarial approach led by social movements (or unions) in alliance with either community groups or unions (Prowse, Lopes, and Fells 2017).

Though variants of these approaches can be found in different countries, living-wage movements are most prominently found in the United States. This is perhaps unsurprising given the low and declining union density and high degree of labor commodification in the United States (Esping-Andersen 1999; Rosenfeld 2014). But it raises the question of whether the living-wage movement is nothing more than a poor, limited substitute for collective bargaining. In countries with higher levels of union density and/or widespread collective bargaining, a statutory minimum wage is seen as unnecessary because workers have the collective power to secure much higher wages through their bargaining alone: wages are determined by and extended into industry or trade sectors in these countries, through national agreements (Hall and Soskice 2001; Martin and Swank 2012; Thelen 2004).

Scholars have nonetheless attempted to analyze the diversity in living-wage approaches as well as explain success and failure by these various approaches. Hirsch and Valadez-Martínez (2017) argue that campaigns now typically fall into one of four categories based on what is targeted: voluntary employer standards, public contractor requirements, compulsory minimums on all employers, and supply chain agreements. Prowse, Lopes, and Fells (2017) further argue that these efforts can be distinguished based on whether they are led by unions or community organizations in alliance with other civil society organizations. Meanwhile, Martin (2006), in examining how living-wage campaigns in the 1990s spread from Baltimore to the rest of the United States, demonstrated that organizational density was a key factor in explaining the success of municipal living-wage campaigns.

Benefits, Costs, and Critiques of the Living Wage and a $15 Minimum

Benefits to paying a living wage that exceeds the current statutory minimum US wage include higher productivity resulting from lower turnover and higher employee job satisfaction and morale (Osterman and Shulman 2010; US Congressional Budget Office 2019). Research has shown that higher minimum wages also result in lower suicide rates (Dow, Godøy, Lowenstein, and Reich 2019). Other research has suggested they could result in lower public outlays for social welfare subsidies because low-wage workers are lifted out of poverty and no longer require such payments to supplement their wages: governments spend more than $153 billion per year on benefits for these workers (Jacobs, Perry, and MacGillvary 2015). Finally, historical justifications for high minimum wages
also included their importance in sustaining consumer demand, a key determinant of macroeconomic health. As one 1940s tract put it, the purpose of a strong minimum wage is to “prevent the backward businessmen from undermining the wage structure and from living off the purchasing power provided by the payrolls of businessmen who pay decent wages” (Bowles 1946: 59). This argument has been revived in recent years by scholars who note that low aggregate demand stemming from high levels of inequality is a major reason for the weak economic growth of recent decades, culminating in the Great Recession (Carvalho and Rezai 2015; Stiglitz 2012, 2016; Stockhammer 2015).

Offsetting these benefits are concerns over the cost of a higher wage floor. The primary concern is that a higher wage floor will result in higher overall labor costs and that these higher costs would be passed on by business owners in two ways: a reduction in employment levels and an increase in consumer prices. Given the increased use of artificial intelligence technologies such as robots to replace workers (Acemoglu and Restrepo 2020), capital–labor substitution effects could be significant.

These increased costs associated with a higher wage would nonetheless be partially offset by the productivity gains as suggested above. Even accounting for this, however, the estimates modeled by the Congressional Budget Office (CBO) suggest a $15 national minimum wage would result in a net decline in household income of 0.1% and a slight decline in employment levels. Neither the CBO model nor any other study has provided estimates of where in the United States such gains would likely be concentrated. This is surprising given the popular and political attention paid to the concern that $15 wage minimums may be too high for a given industry or location, rendering them economically uncompetitive and suppressing employment and investment.

Actual studies of existing minimum wage and living-wage increases, as reviewed by Godøy and Reich (2019), question the CBO projections: economists have not been able to demonstrate significant or statistically robust employment losses as a result of state or local wage floor increases, regardless of the control variables deployed (Cengiz, Dube, Lindner, and Zipperer 2019; Dube, Lester, and Reich 2010; see also Lester 2011, 2012). As a result, a “working consensus” (Godøy and Reich 2019) has emerged from wage floor research that there are no substantiated aggregate employment effects from state or local wage floor increases in the United States. Studies that deviate from this consensus are, as Godøy and Reich (2019) note, framed accordingly as aberrant.

Critiques of the living wage have been made on other, ideological grounds. Left-wing critics charge that living-wage agreements, like the broader union movement, merely strengthen the divide between workers and owners instead of moving workers into an ownership position (Spicer and Casper-Futterman, forthcoming). Others argue that the entire ethos of a living wage, which effectively argues for paying labor just enough to reproduce itself, is suspect, on the
same grounds as any minimum wage predicated on subsistence. Labor should be paid the full value of its fruits instead of being compensated “what is necessary to keep them working . . . in the manner of a horse or slave” (Tawney as quoted in Winter and Joslin 1972: 48; see also Valadez-Martínez and Hirsch 2017: 12).

REGIONAL ECONOMIES: A $15 STANDARD IN AN UNEVEN, REGIONAL WORLD

Despite the tremendous string of successes and the emergence of calls for a $15 national wage floor by 2020 presidential candidates, the wage structure of the United States remains markedly uneven across different regions. Most living-wage studies, including most of the above cited literature, ignore this point and focus on states as a primary geographic unit of analysis, eliding the fact that labor markets are regional and do not conform to state boundaries (for a notable exception, see Dumond, Hirsch, and Macpherson 1999). For example, despite the two cities being located in the same state, the wage structure of the Buffalo, New York, labor market bears little resemblance to that of the New York City regional labor market, which includes territory in four states: Connecticut, New Jersey, New York, and Pennsylvania.

Indeed, scholars of geographic economics, economic geography, and urban and regional economic development planning and policy have long established that, economically, we live in a “regional world” (Storper 1997). Metropolitan areas, typically defined with respect to labor commuting sheds, are a key unit of economic reality—more so than arbitrary city or state political jurisdictional lines. Residents of Boston might cross into neighboring Cambridge or Brookline countless times daily or weekly (Katz 2000). Similarly, residents travel between San Francisco and the East and South bays; Los Angeles and Orange counties; New York City and northern New Jersey; Washington, D.C., and northern Virginia or Maryland; and so forth.

The cost structure in these and similar high-cost regions is markedly different from rural areas and from other metropolitan regions. Labor costs are significantly higher, in part from higher housing costs (Storper, Kemeny, Makarem, and Osman 2015). Metropolitan areas tend to fall into distinct “spatial convergence clubs” with different cost structures and competitive advantages (Baumont, Ertur, and Le Gallo 2003; Chatterji and Dewhurst 1996; Rey and Montouri 1999). The net result is that cost variation between regions, even in the same state, can be greater than the differences within large metropolitan regions.

There has been a great deal of theoretical debate about whether inter-regional differences are likely to sustain themselves or diminish over time. In recent decades, neoclassical economists and regional scientists have argued that inter-regional income differences should disappear over time. As production in high-cost regions became increasingly expensive because of rising regional labor and supply costs, the argument goes, employment and production would shift to
lower-cost locations (Barro and Sala-i-Martin 1992; Magrini 2004). On the other hand, an earlier generation of theorists argued that regional disparities were likely to persist in the absence of explicit convergence policy, as initially small advantages build on themselves over time (Hirschman 1958; Myrdal 1957).

The theoretical uncertainty arises in part because the overall amount of convergence or divergence at any given time depends on the balance between opposing forces. Technological innovations tend to initially concentrate in specific places because employers wish to be proximate to one another to reap shared labor pool benefits, supply chain access, and knowledge spillovers. As technologies become more widespread, the benefits of regional clustering or concentration fail to outweigh the rising costs, and the industries may disperse (O’Flaherty 2005). The exact balance between these forces of innovation and dispersal will determine whether the overall trend is one of convergence or divergence across regions. This balance is in turn shaped by economic policy.

Empirically, income levels in different regions of the United States converged for more than a century after the Civil War (Barro and Sala-i-Martin 1992). In addition to factor mobility, this was in part due to federal policies enacted with the explicit goal of promoting development in poor regions of the country—particularly the South, the underdevelopment of which President Franklin Roosevelt called “the Nation’s No. 1 economic problem” (Schulman 1994; Wright 2010). Since the 1980s, however, the long-term trend toward convergence has stalled. Instead, there has been a “Great Divergence” (Moretti 2012) in which rich or highly educated regions have seen their incomes grow even faster, while ever more parts of the country fall further behind (Berry and Glaeser 2005; Ganong and Shoag 2017).

The drivers of the Great Divergence are the subject of a great deal of debate. Some accounts attribute it primarily to changes in the spatial distribution of high-income workers, the result of either the rise of industries with strong economies of agglomeration (Moretti 2012; Storper and Scott 2009) or the growing importance of lifestyle amenities in the location choices of high-income workers (Clark, Lloyd, Wong, and Jain 2002; Florida 2002). Others highlight differences in the ability of regional leaders to unite around common purposes (Benner and Pastor 2015; Storper, Kemeny, Makarem, and Osman 2015). Increasing regional disparities are intricately linked to the concurrent growth in inequality within society more generally (Manduca 2019), which is generally attributed to changes in technology and economic policy that have resulted in the development of “winner take all” markets (Hacker and Pierson 2010). These dynamics behind regional disparities may also be stronger in countries with majoritarian electoral systems, which make it more challenging for excluded regions to achieve a national policy voice (Spicer 2018).

The net effect of this Great Divergence, with respect to the living wage, is that in the “winning” regions where the net positive returns to agglomeration persist,
a $15 wage may not be enough for many households’ subsistence, as wages and housing demands increase at a greater rate than housing supply. Indeed, a 2018 report from the National Low Income Housing Coalition estimated that a single-earner household would need to earn in excess of $60 an hour to afford a modest two-bedroom apartment in areas such as San Francisco (NLIHC 2018). Meanwhile, in those regions “left behind” by the Great Divergence, the $15 wage may be sufficient—but that is also not immune to change.

Living-wage proponents have tried to deal with problems of cost variation by working with academics and policy think tanks to develop various living-wage calculators, which produce local estimates of a living wage based on highly localized cost estimates by major household expenditure category. These estimates are also often tailored based on household size and makeup in terms of the number of wage earners and dependents.

**SCALE SHIFT, POLITICS, AND FEDERALISM**

The Fight for $15, as noted earlier, has diffused across cities and also scaled upward, from the city to the state, then more recently to the federal levels of government. Despite this success, efforts to enact a $15 minimum wage face three problems stemming from the spatial political structure of the US federal system. First, although economies operate at the regional scale, as reviewed above, regions by and large lack any legal standing in the United States. Second, high-cost cities increasingly lack legal authority to enact living-wage policies, as more states seek to preempt their ability to do so and legally occupy this policy domain. Third, and taking these first two points together, some states contain highly disparate economic regions, which may exacerbate political opposition at the state scale to a $15 wage.

The efforts of living-wage advocates, as reviewed earlier, spread through what are now widely recognized by scholars of organizations and social movements as processes of diffusion and scale shift. Research examining how and why certain organizational practices and social movements spread has identified how they diffuse laterally across places over time. They also sometimes scale up or down, from the local to the national scale of action, as occurred in the US civil rights movement (McAdam 1982; McAdam, Tarrow, and Tilly 2001; Soule 2013). Geographers refer to this latter process as “scale jumping”: the scale at which socioeconomic or political phenomena are experienced and constructed as problems can “jump” from one territorial level to another, from the neighborhood to the transnational (Smith 1992). Irrespective of the specific disciplinary terms used, the living-wage movement and the Fight for $15 in the United States have been marked by both horizontal/lateral diffusion and vertical scale shift or scale jumping. The original living-wage movements, starting with Baltimore’s success in the mid-1990s, diffused to more than 100 cities across the United States by the early 2000s (Elmore 2003), followed by a scale shift to include both city- and
state-level campaigns under the Fight for $15 since 2012 and culminating in the nationally scaled efforts in process today.

At the same time, under the US version of federalism, the doctrine of pre-emption has undermined the effectiveness of locally scaled living-wage campaigns. In the United States, case law has long established that city governments are "creatures of the state" government (Hunter v. City of Pittsburgh 1907), meaning that cities exist legally only because states endow them with the right to exist as such. Accordingly, states can circumscribe city power, stifling their ability to innovatively deal with local problems (Frug and Barron 2013; Schragger 2016). Affirming this state power, courts have repeatedly ruled over the past century that states can preempt city actions that are not explicitly authorized under state law as a matter of local concern. States come to legally occupy the field of a particular matter. Indeed, the original living-wage movement in the 1990s resulted in legal challenges that affirmed the right of some states to preempt local living-wage ordinances (Frug, Ford, and Barron 2015). As the Fight for $15 has quickened its pace, such preemptive responses at the state level have become more common, in an increasingly polarized political climate (Kim and Warner 2018). In 2019 alone, 11 states introduced such preemption laws. As noted by the National Employment Law Project (2017),

a total of 25 states have statutes preempting local minimum wage laws. … To date, 12 cities and counties in six states (Alabama, Iowa, Florida, Kentucky, Missouri, and Wisconsin) have approved local minimum wage laws only to see them invalidated by state statute, harming hundreds of thousands of workers in the process, many of whom face high levels of poverty.

Meanwhile, some states such as Colorado and New Hampshire have never authorized cities to regulate wages in the first place (National League of Cities 2017). Beyond the issues of wages, states may also preempt or fail to authorize cities and so they cannot act on other policy fronts, including housing issues, creating additional challenges for living-wage advocates. The preemption efforts of conservative state legislatures have been aided by the Koch-funded American Legislative Exchange Council, which drafts model legislation on a range of issues (Hertel-Fernandez 2014, 2019).

It is also important to emphasize that, despite its economic importance, the region or metropolitan area in many states does not exist as a meaningful legal concept. A notable exception is Oregon, which has long had a robust metropolitan government in the Portland region, studied by scholars of regionalism owing to its exceptionalism within the US context (Orfield 1998). Accordingly, when the state recently enacted higher minimum wages, it included three rates: one for metropolitan Portland, one for the state’s remaining urban counties, and
another for nonurban counties. In effect, the state created a three-tiered minimum wage: for Portland, all other metropolitan regions, and rural regions.

The lack of government at the scale at which the economy is meaningfully structured (the regional or metropolitan), coupled with the shifting scale at which living-wage laws can be authorized (the state), ultimately produces a problem for living-wage advocates. Specifically, the political scale which they have increasingly been forced to target—the state—often encompasses multiple economic regions with very different economic structures, for which the $15 wage may have different effects. In addition, supplemental policy avenues such as housing, may also be subject to preemption.

ANALYSIS: THE REGIONAL STRUCTURE OF THE LIVING WAGE

To explore the regional geography of living wages, we use data from the Economic Policy Institute 2018 Family Budget Calculator (Gould, Mokhiber, and Bryant 2018). This tool combines a range of survey and administrative sources to estimate the full cost of securing a modest but still acceptable standard of living for families of different compositions in each county in the United States. Data are collected for seven types of necessary expenditures: housing, food, transportation, healthcare, childcare, other expenditures (including clothing and household goods), and taxes. Expenditures are calculated for ten household types—those with one or two parents and zero to four children. The family budget calculator (FBC) is one of several tools designed to estimate regional cost of living such as the living-wage calculator at MIT (Glasmeier 2019). We use the FBC because of the higher geographic resolution at which many of its component expenses are estimated.²

The FBC’s goal is to estimate the total amount of money families of different sizes need to get by in different parts of the country. Here we systematically analyze the full dataset to examine geographic variation in the level and drivers of living costs that might shape the strategies of the living-wage movement and union–community coalitions. In keeping with our focus on regional economic geography, we conduct our analysis at the level of MSAs, treating the commuting shed as the unit of analysis. Nonmetropolitan counties are included as individual observations.

In the results presented below, we primarily examine expenses for families with two parents and two children. Although families of this type are increasingly atypical in the United States (Carlson and England 2011), the nuclear family of two parents and two children retains substantial cultural power, which may be useful to living-wage advocates in their rhetorical strategies. Two-parent, two-child families also have substantial social reproduction costs, which helps identify sources of regional variation.

Our analysis of the FBC data yields four important geographic patterns that living-wage scholars and advocates should keep in mind. First, the income needed
to secure a basic standard of living varies dramatically across regions of the United States. Second, the contribution of the types of expenditure also varies geographically. In some places, housing is by far the largest expense, while in others—even places with similar overall costs of living—healthcare and/or childcare are the major drivers. Third, the relationship between per capita gross metropolitan product and cost of living is strong but not one-to-one, and some places have substantially more economic flexibility to enact progressive wage policies than others do. Furthermore, there are virtually no areas of the country in which a $15 hourly wage would appear to be “too high” a target to meet budgeted family costs. Finally, household costs for MSAs and counties within the same state can sometimes vary dramatically, requiring living-wage advocates to address geographic implications and concerns, particularly in light of preemption concerns. We expand each of these points below and consider their relevance for living-wage/Fight for $15 scholars and advocates.

**Large Geographic Variation in Cost of Living**

Examining FBC data, the first pattern that stands out is the immense variation in cost of living across regions of the United States. As shown in Figure 1, the total budget necessary to modestly provide for a family with two adults and two children ranges from less than $60,000 in parts of Texas and Mississippi to more than $120,000 in the Bay Area. Even with two working parents, $15 an hour is nowhere near sufficient to provide for a family in San Francisco. In Texas, it might just be enough. This wide geographic variation, where cost of living varies by a factor of roughly two between the most and least expensive MSAs, holds across all family types, though the exact configuration varies. Coastal California and the Northeast Corridor are the most expensive places to live for all family types, but, while rural Texas and Mississippi are the cheapest places to live for families with children, parts of Ohio are equally cheap for families without them.

This wide variation in cost of living, along with a similar variation in labor costs, is often cited as evidence that minimum wage policy should be determined at the local or state level. It is important for scholars and proponents of the Fight for $15 to recognize that meaningful variation in living costs does exist: $15 an hour in Memphis or Cleveland really does provide a standard of living much higher than the same hourly wage would secure in New York City. At the same time, in most metros and for most family types in the data, $15 an hour is not sufficient. For instance, if both parents in a family of four worked full time at $15 in New York, they would be able to meet only about half of their expected outlays. In Memphis, that same income would cover almost 85% of outlays—a big difference, but still not enough. Slightly more than 1% of Americans live in metro areas where a family of four could support itself on two adults earning $15 an hour. Even for single adults, less than 4% of the population lives in metros where $15 is enough to meet basic needs—a point we will revisit later. The largest cities meeting this threshold are Cleveland, Albuquerque, and McAllen (Texas).
Sources of High Living Costs Vary by Place

A second finding from the FBC data is that the contribution of the types of expenditures to the overall cost of living varies from place to place. In some metros, and for some family types, housing costs consume by far the largest portion of a family’s budget. For example, for single adults living in the San Francisco MSA, housing costs comprise a full third of the expected budget, more than twice as much as any other category except taxes. In other places, though, the contribution of housing is much more modest. Housing is expected to consume less than 20% of the budgets of single adults living in Tulsa, Knoxville, or Tucson. For families with children, housing generally accounts for a smaller portion of the budget because childcare is often a major expense (although high housing costs may also contribute to high costs of childcare, food, and other local services). In some cases, childcare for two-adult, two-child households is the highest single budgeted cost item.

It is not simply the case that housing costs are a large percentage of total expenditures in expensive metros and a small percentage in cheaper areas. As Figure 2 (next page) shows, while there is a positive relationship between total cost of living and the percentage of the budget going to housing, it is by no means...
one-to-one. The correlation between those two quantities, weighting by metro population, is only 0.59. The most expensive cities—San Francisco and San Jose—are also the ones with the largest portion of the budget going to housing. But elsewhere in the distribution, cities with similar total costs have substantially different components. For example, the Buffalo, Charlotte, and Miami MSAs all have total living expenses for families with two adults and two children of roughly $85,000. But in Buffalo, the single largest component of this budget is childcare, while housing costs are a relatively affordable $9,500 a year. In Charlotte, healthcare is by far the most expensive item in the budget, while in Miami housing costs, at $16,000 a year, are the main expense.

It is important for advocates and scholars to understand the drivers of unaffordability in different cities because different cost structures present different avenues for reform. Much has been written about the role of inelastic housing supply in driving regional disparities and inequality more generally (Ganong and

FIGURE 2
Total Cost of Living Versus Fraction of Living Costs from Housing for Families with Two Adults and Two Children

Source: EPI Family Budget Calculator.
Shoag 2017; Glaeser and Gyourko 2018), although this is disputed by some (Rodríguez-Pose and Storper 2019). In places where the housing supply is inelastic and where housing prices are high because of demand from many moderate-to high-income residents (as opposed to investors or speculators), increases in wages may bid up the cost of housing without much improvement in actual standards of living. Advocates in these areas would do well to pair efforts to raise wages with efforts to develop affordable or public housing directly. On the other hand, in places where costs of living are driven by expenditures in more elastic industries such as food or childcare, higher wages by themselves might go a long way to improving standards of living. And in places like Charlotte, where healthcare costs are the largest contribution to living costs, substantial improvements could be made through healthcare policies such as expanding Medicaid.

**Relationship Between Economic Output and Cost of Living**

A third consideration that scholars and advocates should consider is the relationship between cost of living and economic output. Regions of the United States are increasingly divergent in their economic circumstances (Ganong and Shoag 2017; Manduca 2019). In some places, “new economy” industries throw off huge amounts of wealth, and the key challenge is making sure that this wealth is benefiting all residents. In other places, deindustrialization and disinvestment have left struggling economies, and unaffordability problems will require broader economic revitalization.

To explore this axis of variation, we compare the family budget thresholds to the per capita personal income as calculated by the Bureau of Economic Analysis Regional Economic Accounts. That statistic measures the total income earned within an MSA in a given year, divided by the population. It varies from well over $100,000 per person in small resort and resource extraction communities such as Jackson, Wyoming; Bristol Bay, Alaska; and Nantucket, Massachusetts, to less than $20,000 per person in some rural counties. Among metropolitan areas with more than 500,000 inhabitants, the highest per capita personal incomes are found in Bridgeport, Connecticut ($110,103), San Jose ($96,623), San Francisco ($91,459), and Boston ($74,024), while the lowest GDPs are in McAllen, Texas ($25,617); Lakeland, Florida ($34,213); and El Paso, Texas ($34,575).

Table 1 (next pages) lists the MSAs with the highest and lowest ratios of per capita income to spending needs for a family of four. Panel A shows the results among counties and MSAs of all sizes, while Panel B is limited to MSAs with more than 500,000 residents. To make the numbers directly comparable, we multiply per capita income by the number of family members (four in this case).

The first takeaway from Table 1 is that only one county in the entire country—Issaquena County, Mississippi—has a ratio of per capita income to expenditure needs below one. All other counties produce enough economic output to fully provide their residents with an adequate, if modest, standard of living.
<table>
<thead>
<tr>
<th>MSA/County</th>
<th>Population</th>
<th>Mean Income per Capita</th>
<th>Mean Income per Family of Four</th>
<th>Necessary Expenditures</th>
<th>Ratio of Income to Necessary Expenditures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jackson, WY–ID</td>
<td>34,646</td>
<td>169,296</td>
<td>677,184</td>
<td>100,382</td>
<td>6.75</td>
</tr>
<tr>
<td>Lane County, KS</td>
<td>1,559</td>
<td>92,559</td>
<td>370,235</td>
<td>72,741</td>
<td>5.09</td>
</tr>
<tr>
<td>Nantucket County, MA</td>
<td>11,229</td>
<td>119,379</td>
<td>477,515</td>
<td>101,224</td>
<td>4.72</td>
</tr>
<tr>
<td>Shackelford County, TX</td>
<td>3,328</td>
<td>77,918</td>
<td>316,672</td>
<td>66,366</td>
<td>4.70</td>
</tr>
<tr>
<td>Bristol Bay Borough, AK</td>
<td>867</td>
<td>126,725</td>
<td>506,902</td>
<td>110,175</td>
<td>4.60</td>
</tr>
<tr>
<td>Glasscock County, TX</td>
<td>1,348</td>
<td>78,012</td>
<td>312,047</td>
<td>68,819</td>
<td>4.53</td>
</tr>
<tr>
<td>Hailey, ID</td>
<td>23,126</td>
<td>99,433</td>
<td>397,732</td>
<td>89,604</td>
<td>4.44</td>
</tr>
<tr>
<td>Naples–Marco Island, FL</td>
<td>372,880</td>
<td>87,829</td>
<td>351,317</td>
<td>83,990</td>
<td>4.18</td>
</tr>
<tr>
<td>Bridgeport–Stamford–Norwalk, CT</td>
<td>949,921</td>
<td>110,104</td>
<td>440,415</td>
<td>109,497</td>
<td>4.02</td>
</tr>
<tr>
<td>Sebastian–Vero Beach, FL</td>
<td>154,383</td>
<td>73,274</td>
<td>293,094</td>
<td>73,443</td>
<td>3.99</td>
</tr>
<tr>
<td>...</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Buffalo County, SD</td>
<td>1,999</td>
<td>23,395</td>
<td>93,581</td>
<td>75,239</td>
<td>1.24</td>
</tr>
<tr>
<td>San Juan County, UT</td>
<td>15,356</td>
<td>24,905</td>
<td>99,618</td>
<td>80,106</td>
<td>1.24</td>
</tr>
<tr>
<td>Glades County, FL</td>
<td>13,754</td>
<td>22,617</td>
<td>90,467</td>
<td>73,860</td>
<td>1.16</td>
</tr>
<tr>
<td>Telfair County, GA</td>
<td>15,989</td>
<td>20,748</td>
<td>82,994</td>
<td>68,972</td>
<td>1.20</td>
</tr>
<tr>
<td>Forest County, PA</td>
<td>7,297</td>
<td>21,795</td>
<td>87,182</td>
<td>73,890</td>
<td>1.18</td>
</tr>
<tr>
<td>Union County, FL</td>
<td>15,517</td>
<td>20,396</td>
<td>81,584</td>
<td>70,562</td>
<td>1.16</td>
</tr>
<tr>
<td>Ziebach County, SD</td>
<td>2,756</td>
<td>20,764</td>
<td>83,055</td>
<td>72,750</td>
<td>1.14</td>
</tr>
<tr>
<td>Wheeler County, GA</td>
<td>7,952</td>
<td>19,443</td>
<td>77,771</td>
<td>77,474</td>
<td>1.00</td>
</tr>
<tr>
<td>Crowley County, CO</td>
<td>5,810</td>
<td>19,443</td>
<td>77,771</td>
<td>77,474</td>
<td>1.00</td>
</tr>
<tr>
<td>Issaquena County, MS</td>
<td>1,339</td>
<td>11,937</td>
<td>47,749</td>
<td>59,627</td>
<td>0.80</td>
</tr>
</tbody>
</table>
## Panel B: MSAs with More Than 500,000 Residents

<table>
<thead>
<tr>
<th>MSA/County</th>
<th>Population</th>
<th>Mean Income per Capita</th>
<th>Mean Income per Family of Four</th>
<th>Necessary Expenditures</th>
<th>Ratio of Income to Necessary Expenditures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bridgeport–Stamford–Norwalk, CT</td>
<td>949,921</td>
<td>110,104</td>
<td>440,415</td>
<td>109,497</td>
<td>4.02</td>
</tr>
<tr>
<td>Fayetteville–Springdale–Rogers, AR</td>
<td>514,635</td>
<td>60,859</td>
<td>243,436</td>
<td>71,541</td>
<td>3.40</td>
</tr>
<tr>
<td>San Jose–Sunnyvale–Santa Clara, CA</td>
<td>1,998,463</td>
<td>96,623</td>
<td>386,493</td>
<td>128,637</td>
<td>3.00</td>
</tr>
<tr>
<td>Seattle–Tacoma–Bellevue, WA</td>
<td>3,867,046</td>
<td>69,214</td>
<td>276,856</td>
<td>94,078</td>
<td>2.94</td>
</tr>
<tr>
<td>Cleveland–Elyria, OH</td>
<td>2,058,844</td>
<td>51,755</td>
<td>207,019</td>
<td>72,447</td>
<td>2.86</td>
</tr>
<tr>
<td>Nashville–Davidson–Murfreesboro–Franklin, TN</td>
<td>1,878,181</td>
<td>56,268</td>
<td>225,072</td>
<td>79,392</td>
<td>2.83</td>
</tr>
<tr>
<td>Houston–The Woodlands–Sugar Land, TX</td>
<td>6,892,427</td>
<td>52,765</td>
<td>211,059</td>
<td>75,460</td>
<td>2.80</td>
</tr>
<tr>
<td>Dallas–Fort Worth–Arlington, TX</td>
<td>7,332,544</td>
<td>53,050</td>
<td>212,198</td>
<td>76,457</td>
<td>2.78</td>
</tr>
<tr>
<td>Pittsburgh, PA</td>
<td>2,333,367</td>
<td>53,849</td>
<td>215,394</td>
<td>78,524</td>
<td>2.74</td>
</tr>
<tr>
<td>Hartford–East Hartford–Middletown, CT</td>
<td>1,210,259</td>
<td>61,353</td>
<td>245,411</td>
<td>89,630</td>
<td>2.74</td>
</tr>
<tr>
<td>Tucson, AZ</td>
<td>1,022,769</td>
<td>41,637</td>
<td>166,549</td>
<td>81,166</td>
<td>2.05</td>
</tr>
<tr>
<td>Riverside–San Bernardino–Ontario, CA</td>
<td>4,580,670</td>
<td>39,052</td>
<td>156,206</td>
<td>78,394</td>
<td>1.99</td>
</tr>
<tr>
<td>Provo–Orem, UT</td>
<td>617,675</td>
<td>38,075</td>
<td>152,300</td>
<td>76,579</td>
<td>1.99</td>
</tr>
<tr>
<td>Syracuse, NY</td>
<td>654,841</td>
<td>47,298</td>
<td>189,191</td>
<td>96,112</td>
<td>1.97</td>
</tr>
<tr>
<td>Urban Honolulu, HI</td>
<td>988,650</td>
<td>56,728</td>
<td>226,910</td>
<td>115,583</td>
<td>1.96</td>
</tr>
<tr>
<td>Phoenix–Mesa–Chandler, AZ</td>
<td>4,737,270</td>
<td>44,096</td>
<td>176,385</td>
<td>91,037</td>
<td>1.94</td>
</tr>
<tr>
<td>Lakeland–Winter Haven, FL</td>
<td>686,483</td>
<td>34,213</td>
<td>136,852</td>
<td>70,046</td>
<td>1.93</td>
</tr>
<tr>
<td>Poughkeepsie–Newburgh–Middletown, NY</td>
<td>677,794</td>
<td>51,849</td>
<td>207,395</td>
<td>117,806</td>
<td>1.76</td>
</tr>
<tr>
<td>McAllen–Edinburg–Mission, TX</td>
<td>860,661</td>
<td>25,617</td>
<td>102,468</td>
<td>60,311</td>
<td>1.70</td>
</tr>
<tr>
<td>Fayetteville, NC</td>
<td>519,416</td>
<td>35,494</td>
<td>141,978</td>
<td>84,755</td>
<td>1.68</td>
</tr>
</tbody>
</table>

Source: EPI Family Budget Calculator, Bureau of Economic Analysis Regional Economic Accounts.
It can seem as though there simply are not enough economic resources to go around in certain places, but that is not, strictly speaking, true.

This raises the question: If almost all metropolitan areas have sufficient economic output to support family expenses, do all such areas need to have a wage floor as high as $15 an hour to support such expenses? Taking the budget cost estimates for the two-adult, two-child household and assuming an annual full-time work year of 2,080 hours (40 hours a week, 52 weeks a year), we find just three MSAs where two working adults could subsist at wage rates of less than $15 an hour and cover their costs. In these metropolitan areas—Brownsville, Laredo, and McAllen, all in Texas—the required wage rate nonetheless exceeds $14 an hour. Building on our earlier review of the data, might $15 an hour nonetheless be more than sufficient for a single person, lacking childcare expenses, to support him- or herself? Performing a similar analysis for this household type, we find that budgeted household costs fall below what can be supported by a $15 an hour full-time wage in less than 5% of MSAs, primarily located in the South and Midwest. In all of these cases, the required wage still exceeds $14 an hour. A $15 an hour wage floor thus would not seem to be “too high” for household subsistence across most of the United States and, in fact, might be “too low.”

Almost all metropolitan areas in the United States thus have the economic resources for a $15 hourly wage, and almost all would seem to require one, as well, based on the cost of living. If both the economic resources and the household need for $15 an hour exist in most places, this would suggest that the real barrier to such a wage floor is not economic—but a function of politics, policy, and power instead.

Nevertheless, in practice there may be economic capacity constraints on wage policy, even when total output may seem to be sufficient to cover living expenses. For instance, in an open economy like that of the United States, where capital and workers can leave a city if they believe better conditions exist elsewhere, the continued vitality of a city depends on its ability to attract sufficient investment, which may require allowing an outsized share of economic output to go to investors or highly skilled workers. This is exacerbated by changes to the US municipal finance system made in the 1980s that tie large portions of local governments’ budgets to their ability to generate economic activity within their borders (Harvey 1989; Pacewicz 2016).

The need to maintain a competitive economic environment is often cited as a reason not to have living-wage laws. That framing is overly simplistic: the net effect of an increased minimum wage depends on whether covered workers are employed more in local-serving or export industries, how much of their new earnings are spent locally, and whether the local economic ecosystem is well designed to meet the needs of its residents and keep revenue local, as the studies of advocacy organizations such as the Institute for Local Self-Reliance make clear (see also Kelly and Ratner 2012; Shuman 2011). Still, advocates and scholars
should know the local economic conditions when they are considering wage policy. Conditions in San Jose or Bridgeport are very different from those in Phoenix or McAllen.

Advocates in cities with a high ratio of total output to cost of living should feel confident that they can push for higher wage policies without disrupting the metropolitan economy. Mandated living wages in these regions, especially in local service industries, may result in somewhat higher prices for local consumers, but those consumers will likely be able to bear these costs.

On the other hand, cities in the bottom half of Table 1 have less immediate economic room for mandated wage increases. Advocates in these cities will have to be thoughtful about setting wage policies to increase living standards while also strengthening the overall economic situation. In those cities, it is less likely that local consumers will be able to simply pay the higher prices that higher minimum wages may generate. Such wage increases may need to be paired with other policies to directly target sources of unaffordability, strengthen the local economy, and prevent capital flight. These policies might include targeted policies such as enhanced childcare tax credits or economic development technical assistance for cooperatives and other employee-owned or controlled companies (Spicer, forthcoming 2020), which both contribute more to the local economy for a given amount of revenue and may be less likely to leave because of cost increases (DeFilippis 2003; Schneiberg 2017).

One interesting feature of Table 1 is that, because cities are selected based on the ratio of output to living costs, it groups places that do not often appear on the same lists. San Jose and Dallas occupy different “convergence clubs” (Chatterji and Dewhurst 1996; Storper, Kemeny, Makarem, and Osman 2015) with different cost structures. Yet both are in the fortunate position of having relatively large amounts of economic output compared with their cost of living. Similarly, Poughkeepsie and Honolulu stand out as having relatively high per capita incomes, but, because of the high cost of living in those cities, that high output results in less economic wiggle room than it would elsewhere.

**Preemption and Within-State Variation in Costs of Living**

Finally, we consider the extent to which economic capacity lines up with state political boundaries. Although the living-wage movement primarily began at the local level, in recent years the state level has become more prominent because of efforts to preempt local ordinances in state legislatures, as noted earlier, while some states have never authorized such ordinances to begin with. This development highlights the tensions arising from the imperfect match between economic and political units. Some states vary substantially in the economic conditions they contain. For instance, in California, Merced County has an expected budget for a family of four of $70,675, while the same standard of living in San Mateo County is more than double that amount, requiring $156,292. In Oklahoma, the most
expensive county is a mere $12,300 a year more expensive than the least expensive one. Besides California, other states with wide geographic variation in cost of living include New York ($64,000 gap between the most and least expensive counties), Virginia ($49,000), Colorado ($42,000), and Florida ($38,000). States with minimal geographic variation in living costs include Delaware ($8,000 gap), Montana ($14,300), and Louisiana ($14,400). Note that here we use counties rather than MSAs because the latter sometimes straddle state lines.

Is there a relationship between states’ internal cost heterogeneity and state preemption/authorization of local living wage? Figure 3 plots this relationship: each state’s intercounty standard deviation in the amount required to support a family of four, again based on the FBC, is shown against the state legal treatment of wages. There is virtually no correlation between state authorization and the intrastate county-level standard deviation in the costs for family of four. A simple pairwise correlation between these two measures (with authorization/preemption treated as a binary outcome, based on National League of Cities classifications for 2017, with supplemental data from the National Employment Law Project for 2017) is –0.08. Three of the states with wide variation as noted above—

FIGURE 3
Within-State Cost Variation Versus Preemption/Unauthorized Local Wage Laws
Colorado, Florida, and Virginia—do not allow local living-wage ordinances (National League of Cities 2017), but many other high-variation states do allow such laws. The relationship between relevant political and economic geographic scales is thus complex. In some states, the construction of political scales may play a significant role in addressing meaningful levels of internal regional cost heterogeneity. In others, it may not.

CONCLUSIONS

While the initial successes of the Fight for $15 have been significant for labor activists and low-wage workers alike, we have argued that the struggle has entered a fraught—and potentially dangerous—moment. As a consequence of its growing success, and as a reaction to preemption efforts by some states, the Fight for $15 has “scale jumped” to the national level. But this brings with it the challenge of implementing a single $15 wage floor across regions with highly variable economic conditions. Meeting this challenge may require Fight for $15 advocates to include additional policy strategies that are informed by a nuanced understanding of the economic and political geography of the United States.

We want to emphasize that we are not arguing that the Fight for $15 eschew its original goals or purpose. Rather, we are suggesting that it incorporate additional policy demands in order to maintain its success—and ultimately improve the lives of workers across the United States. Such an approach is not inconsistent with the six bill, anti-poverty “Just Society” legislative initiative introduced in September 2019 by US Congresswoman Alexandria Ocasio-Cortez, which seeks to update national poverty line estimates to account for geographic variation, create national tenants’ rights in housing, and tie federal contracting not only to how well contractors pay workers but to how well they address health and worker well-being (e.g., family leave), as well.

We affirm that virtually nowhere in the United States does a $15 wage floor appear to be “too high” based on the costs of supporting either a single adult or a family, and, in fact, in many places may be too low. Nonetheless, the current economic capacity of regions to support such a floor varies by place. Advocates will need to be mindful of this when trying to determine where opponents’ claims of expected job losses are credible and where they are not. Critically, beyond seeking an inflation-indexed wage floor of at least $15 an hour, supplemental policy and organizing strategies will likely need to reflect the drivers of unaffordability in different regions because their varying cost structures imply heterogeneous avenues of action for further policy reform.

In the new economy’s “winning” regions, which tend to be dense urban areas where land is in shorter supply, housing is a leading driver of total household costs. Further wage floor increases without an associated effort to add significant affordable housing supply may not ultimately yield an increased standard of living for workers. In other regions, where economic capacity may be more limited
and other costs such as childcare and healthcare may figure more prominently, supplemental social welfare policy initiatives may be more effective in achieving further real gains in standard of living. Policies that seek to enhance the local economic capacity by developing more locally rooted employment may also yield gains. Finally, until the enactment of a national wage floor, state and local strategies for higher wages must be calibrated to how the scalar structure of political power can affect success. Proposed or existing preemption laws may undermine the ability of advocates to enact living-wage increases or to enact supplemental policy proposals, as well. In some states, internal cost structure variation may be significant and could impede the passage of statewide measures. In other places, it may not be a concern.

Future research might build on our empirical exploration of the regional dynamics of the national Fight for $15 in the United States, to consider how budgeted costs match up to actual local household incomes by household type. Scholars might also use data sets such as those we have deployed to classify regions into “ideal types” with respect to the drivers of costs and unaffordability as a way to better inform more targeted policy, as well as union and community organizing campaigns. Comparative or international analyses, particularly those involving other large federal countries, might reveal whether those dynamics are unique to the United States. While many other high-income democracies have nationally negotiated wage rates, as noted earlier, inter-regional economic inequality has been rising across nations regardless, and more geographically nuanced strategies may be effective in these contexts, as well.

For living-wage advocates and Fight for $15 activists in the United States, the good news is that the challenges we have discussed are not insurmountable. The labor movement has a rich history of partnering with and participating in local community coalitions and of working simultaneously on multiple policy fronts—from affordable housing to cooperative and employee ownership to social welfare policy campaigns. Future gains may depend on advocates’ ability to build on these historical institutional ties while working at multiple spatial scales.

ACKNOWLEDGMENTS
The authors thank Elise Gould and Zane Mokhiber for access to and assistance with the EPI FBC data, as well as Jaylexia Clark and Monika Yadav for their invaluable research assistance.

ENDNOTES
1. Relevant factors in explaining regional economic differences are far more expansive than those discussed here, and they include long-standing institutional differences such as right-to-work state labor laws and anti-union efforts in the South (Katzenelson 2013). Reconstruction-era policies may also be relevant. Nonetheless, we focus on more recent phenomena that have been germane.
in the shift from a Great Convergence during the Treaty of Detroit era to the Great Divergence of the past 40 years.

2. Although the geographic resolution of the FBC is the highest available to our knowledge, some data concerns remain. For instance, childcare expenses are estimated at the state level and then adjusted based on the ratio of county to statewide average rents. In states with high internal heterogeneity, this results in estimates that may overstate the cost in low-income areas and understate it in high-income ones. For instance, many cities in upstate New York are reported as having extremely high childcare costs, which may be an overstatement. Nonetheless, the data have been constructed with greater geographic resolution than the living-wage calculator at MIT, for which many nonhousing costs are estimated at the Census Region scale (Northeast, West, Midwest, and South). Food and transportation costs in rural northern Appalachian counties and Manhattan, for example, are identical in the living-wage calculator.

3. Note that in many places there are large numbers of people who pay more than a third of their income for housing. This reflects the prioritization that occurs when incomes are insufficient to cover all necessary expenditures.

4. The FBC estimates assume that all adults in each household work, and thus that childcare is necessary. They also assume that children are relatively young, needing either full-day or part-day childcare depending on the number of total children (see Gould, Mokhiber, and Bryant 2018). It is thus possible that the contribution of childcare to total family expenditures is larger in this data than it would be for the country as a whole or when averaged across an entire childhood.

5. Note that there are roughly 100 micropolitan areas and rural counties where $15 an hour would be sufficient to support two working adults and two children. The total population of all such places is 4,158,189, or 1.3% of the US population.

REFERENCES


**INTRODUCTION**

“It was the best of times, it was the worst of times,” wrote Charles Dickens of revolutionary France. “It was the spring of hope, it was the winter of despair.” Too melodramatic for our 21st-century taste, perhaps, but not without a kernel of truth as applied to the contemporary labor movement.

On the one hand, something is stirring in the land. The red-state teacher strikes, the Democratic sweep in the 2018 midterms, the historic victory of Los Angeles teachers in early January 2019, and the raft of new collective bargaining contracts won by millennial wordsmiths in media, both dead tree and online, testify to the spread of the union idea in the most unexpected venues. Fully 62% of Americans support unions, according to a recent Gallup poll—a number that has increased 14 points over the previous decade (Saad 2018). Among young adults under the age of 29, some surveys have found that more identify themselves as socialists than supporters of capitalism (Elkins 2018).

Meanwhile, in a surprise to everyone, left and right, the US Supreme Court’s *Janus* decision, which outlaws “agency fees,” has not generated a public employee rush to opt out of paying union dues, a prospect much anticipated by right-wing legal warriors in the Freedom Foundation and other anti-union entities (Rainey and Kullgren 2019). On the eve of their successful strike in January 2019, the United Teachers of Los Angeles, a union long targeted by the right, had actually increased its dues paying membership in the post-*Janus* months (Lichtenstein 2019).

The 2018 US midterm election reinforced the critical role unions play in electing progressive, pro-worker candidates. In Michigan and Pennsylvania, union-household voters made up 25% of the electorate and helped sweep Democrats to victory up and down the ballot. In 2020, Democratic primary candidates competed with each other to stake out policy terrain on the left. Elizabeth Warren, not to mention Bernie Sanders, put forward programs that borrowed from both European social democracy (worker representatives on corporate boards, universal health provision) and Franklin Roosevelt’s early New
Deal (taxes on the rich, massive infrastructure spending, higher Social Security benefits, and the re-regulation of Wall Street). Perhaps equally important, even some of the Democratic candidates considered more centrist in political orientation offered detailed programs designed to revive the trade union movement (Kaplan and Scheiber 2019; O’Rourke 2019; Reuters 2019).

But this moment is also a long “winter of despair” when it comes to a revival of what we once thought we knew of trade unionism and collective bargaining, especially in the private sector, where union density is a vanishingly small 6.5%. Despite the remarkable and historic victory of union school teachers in Arizona, California, West Virginia, and elsewhere, and the inspiring success of union hotel workers, nurses, and a few other militant labor organizations, the union movement remains essentially stalemated in the private sector workplace, certainly when it comes to making the kind of organizing breakthroughs and qualitative bargaining advances that were a hallmark of labor activism during the years between 1934 and 1973. Unemployment is low, wages are barely advancing, unions are viewed in a quite favorable light, and a new generation of young and energetic organizers have been hired onto union staffs, yet it still remains incredibly difficult for unions to organize new workers or win a decent first contract (Greenhouse 2019; Johansson 2017; Rosenfeld 2014).

REVAMPING THE WAGNER ACT?

The future for traditional, enterprise-based unionism in the United States looks bleak, not because workers don’t want to be represented in a collective fashion, but because opponents of such unionism—among employers, politicians, anti-union law firms, and the conservative judiciary—have had decades to perfect their legal and organizational weapons so that today even the most robust and imaginative organizing drive can be defeated if corporate executives are willing to spend enough money, retaliate against employees wishing to organize, appeal any pro-union National Labor Relations Board (NLRB) or court decision, and delay, delay, delay (Lichtenstein and Shermer 2012; Logan 2006). And, of course, all this implies that workers know who their real boss is: the rise of fissured employment—subcontracting, franchising, and the corporate transformation of millions of workers into “independent contractors”—has obscured where power, money, and responsibility lie in the employment relationship (Weil 2014).

On the Western Front in World War I, a handful of German machine guns could mow down a regiment of stout-hearted British heroes. The same is true of union organizing today: under the system of firm-centered collective bargaining envisioned by the Wagner Act and refined by the NLRB and the judiciary, virtually any employer can thwart the unionizing efforts of even the most enthusiastic and dedicated set of organizers. In consequence, says Larry Cohen, former president of the Communications Workers of America and today head of Our
Revolution, “It is now clear that enterprise-based organizing and bargaining in the U.S. has a dim future” (Cohen 2018). David Rolf, the Seattle labor leader who pioneered the Fight for $15 movement, concurs. Of collective bargaining and private sector unionism, he has said, “The 20th century model is dead. It will not come back” (Matthews 2017).

Thus, when and if liberals and labor partisans win power in a post-Trump America, they will not try to revitalize the existing labor movement. For more than half a century, from the mid-1960s effort to ban right-to-work laws through the Obama-era attempt to pass the Employee Free Choice Act, labor has sought to make the Wagner-era system of enterprise unionism function effectively. None of these legislative reforms passed, but, even if they had, their impact on labor’s capacity to organize and bargain for a better work life would have been marginal. The structures of capital have shifted too much, the managerial mindset has become too hostile, and neoliberalism has been embedded too securely within the nation’s labor-law regime.

SECTORAL BARGAINING: A PATH FORWARD?

But is there a road forward, modeled on movements like the Fight for $15 and the campaigns against sweatshops, foreign and domestic? Many labor partisans think sectoral bargaining is an answer for our times. Sectoral bargaining encompasses an effort to win better wages and working conditions in an entire occupation or industry, usually in one state or city. Instead of a collective bargaining contract, standard-setting laws or codes are enacted, either by the legislature or through an agency—a wage board or other tribunal—that sets wages and working conditions once all the stakeholders have had their say. This is social bargaining with the state on behalf of all workers. Just as civil rights laws apply to all US workplaces regardless of the attitude of workers or employers, so too would a wage board promulgate a set of work standards that are equally universal, at least within the industry and region over which the board has jurisdiction. Employment law that arose out of the civil rights statutes and Wagner-era labor law are thus conjoined.

Although they had different historical origins, such systems are commonplace in Western and Northern Europe, as well as Australia. In France, the state ensures that collective bargaining contracts negotiated by key firms and unions in any given industry are extended to all workers and employees in an industrial sector, thus magnifying the impact of that nation’s relatively small trade union movement. In Nordic Europe, in Belgium, and in Germany, trade unions are much stronger, in part because they often serve as mechanisms whereby most workers register for and then receive unemployment benefits, training, and other state-funded social provisions. Thus, the state-mandated “extension” of key wage bargains is not necessary. Instead, peak associations of capitalists and unionists hammer out an incomes policy that sets an industry-wide wage framework that is then refined in
a more decentralized fashion to account for historic industrial and occupational patterns and new economic conditions. In Australia, about 36% of the workforce is covered by collective bargaining contracts, but another 23% have their labor standards set under a “modern awards” system of industry- and occupation-specific minimums. These awards are set by a federal tribunal whose members are appointed by the government to serve, like many judges in the United States, until age 65. There are 122 such awards, and within each there are a host of wage rates based on skill requirements or experience. Whatever the formula, bargaining in Europe and Australia is far more likely than in the United States to take place at the sectoral level than at the individual company or enterprise (Dube 2019; Matthews 2017; Wallerstein 1999).

A variant of this system took root in the United States during the Progressive Era when California, Massachusetts, Oregon, and some ten other states deployed a set of wage boards, sometimes called industrial commissions, designed to set wages and establish other labor standards for workers, mainly women, without full citizenship rights or union representation. These boards would investigate both the minimum subsistence budget necessary for single women to exist and the financial condition of the business or industry in which they worked in order to arrive at a pay rate promulgated by a wage decree. By 1919, in Massachusetts there were separate pay grades for the candy, laundry, retail store, women’s clothing, men’s clothing, canning, and office-cleaning industries. Although these wage boards were supervised by a state commissioner, most of the work was done by the direct representatives of employers and employees who, as board members themselves, bargained and compromised to reach a minimum wage for each occupation or industry (Douglas 1919).

A board in the District of Columbia, which set minimum wages for women and children, was also tripartite (i.e., composed of members representing employers, workers, and the public). The board could inspect payrolls, subpoena information, and apply legal sanctions against defaulters. Appointed in 1918, the D.C. board was abolished in 1923 by the infamous Adkins decision of the US Supreme Court, which declared state-mandated minimum wage laws a violation of a worker’s “freedom of contract.” But, while the board lasted, it demonstrated how such an institution could empower and radicalize its constituents. Led by feminist reformers Clara Beyer and Elizabeth Brandeis—“conviction bureaucrats” is the term historian Vivian Hart uses to describe them—the D.C. wage board sought to mobilize women workers to organize and participate in the agency’s hearings and other activities. Beyer was constantly on the go, visiting department stores and other places of female employment to talk about the minimum wage and the role of the board: “Well, it was amazing—I stood on boxes at quitting time … and I told them all about how, what the wage was going to be set and how we wanted to have their voice. And it was the first time that they had ever had any kind of group action.” And, remembered Beyer, “It was a very good education for the employers” too (Hart 1992: 12).
The state of California also set up such a wage board in the Progressive Era, an Industrial Welfare Commission (IWC). It still exists, although it is currently inoperative, according to its website. But, like an archaeological dig, evidence for the existence of a once-vital civilization is abundant, reflected in the 17 industry and occupational wage orders still posted on the California IWC website. Among them are such traditional industrial sectors as manufacturing, logging, construction, and food processing (canning, freezing, and preserving), but the IWC also claimed responsibility for setting labor standards in regionally unique employment sectors, including amusements and recreation, broadcasting, and motion pictures (State of California 2019).

The New Deal revived much of the Progressive Era spirit, subsuming it within the larger reforms that sought to reorganize US capitalism and provide a voice for labor. From the establishment in 1933 of the National Industrial Recovery Act’s codes of fair competition through the powerful War Labor Board of the World War II years, government entities used tripartite stakeholder mechanisms to establish, on a national level, uniform wage and union status guidelines in the auto, steel, rubber, trucking, electrical, and food processing industries, and also including such highly competitive and low-wage sectors as textiles and garment manufacturing (Gordon 1994; Lichtenstein 1982).

The 1938 Fair Labor Standards Act (FLSA) was perhaps the most relevant part of that effort to construct a wage-setting mechanism during the heyday of the New Deal. As legal scholar Kate Andrias reminds us, Roosevelt-era supporters of FLSA hoped it would do more than what it does today: ensure subsistence-level wages (Andrias 2019). Rather, the bill’s drafters saw it as a way to deliver on a set of “fundamental rights” and to ensure a “system of basic equality, extending into political, economic, and social realms.” (Andrias 2019: 661). In a significant departure from the modern view of FLSA, the bill’s supporters saw its guarantee of individual rights as part of a broader project in democracy. Indeed, FLSA’s backers in Congress expressly claimed that the law would expand the role of unions in politics and the economy, particularly in the non-union South, and would provide a kind of surrogate labor union representation for still-unorganized workers. Senator David Walsh, chairman of the Labor Committee and a Democrat from Massachusetts, announced that “the Government is attempting to set up machinery which … ought to be helpful in providing collective bargaining through a Government agency for the men and women who are not organized.” In his view, FLSA promised that unorganized workers “will not be left helpless. … We will see to it that you, too, are given some of the benefits and some of the privileges of collective bargaining” (Andrias 2019: 662).

Labor generally embraced FLSA's approach, though not without important exceptions. In particular, the conservative, craft-dominated American Federation of Labor (AFL) sought to exempt unionized workplaces from coverage under FLSA, on the grounds that labor conditions were better left to private negotiation
than to governmental supervision. But leaders of the industrial unions affiliated with the insurgent Congress of Industrial Organizations (CIO) lauded the more universal and social democratic approach. They welcomed the idea of an intertwined labor and employment law; in their view, FLSA would serve as a mechanism to enhance collective bargaining and help reduce downward wage pressure on organized shops. Garment union leader Sidney Hillman, for example, argued that, in industries such as textiles, garments, and shoes, private collective bargaining could not cover the whole industry, and the only way to raise standards uniformly was to have it done by the government. Forcing high standards on a few employers at a time would drive those employers out of business before the rest of the industry could be effectively organized (Fraser 1991).

Liberal voices adopted a similar position. The editorial board of the *New Republic*, for instance, wrote in support of FLSA:

> There are other industries and regions where, for one reason or another, unions cannot make much headway, or severe competition prevents localized advances, and where as a consequence the conditions of labor lag behind the general standards. It is desirable to aid the workers in these sweated industries for their own sakes.” (Andrias 2019: 663)

The *Nation* similarly emphasized the relationship of the draft bill to collective bargaining, concluding that the AFL approach of keeping all labor relations private had been “discarded” and that “the new labor movement recognizes that government has a useful function in providing the machinery for collective bargaining.” (Andrias 2019: 663).

FLSA’s procedural mechanisms reflected these commitments. The law mandated the establishment of tripartite committees of labor, business, and the public in order to engage affected parties in the governance process. A sticking point soon arose: who would represent non-union, unorganized workers? Business groups wanted employers to choose them, but labor convinced FLSA administrators—who were liberal laborites in any event—that unions, even if they represented but a small segment of workers in an industry, could nevertheless speak for those workers. After all, they already bargained for a set of similarly situated workers (Andrias 2019: 271).

The industry committees’ operation was a mix between collective bargaining and administrative decision making, blending democratic deliberation with technocratic analysis. The committees conducted fact finding and grounded their conclusions using the statutory criteria, while at the same time, the decision making emerged from compromise between business and labor with the public members acting as referees. For example, the first committee, representing much of the garment industry, met for over six months. Chaired by Donald Nelson, the vice president of Sears, Roebuck, it counted among its members Sidney
Hillman, president of the Amalgamated Clothing Workers, and several leaders from AFL and CIO locals, as well as industry leaders from around the country. The committee issued a comprehensive report detailing problems in the industry that still resonate today, including competition from abroad and the movement of capital from the organized and higher-wage North to the unorganized, low-wage South. Ultimately, the committee recommended a minimum wage for the whole industry of 32.5 cents an hour. Not unexpectedly, Southern members dissented in a separate report, objecting in particular to the committee’s treatment of the “cotton growing” states and their insufficient representation (Andrias 2019: 672–673).

UNDERMINING BROADER-BASED BARGAINING IN THE UNITED STATES

One virtue of the FLSA wage boards and of similar state-level wage-setting institutions is that they avoid the “preemption” trap whereby any effort on the part of a federal agency, state, or municipality to encourage collective bargaining by either constraining employer power or enhancing the rights of workers is preempted by Section 301 of the National Labor Relations Act (NLRA), which reserves all such legislation to the federal government. Seventy years ago, labor partisans saw such preemption as a great legal and legislative victory because it prevented reactionary politicians in such places as Texas or Mississippi from enacting their own state-level obstacles to union organizing and bargaining. But as the decades passed, this federal displacement of state activism soured when Republicans took periodic control of the NLRB and as the courts reinterpreted the meaning of the Wagner Act so as to turn labor’s “Magna Carta” into an employer weapon. In contrast, the FLSA does not preempt state and local wage legislation, as long as the nonfederal benefits exceed the floors set by federal statutes. States can pass, for example, higher minimum wages, more protective scheduling laws, and paid sick-time provisions; so too can localities, as long as their home rule provisions permit them to do so. This is why we have so many different minimum wage and rest break standards across the land.

While the Supreme Court has repeatedly emphasized the prohibition against state actors shifting the balance of power in privately negotiated agreements, it has never curtailed the ability of states and local governments to pass universally applicable employment legislation. Indeed, the court has held that laws of general applicability are not preempted even when they “alter[ed] the economic balance between labor and management.” The court has also emphasized that “when a state law establishes a minimal employment standard not inconsistent with the general legislative goals of the NLRA, it conflicts with none of the purposes of the Act” (Andrias 2016: 91–92). Thus, the court has upheld several state laws establishing workplace standards that would otherwise be negotiated in bargaining.
As it turned out, a conservative Congress eliminated the FLSA wage boards in the late 1940s, even as some states continued to maintain their own tripartite wage-setting agencies. The federal boards fell victim to intense hostility from the low-wage South, from Republicans and industrialists hostile to the Truman administration’s effort to boost the minimum wage to 75 cents an hour, and from the view held by some laborites who thought that unionism and collective bargaining were the only legitimate and effective roads forward for the unorganized and the poorly paid (Andrias 2019: 284–289).

Those trade unionists, chiefly in the craft unions, might well be forgiven that perspective because labor’s capacity to set wage standards, even for those not unionized, seemed so great and so well secured in the years right after World War II. This was the era when unions such as the Teamsters and those of the building trades, as well as unions representing garment workers and bakers, printers and painters, coal miners, and those in longshore work, actually encouraged the organization of employer associations so that when they achieved a collective bargaining agreement it also constituted a de facto standard for an entire industry sector. It was sectoral bargaining without recourse to the state.

And this approach was equally the case among the large, powerful, and economically ambitious unions of the mass production industries, most organized by the CIO. In an era when politics was moving to the right, unionists were wary of state intervention, as exemplified by the passage of the Taft–Hartley Act in 1947. As Walter Reuther, the visionary United Auto Workers leader put it at that time, “I’d rather bargain with General Motors than the U.S. government. GM has no army” (Lichtenstein 1995: 261). During the 1950s and 1960s “pattern bargaining” in heavy industry created a set of sectoral wage and benefit standards whereby key bargains, such as the 1950 UAW–GM Treaty of Detroit, were replicated, not only by Ford and Chrysler but throughout mass production industry. Bargaining in steel, coal, commercial construction, and short-haul trucking was even more centralized, with a committee representing the entire industry sitting down with a big union such as the United Mine Workers or United Steelworkers to structure a work regime for hundreds of thousands. Jimmy Hoffa, for all his faults, used militant strike tactics and a strategic negotiating strategy to create a series of regional collective bargaining regimes that standardized wages and working conditions throughout an historically fragmented trucking industry. He even brought incomes for Southern over-the-road truckers up to Northern and Western standards (Russell 2001; Stebenne 1996).

**CONTEMPORARY EXAMPLES OF SECTORAL BARGAINING IN THE UNITED STATES**

The system collapsed in the 1970s and 1980s when deindustrialization, global competition, and the growth of employer anti-unionism put wages and other work standards back in competition between one firm and another. The few
remaining examples of sectoral bargaining are found in key occupational niches: major league sports, the Hollywood talent guilds at the major studios and broadcast networks, and West Coast longshore. And the teacher strikes that swept Arizona, Oklahoma, and West Virginia were also a species of sectoral bargaining in which negotiations took place, not with the individual county boards of education, but at the state capital where the real money and power were concentrated.

But the private sector is a harder nut to crack and, as with the teacher strikes, doing so requires the active engagement of the state to make sectoral bargaining once again work. The Fight for $15 could succeed only when the struggle moved to the political realm, where states and municipalities passed local ordinances mandating higher wages. Such initiatives might well be given more of a “bargaining” flavor in such states as California, Colorado, Massachusetts, New Jersey, New York, and North Dakota, where wage boards still exist. They were put in place during the Progressive Era and were designed to raise standards for workers—mainly women—in what were then called the sweated trades. And the wage boards still work. In New York in 2015, a wage board composed of representatives from labor, business, and the general public held an extensive series of hearings over a 45-day period in cities across the state. Workers organized by the Service Employees International Union (SEIU) in its Fight for $15 were well represented at these meetings. As the New York Times reported of one hearing, “Organizers … turned out a large and vocal crowd that included pizza makers, cashiers, unionized graduate students, economists, a venture capitalist from Seattle and at least one rabbi” (McGeehan 2015). On July 21, 2015, the New York State Board announced its decision: $15 per hour for fast food restaurants that are part of chains with at least 30 outlets, to be phased in over the course of six years, with a faster phase-in for New York City. The wage board order was a significant victory, followed by another victory: a state law to raise the statewide minimum wage to $15.

Such state-mandated standards are not just for low-wage workers: in the construction trades, prevailing wage standards ensure that on big government projects, occupational wages of up to $80 an hour are paid to skilled craftsmen, union or not. And such sectoral bargaining might well reach well beyond the world of fast food restaurants and construction sites. To help imagine what a more full-fledged version of this model could become, consider the National Football League (NFL), as well as television show writers. In both of these instances, sectoral bargaining takes place between a union and an association of employers whose authority is virtually identical to that of the industry itself. And in both cases, we are talking about highly paid professionals whose compensation is often far more complex than a straight wage payment.

In the NFL, the players’ union and the 32 team owners bargain collectively to divide up the total share of league revenue and provide minimum salaries for
rookies and veterans. For example, NFL players will receive at least 47% of league revenue under their current agreement, and, in 2017, rookies were paid a minimum season salary of $465,000, while veterans earned higher minimums based on their seniority. Of course, teams can—and many do—pay players more than league minimums (Madland 2018).

Similarly, the Writers Guild of America East and West negotiate a nationwide minimum basic agreement with the Alliance of Motion Picture and Television Producers that provides for minimum wages, portable pension and health benefits, a process to receive proper credit for one’s work, and residual payments to writers when produced content is exhibited outside of its initial window. Writers can—and frequently do—negotiate for higher standards, but employers cannot pay less than the agreed-upon minimums. In 2017, for example, a writer of a story and teleplay for a 30-minute prime-time network TV show received a minimum fee of $26,303, and roughly 40% to 50% of that amount for each prime-time network rerun that airs, depending on the show’s budget. Moreover, the company is required to pay an additional 19% contribution on top of the writer’s salary and TV residual payments to the Writers Guild of America’s pension and health fund to cover the writer’s benefits. Minimum payments for non-network prime-time shows are less, but they follow a similar format. Even when a writer changes employers, her or his work is still covered by the minimum basic agreement, and that writer therefore continues to receive the minimum pay and benefits that the collective bargaining agreement guarantees (Madland 2018).

**SECTORAL BARGAINING FOR THE GIG ECONOMY**

While both the football players and the TV writers “collectively bargain” with a set of private employers, this pattern could easily be transferred via the state-level wage board model to many of those gig economy workers whose actual employment status has been so illusory: not just the Uber and Lyft drivers and the Web-or app-based temp workers but also those who develop video games, program social media connections, and build new apps. And, of course, such sectoral bargaining is a natural for more traditional and normally lower-wage occupations, including those who labor in nursing homes, warehouses, and retail stores, and for self-employed truckers and delivery workers.

The door seems open to a new season of liberal-labor statecraft that puts high on its agenda the kind of wage boards discussed above. The Center for American Progress, a think tank with close ties to Obama and Clinton circles, is on board, as were the Sanders and Warren campaigns, and, of course, advocacy of a $15 minimum wage is now standard fare for almost every Democrat. Wage boards and a higher minimum wage are a natural fit for a leftward shifting Democratic Party: it is a policy issue legitimized by history and current circumstance, large numbers of low-wage workers will benefit, and employer opposition will be muted because such governmental initiatives take wages out of competition throughout
an entire labor market. If a union organizing drive were to force a handful of McDonald’s restaurants in Manhattan to offer higher wages while the rest pay two or three dollars less, then one can be sure that those McDonald’s franchisees will loudly complain that they are burdened by unfair competition in the months before they close up shop. However, if every fast food eatery in the borough pays the same wage, then burger prices might rise a bit, but wages are taken out of competition and the field of business contestation remains flat and equitable. This may be why McDonald’s has recently announced that it will no longer lobby against an increase in the minimum wage.

Moreover, sectoral bargaining is a tool that has the capacity to ameliorate the employment fissuring that has been the bane of so many organizing drives. If a wage board mandates that all janitors, home healthcare workers, or all warehouse employees are paid the same, then unions can avoid the near impossible task of organizing the multitude of contractors and subcontractors in those industry sectors. Indeed, some of these subcontractors are likely to welcome a state-imposed wage standard, which would stop the chiseling and constant spinoff of fly-by-night firms whose only competitive advantage is the exploitation of those who work for them.

And, finally, there is the dirty little secret that has long made even the most liberal Democrat wary of too close an identification with union organizing campaigns, contract fights, and the strike itself. The Wagner Act was premised on the idea that social harmony might be achieved when and if capital and labor met on somewhat equal terms—both would be organized—and thereby they both had the incentive and the power to construct a set of social bargains, with the strike weapon held largely in reserve. But if US employers ever thought this policy regime a good idea, they reject it today. In the private sector, certainly, and often in the public as well, managers seek domination and unitary rule. Unions therefore are in the business of creating class conflict, when and if they have the chance, because it is only under adversarial conditions that managers are incentivized to recognize and respond to the interests of their employees.

Liberal politicians may well offer support for contemporary strikes and organizing drives, but the turmoil created by union activism often plays havoc with a candidate’s effort to build a constituency as broad and inclusive as possible even when, in the abstract, they stand with working people. Strikes are messy and often end in a partial victory, divisive defeat, or all sides losing. Many people, and not just those in the managerial strata, are repelled by such social conflict. So while Democratic Party liberals may join the occasional picket line, they hesitate to identify their campaign with the fate of a union struggle. Though the Fight for $15 has, from the beginning, framed its demands as “$15 and a union,” the wage plea has captured far more attention than the call for union rights. When it comes to the latter, even the most advanced liberals hesitate to put themselves squarely on the side of all those shrill and disruptive organizers. Instead,
they use a distancing rhetoric, with appeals to create a level playing field between management and labor, or they seek to avoid the conflictual narrative altogether by just condemning income inequality, tax breaks for the rich, and the role of the “billionaire class” in election campaigns.

But unionism, even when its chief objective is a higher wage for union workers, embodies far more than a mechanism for ameliorating income inequality. It raises consciousness among its members, creates an oppositional and continuously active locus of power in a society otherwise dominated by capital, and it has the capacity to mobilize the community as well as its own members for social struggles, thereby demonstrating both social solidarity and a progressive vision of what would constitute a good society. All this was brilliantly demonstrated during the teacher strikes that swept the nation in 2018 and early 2019.

As presently constituted, wage boards do none of this, and while the Fight for $15 campaigns have often been genuine social movements, they have not won for the SEIU, the key funder and organizer of that movement, more than a handful of new members. And this is crucial because, without organization and the dues flow to sustain it, the labor movement will come to resemble a philanthropic foundation that makes incremental social changes but is incapable of building a self-sustaining movement.

Without unions to institutionalize them, waves of activism dissipate. The energy that went into the first Obama campaign evaporated after the thrilling election celebrations. The Occupy movement in 2011 fizzled when the tents cleared. And the contemporary anti-Trump resistance lacks an organizational structure independent of the people it has put into office. In contrast, effective trade unionism contributes not only to the mobilization of voters at the climax of a campaign season but in the aftermath as well, when the political and organizational trench warfare continues in a large array of legislative chambers, administrative agencies, and community political institutions. In recent years the political right—through megachurches, the National Rifle Association, and ad hoc donor formations—has proven far more potent than the political left in this kind of continuous partisan warfare.

Now that the nation and the labor movement are shifting to the left, progressives need to push forward policies and politics that strengthen those working-class institutions so they can play a vigorous role in raising wages and begin to win the adherence of those elements of the working class who have defected. Here’s how wage boards and sectoral bargaining can help. To institute wage boards at the national level, federal law would have to be changed. That will not happen soon, but in the meantime a number of liberal states, including, Maryland, Massachusetts, Nevada, and Washington, might well join the five jurisdictions (Arizona, California, Colorado, New Jersey, and New York) that already have such wage board legislation on their books. These boards, old and new, need the
funding and boldness that can once again make them a platform for the “conviction bureaucrats” who once helped give voice to Progressive Era workers.

Since these state boards are not seeking to regulate collective bargaining, as defined by the NLRA, the anti-union “preemption” doctrine, which has long enabled a reactionary federal labor law to trump more progressive state legislation, will not apply. The boards will therefore be free to encourage worker self-organization in imaginative new ways so that a collective employee voice will be well and democratically represented when wage boards hold the periodic hearings so necessary to an informed decision. In practice, this would mean that states could pass legislation forbidding employers from barring union representatives or other activists from their property, banning employer mandated “captive audience” meetings, and stiffening monetary fines against employers who demote or fire employees who seek to talk with and organize their workmates.

A funding stream for these organizations is also important so that workers seeking to make their voice heard before such a board can have their own staff and leaders to do the necessary research, member organizing, and political mobilization. Liberal states could therefore enact legislation, as in New York, that requires employers in a particular industry, such as fast food, to let their workers have a portion of their paycheck deducted to pay membership fees to a nonprofit entity. Under that New York law, now being contested by a restaurant trade association, at least 500 workers would have to sign up before a group could receive contributions (Greenhouse 2018). To incentivize membership, liberal states could take a page from the northern European playbook and channel some social benefits, such as subsidized bus and subway cards, occupational training classes, and legal services for poor people, through these new working-class institutions.

The union movement, indeed democracy itself, has always advanced when will and circumstance conjoin to create a great leap forward, as in the Civil War, the New Deal, and the Sixties. A new era of state-mandated sectoral bargaining may well be part of that reinvigoration, but its promise will fall short without the rebirth of a set of working-class organizations that give ordinary workers their own voice and the power to make it persuasive.

REFERENCES


INTRODUCTION
It is all too common these days to read headlines like “The Robots Are Coming, and They Want Your Job.” Indeed, much of the discussion on the increasing role of technology in the workplace focuses on potential job losses. There is a long history of “technological anxiety” (Mokyr, Vickers, and Ziebarth 2015) around the impact of technological change on employment. In 1933, for instance, the noted economist John Maynard Keynes coined the term “technological unemployment,” which is unemployment “due to our discovery of means of economising the use of labour outrunning the pace at which we can find new uses for labour” (Keynes 1932: 364). Historically, such concerns over technological unemployment have been shown to be overblown, largely because increased demand for labor caused by more firms entering industries with economic growth and workers’ ability to develop new skills through training and education had outpaced automation and prevailed over any destructive effects on employment (Aghion and Howitt 1994; Frey and Osborne 2017). However, the technological revolution of the 21st century (also referred to as Industry 4.0) has ushered us into uncharted territory. For the first time, computerization and automation are starting to encroach on occupations that require high-level (nonroutine) cognitive skills, which until now have largely been restricted to the human domain (Frey and Osborne 2017).

With much of the literature on the impact of technology on work focusing on job creation and destruction, we know less about how “digitalization” or “digital transformation”—two terms used to broadly encompass the widespread adoption of digital technologies to transform business processes and the proliferation of artificial intelligence and smart robotics in the modern workplace (Gekara and Nguyen 2018; Muro, Liu, Whiton, and Kulkarni 2017)—affects
the nature of work, including required skills, job design, and workers’ lived experiences. While changes to the latter are not unique to the current era of digitalization, there is some indication that the “reengineering of jobs” (Gekara and Nguyen 2018) is more striking and pervasive in the modern workplace.

This chapter is organized into four parts. First, we provide a broad overview of employment in the era of digital transformation, with a particular focus on the impact of technological innovation on the skills required of contemporary (and future) workers. Second, to set up our discussion of how unions might be able to respond to the challenges (and opportunities) that their members and other workers are facing in the digitized workplace, we focus on how employers are incorporating new technological capabilities through two specific examples: (1) the rise of the platform economy and the redesign of the passenger transportation industry, especially as it pertains to how work is assigned and managed; and (2) the changing nature of workplace surveillance and its effects on worker well-being and the way work is performed. Third, we review what has been done by the other main actors in the industrial relations system—governments, workers, and labor unions—to mitigate the consequences of digitalization, an area where the United States and Canada seem to lag behind Europe. Finally, we propose a framework for how labor unions can respond to the challenges we identify in the chapter. Within this framework, we address the inherent tension between unions’ imperative to negotiate short-term improvements in wages, benefits, and working conditions and the importance (and strategic benefit) of prioritizing long-term protections as they relate to employment security, control, and worker well-being.

WORK IN THE ERA OF DIGITAL TRANSFORMATION

The rapid and widespread proliferation of digital technologies in the 21st century has renewed academic and public interest in the impact of technology on employment. In the past, employment and wages have generally increased as a result of technological innovation, but this tendency is “an empirical, historical phenomenon; it is not a law of nature or economics” (DeCanio 2016: 281), and there is some indication that the current technological revolution is different from those that came before it. New machine-based digital technologies get their disruptive power from a “powerful combination of data access, computation, and communication technologies with acting hardware” (Balsmeier and Woerter 2019: 2), which allows them to take on nonstandardized tasks in an efficient and cost-effective way. A major novel development, then, is that automation and computerization are no longer limited to routine manufacturing tasks but are now also affecting nonroutine cognitive work (Frey and Osborne 2017), which had traditionally been considered a uniquely human domain. This new reality has given rise to two competing views on the impact of technology on work in the digitized workplace—“techno-pessimist” and “techno-optimist” views (Gekara and Nguyen 2018).
Techno-pessimists focus on the potential for widespread technological unemployment where autonomous or smart machines require little human interaction, leading to sweeping automation and worker displacement (Gekara and Nguyen 2018). Proponents of this view see this as a pervasive issue that will affect work across all skill levels, not merely unskilled or routinized work (Frey and Osborne 2017). Challenging this view of widespread job losses and a general deskilling of work, techno-optimists argue that large-scale employment disruptions are unlikely, as any job losses in the short term will even out through worker retraining and reabsorption into the workforce in the longer run. Moreover, they advance that new technologies will complement the workforce by helping enhance employee skills, reducing the need for unskilled work, and increasing productivity and wages (Autor 2015; Gekara and Nguyen 2018). The stark disconnect between the techno-pessimist and -optimist views thus largely stems from the differing underlying beliefs in whether human and machine can act as complements or substitutes.

As a result of widespread automation of routine manufacturing tasks over the past few decades, there has been a shift in the labor market from middle-income manufacturing jobs to low-income service jobs, while demand for high-skilled occupations requiring cognitive tasks has increased. This has created a polarization in the labor market, with employment growth at the extremes and declines in the middle of the wage and job-skill distribution (Autor and Dorn 2013; Frey and Osborne 2017; Goos and Manning 2007). A more recent development, though, is that automation and computerization are no longer limited to routine work. In their analysis of 702 occupations in the United States, Frey and Osborne (2017) found that 47% of total US employment was at a high risk of being automated, with workers in transportation, logistics, production, and office and administrative support at the highest risk of substitution. On the other hand, most occupations that require creative or social intelligence (e.g., management, counseling) have a low risk of being computerized in the near future. Interestingly, while automation has largely reduced demand for middle-income jobs over the past several decades, it appears that low-skill (and low-income) jobs have the highest probability of substitution in the near future (Frey and Osborne 2017). This suggests that, instead of deskilling, workers will need to acquire new skills, particularly “softer” skills such as creative and social intelligence, to compete in the modern workplace.

In response to Frey and Osborne (2017) and other similar empirical assessments, Arntz, Gregory, and Zierahn (2017) advanced that those studies overestimated the share of occupations at risk of automation because they did not account for significant task heterogeneity within occupations, where, in addition to tasks vulnerable to computerization, workers also perform a variety of tasks that machines struggle with (e.g., influencing, problem solving). When assuming task homogeneity, in line with prior research, Arntz, Gregory, and Zierahn (2017) assessed the risk of automation for US jobs at 38%; however, when accounting
for task heterogeneity within occupations, the risk dropped down to 9%, suggesting that previous risk assessments may have been substantially upward biased. These findings seem to better align with the techno-optimist view, whereby jobs in the era of digitalization are highly adaptable, and workers become increasingly specialized in nonautomatable tasks within their occupations (Arntz, Gregory, and Zierhan 2017).

**Beyond Job Creation and Destruction**

In 2018, 422,000 industrial robots were sold worldwide—although only 14,000 of these were “cobots” (a term for collaborative robots that are designed to be used alongside human workers), which represents a 23% increase over cobot sales the year before (International Federation of Robotics 2019). In the medical industry alone, for example, we see cobots working in hospitals to deliver medication and food (Frey and Osborne 2017), producing artery closure devices (Healthcare Packaging 2015), and handling and sorting blood samples (David 2017). The growth and functions of these collaborative robots are only expected to increase in the coming years. In fact, according to one recent forecast, by 2025, one in three robots will be collaborative (Zanchettin, Croft, Ding, and Li 2018). When considering technology’s potential for job creation and destruction, then, it is important to distinguish between tasks that can be automated versus tasks that cannot be performed equally well (or at all) by machines or new tasks that complement the work of machines (Balsmeier and Woerter 2019). Much of the pervasive technological anxiety seems to revolve around the former, but even the more positive view of human–machine cooperation neglects to account for the lived experiences of employees who work side by side with robots. Job transformation or redesign is a common outcome of introducing cobots into the workplace. In some cases, it results in a general decrease in job autonomy and responsibility because many important tasks are taken over by computers (Gekara and Nguyen 2018). In other cases, however, cobots merely shift responsibility so that both they and humans perform work aligned with their respective competitive advantage. For instance, collaborative robots could take over nonroutine tasks that require greater precision while humans focus on tasks that require greater emotional quality of service (Decker, Fischer, and Ott 2017). Regardless of the outcome, robots challenge the status quo of work, which can lead to, among other things, increased stress for workers (Blazejewski and Walker 2018).

Much of the literature on the current technological revolution focuses on whether robots act as worker substitutes or complements, but this dichotomy ignores the growing trend of workers working under the control of robots and algorithms. An algorithm is a mathematical model containing a precise set of instructions to solve a problem and, in the workplace, it can be used to automate a number of different managerial decisions in the areas of onboarding, compensation, monitoring, and performance evaluation (Duggan, Sherman, Carbery,
and McDonnell 2019). This method of governing the workplace is attractive to firms for several reasons: algorithms are better than humans at complex calculations and in detecting patterns in large data sets, they are free of certain human biases such as being more generous in decisions following lunch (Frey and Osborne 2017), and, once created, algorithmic management tools are inexpensive to deploy (Martin, Hanrahan, O’Neill, and Gupta 2014). At the same time, though, there are many serious limitations to using algorithms in organizational decision making; for instance, they are not transparent or fail-safe, they can be discriminatory (e.g., gender, race), they often prioritize economic gain and behavioral control over ethical issues such as privacy, and they can dilute the notions of human agency, responsibility, and accountability (Lindebaum, Vesa, and den Hond 2020). While this list is not exhaustive, it highlights some of the major dangers inherent in the increasingly pervasive use of algorithms in organizational management. Below, we discuss two examples of algorithmic management—platform work and workplace surveillance—that illustrate some of these challenges.

WORKING IN THE PLATFORM ECONOMY

In recent years, the growth of the so-called gig economy has been one of the most discussed manifestations of the digital transformation of work (e.g., Aloisi 2016; Kessler 2018; Mishel 2018; Smith 2016; Wood 2019). Platforms (or gig platforms, as they are sometimes called) are digital intermediaries that create value by decreasing users’ search and transaction costs (Evans 2003; Rysman 2009); that is, they are in the business of linking two parties who are looking to enter into an exchange. Uber Technologies, Inc., an online ride-hail service that links drivers and riders, currently operates in over 100 countries with more than one million people working on its platform (Rosenblat 2018b). While Uber has become a household name in North America, similar platforms, such as Olo in India or Didi in China, have changed the nature of passenger transportation for both passengers and drivers. For passengers, what once required waiting on a street corner for an unoccupied taxi has largely been replaced by a platform-based digital dispatch system. For workers, the differences are starker. Driving for Uber or Lyft allows for a level of flexibility in scheduling working hours that stands in contrast to the ongoing trend toward on-call or zero-hour contracts (Cappelli and Keller 2016; Katz and Krueger 2019). Indeed, this flexibility is one of the central arguments used by these platforms to eschew the traditional employer–employee relationship; from their perspective, drivers are independent contractors, not employees. This distinction means that basic employment standards—and, in some jurisdictions, the right to unionize—do not apply to these ride-hail drivers. Although Uber, and the platform economy in general, has moved away from stable bilateral employment relationships, there is still a high degree of employer control (Prassl 2018). This control is exercised through algorithmic management.
While algorithmic management is not unique to the platform economy, digital platforms have made it a core part of their business models. Since platforms do not have a shared workspace (and may never even meet their workers!), they rely on automating many of the decisions that would traditionally be exercised by managers. In the language of industrial relations, platform design is writing the rules of the digital workplace (DeVault, Figueroa, Kotler, and Maffie 2019; Maffie 2018). How those designs create a balance (or imbalance) of power between customers, workers, and platforms is an active area of academic inquiry. The following outlines two areas of algorithmic “work rules”—task allocation and performance management—that are routinely found in the gig economy.

**Task Allocation**

Algorithms are used to allocate work across workers (Lee, Kusbit, Metsky, and Dabbish 2015). Digital dispatch services, like those of Uber and Lyft, allocate the decision-right over work distribution to the platform. When intermediaries retain the ability to control the distribution of work, platforms allocate work in a fashion that advances their own interests over those of customers or workers.

A good example is Uber’s “Hell” program. For several years, Uber tracked its drivers’ GPS signals to examine whether they were also working for their main competitor, Lyft. If the Hell program decided that drivers were also using Lyft, it would automatically bump those workers up in the dispatch order (O’Kane 2017). Uber’s goal in this system was to advance its primary interest—that is, to keep drivers off Lyft—over the convenience of the passenger or the equitable work allocation across drivers.

Digital dispatch provides the clearest example of control over task allocation, but there are softer ways that digital systems can influence the allocation of tasks. For instance, in the ride-hail industry, workers are generally not told passengers’ destination when deciding whether to accept a job (Rosenblat 2018b). While platforms claim that this is intended to prevent “curbside discrimination” (discrimination based on passengers’ destination), it effectively requires drivers to accept or decline job requests without knowing the value of those rides (DeVault, Figueroa, Kotler, and Maffie 2019; Wells, Attoh, and Cullen 2019). This presents an example where digital platforms use their intermediary position between workers and customers to influence what information is exchanged prior to one side committing to take on a particular task or responsibility.

**Performance Management**

Early work on platform ratings framed performance management as “digital trust” (Botsman and Rogers 2010). These tools, like eBay ratings, have been praised for being able to overcome concerns about fraud for geographically distant trading partners. However, in the context of platforms like Uber and Lyft, performance management and monitoring authority is delegated to customers
(Ticona, Mateescu, and Rosenblat 2018) and is designed in such a way that advances the interests of one party over those of another. Today, the most ubiquitous example is the “five star” customer feedback system. Rosenblat and Stark (2016) document how Uber structures its five-star customer rating system in a fashion that places workers in a submissive position to the customer through scale design. On a scale of 1 to 5 stars, drivers must maintain a (roughly) 4.7 average in order to maintain access to the service. This means that a perfect rating (5) is only 0.3 above the termination point, while a 1-star rating amounts to 3.7 points below the minimum acceptable rating. This system reduces worker autonomy over their work and effectively forces them to defer to customers, undercutting the claim that workers are “their own boss.” Furthermore, these types of designs can create structural power imbalances that could contribute to harassment or abuse on these services (Maffie and Elias 2019).

By its very design, algorithmic management is able to routinize the exercise of managerial authority over workers. In the closing section on the role of unions, we explore how co-determination or bilateral determination of algorithmic work rules could help curb some of the worst elements of existing algorithmic management systems in the platform economy.

**THE CHANGING NATURE OF WORKPLACE SURVEILLANCE**

One of the most profound ways workers are contending with digitalization is through employer surveillance. In line with previous research, our use of the term “surveillance” broadly refers to “management’s ability to monitor, record and track employee performance, behaviours and personal characteristics in real time” (Ball 2010: 87). Monitoring employees’ work, productivity, and well-being is not new. For example, Frederick Taylor, the founder of Scientific Management, analyzed how workers completed their tasks in an effort to modify workflow and increase productivity, while Henry Ford and the Sociological Department he created in 1914 monitored employees both on the job and at home to ensure respectable behavior such as cleanliness (The Henry Ford, no date). What is new, however, are the methods and pervasiveness of employee surveillance, as well as the accompanying concerns. Compared with the above examples, contemporary surveillance is neither resource intensive nor limited by managerial manpower (Rejouis 2019), which raises grave concerns about the newer methods and pervasiveness of employee monitoring.

**Evolution of Surveillance Technology**

Early forms of electronic workplace monitoring included call monitoring systems in call centers, computer screen tracking technologies to minimize “cyberloafing” or “junk computing” (that is, using the Internet during work hours for personal use), and keystroke logging software to track productivity. According to a 2007 survey, nearly half of the private sector workforce in the United States was subject
to one of these forms of electronic monitoring (Smith and Tabak 2009). Since then, newer and more comprehensive forms of software-based monitoring have emerged. Teramind, the 2019 *PC Magazine* Editors’ Choice for best employee monitoring software (Marvin 2019), is capable of live view (and playback) of screen and audio recordings of employees, printed document tracking, and social media monitoring; furthermore, it can be run with or without an employee’s awareness (Teramind, no date). Perhaps because of this “stealth” option, a more recent survey about workplace monitoring asked workers not whether it exists—but whether they thought it was likely that they are being monitored. Indeed, 72% of respondents thought it was fairly likely that there was at least one form of monitoring at their workplace (Trades Union Congress 2018).

The advent of wearable technology represents an even greater innovation in workplace surveillance because it provides employers with a more complete picture of their employees’ work. For instance, location tags worn by nurses and support staff track and analyze their movement to produce a “heat map” that highlights areas of greatest activity. This tracking, originally started as a pilot study in 2011, serves to streamline workflow and inform staffing decisions (Carr 2014). In another example of geotracking technology, Amazon won two patents in 2018 for wristbands that can not only track the location of their warehouse workers’ hands but also provide haptic feedback to direct workers toward the correct inventory bin. Although this technology has not (yet) been implemented by Amazon, company employees have said similar tracking technology is already in use (Yeginsu 2018). These methods of monitoring workers provide detailed, second-by-second updates on workers’ locations and activity during the day.

Beyond tracking employees’ work, companies also engage in worker-centric surveillance that records individual and collective behaviors through the use of wearable “sociometric badges.” Outfitted with infrared receivers, microphones, and accelerometers, these badges are capable of automatically measuring workers’ face-to-face interactions, including speech processing such as volume, vocal intonation, and how much each individual speaks, listens, and interrupts; the use of gestures; posture; physical proximity to one another; and location (Kim et al. 2012; Olguín et al. 2009; Pentland 2015). Each badge produces approximately four gigabytes of data per day (Miller 2015), which can be used in a multitude of ways: to assess leadership potential of employees (Harbert 2019), monitor cohesion within a workgroup (Wu et al. 2008) and employee stress levels through tone of voice (Miller 2015), and determine where the most enriching conversations take place in the workplace (Waber, Magnolfi, and Lindsay 2014). Such badges are available for sale commercially. In addition, a low-cost, open-source “open badge” system is available, which can include either custom hardware or a mobile phone version (Lederman et al. 2017). Modern-day employers thus have a multitude of surveillance technologies available that have the potential to drastically change the lived experiences of their employees and the way work is performed. We explore some of these changes below.
Workers’ Lived Experiences in the Modern Workplace

Both employers and employees can benefit from workplace monitoring. For employers, it can reduce employee cyberloafing and, in turn, increase productivity (Glassman, Prosch, and Shao 2015) as well as improve other desired employee behaviors while reducing misconduct (Pierce, Snow, and McAfee 2015). For employees, many of the benefits of monitoring relate to health and safety. For example, monitoring can act as a deterrent and improve worker safety for those whose job makes them a target for physical abuse (Saner 2018) and provide a sense of security for employees who work alone, especially in remote locations (Trades Union Congress 2018). Moreover, the threat (or awareness) of employer monitoring may deter behaviors—for example, sending a sexually explicit e-mail or making a pass at a co-worker—that create a hostile work environment (Determann and Sprague 2011).

Nevertheless, there are many legitimate concerns that arise from the “opaque-ness” of contemporary workplace surveillance (Kellogg, Valentine, and Christin 2020). First, it is important to note the privacy concerns related to the collection of surveillance data. In the absence of legislation that restricts particular forms or the extent of employer surveillance of employees, employers are free to collect data in any form desired and without workers’ awareness or consent. As mentioned earlier, some software works intentionally in stealth mode, raising the question of whether it is an invasion of privacy for workers to be monitored without their awareness.

Moreover, with the decrease in costs associated with surveillance technology and the rise of automated decision making, employers can collect limitless raw data, which can then be used by the employer for any purpose desired (Ajunwa, Crawford, and Schultz 2017). As a result, the experience of work is changing. Workers’ awareness that they are being monitored, combined in some cases with real-time productivity feedback, has led to a concerted speeding up of work. For example, it is not difficult to see this in the case of Amazon warehouses, where wearable monitoring technology includes a countdown timer to monitor the time between tasks (Saner 2018). The same is true in call centers, which monitor and display statistics about call length; work rates in this setting have been characterized as “close to the maximum that workers can manage” (Peaucelle 2000: 461). These experiences are not limited to warehouses and call centers; concerns about turning offices into “sweatshops” have long existed as well (Attewell 1987). For instance, a recent study of field engineers in a telecommunications company documented their attempts to maintain a strict schedule in an effort to improve their performance data, including skipping lunch and avoiding drinking too much to minimize the need for bathroom stops (Bakewell et al. 2018: 7).

Another consequence of workplace surveillance may be an increased pressure for workers to engage in emotional labor—that is, “publicly displaying certain emotions while hiding others” (Hülsheger and Schewe 2011: 361)—given the increased use of video monitoring and the advent of sociometric badges that exist
to record worker behaviors. The relationship between the closeness of employee monitoring and the performance of emotional labor has long been theorized (Morris and Feldman 1996). Although emotional labor is thought to be primarily associated with customer-facing workers (Hochschild 1983), with newer forms of surveillance, the pressure for emotional labor may be felt even by those who never leave their office building. What is most concerning about the potential creep of emotional labor is that “surface acting”—that is, the management of emotional expressions—has consistently been found to be associated with lower levels of well-being (Hülsheger and Schewe 2011).

There is also evidence of a direct relationship between increased surveillance and reduced well-being. Employees have expressed anxieties regarding the interpretation of data collected from (and about) them (Bakewell et al. 2018) and the notion that, at any point in time, employers can retrospectively go through their data and “manage people out” using a previous mistake (Saner 2018; Trades Union Congress 2018). Although the relationship between monitoring and increased stress has been documented for decades (Nussbaum and duRivage 1986), the ongoing intensification of workplace surveillance makes this concern more acute because the intensity of monitoring has been shown to have a strong negative association with well-being (Holman, Chissick, and Totterdell 2002). Perhaps ironically, the increased presence of psychosocial illnesses and their associated costs for employers has led to suggestions for the monitoring of worker well-being as a solution (Dollard, Skinner, Tuckey, and Bailey 2007).

RESPONSES TO DIGITAL TRANSFORMATION

Globally, national and local governments, labor unions, and workers are responding in important ways to mitigate the current and impending consequences associated with computerization and digitalization. Here, we highlight notable responses with respect to job displacement and skill mismatches, the challenges of working in the platform economy, and the intensification of workplace surveillance.

Job Displacement and Skill Mismatches

Given the extensive public discourse around the subject, it is not surprising that governments have paid much attention to concerns about technology as a substitute to human labor. One response has been the suggestion of a “robot tax” on firms that incorporate robot technology into the workplace. The potential benefits of this robot (or automation) tax are twofold. First, it may function as a deterrent to—or at least as a means to slow the spread of—replacing workers with robots (Delaney 2017). Second, as noted by Abbott and Bogenschneider (2018: 145), “robots are not good taxpayers.” Imposing a robot tax would allow governments to offset the loss of tax revenue from unemployed workers; the new revenue could then be used to fund safety-net programs or retraining initiatives for those displaced from work (Prodhan 2017). The robot tax was considered by
the European Parliament but was ultimately voted down in 2017. Similarly, it received only limited support in North America: the Canadian Green Party included a robot tax as part of its platform during the 2019 Canadian federal election (The Canadian Press 2019), and the tax was endorsed by one of the (then) contenders for the 2020 Democratic nomination for president of the United States (Robertson 2019).

Another policy response to worker displacement caused by technology is the universal basic income, which is a cash payment made to all individuals, regardless of income, wealth, or employment status. Although this idea is not new—for example, Martin Luther King Jr. advocated in 1957 for the guaranteed income as the “simplest” and “most revolutionary” solution to contemporaneous economic concerns, including automation (King 2011: 131)—it has been gaining momentum in recent years. It has received support from certain governments (e.g., Finland and, one point in time, the province of Ontario), billionaire employers (Jagannathan 2020), and even a former international union president (Stern 2016). The universal basic income is discussed in greater detail in Chapter 9 of this volume.

Finally, in response to both job destruction and job reconfiguration, reskilling is urgently needed. According to one estimate, computerization and digitalization will displace 75 million workers worldwide by 2022 (World Economic Forum 2018a), while an additional 120 million workers will need to be retrained or reskilled in the next three years because of job redesign related to automation (LaPrade, Mertens, Moore, and Wright 2019). Yet, in the United States, for example, funding for workforce and education programs has been declining for two decades, and appropriated funding often falls below what is statutorily authorized (Spiker 2019). Perhaps because of the funding shortfall, a recent study of worldwide executives suggested that by “nearly a 5:1 margin, the executives in our latest survey believe that corporations, not governments, educators, or individual workers, should take the lead in trying to close the looming skills gap” (Illanes et al. 2018: 3). Many governmental and nonprofit organizations, however, have advocated for a social partnership approach that includes industry, government, and unions to ensure that workers have the skills they need to succeed both today and in the future (Brown 2018; OECD 2019).

**Platform Work**

Globally, there is no consensus regarding how to regulate digitally mediated work arrangements. Instead, a patchwork of regulations has emerged that attempts to test various methods of raising labor standards for gig workers. Courts around the world have been wrestling with how these work arrangements fit into their existing employment systems (DeVault, Figueroa, Kotler, and Maffie 2019). Some of these cases have achieved incremental results. For example, the United Kingdom determined that gig workers are entitled to holidays and a minimum wage (Browne
Additionally, Spain’s Employment Appeals Tribunal found that ride-hail drivers are “workers,” granting them a minimum wage, holiday pay, and limits on working time (Agote 2017). In other countries, such as Brazil, the courts have been less favorable to platform workers, effectively ruling they are not entitled to protections under existing employment laws (Reuters 2019). Without judicial consensus at the national level, lower levels of government have attempted to fill the gap. In the United States, some states have determined that workers are entitled to unemployment insurance (Satter 2018); most recently, California approved Assembly Bill 5, which could result in gig workers receiving minimum wage protections and qualifying for unemployment insurance (Conger and Scheiber 2019). Furthermore, New York City has experimented with a minimum guaranteed wage for ride-hail drivers (Griswold 2018).

Notably, the actors most involved in trying to improve standards in the platform economy are the workers themselves. For instance, gig workers have started building their own automated systems to help overcome the limitations and power imbalances built into digital platforms. Turkopticon provides the best example of this practice. Amazon Mechanical Turk (MTurk) is an online micro-task platform for “human intelligence tasks” such as proofreading a résumé. Customers can post these jobs to an open marketplace of all MTurk workers. Similar to Uber or Lyft, MTurk allows customers to evaluate workers, but workers are unable to evaluate customers (Martin, Hanrahan, O’Neill, and Gupta 2014), which allows abusive customers to avoid developing a digital reputation for unwanted behaviors (Irani and Silberman 2015; Kessler 2018). In contrast, if workers receive too many low evaluations, they can lose access to MTurk (Hanrahan, Willamowski, Swaminathan, Martin 2015). To overcome this designed imbalance of power, academics and workers pooled their efforts to build Turkopticon, a Google Chrome plugin that allows workers to establish their own rating system for customers (Irani and Silberman 2015). When MTurk workers complete a task, they can use Turkopticon to rate a customer and share that rating with all other Turkopticon users. The plugin then displays customers’ Turkopticon score in the Amazon marketplace, allowing workers to quickly and easily avoid problematic customers. The Turkopticon platform has partially leveled the informational playing field between workers and customers. While this is an example of successful design hacking, it is not without limitations. For instance, Turkopticon users are only a tiny fraction of the overall MTurk service. Furthermore, the scores customers receive on Turkopticon have no influence on their ability to purchase labor on Amazon; they exist only to help workers avoid problematic customers. Nonetheless, Turkopticon is a good example of how platform workers can respond to existing power imbalances.

Platform workers have also repurposed social media platforms to organize and create better working conditions (Wood and Lehdonvirta 2019). A series of studies have shown how workers use messaging platforms such as WhatsApp and Facebook
to try to take greater control over their working conditions. Möhlmann and Zalmanson (2017) found that Uber and Lyft drivers are able to coordinate their sign-on/sign-off behaviors in large metropolitan cities in order to create surge waves and temporarily increase customer prices. Drivers have also used chat groups to develop their own clientele. In Taiwan, when the government temporarily banned the use of Uber and Lyft for three months in 2017, drivers created their own driver chat rooms and recruited passengers to join those groups (Chen et al. 2019). Even after Uber and Lyft returned, drivers continued to use the chat rooms because doing so allowed them to freely negotiate their own terms of sale with customers, cutting out the ride-hail platform’s influence over their work.

Repurposing social media platforms has also allowed drivers to pool their collective knowledge about platform work policies. In contrast to many workplaces, most gig platforms do not disclose their work policies. For example, Uber drivers are not told their minimum performance rating or how work is allocated across workers; instead, this information lies beneath the user interface, inaccessible to workers. Workers, however, have used social media platforms to reverse engineer some of those policies (Hanrahan, Willamowski, Swaminathan, and Martin 2015; Rosenblat 2018a, 2018b). Uber drivers in New York, for instance, posted receipts to a Facebook page in order to understand how Uber and Lyft were calculating their fares. Members of the group realized that Uber had incorrectly calculated its portion of the fare, resulting in a $10 million settlement with affected drivers (Rosenblat 2018a).

Other times, social media platforms can act as a forum for workers to engage in mutual aid. In studies of microtask workers, researchers found that workers use digital communities in order to seek feedback on their work or assistance with difficult customers (Wood and Lehdonvirta 2019; Wood, Lehdonvirta, and Graham 2018). These communities can be very large, with some consisting of thousands of workers. Other studies have found that workers for Deliveroo, a food delivery service operating in a number of countries around the world, developed a sense of community; while waiting outside of restaurants together, the workers talked and discovered that many of them had had shared grievances (Tassinari and Maccarrone 2020). While these workers are nominally competitors, research suggests their shared working conditions and conflicts with platforms can fuel a sense of community among them (Maffie 2018).

**Workplace Surveillance**

Government responses to the intensification of workplace surveillance have focused on the area of privacy rights. The European Union has taken the lead on this issue, passing the General Data Protection Regulation (GDPR) in 2016. The GDPR, which came into effect in May 2018, provides all individuals (including employees) various rights with respect to data collected about them. These include the right to be informed about how data are being gathered and for what
purposes the data would be used, the right to request a copy of the information their employer has about them, the right to ask employers to correct or delete any factually incorrect data, the right to be told when a decision was made using only automated decision making, and the right to have such a decision reviewed by a person (Trades Union Congress 2018). Importantly, hefty penalties can be imposed on employers who violate the GDPR. Thus, this legislation not only addresses the issue of privacy rights but also attempts to minimize the opacity surrounding surveillance.

Governments in North America lag behind Europe in addressing workplace surveillance. Canada’s response to privacy concerns takes the form of both federal and provincial legislation. The Privacy Act and the Personal Information Protection and Electronic Documents Act are both federal statutes designed to protect personal data privacy. The former applies to federal employees, while the latter applies to employees who work in federally regulated private sector organizations, such as banks, airlines, and telecommunications (Office of the Privacy Commissioner of Canada 2018). Each province has its own privacy laws that apply to the public sector, and several provinces—Alberta, British Columbia, and Québec—have enacted their own privacy laws that apply to provincially regulated private sector organizations. In both Alberta and British Columbia, employers can collect and use “personal employee information of a potential, current or former employee without his or her consent if it is reasonable and if it is solely for the purposes of establishing, managing, or terminating an employment or volunteer-work relationship between the organization and that person” (British Columbia Laws, no date; Government of Alberta, no date).

In the United States, employees have limited protections against employer surveillance; in fact, there is no federal law that explicitly addresses it (Ajunwa, Crawford, and Schultz 2017). According to the Society for Human Resource Management, there are only two restrictions on employer surveillance: employers are not allowed to record personal oral conversations, and employers may not have cameras in bathrooms or changing rooms (Harbert 2019). As a result, a handful of states have enacted their own privacy protections. For example, in California, it is illegal to track someone without their consent, while in Connecticut, employers must notify employees of any electronic monitoring (Ajunwa, Crawford, and Schultz 2017). Thus, workers in different states are afforded vastly different protections.

In the absence of more favorable legislation to protect workers, labor federations and unions—to varying degrees—have worked to augment worker protections both in legislation and collective bargaining agreements. For example, starting back in 1999, the Canadian Labour Congress has called for legislative protections of worker privacy (Mosco and Kiss 2006). Even so, a study of Canadian collective agreements found that only 1.4% expressly included language on electronic surveillance in the workplace, though the authors pointed out that this still represented an improvement over a similar study in 1995 (Mosco and Kiss
Meanwhile, the UNI Global Union, a federation representing workers in the skills and services sectors, has campaigned for digital rights since 1998 (Akhtar and Moore 2016), and, in 2017, the group published “Top 10 Principles for Workers’ Data Privacy and Protection,” a document that outlines what unions should strive for in collective bargaining (Moore 2018).

While governments have focused mainly on issues of privacy with respect to data collection, unions can use collective bargaining to address the lived experiences of workers contending with workplace surveillance. As one example, the basic agreement between the Norwegian Confederation of Trade Unions and the Confederation of Norwegian Business and Industry requires management to notify employees before any new surveillance is implemented and to consult with union representatives on any practices that may affect worker privacy (Mosco and Kiss 2006). Unite the Union, a large trade union in the United Kingdom and Ireland, negotiated limits on who can review video surveillance of workers and excluded such surveillance footage from being used in disciplinary hearings (Trades Union Congress 2018). As we discuss below, however, much more could be done by unions to protect workers from the challenges associated with intensified surveillance.

**NEED FOR A STRONG UNION RESPONSE**

Our discussion of technology’s impact on employment (job destruction and creation), work in the platform economy, and the changing nature of workplace surveillance has highlighted several key challenges that workers face in this era of digital transformation. Although governments have, to some degree, been active in passing legislation that has the potential to alleviate some of the threats posed by digitalization, we advance that labor unions can—and, indeed, should—play an important role in educating workers about these issues by lobbying for additional legislative protections and bargaining over how workers’ lived experiences are affected by computerization and digitalization.

Today’s workers face many challenges in addition to having to contend with technological change; it is not surprising, then, that unions have focused primarily on wages, job security, and organizing efforts (Mosco and Kiss 2006), and, as a result, issues such as worker privacy have not made it to the top of the policy agenda. However, as Townsend and Bennett (2003: 203) note, an issue such as privacy protection “may well become as critical an organizing issue as workplace justice has been in the past.” As discussed above, collaborative robots, job redesign, and the need for skill upgrading; algorithmic management, power imbalance, and opaque work rules; and intensified surveillance, speeding up of work, and ill psychosocial health are all major issues whose importance will only increase in the coming years. Indeed, each of these could become the critical organizing issue for the labor movement. Next, we examine how unions might be able to address them.
Reskilling for Employment Security

Despite the desire of business executives to be the primary provider of training (Illanes et al. 2018) and the fact that industry is the largest source of funding for workplace training (Carnevale, Strohl, and Gulish 2015), there is an important role for unions when it comes to reskilling workers for the future. One of the recurrent criticisms of unilateral management workplace training is that it tends to invest primarily in higher-paid or higher-educated employees, while providing far fewer training opportunities for their lower-paid and less-educated counterparts (Nightingale and Eyster 2018; Waddoups 2016). In contrast, unions have a history of bringing training initiatives to workers with lower levels of education; research from across the globe generally suggests that unionized firms provide more training than non-union firms across skill and wage levels (Böheim and Booth 2004; Dustmann and Schönberg 2009; Verma 2005). Importantly, the quality of that training is better when the union actively participates in training decisions (Heyes and Stuart 1998).

However, unions also have a long history of resisting technological innovations that could render their members’ skills or jobs obsolete (Frey and Osborne 2017). For workers who will likely be displaced altogether from their job in the near future, fighting to preserve their job for a little while longer may not be the most strategic choice. A union has only so much power to make demands in any negotiation, and, in cases of likely displacement, workers’ long-term employment security may depend on the union negotiating employer-paid individual skill assessments and funds for reskilling for jobs that are likely to exist long term—within the same company or elsewhere. Unions could partner with firms to assist their members with this transition. For instance, to map out realistic job prospects for individuals who are being displaced, Burning Glass Technologies, an analytics software company that focuses on the job market, maps the “genome of jobs” by analyzing the knowledge and skills required for different occupations (World Economic Forum 2018b). They then compare occupations based on the overlap in job-related tasks and the knowledge, skills, and abilities required to perform that job. What results from this comparison of two occupations is a similarity score; jobs with high similarity scores are considered to be “skill adjacent” career opportunities that represent logical job prospects for a displaced worker (Weber 2019). Unions can not only encourage and work with their members to complete skill assessments and undergo training, but they can also play an important role in working with industry to establish the training or apprenticeship programs where new skills will be acquired.

For workers whose jobs are likely to be significantly redesigned because of automation and digitalization, unions have an important role to play in protecting the long-term employment security of those workers by ensuring that all affected workers have an opportunity to undergo reskilling. Companies often try to hire new employees with the desired skill set in lieu of reskilling their exist-
ing workers for the redesigned job (Weber 2019), even though there is a cost–benefit case to be made in favor of reskilling current workers as opposed to laying them off and attempting to find new ones (World Economic Forum 2019). Unions can be a vocal advocate for the existing workers to ensure their employment security is a first priority. Finally, because the stressors associated with new technology and job redesign can be numerous, unions should ensure that collective bargaining agreements include support for workers during this transition.

Clarifying Algorithms

Although the opaqueness of algorithmic management is problematic for both traditional employees and workers in the platform economy, the problem is starker for the latter group. Platform workers are rarely told the rules of the workplace or what disciplinary actions may result should they violate those rules (Rosenblat 2018b). While this may seem implausible, it happens in the platform economy because the rules that govern digital workplaces operate beneath the user interface and cannot be directly inspected by workers (Kellogg, Valentine, and Christin 2020; Rosenblat 2018a; Rosenblat and Stark 2016). As a result, workers are currently required to backward-derive the rules of their digital workplaces, which can occur only when they pool their experiences (Cant 2019; DeVault, Figueroa, Kotler, and Maffie 2019; Pasquier and Wood 2018; Wood 2015; Wood and Lehdonvirta 2019). Collective bargaining could provide a formal method to clarify how the rules of a platform operate so that workers would be fully aware of what is being asked of them prior to accepting work on a platform. Furthermore, while individual workers may not possess the technical expertise to inspect a platform’s code, unions could develop the necessary expertise to ensure that these agreements are being followed.

Clarifying rules would not only be beneficial to workers but could present several benefits for platforms as well. The poor behaviors of some of the largest online platforms cast a long shadow. There are numerous examples—such as the aforementioned Hell program or Juno, another ride-hail platform—where drivers were induced to join the platform with benefits that never materialized (Bhuiyan 2017). These behaviors have resulted in gig workers viewing platforms’ promises of better treatment with distrust and skepticism. For platforms that wish to attract workers through superior work design or by providing fair working conditions, unions could lend credibility to any such promises and policies. Specifically, bilaterally negotiated platform work rules could overcome the existing sense of distrust and skepticism that workers (and customers) feel toward these organizations, potentially improving the organizations’ market positions.

Providing clarity around work rules could also help address other challenges associated with platform work arrangements. For example, scholars have documented that the opacity inherent in algorithmic management can result in workers
attempting to game the system (Kellogg, Valentine, and Christin 2020; Möhlmann and Zalmanson 2017). Unions, through the process of collective bargaining, would be able to explain how these policies operate and their function on a platform. While platforms may lack the credibility to make these claims, an outside worker organization would not face the same perceptions of conflict of interest. Accordingly, unions could render algorithmically mediated work systems more credible and useful than unilaterally promulgated systems, just as labor–management partnerships have been shown to increase support for the implementation of work policies in more traditional workplaces (Freeman and Rogers 2006).

**Supporting Platform Workers**

In addition, unions could present an important institutional mechanism to prevent a long-run collapse of labor conditions in the gig economy. Existing theory suggests that many platform industries, such as search engines (Google), microblogs (Twitter), and social media (Facebook), will converge into monopolies or near monopolies (Evans 2003; Rochet and Tirole 2003; Rysman 2009). This convergence is due to their underlying economic properties. Network effect economics, the platform business model, predicts that most of these industries are “winner take all” markets (Armstrong 2006). In essence, the most efficient “matchmaker” is a single organization that contains all the possible matches. This theory explains why private financiers allow organizations such as Uber to endure millions (or billions) of losses year after year; their hope is that the organization will become the monopolist in the industry. There is some anecdotal evidence that suggests online labor platforms will indeed follow this course. For years, Didi Chuxing, a Chinese-based ride-hail company, and Uber competed head to head for the Chinese ride-hail market. In 2016, after Uber exited the country because of low market share, Didi was able to use its new position to decrease driver compensation while simultaneously increasing prices, just as theory predicted (Ng 2018).

Monopoly platforms are able to extract greater economic rents from workers because it is prohibitively costly for a challenger to acquire the necessary number of participants to break into an existing market (Rysman 2009). For example, in the area of ride-hail, it would be extremely costly for a new platform to acquire a sufficient number of passengers and drivers to challenge Uber. Labor unions, however, could change this scenario. If a union could build worker solidarity such that it could credibly threaten the defection of its members from the existing platform to an emerging competitor, it could limit the ability of existing platforms to extract greater rents from workers (Maffie 2018). Similar to the way some professional sports leagues (such as the National Football League) can be exempt from anti-trust laws if the players negotiate as a union, the presence of a union could act as a buffer against monopoly platforms.
Labor organizations could also develop tools to help online gig workers engage in nontraditional labor actions. As mentioned earlier in the chapter, online workers are developing tools such as Turkopticon to overcome the limitations of algorithmically regulated workplaces. To date, these tools have been developed by academics and gig workers (Chen et al. 2019); however, there is no reason organized labor could not help in the design and deployment of these systems. For example, unions could develop tools for ride-hail drivers to communicate with other drivers, applications that track their costs and work history, or even nonprofit versions of these platforms. These services could provide a new method for unions to develop relationships with their members and also provide unions with useful data for the purposes of collective bargaining.

Finally, unions could provide the necessary infrastructure to support gig workers’ collective actions. In recent years, gig workers have engaged in a number of rapid, large-scale collective actions, such as the Uber driver global protest in May 2019 (Ghaffary 2019; Wang 2016). With the speed and reach of social media (Margetts, John, Hale, and Yasseri 2016; Pasquier, Daudigeos, and Barros 2019; Shirky 2008), informal gig worker organizations—Rideshare Drivers United, for example—have been able to scale quickly and attract both national and international attention. Unions have extensive expertise in organizing demonstrations and could also provide legal support to protect workers during such protests or other labor actions (Greenhouse 2019).

**Limiting Surveillance and Use of Surveillance Data in Decision Making**

In the area of workplace surveillance, unions can be an advocate for both non-union and unionized workers. Lobbying for legislation in Canada and the United States that is similar to the European Union’s GDPR would be a good start. Especially in the United States, having a right to be informed about how and why data are being gathered would represent a significant step forward. Legislative protections have the benefit of addressing this issue for all workers, regardless of union status. Currently, however, data privacy does not feature on the “What We Care About” webpage of either the Canadian Labour Congress or the AFL-CIO. Though this issue may not be a current legislative priority of union federations, national or local unions can address the concern on behalf of their members at the bargaining table.

The first key area to negotiate is in the implementation of surveillance methods. At a minimum, requiring that union representatives be consulted and employees be informed about new surveillance methods before they are implemented can be beneficial for both employees and employers because it may foster a greater sense of trust (Akhtar and Moore 2016). Certain forms of workplace surveillance are more acceptable to workers than others; for example, one recent study of US workers showed that over 70% believed it was “okay” to monitor
workplace-related tasks, work e-mail, and work phone calls, while other forms of surveillance—including monitoring personal interactions and tracking physical movement in the workplace—were deemed unacceptable by a majority of workers (Harbert 2019). Based on their own members’ opinions, unions can negotiate a requirement of worker consent for these particularly invasive forms of surveillance.

Where unions can perhaps have an even greater impact is in negotiating limitations over the use of data collected through surveillance because the lack of such restrictions can cause heightened anxiety and stress for workers (Bakewell et al. 2018; Saner 2018; Trades Union Congress 2018) as well as pressures to increase the speed and intensity of their efforts (Bakewell et al. 2018; Peaucelle 2000; Saner 2018). Given modern-day technological developments, it is rather simple and inexpensive for employers to collect and store massive amounts of data. As such, it is important to negotiate restrictions on who is allowed to access the data, time limits for how far back management can look, and the ability for workers to see, and respond to, the data collected about them. Many collective agreements already include provisions regarding the right of employees to view and respond to their personnel files; applying this to surveillance data is a natural extension in the age of digitalization. It is also important for unions to negotiate with employers over how the data can be used. The limitations on surveillance data use that could most benefit workers depend on the type of work they perform and the type of monitoring undertaken by the employer, but the example provided earlier in the chapter that restricted video data from being used in disciplinary hearings can be used as a model to restrict the use of granular data in disciplinary decisions.

CONCLUSION

For most workers, the robots are not coming to take their job. The robots will, however, change the way they work. Modern-day workers are contending with new pressures in the face of algorithms and an expanded managerial line of sight. How these factors play out to create the future of work is still uncertain. It could be that these technologies allow workers to focus on their human competitive advantage, resulting in a future that removes many of the repetitive and difficult elements of work. Alternatively, these technologies could create a different future that includes deskillling and job displacement. Platforms, relying on algorithmic management, may provide a preview of this future: large workforces of precarious workers and the displacement of many human managers. Unions, policy makers, and others will play an important role in crafting the institutional environment that sets the trajectory for the workplace of the future.
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INTRODUCTION

Social partnership or social concertation—where government engages with organized labor and capital in the formation of public policy—has been a key feature of democratic industrial relations in Europe since the second World War. However, the picture has not been an even one: the impetus that drives these arrangements has peaked and troughed at various points, even in those countries most associated with the approach. This chapter traces the trends in macrolevel social partnership in Europe since the onset of the Great Recession in 2008, with the aim of assessing the present state of affairs and possible trajectories of development.

The Great Recession, which engulfed European economies following the financial crash of 2008, generated strong pressures for adjustment and restructuring of industrial relations and labor market institutions (Armingeon and Baccaro 2012; Marginson and Welz 2015). Pressures to liberalize labor market and wage-setting institutions to reduce labor costs and restore competitiveness have been especially acute in countries of the Eurozone affected by the sovereign debt crisis of 2010–2012—such as Greece, Ireland, Italy, Portugal, Spain, and Slovenia. Although not directly affected by the sovereign debt crisis, Member States belonging to the so-called core of the Eurozone such as Germany, France, the Netherlands, and Belgium have also faced crisis management challenges during the decade of the Great Recession: tackling high unemployment and enhancing external competitiveness to generate new growth drivers, all while keeping public finances under control. Beyond the Eurozone, Central and Eastern European countries were also severely hit by the global economic slowdown. In cases such as Hungary and Romania, the degeneration of the downturn into banking-debt crises forced governments to recur to International Monetary Fund (IMF) loans. Across the European Union (EU), macroeconomic woes have been additionally accompanied by increasing political and governmental instability,
fueled by the increasing fragmentation of party systems and by the growth of populist, or far-right nationalist, parties.

From the perspective of employment relations, the Great Recession arguably marked a critical juncture in the development trajectories of the institutions governing work and employment across European economies. Many trends pertaining to the reconfiguration of the sphere of collective bargaining and labor rights have already been extensively documented in the literature. These include the increasing decentralization and disarticulation of collective bargaining, the deregulation of dismissal protection legislation, and the drive to reduce labor costs through wage freezes, often facilitated by direct state intervention (Afonso 2019; Marginson 2014; Meardi 2014). However, the implications of the crisis for the *macropolitical* dimension of employment relations have received comparatively less attention. In particular, little is yet known about the impact of the Great Recession on the role of employment relations actors in the socioeconomic governance of European political economies and about the contributions of unions and employer organizations to *macrolevel* governance in the crisis and of post-crisis adjustment efforts.

The extent to which the European experience of the Great Recession facilitated or hindered the activation or revival of forms of negotiated governance to face its related socioeconomic challenges remains an open question (Schmitter 2015). On the one hand, the crisis could have, at least in theory, offered fertile ground for the activation of “social partnership” experiments that would bring together governments, unions, and employer organizations to devise concerted crisis management responses. On the other, the intensity of the downturn and the imperative of implementing politically unpopular response measures under conditions of tightened government finances posed serious obstacles to the possibility of reaching consensus. Country-specific past experiences of social partnership, their relative institutionalization and legitimacy, and the changing power balance among employment relations actors also affected the extent to which policy makers, unions, and employers were willing or able to activate such processes.

Looking back over the decade of the Great Recession, this chapter takes stock of the evolutionary trajectory of social partnership across selected EU countries between 2008 and 2018. Three key questions guide the analysis. First, what has been the contribution of negotiations between governments and peak-level employment relations actors—unions and employer organizations—to the *macrolevel* governance of the crisis across European economies? Second, how can we account for cross-country variation in the relative resilience or marginalization of social partnership over the crisis decade? Lastly, how has the experience of the Great Recession impacted in the medium term the role of employment relations actors in the socioeconomic governance of European political economies, and what does this tell us about the future of social partnership in Europe?
We argue that despite becoming considerably less prominent than during the period of European Monetary Union (EMU) accession of the late 1990s, negotiated forms of socioeconomic governance involving unions and employer organizations have not disappeared over the crisis decade across European economies. We propose that, rather than being functionally determined by the intensity of the crisis, the uneven resilience of concertation has been shaped by country-specific configurations of institutional legacies and the strategic orientations of the actors. However, the macrolevel structural circumstances of the crisis decade have impacted the content of such agreements. In some instances, concertation agreements have allowed unions to smooth the impacts of adjustment or achieve a marginal recuperation of entitlements in the post-crisis period, as well as to maintain a seat at the table of decision making. At the same time, the evidence also suggests that post-Recession tripartism has not been able to facilitate a meaningful socialization of crisis governance.

The chapter proceeds as follows. First, we review the extant literature on the evolution of social concertation in Europe during the crisis, as well as the explanations that have been advanced to date to account for its supposed marginalization. Second, we present an empirical overview of the occurrence of social concertation across the EU over time, showing evolutionary trends at the macrolevel as well as some illustrative case studies from a subset of EU Member States. Lastly, we conclude with a comparative discussion of the main factors accounting for the observed developments and with some reflections about the future prospects of social partnership in Europe.

SOCIAL PARTNERSHIP IN AND BEYOND THE GREAT RECESSION: DECLINE, RESILIENCE, OR A NEW BEGINNING?

Tripartite social pacts and social concertation between governments, trade unions, and employers organizations have historically constituted a prominent mode of policy making and macroeconomic adjustment in European political economies. Following the “golden age” of corporatism across the 1970s and its seeming decline in the 1980s, the practice of tripartite concertation experienced a revival in the 1990s, when it was used extensively by governmental actors in several Western European countries to achieve negotiated reforms that linked different policy areas—such as incomes policy and wage setting, pensions, social security systems, and employment protection legislation.

These negotiated settlements were considered crucial for having enabled European economies to make the structural adjustments necessary to enter the EMU (Donaghey and Teague 2005; Hancké and Rhodes 2005). In the post-Socialist countries of Central and Eastern Europe and of the Baltic region that joined the EU post-2004, experiments in tripartite “social dialogue” (often more symbolic than substantial—see Ost 2000) were also extensively used in the
period following transition in the early 1990s, and later to facilitate the process of EU accession (Guardiancich 2012: 5).

The revival of tripartite policy concertation in the 1990s and its subsequent uneven institutionalization in several European economies in the early 2000s (Natali and Pochet 2009) gave birth to a large body of literature focused on explaining the resurgence or emergence of such negotiated forms of policy making. This body of work identified high macroeconomic problem loads, together with governmental weakness, as key causal factors leading to the emergence of tripartite concertation in Western Europe during the EMU convergence period (Ajdagic 2010; Hamann and Kelly 2011; Hancké and Rhodes 2005). In the Eastern European context, political elites’ reliance on tripartism in the context of the post-Socialist transition was interpreted as being motivated by a desire to comply with EU norms, achieve social stability in the process of democratization (Meardi, Gardwaski, and Molina 2015), and pursue legitimation for neoliberal social policy reforms and privatization by sharing responsibility with an otherwise weak and marginalized labor movement (Mailand and Due 2004; Ost 2000). In both cases, European integration was seen as creating incentives for dialogue and compromise building between governments and the organized representatives of labor and capital in the domestic arena.

Fast forward to 2008, one decade after the inception of EMU, and the picture appeared quite different. While the factors that had been identified as important predeterminants of social pacts in the 1990s—high macroeconomic problem loads and weak governments—were present also, if not more prominent, in the aftermath of the 2008 crisis, the experience of the Great Recession unleashed ambiguous developments in the dynamics of social concertation in Europe.

At first, the initial crisis period (2008–2010) was identified in the literature as being associated with an acceleration of national-level concertation between governments and social partners across the EU as a reaction to the economic and social impact of the downturn (Baccaro and Heeb 2011; Papadakis and Ghellab 2014; Rychly 2009). Indeed, from the end of 2008, crisis-related concertation processes were activated in many EU Member States to devise “defensive” anti-crisis measures that could help support workers and firms in sectors negatively affected by the crisis—such as short-time work schemes, extraordinary wage supplements, and retraining initiatives (Rychly 2009). According to Urban (2012: 230), these experiments in “crisis corporatism” constituted in most cases an “alliance of the weak” in which government, unions, and companies in the real economy, under pressure of the crisis shock, formed a defensive emergency coalition against the destabilizing effects of financial markets. However, neither the emergence nor the solidity of such concerted responses to the crisis was homogeneous across countries. Hyman (2010) noted how the emergence of comprehensive tripartite agreements in this initial crisis response period had often proven extremely problematic, even in countries with institutionalized concertation practices.
A more path-breaking shift was then identified in the dynamics of tripartite concertation between the first and second phases of the crisis, particularly in countries experiencing an intensification of their macroeconomic problem load as the economic downturn of 2008–2009 morphed into a fiscal and sovereign debt crisis from mid-2010 onward (Freyssinet 2010; Papadakis and Ghellab 2014). In that phase, long-term asymmetries in European integration dynamics, combined with the different crisis contagion avenues experienced by countries in the Eurozone, resulted in the emergence of a deep socioeconomic divide between economically stronger countries with current account surpluses (the so-called core of the Eurozone) and the peripheral countries (Johnston and Regan 2016). In the Eurozone periphery, growing current account deficits, difficulties in servicing sovereign debt, and declining competitiveness led to insurmountable pressures for structural reforms of labor market and welfare state institutions aimed at internal devaluation and fiscal consolidation (Armingeon and Baccaro 2012; Bieling and Lux 2014).

According to Bieling and Lux (2014: 166), “crisis corporatist” arrangements survived only in countries belonging to the core of the Eurozone, which remained mostly sheltered from acute reform pressures. Conversely, they collapsed in peripheral countries faced with the imperatives of implementing deep adjustment—leading thus to a core–periphery divergence in the dynamics of tripartite concertation. Several observers have echoed this interpretation, identifying the sovereign debt crisis as a trigger for the unraveling of tripartite concertation and for the “death of social pacts” in the troubled periphery of the Eurozone (Culpepper and Regan 2014; Guillén and Pavolini 2015; Luque Balbona and González Begega 2015; Papadakis and Ghellab 2014).

Two main strands of explanation have been advanced to account for the predominance of unilateral adjustment and the marginalization of social concertation in the recent crisis. A first strand emphasized the features of the crisis itself—pointing out how the scale of adjustment and depth of reforms required to face the crisis shock were too large and extreme for unions to be able to internalize them (Regan 2012; Luque Balbona and González Begega 2015). The magnitude and pace of the crisis emergency and of the necessary responses were supposedly incompatible with the involvement of unions and employers organizations in crafting concerted adjustment strategies. A second strand of literature pointed instead to longer-term trends that found their roots outside of the crisis dynamics themselves. The thrust of this line of argument, put forward most notably by Culpepper and Regan (2014), is that, owing to the parallel trends of the decline in union density and union legitimacy in public opinion, governments no longer needed to include union movements to legitimize their structural reform efforts in crisis times: the costs that organized labor could impose were no longer high enough to warrant reaching compromises. Rather than the intensity of the crisis shock, the growing weakness of union movements was thus seen as the
main driver for the marginalization of social partnership in crisis-hit European economies.

Yet the interpretation that characterizes governmental unilateralism as “the only game left in town” as a mode of crisis response in the wake of the 2008–2009 crisis deserves to be unpacked with greater caution. On the one hand, it is undeniable that social partnership and concertation have been on the back foot since the onset of the crisis and that several structural reforms in crisis-struck countries were implemented unilaterally during the Great Recession decade. On the other hand, there have also been prominent cases where crisis-responsive structural adjustment has been tackled through tripartite or bipartite concertation between governments and organized producer groups (Bender and Ebbinghaus 2020). Furthermore, after the end of the acute period of the Eurozone crisis, practices of tripartite social dialogue have been tentatively reactivated across several EU Member States from 2014–2015 onward (Guardiancich and Molina 2017). Hence, the fate of social partnership in the EU, and the Eurozone in particular, is not as clear cut as some of the earlier literature might have led us to believe. These insights call therefore for a closer investigation of trends in social concertation over the crisis period.

MAPPING THE EVOLUTION OF SOCIAL CONCERTATION ACROSS THE EU OVER THE GREAT RECESSION

To shed light on this seemingly ambiguous trajectory of developments, we first provide a broad overview of recent developments in social concertation in the EU Member States based on the available quantitative indicators. We rely on the indicators on social concertation from version 6.0 of the ICTWSS database (Visser 2019), which includes variables for the number of social pacts negotiated (PactNeg) and signed (PactSign) and for the degree of “routine involvement” of social partners in policy making in each country of the EU for the period 1960–2017.

First, to measure changes over time in the intensity of negotiating activity at the national level of policy making between governments, unions, and employers organizations, Figure 1 plots the average number of social pacts negotiated or signed each year across all 28 countries of the EU (EU-28) between 1990 and 2017. The trend highlights an overall decline over time. However, there is considerable temporal oscillation. Following the peak in 1997–1998, which coincides with the apex of the “new social pacts” associated with the period of EMU accession, we can observe another, smaller increase in the average number of pacts signed or negotiated each year at the onset of the crisis in 2008–2009 (in line with the insights of the extant literature) and a slight upward trend in the immediate post-crisis period.

Figure 2 breaks down these figures further, plotting the average yearly number of social pacts negotiated or signed in the period of the Great Recession (2009–
FIGURE 1
Average Number of Social Pacts Negotiated or Signed per Year (EU-28)

Source: ICTWSS database v.6.0. PactNeg + (PactSign – PactNeg) (number of social pacts proposed or negotiated in a given year; EU-28 average).1

FIGURE 2
Average Number of Social Pacts Negotiated or Signed in EU-28 Member States per Year, by Period

Source: ICTWSS database v6.0. PactNeg + (PactSign – PactNeg) (number of social pacts proposed or negotiated in a given year; period average by country).3
2017) for each EU-28 Member State and comparing them with the average number of yearly pacts over two prior periods: the decade of EMU accession (1990–1999) and the post-EMU pre-crisis period (2000–2008). Figure 3 shows instead the absolute number of pacts negotiated or signed in each country in each of the three periods, while Figure 4 considers variation over time in the average number of yearly pacts by country group (distinguishing among Continental, Liberal, Nordic, Mediterranean, and Eastern European economies).

From these cursory descriptive statistics, we can observe considerable cross-country variation in the occurrence of formal tripartite concertation over time. In at least half of the EU-28, the intensity of social partnership activity during the period of the Great Recession declines compared with previous periods—especially in the Eastern European cluster (with a particular sharp decline in Estonia, Slovenia, Czech Republic, and Romania) and in the liberal grouping (driven by the drastic collapse of social pacts in Ireland post-2009). The situation appears more stable in the Continental and Nordic countries—although there is considerable within-cluster variation (with an apparent resilience of concertation in Luxembourg and the Netherlands vis-à-vis a complete disappearance of agreements in Austria, France, and Germany). Interestingly, Southern European countries as a whole register, according to the ICTWSS figures, an overall increase in the average number of social pacts negotiated or signed over the Great Recession period compared

**FIGURE 3**

Total Number of Social Pacts Signed and/or Negotiated by Period

Source: ICTWSS database v6.0. PactNeg + (PactSign − PactNeg) (number of social pacts proposed or negotiated in a given year; absolute figures by period and country).
with the previous decade, although individual figures reveal a profound decline in countries such as Spain and Greece.

Focusing more specifically on developments in the crisis period, the ICTWSS records 26 instances of social pacts involving the government that were actually signed during the Great Recession (2009–2017) across 15 EU Member States (Table 1, next page). Interestingly, the majority of pacts signed during the Great Recession focused on regulatory issues or structural reforms, or were symbolic and declaratory in nature. This is an interesting change from the content of the social pacts concluded in the 1990s, which revolved primarily around negotiated peak-level wage deals and incomes policy to achieve wage moderation and control inflation (Hancké and Rhodes 2005). This shift is indicative of and reflects the renewed, central importance that structural reforms of labor market, welfare states, and collective bargaining institutions acquired in the management of the Great Recession, and especially of the Eurozone crisis (Bermeo and Pontusson 2012). Structural reforms constituted a central component of the crisis management responses advocated by the European Commission and the European Central Bank (ECB) for EU crisis-struck countries, predicated on the objective of facilitating a long-lasting process of internal devaluation to strengthen external competitiveness and facilitate a reorientation toward export-led growth (Pérez and Matsaganis 2019).

Shifting the focus from negotiated social pacts to the degree of routine involvement of social partners in policy making that might not result in headline
agreements, Figure 5 paints instead a picture of greater stability over time. Comparing the average degree of routine involvement during the Great Recession (2009–2018) with the two prior decades (2000–2008, 1990–1999), we can see that the extent of change between periods is less deep than when compared with developments in the number of social pacts. In line with the insights of the literature (Marin 1990), routine involvement is higher in “traditional” corporatist countries, such as Austria or Sweden, which seldomly conclude headline social pacts. A decrease in the degree of social partners’ routinized involvement in policy making compared with the previous period is notable in France, Hungary, Ireland, Luxembourg, Poland, Romania, Slovakia, and Slovenia—while it remains broadly unchanged (or even increases) in the other Member States.

### Table 1
Type and Focus of Social Pacts Signed 2009–2017

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Source: ICTWSS, variables PactSign, PactType, PactScope, Wage, Nonwage.
How can these headline findings be reconciled, then, with the insights of the extant literature, which has emphasized a trajectory of decline in social concertation and marginalization of tripartite negotiations post-crisis? While partly confirming an overall downward trend in the frequency of social concertation agreements during the crisis, these data also suggest that the dynamics of tripartite negotiations in this period have not been as clear cut as what some prior contributions (Culpepper and Regan 2014) have suggested. Rather than an across-the-board, inexorable decline, these figures indicate that the evolutionary trajectory of social partnership is best characterized as following an uneven pattern of oscillation—with variation both across countries and within countries over time. It is possible that these high-level figures might conceal an emerging disjuncture between the formal occurrence of social pacts or routine involvement of employment relations actors in policy making, on the one hand, and the content and functions of such arrangements on the other. To consider this, in the next section, we review the developments in a subset of EU countries between 2008–2009 and 2019, which allows us to develop a more in-depth qualitative analysis of social partnership dynamics in the post-crisis period.
LOOKING BENEATH THE SURFACE: AN EXPLORATION OF COUNTRY-LEVEL DEVELOPMENTS ACROSS THE EU-28

An overview of developments at the country level is helpful to shed some light on the partly counterintuitive trends highlighted by the descriptive quantitative analysis above and the extant literature. We focus here on a subset of six European countries illustrative of variation in the dynamics of social concertation over the crisis period and that capture the diversity of institutional legacies and prior histories of tripartism: France, where social partnership grew progressively more marginalized during the crisis decade; Italy and Slovenia, where phases of unilateral policy making have alternated with negotiated adjustment; and Ireland, Finland, and Portugal, which are instead representative of a new kind of “crisis corporatism” where social partnership has been used to legitimize austerity and liberalization, with different outcomes.4

Exhaustion of Social Partnership: The Case of France

France provides an illustrative example of a case where formal tripartite social dialogue was initially intensified in response to the downturn (Freyssinet 2017: 112), while subordinated to the pursuit of governmental policy goals for internal devaluation, and then eventually abandoned when no longer functional to implement structural reforms.

Traditionally, French industrial relations have been characterized as fairly adversarial with high union fragmentation, low institutionalization of social concertation, and a central role of state interventionism in labor market and employment relations governance. French unions have historically relied on their mobilization capacities rather than social dialogue to extract concessions from the government (Béroud and Yon 2012).

Initially, France was only moderately affected by the 2008 crisis, thanks largely to its strong system of automatic stabilizers that cushioned the employment and demand impacts of the output downturn (Vlandas 2017: 86). Over 2009 and 2010, through large-scale mobilizations rather than concertation (Eurofound 2009), French unions successfully extracted from the government several concessions to cushion the employment impacts of the crisis, including the extension of short-time work schemes, a partial unemployment allowance, and a large fiscal stimulus plan. The center-right Sarkozy government (2007–2012) held various consultative “social summits” with social partners to discuss its crisis-responsive social and economic policy plans, but those summits remained only cosmetic. As France’s fiscal position deteriorated from 2010, tensions grew between unions and the government surrounding the unilateral implementation of the first austerity measures in pensions (Eurofound 2010a, 2010b).

With the election of the center-left in 2012, under the Hollande government (2012–2017), concertation underwent a temporary renewal. As France’s fiscal and external competitiveness position deteriorated over 2012–2013 (Lux 2015), Hollande...
initiated social dialogue to reform labor law, resulting in January 2013 in an interconfederal agreement for maintaining employment. This concessionary bargain created a framework for firms in financial difficulties to adjust wages and working hours downward. The agreement was signed by two moderate union confederations—Confédération Française Démocratique du Travail (CFDT) and Confédération Française des Travailleurs Chrétiens (CFTC)—while the other two main confederations—Force Ouvrière (FO) and Confédération Générale du Travail (CGT)—remained opposed (Eurofound 2013). From 2014 onward, social dialogue between the unions and the government progressively became more difficult as the pressures on France from EU institutions to implement competitiveness-enhancing reforms intensified. In March 2014, Hollande introduced a tripartite responsibility pact (pact de responsabilité) with business and the two moderate confederations. This agreement aimed to lower labor costs by reducing employers’ social contributions through a tax credit system, funded through cuts in other areas of public expenditure, to favor a reorientation toward exports (Lux 2015: 93).

The depth of adjustment that could be achieved through these deals was deemed insufficient by the government to address France’s persistent economic problems, which policy makers identified as arising from a competitiveness gap related to excessive labor market and wage-setting rigidity (Rathgeb and Tassinari, forthcoming). From 2015 onward, therefore, both the Hollande government and the centrist cabinet of Macron, which replaced it in 2017, adopted a style of unilateral policy making to bypass union resistance. Two far-reaching liberalizing labor market reforms of collective bargaining and employment protection legislation (the first in 2015, the second in 2017) were introduced in the face of union opposition, leading to large-scale protests and strikes (Connolly 2017).

Despite their high mobilization capacity, French unions did not have sufficient institutional power resources to maintain a foothold in policy making when the state decided to exercise its legislative prerogatives. In this regard, France conforms to the standard interpretation regarding the developmental trajectory of social concertation in the crisis. However, the failure of social dialogue was not solely a functional consequence of the crisis intensity but was also the result of endogenous political dynamics relating to the unstable institutional foundations of concertation and the historically central role of state interventionism in the management of the French political economy.

Oscillating Between Unilateral and Negotiated Adjustment: Italy and Slovenia

Italy

The Italian case illustrates a pattern of “oscillation” between different modes of government–social partner interactions during the Great Recession—from the explicit marginalization of concertation in the crisis period to its unexpected reactivation post-crisis (Tassinari and Sacchi 2019).
In Italy, concertation has historically been sporadic and coincident with periods of high economic uncertainty or political instability (Baccaro and Lim 2007). In the 1990s, minority or technocratic cabinets repeatedly used pacts to regulate incomes policy, limit inflation, and facilitate structural pension and labor market reforms for the purposes of EMU accession (Regini 1997; Regini and Colombo 2011). However, after that period, concertation did not become institutionalized (Natali and Pochet 2009) but remained dependent on governmental weakness and left-wing partisanship. After the repeated failure of concertation agreements in 2002 and 2007, the practice became partly discredited because of its poor policy and macroeconomic outcomes, and it was “increasingly blamed for Italy’s lackluster economic performance” (Molina and Rhodes 2007: 804).

Owing to these problematic legacies, governmental actors at the onset of the crisis were reluctant to use public concertation as a crisis management tool. Yet the exclusion of social partners from decision making was not easily accomplished. Italian unions and employer organizations enjoyed entrenched institutional power resources in the collective bargaining sphere and in the governance of several welfare–labor market institutions. To implement its initial crisis-responsive measures, centered around the discretionary expansion of short-time work schemes whose management required the collaboration of industrial relations actors, the center-right Berlusconi cabinet (2008–2011) relied therefore on informal consultations with the social partners politically closer to the government—the moderate unions [Confederazione Italiana Sindacati Lavoratori (CISL) and Unione Italiana del Lavoro (UIL)] and the employer confederations. To maintain their consensus, the cabinet also endorsed in 2009 a bipartite agreement on restructuring the collective bargaining architecture (Tassinari and Sacchi 2019).

As the crisis shifted from a downturn to a sovereign debt crisis, however, this consensual strategy became hard to sustain. Over 2011, Italy came under increasing pressure from the European Commission and the ECB to implement structural reforms of labor markets and industrial relations to relaunch competitiveness, which, however, encountered resistance from the social partners. Hence, Italian governmental actors shifted to unilateralism. First, Berlusconi implemented in 2011 a decentralizing collective bargaining reform contradicting the preferences of most domestic employers (Bulfone and Afonso 2020). Then, the two main governments that succeeded Berlusconi—the technocratic Monti cabinet (2011–2013) and the center left–led grand coalition of Renzi (2014–2016)—embraced the marginalization of unions and employer organizations from the policy process as a signal of credibility vis-à-vis the electorate and external stakeholders (EU institutions and financial markets). Although not always able to circumvent the preferences of unions and employers in policy design, the visible exclusion of these actors from policy making was used as a signal of responsibility that Italy was ready to tackle difficult structural reforms previously hindered by concertation, as well as to seek electoral consensus (Baccaro and Howell 2017; Tassinari 2018).
By 2015, concertation appeared thus to have been abandoned. Yet, in 2016, negotiated policy making was unexpectedly reactivated. Over 2016–2018, the coalition cabinets of Renzi and Gentiloni, led by the main center-left party (Partito Democratico), concluded concertation agreements with the three main unions on policy issues such as pensions and public sector wages, in which the unions retained agenda-setting power because of their high density. These agreements facilitated a partial reversal of prior austerity measures (Branco et al. 2019; Guardiancich and Natali 2019). Other marginal concessions regarding short-time work schemes and fiscal welfare were granted to social partners through “behind closed doors” interactions (Mallone, Natili, and Jessoula 2019; Pritoni and Sacchi 2019; Tassinari and Sacchi 2019). The reactivation of concertative policy making was motivated mainly by governmental weakness. Faced with declining public support levels and increasingly strong far-right or populist challenger parties post-2016, weakened centrist governments could no longer sustain their prior unilateral style of policy making. Instead, they attempted to broaden their supporting coalition through public political exchange with organized producer groups. The concessions extracted by unions through concertation remained marginal and compensatory, not altering the overall trajectory of liberalization and never contradicting employers’ core preferences. Public negotiations did nonetheless allow unions to recuperate partly their depleted institutional power resources and were thus welcomed by all confederations. Overall, developments in Italy suggest that, even post-crisis and in contexts of low institutionalization, concertation continues to be occasionally used as a politicized tool of consensus seeking, but it might have very limited capacity to facilitate substantive recuperation of labor and social rights.

**Slovenia**

Similar to Italy, Slovenia has experienced ongoing oscillation between negotiated policy making and unilateral decision making during the crisis decade, alongside considerable political instability (Guardiancich 2017). Since 1992 and throughout the early 2000s, Slovenia presented features of a classical neocorporatist system—with a strongly export-led economy relying on centralized social pacts to achieve wage moderation and control inflation, supported by a dedicated tripartite institution (the Economic and Social Council). Unions traded their consent for wage moderation for routinized involvement in policy making (Stanojevic 2018). However, following Slovenia’s accession to the EU in 2004 and then to the Eurozone in 2007, the social compromise underpinning its export-led competitiveness model started to come under strain. The long economic crisis has exacerbated these challenges. Commitment to preserving institutionalized social dialogue remains strong—largely because it remains a key source of political stability for the government and institutional power resources for peak-level unions and employers. However, the capacity for reaching compromises among the state, labor, and capital has been reduced—thus leading to an ongoing stop-and-go alternation between negotiation and contestation.
Slovenia was severely hit by the global economic downturn in 2009. Its severe GDP decline (–8.1% in 2009) was caused primarily by the collapse in external demand in core European economies, as well as by the sudden stop in foreign direct investment and cheap credit that had fueled the positive pre-crisis growth performance. The result was a double-dip recession between 2009 and 2013, which caused growing state indebtedness and unemployment.

The center-left government of Prime Minister Pahor, in power from 2008, initially attempted to use the structures of the tripartite Economic and Social Council to negotiate its crisis-responsive measures to reduce pension expenditures and reform the labor market (Guardiancich 2012: 117). Negotiations, however, progressed with difficulty. At the time, the leadership of the main unions—the general confederation, Zveza svobodnih sindikatov Slovenije (ZSSS), and the public sector confederation, Konfederacija sindikatov javnega sektorja Slovenije (KSJS)—was facing growing internal contestation from membership for its seemingly timid stance vis-à-vis the government and the limited policy concessions it had extracted to face the crisis. After the government unilaterally raised the minimum wage in 2010, the unions were irritated by their exclusion from policy making, which deprived them of the opportunity to claim any credit for the wage hike. Hence, they became more reluctant to accept the government’s reform proposals in the pensions and labor market field (Guardiancich 2012). Eventually, the government decided to proceed unilaterally with reform packages in both fields. This move in turn heightened union opposition, and in 2011, the unions organized—and won—a historic referendum to abrogate the reforms, which became a plebiscite against the executive (Guardiancich 2012: 115–116).

Following this display of union strength, social dialogue was revived after the coming to power of the center-right Janša government in 2012. Following a wave of public sector industrial unrest, the government agreed to negotiate austerity measures with the unions to reduce the public sector wage bill (Guardiancich 2012: 121–122). The quid pro quo was similar to the one in Ireland in 2010 and 2013 (see discussion below): unions mitigated the depth of the salary cuts and traded their consent to these reductions for the avoidance of job losses. As public dissatisfaction with austerity grew, the government also gave concessions to the unions on the issue of pension reform, which was passed at the end of 2012, and labor market restructuring—leading to a negotiated reform addressing labor market segmentation—passed in March 2013. The concrete gains that unions extracted in these two policy areas were limited. However, like in Ireland and Portugal (see discussion below), unions acted in a logic of damage limitation, conscious that the unilateral interventions of a center-right government might have entailed greater losses (Guardiancich 2017: 243), and they prioritized the retention of their institutionalized entitlement to participate in the policy-making process.

This phase of crisis-induced “concessionary corporatism” over 2012–2013 was, however, short lived; since then, phases of contestation and negotiations
between the government and social partners have followed the previously mentioned stop-and-go pattern. In 2013, when pressures from the financial markets about the sustainability of public debt grew most intense, the new center-left government of Prime Minister Bratušek proceeded unilaterally to introduce austerity measures to address the financial and banking crisis, leading to a complete paralysis in tripartite negotiations. After the new center-left government of Prime Minister Cerar took over in late 2014, the relationships between governments and social partners were then slowly revived but remained tense owing to strained trust between the parties. Helped by the improving economic situation, in early 2015 a social agreement for 2015–2016 was reached (after more than six years without a social pact being in place) (Guardiancich 2017: 246). The agreement, mostly symbolic and programmatic in content, combined governmental commitments to continue the consolidation of public finances, support investment and employment creation, and avoid increasing taxes and contributions (Eurofound 2015). The employer organizations, however, withdrew from the agreement later in 2015 in protest against the government’s move to increase the minimum wage via legislation in line with union demands, rather than through social consultation as the employers requested (Eurofound 2016).

Following this breakdown, tensions in social dialogue continued. In 2016, after deadlocks in negotiations over the issue of public sector pay (with unions) and reforms of corporate tax (with employers), the government intervened unilaterally via legislation on both fronts, causing further hostility and distrust from the social partners. In 2017, the rules on the functioning of the tripartite Economic and Social Council were then revised to strengthen its institutional footing, and agreements were again reached on public sector pay reinstatement and labor law reform. However, from early 2018, a long wave of industrial unrest over the speed and scale of public sector pay recuperation ensued again. After a new center-left coalition government came to power in September 2018, the situation remained volatile. On the one hand, the government managed in late 2018 to reach a deal with the unions on public sector pay, preempting further general strikes. On the other, the issue of the reform of private sector wage setting and the method of fixing the minimum wage remain unresolved tension points (Eurofound 2019). Pushed by the forces of the left in Parliament, the government intervened unilaterally to increase the minimum wage in late 2018 and passed without prior tripartite consultations various other legislative proposals on labor law and social security. The social partners—especially employers—condemned these moves as negating the autonomy and role of social dialogue.

Overall, the ongoing tensions in the parliamentary arena and the sphere of tripartite social dialogue regarding the appropriate locus of decision making indicate that, while social concertation remains a politically significant mechanism of socioeconomic governance and stabilization of political conflict in the Slovenian political economy, its effectiveness is being increasingly called into
question in the crisis aftermath—as the channels of tripartite negotiations appear incapable of reconciling employers’ demands for continued internal devaluation with social demands for a recuperation of purchasing power and social rights emerging post-crisis after years of austerity.

Austerity Corporatism Under the Shadow of Hierarchy: Portugal, Ireland, and Finland

Portugal

The case of Portugal illustrates how, far from being functionally determined by the intensity of the crisis, social concertation could be used strategically by policy makers to legitimize crisis-responsive structural adjustment. Since the mid-1980s, social concertation had been frequently used by successive Portuguese governments. Between 1986 and 2008, 20 tripartite agreements were concluded with the four employer confederations and the moderate union, União Geral de Trabalhadores (UGT; Campos Lima and Naumann 2011). These agreements were usually initiated by governments to bolster the legitimacy of liberalizing reforms and neutralize the opposition of left-wing forces—especially the main radical union, Confederação Geral dos Trabalhadores Portugueses (CGTP), and its linked party, the Portuguese Communist Party. Despite the generally poor performance of the Portuguese economy in the run-up to the crisis, concertation remained well regarded among policy makers because of its important political stabilizing function.

During the Great Recession, Portugal was one of the Eurozone countries most severely affected by the sovereign debt crisis as a result of its low growth levels and high exposure to volatile financial flows in the pre-crisis decade (Dooley 2018). In May 2011, following a dramatic hike in public debt levels, it was forced to recur to international financial assistance from the “Troika” of the European Commission, ECB, and IMF. The bailout involved a detailed Memorandum of Understanding (MoU), with the creditors outlining the structural reforms expected in exchange for financial assistance. Many pertained to the sphere of labor market policy and industrial relations.

Interestingly, both the center-left Partido Socialista (PS) government (2008–2011) and the center-right Partido Social Democrata–Centro Democrático e Social (PSD–CDS) government (2011–2015) relied on social concertation for crisis management purposes. First, the Socialist government used concertation to attempt to avoid a bailout. Appealing to the sense of responsibility of the employer organizations and of the main moderate union confederation (UGT), the government brokered in March 2011 a headline tripartite agreement. The agreement expressed the signatories’ commitment to implement far-reaching liberalizing structural reforms of labor markets and industrial relations to increase economic competitiveness. The government hoped (in vain) that this would be sufficient to reassure financial markets and EU institutions about the commitment of
domestic political and social actors to tackle long-standing structural problems of the Portuguese economy, thus abating speculative pressures and preempting the need for external financial assistance.

After the failure of this attempt and the conclusion of the MoU with the Troika, a new center-right government brokered in January 2012 a new tripartite concertation with the UGT and the four employer confederations. This agreement was meant to act as a blueprint to implement the major labor market measures foreseen by the MoU—which included liberalization of dismissal protection, alterations to compensation of overtime work, and changes to the framework of collective bargaining to achieve greater flexibility in wage setting. In the government vision, this agreement served two functions. First, securing the consent of a major union confederation to the reforms helped to increase societal consensus and partly quiten the growing popular opposition to austerity. Second, conjugating politically costly liberalization with social peace was seen as useful to gain credibility in the eyes of creditors by signaling domestic responsibility and “ownership” of the adjustment program, thus reducing exogenous pressures and surveillance.

Both agreements promised to balance deregulation in dismissal protection and collective bargaining with measures to support growth and active inclusion (Cardoso and Branco 2018). However, while the liberalizing components were promptly implemented over 2012–2014, the more socially protective measures remained largely unfulfilled. Overall, the reforms implemented constituted an all-round defeat for organized labor (Campos Lima 2015). Yet the signatory union UGT defended its decision to sign the agreement by upholding a logic of damage limitation—arguing that the extent of liberalization would have been deeper in its absence.

After the 2012 Compromisso, the center-right cabinet unilaterally implemented several modifications to labor law, partly disregarding the contents of the agreements (Tavora and Gonzales 2016). This phase was nonetheless short lived. As Portugal exited the bailout in mid-2014, the center-right government reactivated social concertation, concluding a first post-crisis tripartite agreement on unfreezing the national minimum wage in October 2014. From late 2015, the new center-left PS minority cabinet continued in the same trajectory. Over 2016–2018, three agreements with the social partners (except CGTP) paved the way for negotiated minimum wage increases and marginal revisions to labor law. In both cases, governmental weakness was a central motivation for seeking concertation. By involving the social partners, the center-right government hoped to mitigate the potential electoral costs of its austerity agenda of the previous years. The center-left government attempted instead to make its anti-austerity, re-regulatory policy program more palatable to employer organizations and thus, indirectly, to creditors and EU institutions.

Overall, the Portuguese case shows how concertation could be repurposed by policy makers for different aims under crisis conditions: at the peak of the crisis,
to legitimize austerity and liberalization and increase credibility vis-à-vis creditors; and post-crisis, to secure the consent of employers to measures that marginally deviated from the previous trajectory of deregulation and internal devaluation. In both instances, the continuing resilience of social concertation testifies both to its institutional-functional plasticity and its compatibility with liberalization (Baccaro 2014).

**Ireland**

Ireland presents a peculiar divergence between policy areas in the interactions between governments and social partners over the Great Recession. In most public policy fields, the 2008 crisis marked a shift from social partnership to unilateralism. However, bipartite concertation between unions and the state has remained resilient in the sphere of public sector pay and restructuring, both during the crisis and in its aftermath, and was used extensively to facilitate fiscal consolidation.

Despite its liberal economic model, from 1987 Ireland embraced a *sui generis* style of tripartite social partnership, tying together peak-level wage negotiations and public policy agreements (Teague and Donaghey 2009). The seven tripartite agreements concluded over 1987–2009 were crucial in supporting the Irish growth model on this basis of economic openness and incoming foreign direct investment (FDI) and facilitating Ireland’s EMU entry (Teague and Donaghey 2015: 425). Social partnership combined wage moderation, containment of welfare expenditure, and low corporate tax rates, and traded them for concessions to unions on personal income tax breaks and employment creation (Ó’Riain and O’Connell 2000).

Notwithstanding the high institutionalization of social partnership in Ireland (Natali and Pochet 2009), by the crisis onset, it had partly exhausted its capacity to ensure economy-wide wage moderation because unbridled financialization had led in the 2000s to upward pressures on prices and thus wage demands, especially in the public sector (Ó’Riain 2018; Teague and Donaghey 2015). When the fiscal crisis of the Irish state exploded after the decision to bail out three domestic banks in October 2008 (Laffan 2017: 181), social partnership—and especially public sector unions—was blamed in public opinion as responsible for Ireland’s fiscal problems. Hence, attempts to use tripartism to negotiate a comprehensive crisis response fell apart under political pressure. Following the employers’ decision to exit the centralized wage agreement in late 2009, social partnership was formally dead. All major reforms in welfare and employment policy have since been implemented without negotiations.

However, bipartite concertation remained used in the public sector, where unions retained high density and potential disruptive capacity that granted them some veto powers. In 2010, keen to avoid industrial unrest that could be dam-
Aging to incoming FDI, the centrist Fianna Fáil government brokered a first bipartite agreement (“Croke Park”) to facilitate public sector restructuring. Even after Ireland received a bailout and entered into an MoU with the Troika in late 2010, public sector bipartite concertation continued. In 2013, the Fine Gael–Labour coalition government concluded another public sector pay and restructuring agreement (“Haddington Road”). The agreements traded governmental commitments to refrain from compulsory redundancies and distribute wage cuts progressively with unions’ consent to large-scale functional restructuring, prolonged wage freezes, and industrial peace. Importantly, the government also agreed that public sector pay cuts would be only temporary. Through bipartite concertation, the government could maintain social peace during the imposition of heavy austerity, which was important to reassure creditors and investors, and implement public sector restructuring that would have been unachievable without union cooperation.

While legitimizing austerity, crisis concertation enabled Irish unions to retain part of their institutional power resources. Since economic growth turned positive from 2015, two bipartite deals have been concluded to facilitate pay recuperation in the public sector, under the threat of industrial unrest. Although social partnership remains politically delegitimized, peak-level agreements have thus remained important to guarantee industrial peace, reassure creditors, and ensure the continued conditions for FDI inflows.

The Irish case demonstrates, therefore, the potential adaptability and resilience of prior practices of negotiated adjustment even through the disruptive rupture of the crisis and the deep transformation in institutional form in which the practices are embedded. However, the sustainability of such a selective dynamic of political exchange focused only on the public sector might be limited. Indeed, the demands of private sector workers in the domestic segment of the economy over issues such as housing, rising cost of living, and declining employment quality remain mostly unaddressed, thus possibly jeopardizing the political legitimacy of these selective concertative dynamics in the long run.

**Finland**

The case of Finland is another example of “corporatist legacies” being repurposed during the crisis to facilitate painful liberalization and adjustment to changed macroeconomic conditions. Finland has usually been considered a country with well-embedded corporatist institutions of tripartite social dialogue (Ornston 2013), where centralized tripartite agreements between the state, the three central union confederations (that retain high density), and the private employer organizations have been important to facilitate socioeconomic adjustment, including in previous recessions such as in the 1990s (Jokinen 2017).

Finland’s economy was negatively affected by the 2008–2009 crisis, which impacted adversely on its export performance. After a short recovery between
2010 and 2012, a more profound slowdown ensued that lasted until 2017, related to the decline of Finland’s core export industries—forestry and the information and communication technology company Nokia (Jokinen 2017: 85). This slowdown caused a rapid increase in unemployment and related public expenditure arising from the kicking in of automatic stabilizers. The response to the slowdown relied on the activation of “old” corporatist legacies, repurposed for the imperative of restoring competitiveness through internal devaluation under conditions of strong exogenous pressure. However, negotiated adjustment has taken place in the context of increased governmental hierarchical interventionism (Rathgeb and Tassinari, forthcoming).

First, in 2013, the main union confederation and the peak-level employer confederations concluded a Pact for Employment and Growth that entailed a national agreement on wage moderation for the following two years. The government indirectly supported the agreement by reducing social insurance contributions payments for the employers (Jokinen 2017). As economic growth failed to pick up, however, the stance of the government grew tougher. The new center-right government (2015–2019) attributed the causes of Finland’s economic problems to excessive labor costs and wage rigidity, and the government put considerable pressures on the social partners to implement measures that would favor internal devaluation to restore external competitiveness and align Finnish wages and labor costs with those of its competitor economies (Rathgeb and Tassinari, forthcoming).

In discontinuity with Finnish corporatist tradition, the Sipilä government threatened to implement unilaterally structural reforms of labor market and wage setting that would have entailed cuts in overtime and sick pay, collective bargaining decentralization, and far-reaching fiscal consolidation (Kaitila 2018). The proposed measures would have overridden the authority of centralized collective bargaining on many matters that had usually been the sole competence of the social partners’ autonomous negotiations (Dølvik and Marginson 2018). Under this threat of hierarchical interventions, the unions consented to negotiate in 2016 a Competitiveness Pact—a clear case of concessionary bargaining entailing a wage freeze, reduced public sector pay, a shift in social security contributions’ burden from employers to employees, extension of annual working time with no additional compensation, and a preliminary agreement to give up on centralized peak-level collective bargaining and open up the scope for company-level bargaining (Dølvik and Marginson 2018). Finnish unions defended their participation in the 2016 agreement as necessary to limit damages and avoid worse measures that would have arisen from the government’s unilateral intervention (Rathgeb and Tassinari, forthcoming). The Finnish case shows, therefore, how formal resilience in the institutions of corporatist negotiations can go hand in hand with a deep decline in unions’ capacity to influence meaningfully the direction of policy change in times of crisis.
COMPARATIVE DISCUSSION AND CONCLUSIONS

The cases outlined present varied approaches in the extent to which social concertation was relied on as a form of crisis-responsive governance during the Great Recession in Europe. Generally, the picture runs contrary to the argument that unilateralism has been the dominant form of adjustment during the Great Recession. Rather, most of the cases showed that governments often attempted initially to negotiate pacts to bring about crisis-induced reforms as a means of trying to spread both the economic and political costs of adjustment and to legitimate structural reforms. The depth of the crisis and the highly divergent directions of policy preferences between the negotiating parties then generally led to limited room for meaningful political exchange. Still, the restrictions in available negotiating space caused by fiscal consolidation and competitiveness pressures did not have homogeneous effects on social partnership dynamics. While the crisis was at its peak, governments often proceeded through unilateral action to initiate significant attempts at labor market liberalization and deregulation—such as in France, Italy, and Slovenia. However, there were also instances where equivalent measures were legitimized through macrolevel agreements—often more symbolic than substantive—such as in Finland, Ireland, and Portugal. Notably, even in cases where unilateralism dominated during the peak of the crisis such as Italy and Slovenia, such unilateral action was quite short lived, with most governments seeking some form of tripartite approach to deal with post-crisis challenges of political and economic instability.

The analysis has highlighted that the type of deals reached through social partnership during the peak of the crisis were mostly instances of concessionary bargaining—where unions gave their consent to painful liberalization and fiscal consolidation measures in a logic of damage limitation, without a meaningful trade-off. When governments’ fiscal and policy space enlarged again during the post-crisis period, unions were more frequently able to extract some compensatory concessions as governments sought their support to stabilize volatile political situations. However, even those agreements tended to leave untouched the core of the structural adjustment measures implemented during the crisis peak. The case study findings help us therefore to make sense of the comparative trends presented above—because they show that partial continuity in the formal aspects of social partnership can go hand in hand with a transformation of its content, geared toward the facilitation of crisis-responsive liberalization (Baccaro 2014).

While showing that governments across Europe continued on the whole to attempt to engage employment relations actors in policy making during the Great Recession, the analysis has also highlighted that the form and content of the responses to these attempts greatly varied across the different economies. Two key, partially overlapping features were highlighted as important for shaping governments’ attitudes and the response of unions to offers of pacts: first, institutional legacy effects and, second, internal trade union politics. In terms of
institutional legacy effects, significant variation exists. As demonstrated in countries such as Finland, Ireland, and Portugal and to a lesser extent Slovenia, where social partnership in different forms was more embedded as an institutional practice in the political–economic fabric, important features of negotiated approaches to policy making were retained to facilitate liberalization and fiscal consolidation, though generally in the form of narrower and more issue-specific agreements than had been the case prior to the crisis. Even, for example, in the Irish case, where tripartite social partnership was formally and publicly repudiated by all parties, many of its key features were de facto retained in the highly organized public sector once the initial shocks were absorbed. In contrast, in countries where social partnership was less deeply institutionalized, such as France and Italy, governments were much more willing to take unilateral action in the direction of liberalization. The cases also showed, however, that the effects of different institutional legacies were not mechanistic but were significantly mediated by political dynamics and actors’ strategies. The Slovenian case provides an interesting example in that respect. There, governments during the Great Recession have at once sought to preserve the formal machinery of social partnership, but they also frequently acted unilaterally to increase socially protective measures in order to take political credit for such changes. Those actions caused tensions with the social partners who objected to being bypassed, thus leading to a progressive exhaustion of those same institutional legacies.

Moreover, internal trade union politics have deeply shaped unions’ orientation toward social partnership during the Great Recession. In many ways, the crisis period has involved difficult strategic calculations for unions. In countries with strong peak-level interfederation rivalry, such as France, Italy, and Portugal, labor federations were divided in supporting or opposing proposed agreements based on their political–ideological approach. While some unions opposed reforms, others acted to retain labor’s place at the negotiating table to retain future institutional position. Positioning between union confederations and the presence of moderate, compromise-prone unions prioritizing a logic of influence (Schmitter and Streeck 1999) thus emerged as an important factor shaping the likelihood of macro-concessionary bargains being struck under crisis conditions.

Overall, contrary to arguments stressing the death of social pacts (Culpepper and Regan 2014), our analysis shows that social partnership has not been abandoned wholesale in the aftermath of the European Great Recession. While unilateralism in policy making has undoubtedly occurred with greater frequency, trends over time and across countries show that macrolevel negotiations have remained important features of adjustment processes. The content of crisis-responsive deals is reflective of the balance of class forces: in crisis conditions when labor is on the defensive, achievements will necessarily be limited from the point of view of unions. Nonetheless, the case studies have shown that these negotiations retained a political value both for governments and—in some
cases—for unions, even if their functional utility might be limited. For governments in Europe, facing a resurgence of (often right-wing) populism, building consensus through social partnership–style arrangements continues to be an attractive tool of legitimation and political continuity—although with varying degrees of success. For unions, the main political goal pursued by participating in such processes was to allow them to retain their seat at the table when better times return. Whether this political and power-related logic of social partnership will be sufficient to ensure its continued relevance in the post-crisis period remains to be seen because the failure to deliver meaningful re-acquisition of social rights might in the long run endanger its political legitimacy and ultimate value.

ENDNOTES

1. Twenty-eight countries were part of the European Union at the time the chapter’s quantitative data were collected in 2017, prior to the withdrawal of the United Kingdom on January 31, 2020.

2. The yearly average in the number of pacts for the EU-28 is calculated by summing up the number of pacts signed or negotiated each year across all EU-28 countries and dividing it by 28. By way of illustration, if each EU-28 country had signed or negotiated one pact in 2009, then the yearly average for 2009 would be 1.

3. The period average of the number of pacts for each country is calculated by summing up the number of pacts signed or negotiated over the whole period of interest and dividing it by the number of years in the period.

4. The sections on Ireland, Italy, and Portugal draw extensively on the prior research work of one of the authors (Tassinari 2019; Tassinari and Sacchi 2019). The sections on France and Finland draw partly on prior joint research work conducted by one of the authors (Rathgeb and Tassinari, forthcoming).


REFERENCES


PART III: REIMAGINING NEW GOVERNANCE APPROACHES
CHAPTER 6

Immigration, Employment Relations, and the State: Tensions Between Internal and External Governance

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INTRODUCTION

Immigration and employment relations are fundamentally interconnected. Individual decisions to move to another country are often motivated by a desire to find work or a better job (McGovern 2007). The arrival of migrants invariably has impacts—both positive and negative—on the labor market: immigration can displace existing workers, allow employers to fill vacancies that can enable their businesses to grow, and migrants can create new jobs by purchasing goods and services. At the same time, labor markets impact migrants: the availability of jobs in a given labor market and the quality of those jobs will shape migrants’ decisions about where to move (Anderson 2013). The extent of involvement of government agencies, trade unions, employer organizations, and intermediaries will invariably influence the impact of immigration on the labor market, and vice versa (Afonso and Devitt 2016).

This chapter examines the governance and regulatory challenges relating to immigration and employment relations. It focuses primarily on official labor immigration—namely, immigrants permitted entry by a nation state through “front door” or dedicated work visa channels where immigration is permitted for the primary purpose of employment. However, we also discuss “side door” programs, such as international student and working holiday schemes that provide visa holders with work rights (Wright and Clibborn 2017). While “back doors” for unauthorized migrants not legally permitted to work are an important feature of labor immigration in many countries (Dibeh, Fakih, and Marrouch 2019), including the United States (Cook, Gleeson, Griffith, and Kahn 2018), they are largely beyond the scope of this chapter.

Employment relations scholarship provides an invaluable perspective on the relationship between immigration and labor. Research from this field has illuminated issues such as the segmentation of labor markets where migrant workers often work (e.g., Piore 1979; Waldinger and Lichter 2003); the strategies and
practices organizations use to manage migrant labor (e.g., MacKenzie and Forde 2009; Thompson, Newsome, and Commander 2013); the policy and organizational positions adopted by representative organizations, such as unions and employer organizations, toward migrant labor (e.g., Marino, Roosblad, and Penninx 2017; Wright 2017); and strategies developed by worker organizations and government agencies to protect migrant workers’ rights (e.g., Clibborn 2019; Fine and Bartley 2019; Tapia, Lee, and Filipovitch 2017).

The role of the state, particularly its role in regulating the interaction between migrant workers and their employers, has been one focus of employment relations research on immigration. This research has primarily focused on internal governance—that is, the state’s regulatory activities relating to the migrant workers once they have been permitted entry to the domestic labor market. Key aspects of state activity, most notably its external governance functions relating to immigration selection and control, have been somewhat overlooked in employment relations research on labor immigration, aside from some notable exceptions (e.g., MacKenzie and Martinez Lucio 2019). To some extent, this reflects tendencies of traditional employment relations theory where “assumptions about the nature, determinants and implications of state involvement in industrial relations remain largely implicit, unexplored and undefended” (Giles 1989: 123).

This chapter examines the role of the state in labor immigration and the implications for employment relations research. The first section explores employment relations scholarship relating to the state’s domestic or internal governance functions in regulating the work of migrants, who in many countries are vulnerable to mistreatment and marginalization, and in regulating the impacts of migrant workers on local labor markets. The second section reviews insights from political science and political economy scholarship about the state’s external governance functions, particularly in terms of state engagement with the representatives of capital and labor in the governance and regulation of labor migration (Afonso and Devitt 2016), the impact of sovereignty and foreign policy considerations on labor immigration policy decisions (Oltman and Renshon 2017), and how states manage the various competing imperatives to maintain legitimacy when making and administering labor immigration policy (Boswell 2007). The conclusion examines the implications of our arguments, particularly in terms of the tensions between internal and external governance.

**THE STATE AND EMPLOYMENT RELATIONS**

To understand labor immigration and its relationship to employment relations, we need to understand the role of the nation state. The state’s functions in employment relations are generally viewed as consisting of setting and enforcing the formal rules of engagement between management and workers and their representatives (Dunlop 1958; Traxler 1999). The state can also influence informal rules or norms of good practice directly through its employment of labor in the
public sector and indirectly through public procurement of privately produced goods and services (Donaghey, Reinecke, Niforou, and Lawson 2014; Fairbrother et al. 2011; Ravenswood and Kaine 2015).

The state also impacts employment relations through its ability to influence labor supply and demand. Social welfare, active labor market, and work and family policies can serve either to encourage or discourage labor market participation among particular groups of people, such as the unemployed, younger workers yet to enter the labor market, and workers with caregiving responsibilities (Baird and O’Brien 2015; Umney, Greer, Onaran, and Symon 2018). The state can also affect skilled labor supply and demand by regulating and credentialing qualifications and through its provision and coordination of education and training (Busemeyer and Trampusch 2019).

The regulation of skilled and labor immigration policies is another lever through which the state can increase the supply of workers in response to shortages in national, sectoral, or regional labor markets, or reduce labor supply in the event of a downturn (Ruhs 2018; Wright 2012a). Changes in global migration patterns since the early 1990s reflect this: immigration rates to high-income countries, which are driven in large part by work-related immigration, increased in the years prior to the 2008 Global Financial Crisis, and, while continuing to grow, the rate of growth has slowed in the years since (United Nations 2017). While states do not have complete control over migration patterns, national and regional policy changes have contributed to the global increase in labor migration in recent decades (Castles, de Haas, and Miller 2014).

LABOR IMMIGRATION AND INTERNAL GOVERNANCE
Immigration Rules and Power in the Employment Relationship
The manner in which states regulate labor immigration, particularly through visa rules, influences its impact upon the labor market, not only in terms of supply but also demand. In recent years there has been a shift in many countries from permanent visas, which were a feature of labor immigration in the post-war decades in many countries, to temporary residency visas. This shift has implications for the relationships among migrant workers, their employers, and the host country. While permanent residency generally confers migrant workers with the same rights as citizens (Wright and Clibborn 2020), temporary residency is often associated with diminished agency and heightened vulnerability to mistreatment for migrant workers (Dauvergne 2016). Migrant workers on temporary visas are typically subject to inequality in employment and social support because of their limited legal capacity to switch employers or to access public welfare (Bauder 2006; Dauvergne and Marsden 2014; Ruhs 2013).

The creation of relationships of dependence between migrant workers and their employers under certain temporary visa schemes provides an illustration of this inequality (Anderson 2010). In many countries, international students are
allowed to work a limited number of hours each week or fortnight. Employers can report workers who exceed this limit to immigration authorities for a breach of visa rules, thus potentially resulting in their deportation (Clibborn 2015). Temporary migrants on working holiday visas in Australia, for instance, rely on employer verification for visa extensions (Reilly, Howe, van den Broek, and Wright 2018). These scenarios can make temporary migrants dependent on employers who can use their power for exploitative purposes (Campbell, Boese, and Tham 2016).

Employer-sponsored work visa schemes, which tie the right of migrant workers to reside in a particular country to their relationship with their employer, provide a starker example of the impact of state-mandated immigration rules on employment relations (Sumption 2019; Wright, Gourtsis, and van den Broek 2017). Temporary migrants on employer-sponsored visas can lose their residency rights if the employment relationship is terminated (Dauvergne and Marsden 2014). This can provide employers with significant control over migrant workers whose capacity to exercise voice or mobility is constrained (Zou 2015), which in turn can impact employers’ recruitment and retention practices (Martin 2010). Studies of employer-sponsored temporary visa schemes have found that employers perceive sponsored migrants who are restricted from moving to other employers as relatively more productive and reliable than other groups of workers, such as citizens and permanent residents. Consequently, employers may preferentially recruit temporary migrant workers over those other groups (Wright, Knox, and Constantin 2019). When employers become accustomed to recruiting sponsored migrants over whom they can exert control, there are potential implications for skills development and labor standards.

Labor Immigration and Skills Development
In terms of skills development, sponsored visa schemes such as the Temporary Skills Shortage Visa in Australia, the H-1B visa in the United States, and the Canadian Temporary Foreign Worker Program are explicitly designed to address skill shortages (Papademetriou and Sumption 2011). The definition of skills underpinning visa schemes tends to relate to technical or “hard” skills—namely, the qualifications and experience required to perform a particular job. Most employer sponsorship schemes are regulated according to employer attestations of a skill shortage. However, this is problematic because skill shortages tend to be marketwide rather than specific to individual employers (Healy, Mavromaras, and Sloane 2015). It is generally accepted that independent verification is needed to assess that shortages are not in reality recruitment difficulties caused by low wages and poor job quality (Ruhs and Anderson 2010). Recent studies indicate that, without such verification, some employers use sponsorship schemes not to address hard skill shortages but rather to source “soft skills” or interpersonal competencies (Moriarty et al. 2012; Wright, Knox, and Constantin 2019).
There are several reasons for states to implement immigration rules allowing employers discretion over the types of skills they source through visa schemes. Soft skills can be important for the ability of workers to utilize their hard skills productively (Green, Machin, and Wilkinson 1998). Defining skills solely in terms of qualifications can produce gender inequity because the hard skills that skilled visa schemes typically prioritize privilege male-dominated professions over female-dominated ones. For instance, social care professions in some countries are not deemed sufficiently skilled to obtain a skilled visa, despite the significant formal training and soft skills required to perform such work (Boucher 2016; Piper 2011).

Nevertheless, a desire for soft skills can also allow employers to seek to recruit workers possessing traits suggesting they can be controlled (Ruhs and Anderson 2010). Studies indicate this may lead employers to invest less in training (Toner and Woolley 2008), which creates a danger: “The recruitment of migrants to fill perceived labor and skills needs in the short run exacerbates shortages and thus entrenches certain low-cost and migrant-intensive production systems in the long run” (Anderson and Ruhs 2012: 27). To reduce the risk of temporary visas substituting for employer investment in training and skills development, the United Kingdom government created the Migration Advisory Committee to independently verify employer claims of skill shortages, which then determines the occupations that are eligible for skilled visas (Sumption 2019).

**Labor Immigration and Labor Standards**

Regulation of migrant labor can also determine its impact on pay rates and working conditions. This issue is the subject of long-standing debate within labor economics scholarship. Various analyses support the proposition that immigration has an adverse effect on the wages of resident workers within the labor market (Borjas 2003; Coleman and Rowthorn 2004). Conversely, other studies have identified the positive externalities that arise from immigration-stimulated wage growth and job creation (Cornelius and Rosenblum 2005; Dustmann, Fabbri, Preston, and Wadsworth 2003). Simon’s research in the United States finds mixed effects: if migrants are in direct competition with native workers for the same jobs, “there must be some additional general unemployment while the economy adjusts to additional workers” (1999: 371–372). However, “immigrants not only take jobs, they make jobs” because the increased consumption resulting from immigration will generate greater demand in other areas of the labor market. Immigrants working in the same occupation with the same skills as native workers will have a negative impact on the wages of the latter as a result of increased competition. By contrast, immigrants working in jobs complementary to those of native workers will positively impact their wages (Simon 1999).

While the evidence from the labor economics literature suggests that the relationship between wages and immigration is somewhat inconclusive, the
institutionalist literature highlights the importance of state regulation in influencing these outcomes. Indeed, there is evidence to suggest that the impact of immigration on wages and employment differs across nation states (Cornelius and Rosenblum 2005; Orrenius and Zavodny 2012), in part because national employment relations institutions and immigration rules refract the localized economic effects of immigration (Boucher and Gest 2018; Wright 2012a).

There are also recent studies examining how and why certain employers develop business strategies based on the calculated underpayment of migrant workers, which again highlights the importance of local institutions. While migrants may lack information about their workplace rights and legal entitlements and/or the power to assert these rights, the strength and regulatory presence of government enforcement agencies is a key factor explaining whether or not employers comply with legal pay standards (Clibborn 2018). Indeed, weak enforcement capacity in labor markets where migrant workers are concentrated is a major contemporary regulatory challenge in many countries, particularly the liberal market economies (Clibborn 2018; Clibborn and Wright 2018). The marginalization of unions from the enforcement process (Hardy and Howe 2009), limited resources for government labor inspectorates (Weil 2014), and the growth of temporary visas that restrict the rights of migrants and their capacity for voice (Dauvergne 2016; Fudge 2014) are among the factors identified as contributing to this outcome.

These recent changes in the nature of domestic institutions tasked with governing the relationship between immigration and employment relations reflect the dominance of unitarist or neoliberal ideas over labor immigration policy in many countries (Wright and Clibborn 2019). Temporary work visas requiring employer verification or sponsorship are an efficient way of matching the supply of workers with desired skills and attributes to demand and for keeping these workers in employment (Papademetriou and Sumption 2011). However, the potential for dependent employment relationships to create power imbalances and therefore make migrant workers vulnerable is overlooked. Similarly, there is an erroneous yet dominant assumption among policy makers that rectifying information asymmetries between migrant workers and their employers about their rights and responsibilities will solve problems of exploitation (Wright and Clibborn 2019). Similar ideological currents are also dominant in other spheres of state activity relating to labor immigration, to which we now turn.

LABOR IMMIGRATION AND EXTERNAL GOVERNANCE

The functions of the state described above essentially relate to its domestic or internal activities relating to migrants once they are already in the labor market. Such functions include setting rules regarding which occupations or industries migrants are allowed to work in, the activities of organizations who employ migrant workers, and how migrants are treated at work. There is another dimension to the governance of immigration related to the state’s external activities,
specifically in terms of immigration selection and control. To properly understand the external dimension of how labor immigration is governed, we need to situate it in its broader context not only in terms of the labor dimension but also in terms of the immigration dimension.

**State Engagement with Employers and Unions**

Compared with other elements of employment relations policy, states seek to maintain a relatively high degree of control over labor immigration selection and control decisions for national sovereignty and foreign policy reasons. Nevertheless, it is common for states to engage nonstate actors such as employers and unions in this process. The previous section addressed the general tendency of labor immigration policy to prioritize employer interests, which implies that unions and their agendas have been marginalized from this process. But, as with other policy areas, the actors engaged in the making of labor immigration policy depend in part on the ideology of the governing political party because employer organizations tend to have closer relations with center-right parties and trade unions with center-left parties. However, in contrast to other elements of employment relations and labor market policy, labor immigration cuts across the philosophies and support bases of center-left and center-right parties (Afonso and Devitt 2016).

Center-left parties are generally portrayed as supportive of more open immigration policies on cultural grounds. However, because such policies can potentially impact negatively on workers’ wages, conditions, and job opportunities, center-left parties may oppose lax labor immigration controls for economic reasons (Schain 2008). Immigration also brings into conflict center-right ideological endorsement of free markets on one hand and cultural homogeneity on the other. Center-right political parties are more likely to support policies aimed at promoting homogeneous national cultural identity, protecting national security, and shrinking the welfare state, which align more with restrictive immigration regulation. However, center-right parties are more likely to support pro-market policies such as looser labor immigration controls (Bale 2008).

Comparative political economy theories of labor immigration policy making place much emphasis on the role of employers and employer organizations. The most influential of these is Freeman’s “client politics” theory positing that labor immigration policies produce concentrated benefits and diffuse costs, which in turn influence the policy making process. Specifically, these outcomes mean that organizations standing to benefit, particularly employers and employer organizations whose short-term interests are served by policies that increase labor supply, have a greater stake in labor immigration policy decisions than those standing to bear the costs—namely, workers in jobs and sectors where migrants are most likely to work. This scenario gives employer organizations a strong incentive to lobby political parties for favorable outcomes (Freeman 1995).
The client politics theory tends to assume a rational-choice model of policy making that discounts the role of local institutions, norms, and ideologies on policy decisions. More recent accounts seek to correct this assumption by theorizing how these factors impact the policy preferences of employer organizations and other nonstate actors. Several scholars point to the impact of national-level social, vocational education, and labor market policies on the generation of skills, which in turn conditions the types of skills employers seek from labor immigration (Afonso and Devitt 2016; Busemeyer and Trampusch 2019; Ruhs and Anderson 2010).

Other perspectives highlight the impact on employer policy preferences of national production systems constituted by economic policies, sectoral composition, and dominant business strategies (Menz 2008) and of sectoral production systems influenced by systems of technology, industry standards, and work organization (Caviedes 2010). These accounts assume that, in coordinated national or sectoral production systems such as the Nordic countries and manufacturing sectors, employers are more likely to cooperate with unions in developing and sustaining resilient skilled training systems that are capable of meeting workforce needs, which reduces employer demand for migrant labor. By contrast, in liberal or market-based production systems—for example, those dominant in Anglo-American countries and in private services sectors—employers seek to avoid unions and are less inclined to coordinate their training activities, and instead seek more flexible systems of labor supply, which makes them more favorable to open labor immigration policies (Ruhs 2018; Wright 2012a).

A final group of perspectives emphasizes the role of dominant social attitudes in shaping the labor immigration policy preferences of employers. Institutionalist accounts generally assume that employer behavior will be rational and follow the logic of prevailing national or sectoral market institutions (e.g., Hall and Soskice 2001). However, the comparative immigration politics literature suggests that a nation’s “immigration politics” will influence government decisions and actor preferences, including those of employer organizations. Various studies have found that, in nations of immigrants, such as the United States, Canada, and Australia, employer organizations have stronger legacies of lobbying for large immigration intakes. By contrast, European and Asian states with more homogeneous national identities are classified as reluctant countries of immigration. Immigration is generally seen as less important for nation building and economic policy in these countries, which often results in employer organizations being less supportive of open immigration policies (Holliﬁeld, Martin, and Orrenius 2014; Wright 2017).

While states generally privilege the role of business groups in policy decisions over labor immigration selection and control, trade unions are also an important group to consider. Trade unions traditionally have been agents for restrictive policies. This is because increased immigration can undermine union control
over labor supply and thus potentially lower the wages and employment security of those already working in the labor market (Donnelly 2016; Freeman and Medoff 1979). However, union opposition to labor immigration has softened in recent decades in many countries. This shift has stemmed from the diminished capacity of unions to maintain monopoly control over labor markets as a result of declining membership levels, their weakened political influence, and changing economic circumstances. There is also greater recognition among union leaders that the impact of immigration on local labor markets is nuanced and, in some instances, positive, in contrast to traditional assumptions that the impact will necessarily be negative (Donnelly 2016). With economic globalization making it more difficult for governments to limit the movement of both labor and capital, unions have come to realize the ineffectiveness of restrictive positions and have adopted more inclusive approaches toward migrant labor (Milkman 2006; Watts 2002). One consequence is that migrant workers are seen less as a threat and more as potential members. Furthermore, restrictive control policies often push migrant workers into the informal economy, which can undermine labor standards (Marino, Roosblad, and Penninx 2017).

**LABOR IMMIGRATION AND FOREIGN POLICY**

Input from organizations representing the interests of capital and labor can have an important bearing on labor immigration selection and control decisions. However, ultimately, it is the state that sets the rules for determining which would-be migrants are permitted into the labor market and therefore the nation. Domestic policy objectives such as those relating to labor market, economic, and social policy have a significant influence in that respect. As such, those areas tend to be the main focus of scholarship on labor immigration policy, including in the employment relations field. However, it is important to acknowledge the foreign policy sources of labor immigration policy.

While studies of labor immigration policy focus primarily on the roles of government departments tasked with formulating economic, employment, and domestic security policies, foreign affairs ministries and their policy agendas can also have an influence. For instance, studies have cited Cold War–related foreign policy objectives to explain the US government’s decisions in the 1960s to end national origin quotas and relax immigration controls (Hollifield, Hunt, and Tichenor 2008). While these reforms centered mainly on family and humanitarian immigration, Rosenblum (2004) claims that guestworker programs between the 1940s and 1960s were implemented as a form of foreign aid by US governments to their migrant-sending allies.

Historical shifts in the UK’s labor immigration policy provide another illustration of the impact of foreign policy. The UK’s entry into the European Economic Community in the 1970s had a profound impact on its labor immigration policy
because it effectively shifted preferential treatment for migrant workers from citizens of Commonwealth countries to citizens of European countries (Wright 2012b). The UK’s decision to exit from the European Union promises to have an equally significant influence on its labor immigration selection and control policies. Greater attention on attracting migrant workers from outside of Europe is a likely consequence (Consterdine 2017; Ridgway 2019).

International trade motivations are also important. For instance, trade policy considerations motivated the end of racially discriminatory labor immigration policies in Australia and Canada in the post-war decades (Ongley and Pearson 1995). The Australian government’s attempts in the early 1970s to open international trade with flourishing economies in the Asian region were initially rebuffed by states such as Japan and Singapore, who made it clear that they would not reciprocate until the White Australia policy was officially terminated (Tavan 2004). Labor migration and international trade policy have remained intertwined in Australia and Canada. For instance, studies have found that maintaining open channels for skilled and labor migration is important for enabling cross-border business activity between these countries and migrant-sending countries (Ng and Metz 2015). Bilateral agreements negotiated by foreign policy ministries largely determine which foreign nationals are permitted to apply under the visa schemes aimed at attracting migrants to work in the horticulture sector in both Australia and Canada (Preibisch 2010; Reilly, Howe, van den Broek, and Wright 2018).

**State Sovereignty and Labor Immigration Selection and Control**

While foreign policy agendas have a bearing on labor immigration policy decisions, the fate of governments in democracies ultimately lies in the hands of citizens whose voting behavior tends to be driven primarily by domestic issues. Employment relations outcomes such as labor market benefits and costs are evidently important in this respect. However, immigration has an impact beyond the labor market. Indeed, immigration often acts as a lightning rod for the articulation of disparate social and economic tensions and problems (Boswell 2004), which makes immigration an inherently controversial issue that presents many challenges to democratic states. In recent years, close associations have been drawn between immigration and other issues, such as national security and inequality, which has made labor immigration more politically volatile (Givens and Luedtke 2005). For instance, this situation is seen in the way governments in Australia, Europe, North America, and elsewhere in recent years have sought to apportion blame for inequality and labor market displacement to migrant workers (Gumbrell-McCormick and Hyman 2017).

Like other types of immigration, labor immigration has implications not only for labor markets but also sovereignty, identity, social cohesion, the provision of
public goods and infrastructure, and the natural environment. It is therefore an area of public policy underpinned by political consequences and considerations, as well as socioeconomic ones (Castles 2000; Freeman and Kessler 2008). The governance of labor immigration means that governments will take account of issues relating to sovereignty and the likely social, economic, and environmental impacts on host communities when determining rules relating to immigration selection and control; employment relations considerations are but one factor (Hollifield, Hunt, and Tichenor 2008; Stalker 2000).

Notwithstanding input from employer organizations and trade unions, governments typically seek to maintain a higher degree of control over labor immigration policy than other aspects of labor market policy because of the evident link between national sovereignty and immigration selection and control, which lies “at the heart of statehood,” according to Ellermann:

Migration control is a fundamental expression of the state’s monopoly over the legitimate means of coercion. By regulating the movement of non-citizens across national borders, states set and enforce rules on who can reside within their territory and defend the national welfare against individuals who may pose a threat. (2006: 293)

**State Legitimacy and Labor Immigration**

Boswell’s (2007) framework for analyzing immigration policy decisions emphasizes the importance of state legitimacy, of which sovereignty decisions are one component. The state’s legitimacy is predicated on its ability to fulfill and balance several functional imperatives: protecting territorial sovereignty and the security of citizens and safeguarding their rights, providing the conditions for wealth accumulation and distribution, and maintaining fairness.

The state’s legitimation imperatives can come into conflict in its governance of labor immigration policy. For instance, a government may relax immigration controls to increase the supply of labor to address its accumulation imperative, either because insufficient supplies exist within the local labor market or to increase the stock of human capital. However, decisions to increase immigration levels can be unpopular and incompatible with expectations of the government’s responsibilities to ensure fairness if immigrants are perceived as taking jobs away from residents or driving down wages (Boswell 2007). These tensions can be conceptualized as “economic–political control dilemmas” between economic pressure for expansive immigration controls and populist pressure for tighter controls (Guiraudon and Joppke 2001).

Despite the need to balance different legitimation imperatives, states rationalize and articulate their labor immigration selection and control decisions in terms of national interests and government policy priorities (Walsh 2014). In previous eras, race, ethnicity, and national origin were the main principles for deciding which foreign nationals were permitted or excluded from entering. Today, human
capital and skills are the main selection criteria (Boucher 2016). However, states have become increasingly “managerialist” in their administration of labor immigration selection and control. This approach typically entails openness toward immigrants perceived as economically beneficial and restriction toward those perceived as having a likely negative impact (Menz 2008). According to Walsh:

The aim of state policies is not to obstruct human movement but, rather, to regulate it and define the conditions under which it may legitimately occur. Instead of entryways that are either open or closed, borders are better conceived of as filters that welcome those deemed culturally or economically desirable, while excluding those classed as “undesirable.” (2008: 791–792)

Comparative quantitative studies indicate that, in aggregate terms, majority public opinion favors restrictive over expansive immigration policies. However, there is also a general preference for higher-skilled over lower-skilled immigration, particularly if it is seen as complementing labor market needs (Hainmueller and Hiscox 2010; Simon and Sikich 2007). Consequently, it is common for states to create separate visa classes and legal distinctions between various types of immigration in order to manage flows according to “wanted” and “unwanted” categories and thereby maximize political support (Lahav and Guiraudon 2006). For instance, in recent years, governments have generally trumpeted their efforts to restrict entry for asylum seekers in order to generate sufficient political capital to open routes for high-skilled immigration. Government actions in asserting their immigration control credentials against forms of immigration perceived as unwanted have been characterized as “control signals.” States may use control signals to meet their sovereignty imperative as a way of increasing public support for greater intakes of economically beneficial forms of immigration to address their accumulation imperative (Wright 2014).

Such practices can serve to distort how labor immigration is perceived within the community, thereby muddling its “policy image” (Baumgartner and Jones 1993)—that is, how labor immigration is broadly comprehended and discussed in public discourse and policy making. The considerations forming the basis of labor immigration selection and control policies often differ widely from those underpinning other areas of immigration policy. But they are not necessarily delineated as such in the minds of voters or in the arenas shaping such opinions, such as mainstream and social media. Writing with reference to the Blair government in the United Kingdom, whose attempted use of control signals to restrict humanitarian immigration preceded increased public opposition to labor immigration policy, which the Blair government sought to liberalize, Spencer claims: