

# Human Capital in Context: Policies that Shape Urban Labor Markets

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## Introduction

Any urban labor market is a complex and dynamic system. We summarize and describe them with careful attention to the actions and choices of individuals inside these markets -- workers, students, employers, recruiters, and teachers. But the outcomes of any labor market are not simply result of the individual and firm maximization that drives the unfettered forces of supply and demand. While our focus is often on individual outcomes generated by the “invisible hand,” the context and rules of that labor market are established through the more visible but often overlooked hand of policy. Our public regulatory and legislative approaches to labor standards, worker safety laws, collective bargaining rights, employment discrimination and civil rights all establish the rules and boundaries of the labor market. These are the most obvious and direct policies that shape our labor markets. But beyond these broad policies on immigration, incarceration, and social welfare benefits directly shape supply in the labor market as well. Further, and less evident, are all the ways that our public framework has avoided or neglected specific issues or simply run behind, unable to catch up with new issues in the very structure, definition, and distribution of work. This paper is focused on the context that surrounds, supports, and impedes individual and firm action in the labor market. Here we explore the policy framework that defines, constrains, and in every way shapes our work in this nation.

Before we can get to the key policies at work in this market, however, I’ll quickly describe key issues in the American labor market, the challenges so evident in it, the coming changes and fears about how what the future holds for workers. I’ll then dip into the past, offering an overview of the history of the most important elements of the New Deal and the Great Society that established labor market policy framework of the post-WWII period. Since the 1980s, the dismantling of that policy infrastructure has coincided with the emergence of serious issues in jobs, job quality, and workers’ rights.

Given that background, I’ll move back to the question of what’s going on now in jobs. The Fight for \$15 has created a new movement for labor standards. Its success is inspiring and instructive, but current limitations of it will be discussed. I’ll close with some discussion of how policy can shape opportunity and equity and close with some elements of a policy framework for thinking about how and why to strengthen labor markets in the US.

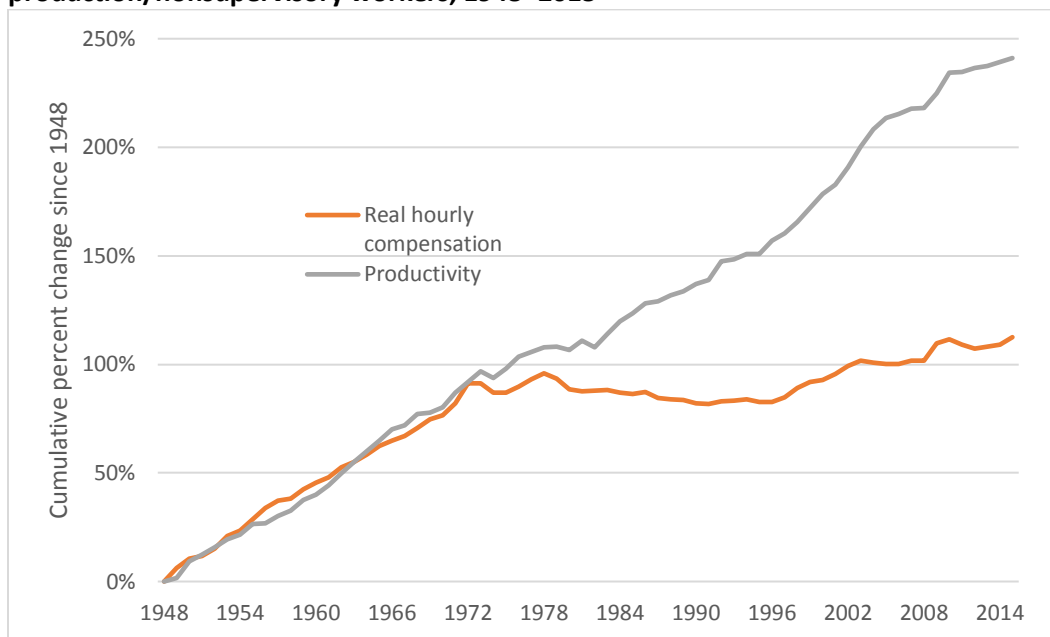
## The American Labor Market

The American post-WWII economic order established a series of premises that shape expectations to this day. The era generated broadly shared prosperity – as the economy grew overall, so did the earnings and living standards of the broad population. Economic growth was an engine of progress in standards of living and workers’ pay. Growth was so aligned with compensation and living standards

that one could reliably check gross domestic product (GDP) to summarize the progress not only of productivity but also of what was going into workers' wallets.

The figure below shows that the relationship fell apart in the 1970s. In that decade, wages and productivity decoupled, defying expectations about the pay-off to growth and shattering the expectations of the inevitable economic advance of each generation of Americans. Since the 1970's, productivity has continued to grow but total compensation is nearly stagnant. The contrast with the preceding period is stark. From 1948-the late 1970s, growth was tied to the middle. Since then, the economy has grown but with very little impact on compensation.

**Cumulative change in total economy productivity and real hourly compensation of production/nonsupervisory workers, 1948–2015**



**Note:** Data are for compensation of production/nonsupervisory workers in the private sector and net productivity of the total economy. "Net productivity" is the growth of output of goods and services less depreciation per hour worked.

**Source:** EPI analysis of unpublished Total Economy Productivity data from Bureau of Labor Statistics Labor Productivity and Costs program and wage data from BLS Current Employment Statistics, and Bureau of Economic Analysis National Income and Product Accounts

As a result, economic growth has become, as one economist put it, "a spectator sport." In spite of productivity advances and increasing education of the workforce over the last quarter of a century, median wages have stagnated or have only slightly increased for some workers, and have even fallen for some groups. Families have responded by increasing their commitment to the paid labor market, with women more and more frequently working full-time in order to keep the family income up. For this last generation, women's work has provided the increase in income that economic growth no longer provides. Looking forward, that strategy is nearly exhausted (as are the parents in many of the families that have pursued it).

Some have called this decoupling the “Great Divergence.” It is worth noting that this picture implies growing inequality, another of the key trends generated in the labor market. Why? If the total value of goods and services in the economy has grown, and the average wage of workers is not on the rise, then rewards are getting delivered, but not through pay-checks. And those rewards are going increasingly to the wealthiest in the nation.

Explaining and understanding the great divergence and the stagnation of wages has been a central project of economists for decades. It is clear that inequality is on the rise within and across most groups, that those with greater education have fared better, and that inequality is on the rise across the globe in developed economies from the US and beyond. But the US stands out for both the rate of increase and for the level – we lead in inequality in developed nations. Two trends most commonly named for contributing to growing inequality include rapidly changing technology and increasing globalization. These are forces that reach equally across the globe. So these drivers of inequality are shared. They can explain some of the increase in inequality in the US.

But the growth in inequality is more rapid in the US and this extra inequality can not be blamed on globalization or technology. Our excess inequality owes to the US’ unique institutional arrangements in labor markets. Specifically, many of the institutions which supported workers in the US and which continue to support workers in other developed nations are in decline in the US. We do not have an institutional infrastructure that helps secure more broadly shared prosperity. The US approach to labor markets is remarkably laissez faire, the structures that represent workers are singularly weak, and the dependence of workers on the outcomes that the labor market produces is more direct. In each of these ways, the US approach to labor markets appears to be exacerbating trends toward inequality, rather than working to rein them in.

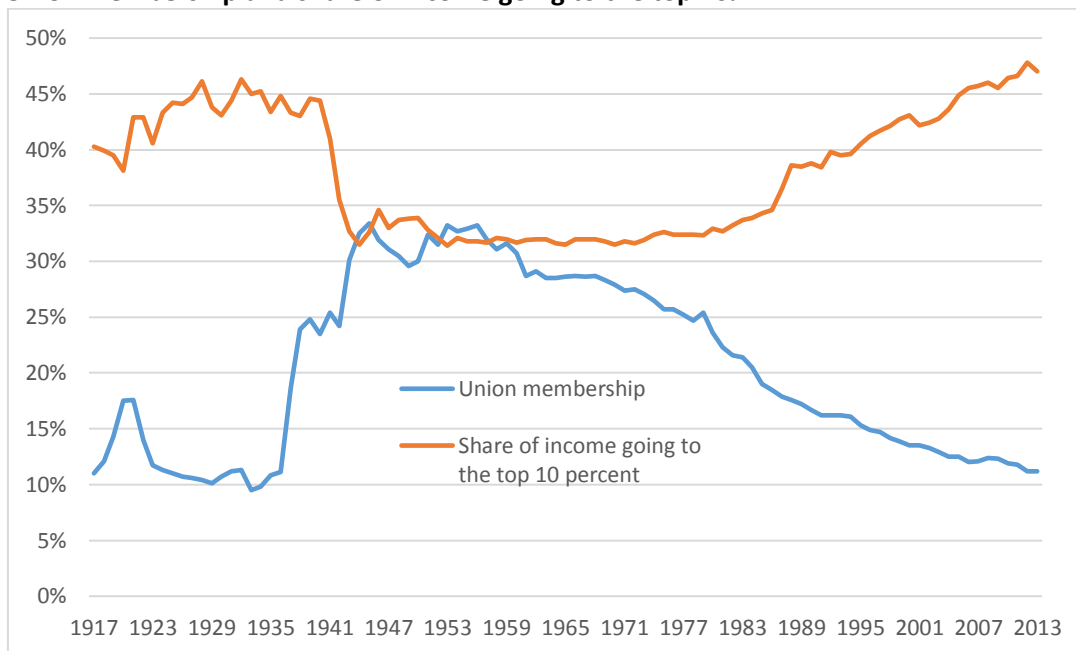
The context surrounding, constraining, reshaping, and redirecting forces of supply and demand in the US are unique. Three seem especially important to identify. First, quality of life for workers in the US is more directly tied to jobs than in other developed nations where social insurance, notably health care but also paid parental leave and vacation policies, are guaranteed by the state. In the US, these benefits are part of the package of the job. And like the US labor market, these benefits are worth more for workers who earn more and non-existent for workers at the other extreme of the labor market. So US employees are, in a way, more reliant on their jobs (especially if the job offers decent health insurance) and those with better jobs tend to have better benefits. Second, the US labor market is more laissez faire in the relative freedom of employers to hire and fire workers and to reshape their work. Workers are hired and fired “at will,” hours of work are not guaranteed, and pay levels are entirely at the employer’s discretion. While civil rights laws create protected classes of workers who cannot be fired for reasons of, say, race or gender, these laws do not reframe the fundamental right of employers to at will employment. And finally, and perhaps most important, the US labor market is unique in having a relatively weak role for unions from the firm to the societal level. Union contracts now cover just 7.4 percent of private sector jobs (down from 16 percent 30 years ago). Public sector unionization rates are much higher, 39 percent coverage in 2015 (Hirsch and Macpherson, 2016), but its political vulnerability is evident in recent legislation in Wisconsin that makes public sector unionization there harder as well.

The policy environment around the US labor market stands out among developed nations. Social insurance and job protections are weaker and institutions representing workers interests are

substantially weaker. The US lags in these ways, and these deficits go part way to explaining why the US also stands out for the growth in inequality.

This graph shows unionization and inequality in the US over time. It is evident here that the period of increasing union density corresponded with declines in inequality. But as unions have declined, the share of income that goes to the top 10 percent has grown. This serves as a reminder of the many ways that unions can work in an economy. First, and most obvious, unions matter narrowly to the workers who are members. By negotiating wages and working conditions, union members consistently make more than non-union workers in the economy. But as union density grows in specific sectors, the benefits to union membership begin to spill over to non-union workers in the sector as well. For example, compared to housekeepers in cities with few unionized hotels, hotel housekeepers in cities with high hotel union density have higher wages *regardless* of whether they clean a union property or not (Bernhardt, Dresser, and Hatton, 2003). Density here raises the wages of all workers in the sector. And finally, unions also often pursue and support economic policies for shared prosperity. So as unions decline, their capacity to improve workers' wages, to raise floors in specific sectors, and to improve the policy environment declines as well. The decline of unions feeds the force of inequality just as the rise of unions helps build systems that secure shared prosperity.

**Union membership and share of income going to the top 10%**



**Sources:** Data on union density follows the composite series found in Historical Statistics of the United States; updated to 2012 from unionstats.com. Income inequality (share of income to top 10%) from Piketty and Saez, "Income Inequality in the United States, 1913-1998, *Quarterly Journal of Economics*, 118(1), 2003, 1-39. Updated data for this series and other countries, is available at the Top Income Database. Updated September 2013.

### The Rise and Fall of the Regulation of Work

It is worth digging into the question of how labor market regulation has evolved in the US over the last century. Employer strategies are always emerging in response to competitive pressures and technology

but also in response to the regulatory environment. Employers in turn reshape the competitive and policy terrain. With co-authors in *The Gloves-Off Economy: Workplace Standards at the Bottom of America's Labor Market* (Bernhardt, Boushey, Dresser and Tilly 2008), I have traced the arc of regulation of the labor market, especially as it relates to the bottom of that labor market. (This section draws heavily on that chapter.) We argue that there are at least four ways that employer norms and standards have been undermined in recent decades. First, business has become less inclined toward self-regulation. Second, government regulation of business has increasingly gone unenforced. Third, the decline in unions has limited civil society regulation of business. And finally, the government has reduced the social safety net and adopted policies that expand the group of vulnerable workers. In contrast to a period of rising regulation of work, recent years have moved towards deregulation. But to see the decline in regulation, it is critical first to understand the policy framework established up to the mid-1970s.

### Rising Regulation of Work in the United States, 1890–1975

The regulation of employment in the US actually emerged from businesses themselves. Growing companies began standardizing hiring and supervision, rather than leaving them to the whims of individual managers. The combination of large companies, the importance of firm-specific knowledge, and personnel management oriented toward adding value rather than cutting costs led to widespread development of internal labor markets featuring long-term employment, upward mobility, and company-run training. This business strategy was responding not only to internal priorities but also labor unrest and union pressure from the outside.

At the same time, government regulation of employment began to develop alongside business self-regulation. Political leaders were spurred to action by the muckraking journalists and crusading advocates of the Progressive Era. States led in the innovation, instituting “Workman’s Compensation,” regulating child labor, and passing safety and women’s minimum wage legislation. In the 1930s, states developed the first Unemployment Insurance programs.

In the crucible of the Great Depression, the federal government finally stepped forward in concerted fashion to establish a system of employer regulation via the New Deal legislation of the 1930s. The cornerstone of this system was the 1938 Fair Labor Standards Act (FLSA), which set the floor for wages and overtime. Initially, the FLSA excluded some groups of workers, but it was expanded from the 1940s through the 1980s to include most workers except for employees of state and local government, small-farm workers, and some domestic and home care workers. The 1935 National Labor Relations Act provided private sector workers with the right to organize around working conditions, to bargain collectively, and to strike.

Later, Title VII of the 1964 Civil Rights Act prohibited discrimination by covered employers (with a small number of exclusions, such as the federal government itself) on the basis of race, color, religion, sex or national origin. Legislative and judicial extensions of the act banned sexual harassment and discrimination on the basis of pregnancy, age, or disability.

Finally, the regulation of health and safety on the job was established by the 1970 Occupational Safety and Health Act, which is enforced by OSHA. In step with heightened government regulation of the terms and conditions of employment, civil society expanded its regulatory role as well. Labor unions took the lead.

The critical turning point for the country's labor movement came with the organizing drives of the Congress of Industrial Organizations (CIO)—and of the American Federation of Labor (AFL) from which it had emerged—in the 1930s and 1940s. In 1935, when the NLRA was passed, the AFL (prior to the CIO's departure) claimed 2.5 million members. By 1945, the AFL and CIO combined claimed 14.8 million workers, over one-third of the nonagricultural workforce.

A less widely recognized element of civil society regulation of the workplace was launched in 1974 with the federal government's creation of the Legal Services Corporation (LSC). LSC disburses federal funds to independent local groups of public interest attorneys, with a mission to “promote equal access to justice and to provide high-quality civil legal assistance to low-income Americans” (Legal Services Corporation 2008a). While local legal services agencies address a wide range of issues, their portfolio typically includes labor, both through individual lawsuits and through litigation directed more broadly at the implementation of “the unemployment system, wage and hour laws, low wage worker protections, and training for disadvantaged families” (Greater Boston Legal Services 2008).

In addition to direct regulation of employment, government took on a stronger role in regulating labor supply from the 1930s forward. From the 1930s to the 1970s, regulating labor supply chiefly meant limiting the extent to which economically vulnerable workers were forced into taking any job, regardless of the pay, working conditions, or their family's needs. The 1935 Social Security Act was the key law in this regard, creating income streams for several distinct groups—widows and single mothers, the elderly, the disabled, and those unemployed through no fault of their own—to protect them from destitution when they could not work. The net effect of the act was to provide income to vulnerable groups in the workforce, making them less desperate for work.

Immigration policy can also directly expand or contract the number of vulnerable workers in an economy. For example, during a critical two decades, 1942 to 1964, the U.S. Bracero Program managed a large flow of legal, regulated immigrants from Mexico. The program, aimed at limiting illegal immigration and meeting the labor needs of agribusiness (which faced labor shortages during World War II), offered 4.5 million work contracts to Mexicans over its lifetime, about 200,000 per year. Braceros had far from full rights as workers: they were temporary and tied to an individual employer, and they often suffered abuse at the hands of farm owners and the U.S. and Mexican governments.

Thus, regulation of the U.S. workplace followed an upward arc for the first 75 years of the 20th century. Businesses built rules and bureaucracies that reshaped jobs, and an important subset of companies achieved market dominance and shared some of the resulting “rents” with their workforce. Government took an increasingly active role in mandating and enforcing employment rights and standards; civil society, especially in the form of unions, did the same.

To be sure, much of the federal policy framework was exclusionary and narrow, and, frankly, racist at its roots. The exclusions from protection of specific occupations – e.g., domestic workers and farmworkers – were often concessions to the Southern white political leaders who sought to lock black workers out of social protections.

Even so, government policies also provided supports and opportunities that moderated the whip of desperation for particular groups of potential workers. American workplaces in the early 1970s were no workers' paradise, but many were sheltered by a set of norms and regulations that, from today's vantage point, look quite impressive.

[The Gloves Come Off: Declining Regulation of Work in the United States, 1975 and on](#)  
Starting in the mid-1970s, business self-organization moved in new directions and the policy infrastructure began to unravel. Whereas vertical integration characterized most of the 20th century, disintegration has been a business watchword since the 1980s. Corporations are increasingly subcontracting and outsourcing work, creating extended supply chains and concentrating on their core competencies (Gereffi 2003; Harrison 1994; Moss, Salzman, and Tilly 2000).

The public sector as well has turned to subcontracting, in the privatization trend that swept governments from federal to local in recent decades. Globalization and rapid technological change have rendered market dominance more transitory. Capital has become more mobile, undermining job stability and workers' bargaining power.

Businesses draw increasingly on nonstandard forms of work, often mediated by a third party: even the largest corporations have distanced themselves from lifetime employment (Baumol, Blinder, and Wolff 2003). As AT&T geared up to lay off an estimated 40,000 workers in early 1996, vice president for human resources James Meadows told the New York Times, "People need to look at themselves as self-employed, as vendors who come to this company to sell their skills." Instead of "jobs," people increasingly have "projects" or "fields of work," he remarked, leading to a society that is increasingly "jobless but not workless" (Andrews 1996:D10). This remark, surprising in the 1990s, is a common perception regarding work in the 21<sup>st</sup> century.

How did the policy environment change? Part of the shift arose from policy makers hostile to the idea of regulations. Beginning with President Reagan in 1981, Republican presidents began salting the National Labor Relations Board with people opposed to unions. At the same time, industries such as restaurants and retail, which employ the bulk of low-wage workers, led the drive to reduce the real value of the minimum wage.

Another factor is the spread of new forms of business organization, such as subcontracting. While construction and apparel industries have used subcontractors for decades, the practice has now become so broadly prevalent that entire new industries have arisen—from security services to food preparation, janitorial services to call centers. Radio ads often air offering accountants and other office "temps"—one ad even playing on the fears of full-time employees being replaced by the more efficient temporary worker.

Elsewhere, strong-arm approaches by employers to fight off union drives took a toll. For example, employers threaten to close all or part of their business in more than half of all union organizing campaigns. Unions win only 38% of representation elections when such threats are made, compared to 51% when there are no such threats. The deunionization in the construction, trucking, and garment industries has led to greater fracturing of work and degradation of job quality in them.

With unions on the defensive and reduced to a shrinking corner of the private sector, employers have had a relatively free hand. The gap between union and non-union compensation yawns wide. Full-time workers who are union members earn 30% more per week than their non-union counterparts. While 70% of union workers have defined-benefit pension plans; only 15% of non-union workers do. Perhaps most important, the decline in union strength has meant more relaxed observance of labor and safety codes, fueling downward spirals in wage standards and working conditions that ultimately make life harder—and more dangerous—for workers.

Federal enforcement of labor standards and occupational safety is also falling behind new organization and the ever expanding US labor market. The Brennan Center for Justice reports that between 1975 and 2004, the number of federal workplace investigators declined by 14% and compliance-actions completed dropped by 36%. At the same time, the number of workers covered by federal workplace protections increased 55% and the number of covered workplaces grew by 112%. The Occupational Safety and Health Administration's budget has been cut by \$14.5 million since 2001, and the department's focus under the Bush Administration shifted from enforcement and deterrence to "compliance assistance." At these staffing and inspection levels, it would take OSHA 133 years to visit each workplace under its jurisdiction just once.

### Growth in Vulnerable Populations of Workers

Intentionally or not, federal and state policy makers exacerbated these trends in enforcement by adopting policies that left a growing number of workers vulnerable in our labor market. The dimensions of this include immigration policy, safety net and welfare policy, and criminal justice and incarceration policy.

Widely regarded as dysfunctional on a host of dimensions, U.S. immigration policy has effectively increased the number of workers vulnerable to gloves-off strategies, because undocumented workers are largely unable to access core rights in the workplace. Sometimes these workers do not know of the basic protections that the US labor market extends to all workers. Sometimes the threat of deportation is all it takes to keep them from demanding the rights they know they have. In either case, their status undermines their bargaining position in the labor market. In particular, the 1986 Immigration Reform and Control Act legalized nearly three million immigrants but simultaneously criminalized the knowing employment of undocumented immigrants. This criminalization, coupled with escalating enforcement of employer sanctions consigns some 11 million undocumented workers to a shadowy existence without status and vulnerable to workplaces abuses. The Supreme Court's 2002 Hoffman Plastic Compounds decision made things worse, as the first recent decision to chip away undocumented immigrants' recourse to formal protection under law (Gammage 2008; Sugimori 2008).

In addition paralysis in immigration policy, federal welfare reform and mass incarceration have also added to the pool of vulnerable workers. Welfare reform of 1996 practically eliminated financial support for nonworking single mothers pushing millions into the labor pool, often trapping them in low-wage jobs and leaving them vulnerable to abuse (Lower-Basch and Greenberg, 2008). Beyond those women are other low-wage workers who may have stood up for their own rights or bargained for decent treatment if they knew they could count on some public support if they lost their job. The loss of the fallback option reduces security for those workers too. Other social programs were hard hit by the shift toward reducing the social wage. Unemployment insurance today reaches a smaller proportion of the unemployed than it did 30 or 40 years ago: whereas in 1970, 44% of the unemployed received unemployment insurance, in 2006 that percentage had fallen to 35% (Employment and Training Administration 2007; Council of Economic Advisors 2007).

And finally, surging incarceration rates have created a mushrooming ex-offender population that faces significant formal and informal bars to employment. Over two million persons, disproportionately black and Latino, are currently behind bars, a 500% increase over the last 30 years (The Sentencing Project 2008). The United States has the highest incarceration rate of any nation in the Organization for Economic Co-operation and Development, much of which stems from the high rates of incarceration for



drug offenses. As they are released from prison, ex-offenders face significant challenges integrating into stable employment, especially since many more sectors of the labor market are using background checks and limiting employment for felons, pushing yet another population to the margins of the world of work. The evidence of discrimination against workers with criminal records, especially black formerly incarcerated men, is powerful (Pager, 2003).

Whether it is immigrants with too few documents or community residents returning from prisons with too long a record, public policy is contributing to vulnerability in labor markets.

### Recent Progress in Raising Standards

The trajectory of labor standards is not a simple downward spiral of declining regulation, however. Advocates, organizers, policy makers, and even some employers are all developing new strategies around job quality. Inequality is in the news and the struggles of the US middle class is at the center of political debates. The Fight for \$15 has brought the minimum wage back to the political forefront with substantial wage increases in store for some 17 million workers. Comprehensive immigration reform remains a priority of business groups and some political leaders. The Obama administration has pursued executive orders to extend opportunity or strengthen coverage of labor law. The minimum wage for federal workers is up, home health workers previously exempted from labor standards and now included, and the nation's overtime rules have been updated to cover more workers. After distressing GAO audits from the early 2000s showed that the DOL rarely enforced labor law, under the Obama administration, enforcement has been reactivated, extended, and focused.

### Fight for \$15

Born of NYC fast food strikes in late 2012, the Fight for \$15 has become a powerful force for labor standards and minimum wage increases. Fast food workers in cities across the nation walked off their jobs noting that they simply could not survive at the minimum wage. The movement gained momentum as other workers began to rally to the call for \$15 per hour and a union. Retail and other food service workers, child care workers and home health aides, and adjunct faculty all joining the fight.

While the original slogan of campaigns "\$15 and a union" implied a focus on bargaining wage increases, overtime the most active and effective front in the fight has been the minimum wage. Early on, the level was perceived by many (even some on the left) to be impossibly aggressive and perhaps even economically destructive. Skeptics noted that \$15 per hour wasn't so very far from the median wage nationally (42 percent of workers earn \$15 or less), and \$15 exceeds the median in many rural labor markets. In some states, the minimum wages was moving to around \$10 per hour and few negative effects were being documented (indeed, the states with higher minimum wages have posted faster job growth in recent years). But \$15 was uncharted territory and analysts and political leaders were wary.

But in spite of the skepticism, the movement caught fire. Substantial wage increases were passed by cities all across the nation. Seattle, San Francisco, and Los Angeles and dozens of other cities all embraced \$15. Just this year, two of the nation's two largest states, New York and California, followed suit. To be sure, these wages are not moving overnight. Most laws have schedules with the final steps still a few years in the future. But what once seemed impossible has become a political reality. Some 17 million workers will eventually benefit from minimum wage increases that have been spurred on by the Fight for \$15 and some with 10 million on their way to \$15. (cite NELP)

This success is changing the wages of workers across the country. It has also transformed the national conversation on minimum wages. The federal minimum wage, stuck at \$7.25 per hour and less than half the \$15 that is spreading, now seems even more absurdly low. The highest wage in legislation to raise it was just over \$10 a few years ago. Now the proposal is to move in steps to over \$12 per hour. The Democratic platform this year embraces \$15 per hour. Simultaneously, in the last two years, many employers, major retailers Wal-Mart and Target among them, have announced wage increases that move their entry-level workers well above the minimum wage. Polling and referenda demonstrate enormous support across the political spectrum for substantial increases.

In 2012, when the first fry-cooks and cashiers walked off their jobs, none of this progress seemed plausible. The audacious demand for a truly significant raise, growing concern about inequality and opportunity in the nation, the clear inability to make ends meet on such low wages, and worker leadership and smart organizing strategies all came together and changed what was possible.

The Fight for \$15 is the most exciting and effective movement around labor standards in the nation today. Even so, the limitations of the fight indicate two serious problems that will riddle any strategy to improve labor standards through policy.

### ***Standards in a time of Political Polarization***

In the face of ongoing failure of the federal government to raise the minimum wage, the fight moved to the states and cities. As the movement caught hold, cities especially proved fertile ground. Given high cost of living, evident wealth inequities, and progressive coalitions in cities, the argument for increases and the political muscle to secure them were more readily available there. Once cities began to pass ordinances, others followed suit and something of a public policy race to the top was started. In fact, two states – New York and California – passed \$15 at a state level on the same day.

But this works, of course, in liberal enclaves – urban America is certainly more liberal, but not every city is pursuing wage increases. As for states, California and New York have stepped up to \$15, and some other states may follow suit. But it is relatively easy to anticipate where steps forward will be made and where the federal minimum will hold sway. In the Northeast and West Coast, minimum wages are systematically above the federal level already. In some states those wages will grow more rapidly. But in the South and the Great Plains, the Fight for \$15 will not have as much traction and support. Some cities attempting to raise wages will find their authority taken away by conservative state legislatures, as happened when the state of Alabama passed legislation to pre-empt Montgomery from raising wages.

The result of this dynamic will almost certainly be a growing gap in the regulatory infrastructure and labor market standards of liberal states compared to conservative states. This is not a reason to resist the change, but a caution about its limits. And the diversity of approaches provides will build evidence and evaluative insights on the economic impact of these strategies and that evidence may help leverage change in other states. But it is worth remembering that this strategy has substantially less promise for workers in conservative states. Fast food workers across Wisconsin have gone on strike like their counterparts across the nation. The movement for them has been instructive and the success elsewhere has been inspiring, but the inability to see any possible change in the state takes its toll.

Conservatives' strong and consistent focus on undermining labor standards and union rights is the flip side of the success of the Fight for \$15. Right to work, the weakening of public sector unions, state

preemption of minimum wage or paid sick legislation at the local level, reductions in unemployment insurance. The playbook in red states tends to move those states down in labor standards even as the Fight for \$15 is raising the floor in more liberal states. At the state level, labor market regimes are diverging and the gap between states is growing. This divergence will leave some workers behind, and make federal policy ever harder to calibrate.

### ***Wage Standards and the Future of Work***

When the job is clear and the employer well defined, raising the minimum wage is the most direct policy approach to raising labor standards. For the vast majority of US workers, the job and the employer are obvious and so raising the minimum wage is direct and effective.

But workers can be left out of wage increases and many have been. Most obvious here is the long-standing differential treatment of tipped workers. The federal minimum wage for tipped workers is just \$2.13 per hour. Tipped workers clear the minimum through their tips, in theory at least. But wage increases that do not attend to this vast exclusion or raise wages for tipped workers are leaving many behind. States are increasingly taking this issue on. In 8 states, the state's minimum wage applies to tipped workers.

Beyond this sort of policy exclusion, the minimum wage simply does not apply to the "self employed" and "independent contractors." For example, care work, both in home health care and family provided child care, is often structured in ways that put hundreds of thousands of low-wage workers outside the influence of minimum wage increases. Especially in home health, these jobs are growing rapidly. States arrange this work in different ways, but in many states, these home health workers are treated as independent contractors. For independent contractors and the self-employed the minimum wage simply does not pertain.

Further, it is clear that workers have seen a shift into "independent contractor" in a number of other industries. Trucking has been transformed to an industry dominated by "independent contractors." That many of the truckers work for only one company and that company determines the conditions of their work is strong evidence that this work is not truly "independent." In construction the practice of misclassification of workers is pervasive as well. It is very hard to get numbers on this, but the data available suggests that this is on the rise. In Massachusetts, the misclassification of workers as independent contractors climbed from 8% in 1995 to 19% in 2003 (Carré and Wilson 2004).

This is of increasing relevance looking forward as well. The "future of work" is often imagined as a "gig" economy, where workers are managing their employment with multiple employers, mediated through technology. Uber is the obvious example here. And the actual employment status of Uber drivers (independent contractors vs. Uber employees) remains an open and contentious legal question. To the extent that future of is one of "independent contractors," the strategy of improving the labor market by raising the minimum wage misses the mark.

Remember that in the US social provision is much more tied to work. This is true in health insurance, obviously, but also in the provision of everything from sick leave to retirement. While other developed economies often have more social approaches to these standards, in the US, all of this is delivered through "jobs." To the extent that the future of work will generate people doing work, but not doing that work in "jobs," the US economy will leave those workers with little access to basic social provision.

Developed nations that deliver social provisions of health and retirement outside of the context of the “job” will be better positioned for this evolution.

The idea of a basic income – provision of basic income regardless of work – is an emerging answer to the concern about the future of work. While the conversation remains largely theoretical and politically remote in the US, there is more active consideration in Europe. Indeed, Swiss voters rejected a basic income plan this summer. But the conversation continues to simmer. And Finland and in the Netherlands experiments in basic income are underway.

## Toward A Balance in Public Labor Standards Policy

Public policy, those relating directly to labor market regulation and those relating directly to workers’ vulnerability in labor markets, is the foundational structure for how firms and workers interact. Over the last 40 years, that balance has tipped more strongly in favor of employers, perhaps especially at the bottom of the labor market.

The recovery from the Great Recession, the Fight for \$15, and current administration strengthening of labor markets through administrative rules are all steps toward restoring a more equitable balance in labor markets. These steps, and further steps, will necessarily reactivate or extend government regulation while building civic or work based infrastructure, like unions, that can uphold and pursue worker interests at the shop floor and in the broader political context. This may not always look like traditional unions. For example, immigrant worker centers are giving low-wage workers a means to organize outside of the traditional union framework.

The priority in this endeavor will be to help fix an economic system that rewards employers who break the law and punishes those who try to play by the rules. This is a moment for potentially great change in the way our society operates. Workers, government, unions, and responsible employers all have a stake in finding ways to strengthen the policy framework around the US labor market.

A few principles may help frame this project.

1. A strong and well-enforced labor market floor is good for the economy
2. Organized workers can be a force for production and productivity
3. Employer and public supports need to be mutually reinforcing
4. A stronger labor market infrastructure requires public investment and public policy

I take these each in turn.

### *A strong and well-enforced labor market floor is good for the economy*

The institutions that support a strong labor market – unions, minimum wage laws, basic labor standards, and public enforcement infrastructure to aggressively enforce them – are often criticized as impediments to competition. From this viewpoint, strengthening labor standards is simply inefficient, generating costs on firms, limiting employment opportunity for disadvantaged workers, and choking economic growth. Business associations, some economists, and conservative political leaders all rely on these sorts of arguments when resisting minimum wage raises or increases in other labor standards.

The research on the economic impact of minimum wage increases, however, does not confirm these dire predictions. Since the mid-1990s, when economists studying a minimum wage increase found no negative employment impact in fast food employment, an increasing body of research supports the idea that stronger labor standards do not undermine low-wage labor markets.

Beyond the narrower question of employment impact, there are important dynamics in labor markets that higher standards may actually support. First, note that higher minimum wage and benefits standards, and stronger enforcement of those standards, do not impact all businesses equally. The employers at or beneath the floor have the most to lose when standards go up. Raising the floor and enforcing it levels the playing field for higher wage firms. For example, in construction when some contractors begin to misclassify their workers as independent contractors (and thereby lower their wage bill by avoiding Workers Compensation and unemployment insurance that are the due of workers), those contractors undermine the ability of other contractors to win bids. They create a downward pressure on all employers in the sector by avoiding or evading labor law and standards. Strong, well-enforced labor standards can help firms compete on more fair footing.

#### *Organized workers can be a force for production and productivity*

One reason that stronger labor standards can be good for the economy is that moving wages to a more livable level can help stabilize the workforce, increase productivity, and decrease the high costs of employee turnover. This is a first instance of this principle that organized and rewarded workers can become a force for production.

In any sector, there is more than one way to organize work. Some firms may take a low-wage, high turnover approach while others may pursue a higher wage approach. The higher wage firm pays more for labor and is rewarded with loyalty, reduced turnover costs, and higher quality production. In most sectors, there is no single production system or way of organizing work, there are multiple competitive approaches. While more than one approach may be competitive, some approaches are unambiguously better for workers and communities. Roughly characterized as “high road” firms, the companies that compete with a greater focus on quality and value added generally also invest in and hold onto their workers. They compete against “low road” firms more focused on cost reduction including holding down wages. While either system is competitive, one approach is unambiguously better for workers and communities. Pursuing broadly shared prosperity requires closing off low-road choices, helping to pave the high road, and building systems and infrastructure that help workers and firms move to the high road. To do so requires acknowledging the important contributions of workers and rewarding their work.

#### *Employer and public supports need to be mutually reinforcing*

Too often employer standards and public supports are thought of as alternative approaches to solving labor market problems. This happens when pundits present the Earned Income Tax Credit as a more efficient alternative to the minimum wage. In fact, however, these are not policy alternatives, but mutually reinforcing structures. Without strong private labor standards, the public can get stuck with an increasingly costly redistribution for workers paid too little to actually make ends meet. Key employers and sectors are called out in reports that calculate the the high public costs of low wage jobs. A destructive example of this is when a new firm enters an industry and decides to stop offering health insurance (or offer a very weak or expensive policy only). Other firms in the sector want to remain price

competitive; they find they must reduce the quality of their health insurance package to keep up. Competitive pressure can thereby undermine labor standards. But in the worst case, not only do labor standards fall, but workers increasingly seek public health insurance (through state programs funded by Medicaid) to make up for the losses in employer based health insurance. And in this way, the sector is undermined and public costs grow.

Public supports for the working poor, like Medicaid and FoodShare, need to be understood to be a compliment to higher labor standards. Stronger standards help keep the public cost of those programs down. Stronger enforcement of standards helps reward the many employers who have been doing the right thing, rather than subsidizing the very employers that are undermining standards in the first place.

### *Stronger labor market infrastructure requires public investment and public policy*

Stronger labor market infrastructure will require real public investment and consistent attention to the intended and indirect labor market consequences of policy. This is perhaps obvious, but is worth stating in this current political moment with its attendant focus of austerity in budgets and curtailment of government services. Though we often seem trapped in a debate that scapegoats immigrants and rejects refugees, we need to develop and support a national political conversation on upholding labor standards for **all** workers. Rather than trying to eliminate workers access to unemployment insurance, we need to build a more robust system of support for workers and communities devastated by trade. To build a stronger labor market infrastructure of supports for workers and to enforce a stronger set of standards for employers will require substantial public investment as well as shift in political winds toward a greater appreciation for that investment.

## Conclusion

Essentially, I am arguing that stronger labor standards could actually be good for the economy. Not just for the workers who earn higher wages, but for the entire labor market, firms and workers alike. The recent book, *How Big Should Our Government Be?*, makes the argument even more broadly: “more government can lead to greater security, enhanced opportunity and a fairer sharing of national wealth (Bakija et al, 2016).” The authors argue that the government should be investing in infrastructure and expanding social insurance. To do so requires it to be larger than it is, but to do so also embraces growth and security and more broadly shared prosperity. This is an essentially optimistic point. The US could restore broadly shared prosperity but it will require government infrastructure to do so.

Some of the work to improve the labor market is already underway. At the forefront is the movement to raise the minimum wage. But activists and policy leaders are pursuing other policy fronts: mandatory sick leave, paid family leave insurance, regulation of work time to make hours of low-wage workers more predictable. Like the minimum wage, these changes in labor standards will emerge in cities and states first, bubbling up to the national discussion. Activists and leaders are also increasingly seeking ways to secure rights and opportunity for all – regardless of immigration status or incarceration history – at the state and local level. As these innovations are documented and evaluated, the concrete case for expanding labor standards and strengthening workers rights will be developed at the local level and inform innovation across the nation.

## References

- Andrews, Edmund L. 1996. "Don't Go Away Mad, Just Go Away: Can AT&T Be the Nice Guy as It Cuts 40,000 Jobs?" *New York Times*, February 13, pp. D1–D10.
- Bakija, Jon, Lane Kenworthy, Peter Lindert, and Jeff Madrick. 2016. *How Big Should Our Government Be?* University of California Press.
- Baumol, William J., Alan S. Blinder, and Edward N. Wolff. 2003. *Downsizing in America: Reality, Causes, and Consequences*. New York: Russell Sage Foundation.
- Bernhardt, Annette D., Heather Boushey, Laura Dresser & Chris Tilly. 2008. An introduction to the "gloves-off" economy. In *The gloves-off economy: Workplace standards at the bottom of America's labor market*. Institute for Research on Labor and Employment. 1-29
- Bernhardt, Annette, Laura Dresser, & Erin Hatton. 2003. The coffee pot wars: Unions and firm restructuring in the hotel industry. *Low-wage America: How employers are reshaping opportunity in the workplace*, 33-76.
- Carré, Françoise, and Randall Wilson. 2004. *The Social and Economic Costs of Employee Misclassification in Construction*. Boston, MA: Construction Policy Research Center, Harvard Law School Labor and Worklife Program and Harvard School of Public Health
- Council of Economic Advisors. 2007. "2007 Report Spreadsheet Tables." Economic Report of the President. <<http://www.gpoaccess.gov/eop/tables07.html>>. [September 26, 2007].
- Department of Labor, Employment Standards Administration, Wage and Hour Division. 2007. History of Changes to the Minimum Wage Law. <<http://www.dol.gov/esa/minwage/coverage.htm>>. [September 26, 2007].
- Gammage, Sarah. 2008 Working on the Margins: Migration and Employment in the United States. In Bernhardt, Annette D., Heather Boushey, Laura Dresser & Chris Tilly eds. *The gloves-off economy: Workplace standards at the bottom of America's labor market*. Institute for Research on Labor and Employment. 137-161
- Gereffi, Gary. 2003. "The Global Economy: Organization, Governance, and Development." In Neil Smelser and Richard Swedberg, eds., *Handbook of Economic Sociology*. Princeton, NJ: Princeton University Press, pp. 160–82.
- Greater Boston Legal Services. 2008. *Types of Service*. <<http://www.gbls.org/service.htm>>. [February 10, 2008].
- Harrison, Bennett. 1994. *Lean and Mean: The Changing Landscape of Corporate Power in the Age of Flexibility*. New York: Basic Books.
- Legal Services Corporation. 2008a. *What Is LSC?* <<http://www.lsc.gov/about/lsc.php>>. [February 10, 2008].

- Lower-Basch, Elizabeth and Mark H. Greenberg. 2008. Single Mothers in the Era of Welfare Reform. In Bernhardt, Annette D., Heather Boushey, Laura Dresser & Chris Tilly eds. *The gloves-off economy: Workplace standards at the bottom of America's labor market*. Institute for Research on Labor and Employment. 163-189
- Moss, Philip, Harold Salzman, and Chris Tilly. 2000. "Limits to Market-Mediated Employment: From Deconstruction to Reconstruction of Internal Labor Markets." In Françoise Carré, Marianne Ferber, Lonnie Golden, and Steve Herzenberg, eds., *Non-Traditional Work Arrangements and the Changing Labor Market: Dimensions, Causes, and Institutional Responses*. Madison, WI: Industrial Relations Research Association, pp. 95–121.
- Pager, Devah. (2003). The mark of a criminal record. *American journal of sociology*, 108(5), 937-975.
- Sugimori, Amy. 2008. State and Local Policy Models Promoting Immigrant Worker Justice. In Bernhardt, Annette D., Heather Boushey, Laura Dresser & Chris Tilly eds. *The gloves-off economy: Workplace standards at the bottom of America's labor market*. Institute for Research on Labor and Employment. 217-242