

RESEARCH BRIEF

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# Worker Voice, Representation, and Implications for Public Policies

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## Executive Summary

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

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

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

Aside from the weaknesses in worker voice made visible by the current crisis, the need to rebalance the rules (i.e., policies) governing worker voice, power, and representation (see Exhibit 1 for definitions of

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

**Exhibit 1**

A note on Worker Voice, Power, and Representation

Here is how three interrelated terms are used in this research brief:

TERM	DEFINITION
<b>Voice</b>	Individual or collective efforts of workers to have a say or influence on workplace issues of interest to them and/or to their employer(s)
<b>Power</b>	Ability of workers to get employer(s) to do something the employer(s) would not do on their own. Sometimes this is referred to as “bargaining power.”
<b>Representation</b>	A group or organization that speaks for a collective group of workers.

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

Survey 1, conducted in 2017, produced two key findings: (1) a majority of American workers report experiencing less influence than they believe they ought to have on a wide range of workplace issues, including compensation, job security, promotions, respect and harassment, and technology; and (2) a near majority (48%) of nonunion workers would join a union if given the opportunity to do so, up from about one-third of the workforce in prior decades. Survey 2 followed up the first survey’s results to better identify the *forms* of worker representation the workforce would prefer to join and support by paying dues. The results show strong support not only for collective bargaining both at the firm and industry levels, but also for organizations that provide a range of labor market services and broader roles in organizational decision-making and governance (i.e., participation in workplace-improvement processes, organization-wide advisory committees, and employee representation on company boards).

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

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

relationships. The specific policy changes proposed herein include:

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

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

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

The Black Lives Matter movement likewise elevates awareness of the need to close the gaps in labor law that leave many minorities unprotected or subject to retaliation for voicing calls for racial justice in employment relations. Among other actions, this calls for:

- Providing domestic workers, agriculture workers, and other groups not covered by labor law the right to organize in ways suited to the specific features of their industry and occupation.

- Strengthening protections for those advocating for racial justice reforms at work and in labor organizations.
- Ensuring minority workers have a voice in upgrading and expanding firm-level diversity initiatives.
- Reexamining and recommitting to ending all legacy practices in unions that continue to exclude or discriminate against minorities.
- Revising police union collective bargaining agreements governing discipline and accountability.

These changes in policies and practices will be successful if complemented by institutional changes in industry, labor, and educational institutions. Specifically:

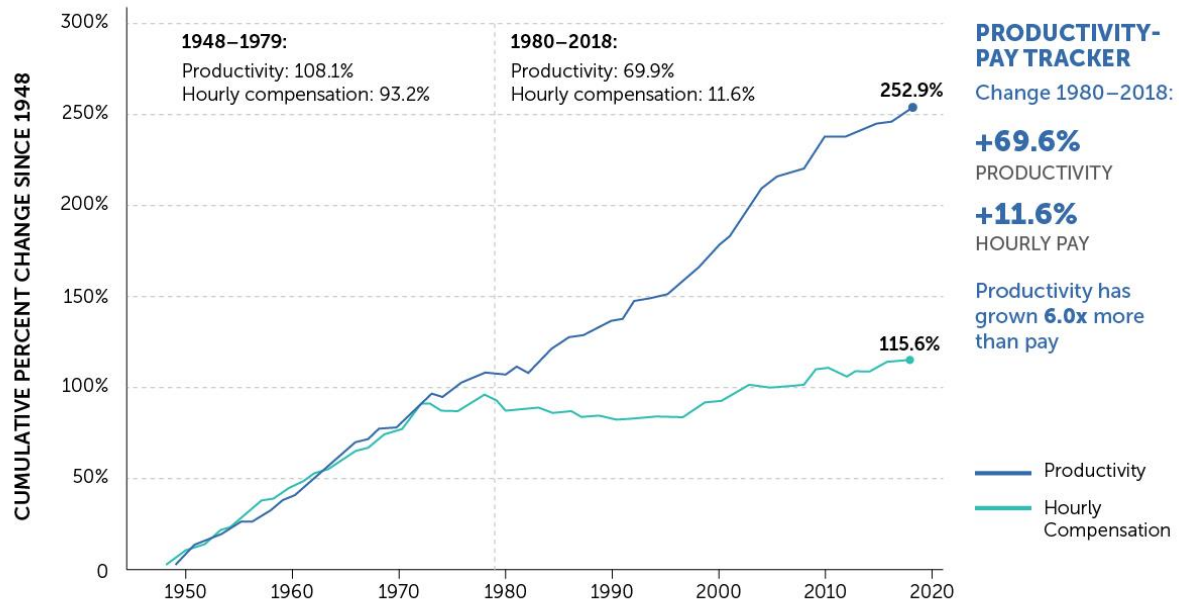
- Labor unions and emerging forms of worker advocacy should treat one another's efforts as complements not substitutes for restoring worker voice and representation.
- Industry leaders should apply the recent statement of the Business Roundtable, an association of CEOs of large U.S. companies, on corporate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

## Worker Voice, Advancing Technologies, and a New Social Contract

There is growing recognition that the long-term decline in union representation in the United States<sup>2</sup> has contributed to increased income inequality and a breakdown in what is often referred to as the “social contract at work.” As shown in Figure 1, from the end of World War II through the mid-1970s, growth in national productivity and compensation of production and nonsupervisory workers moved up in tandem. This tandem pattern of growth has often been described as the defining feature of the post–World War II social contract.<sup>3</sup> Since the 1980s, however, the social contract has broken down as productivity has continued to grow at modest rates while the median rate of compensation for hourly workers has stagnated. Although there is no single cause of this growing gap between compensation and productivity, part of the difference is due to the declining bargaining power of unions.<sup>4</sup>

## Figure 1: The Gap Between Productivity and a Typical Worker’s Compensation Has Increased Dramatically Since 1979

*Productivity growth and hourly compensation growth 1948–2018*



Source: <https://www.epi.org/productivity-pay-gap/>

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

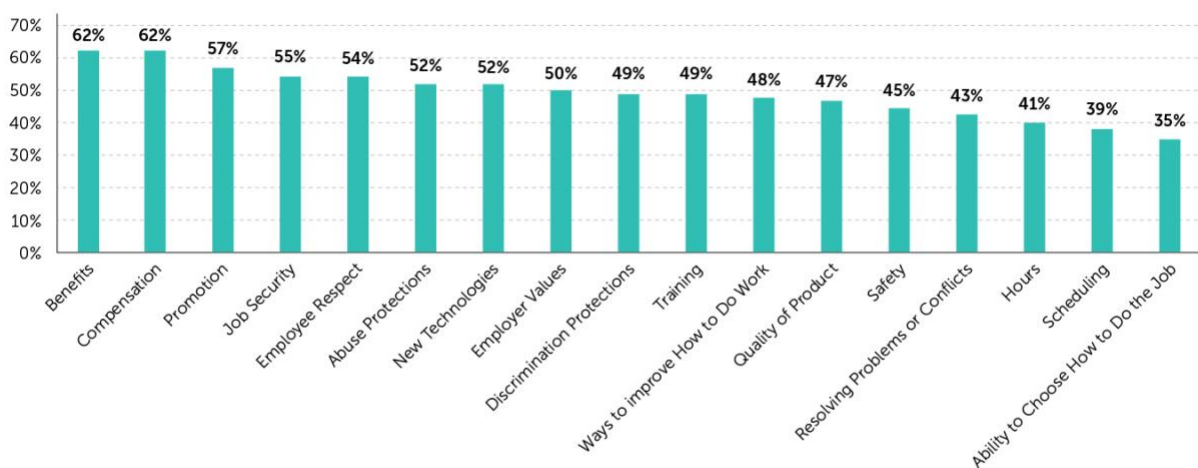
This research brief begins by summarizing the results of two national workforce surveys designed to assess how to rebuild worker voice and power by asking, What does the contemporary workforce have to say about these issues? Do workers see unions as relevant institutions for representing them; and if so, what forms of representation would they be willing to join and support by paying dues? Then we provide illustrations of the range of new forms of worker voice and advocacy emerging around the country. The final section offers recommendations for labor policy actions, complementary changes in institutional and organizational practices needed for the changes in labor law and policy to meet their objectives, actions called for in light of the COVID-19 crisis, and further research on these issues.

## WHAT DO WORKERS WANT?

Researchers from the MIT Sloan School of Management and Columbia University have explored the question of worker expectations and views of the current state of voice at work in two national surveys of representative samples of the U.S. workforce.<sup>6</sup> The first survey measured the extent to which there is a gap between the amount of say or influence workers experience on their jobs compared to their expectations for the amount of say or influence they believe they ought to have. We call this the “voice gap.”

Figure 2 reports the extent to which there is a voice gap (the percentage of workers who report having less influence than they believe they ought to have) across a broad array of issues relevant to today’s workforce. A majority of American workers report a voice gap on benefits, compensation, promotions, job security, respect, protection against abuse, and the role of new technologies. Between one-third and 50 percent report a voice gap on other important issues, such as their employers’ values, training, discrimination, the quality of their organization’s products or services, safety, how workplace problems or conflicts are resolved, and so on. In short, there is a significant voice gap present in American workplaces, and the issues workers value include, but go considerably beyond, those typically addressed in collective bargaining.

**Figure 2: Voice Gap: Percentage of Workers with Less Involvement Than They Want**



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

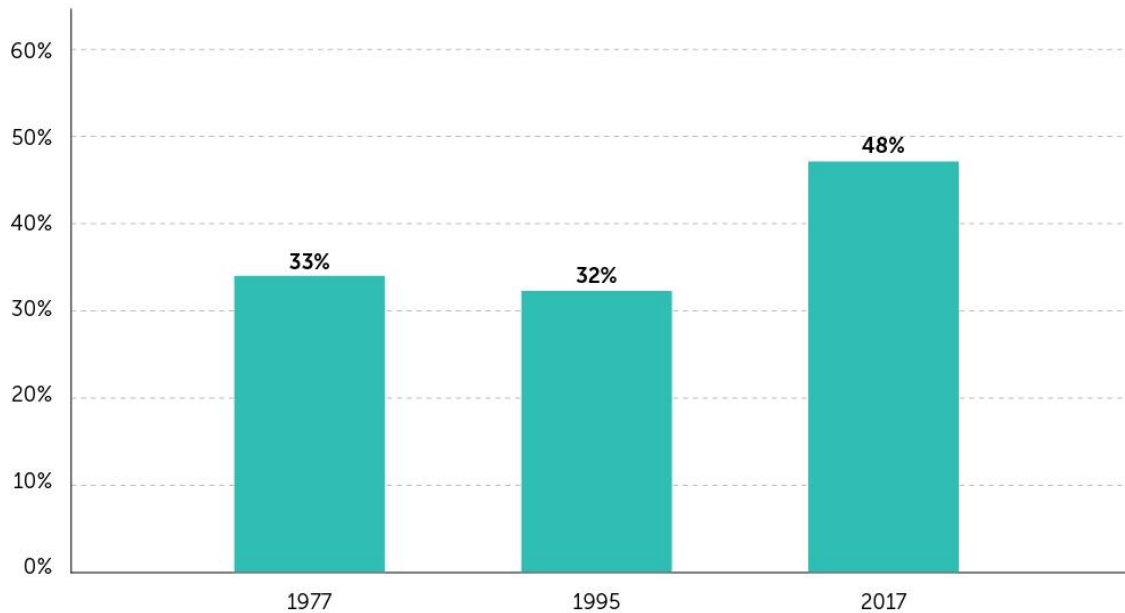
Sources: Kochan et al. 2019. Data based on Kochan et al.’s analysis of Worker Survey.

## WHAT ABOUT UNIONS?

Given the long-term decline in union representation in the United States, an obvious question is, “Do workers still see unions as relevant?” We replicated a question that was asked in national surveys in the 1970s and 1990s, namely, “If a union election were held on your job, would you vote yes or no?” The results displayed in Figure 3 show there is a large increase in the percentage of nonunion workers who would vote to join a union if given the opportunity today. In the 1970s and 1990s, about one-third of the nonunion workforce indicated they would vote to join a union; in 2017, that percentage increased to 48 percent of the nonunion workforce. (Eighty-three percent of current union members would vote to retain their union.) Combining the responses of union and nonunion workers thus produces an estimate that over half of the workforce would prefer to have union representation on their jobs today. While

this is just an estimate of worker preferences unconstrained by arguments for or against unions that typically are raised when an actual vote is held, it does indicate that there is not only a sizable voice gap in today's workforce but also a sizable representation gap.

**Figure 3: Percent of Nonunion Workers Who Would Vote for a Union**



Notes: Each year's sample excludes self-employed. The 1995 sample also excludes all management occupations. Sources: 1977 data are based on the U.S. Department of Labor's Quality of Employment Survey, 1995 data are from the Worker Representation and Participation Survey conducted by Richard Freeman and Joel Rogers, and 2017 data are from our 2017 MIT survey. See Kochan et. al. (2019) for full discussion of these data and sources.

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

Figure 4 displays the basic results. We draw four conclusions from the choices respondents made among the different representational forms and strategies: (1) there remains strong support for collective bargaining at firm and industry levels; (2) there is equally strong support for organizations that provide a range of labor market services (health care, retirement, training, etc.) to individuals as they move across jobs throughout their careers; (3) there is support for expanding the roles that workers play in organizational decision-making from participation in informal processes to improve their work and operations to organization-wide committees or councils to representation on company boards; and (4) strikes and political endorsements reduce the attractiveness of organizations that seek to represent the workforce.



**Figure 4: Which Labor Organization Would You Join? (0/1)**



Further analysis of these data indicates that the highest interest is in joining and paying dues in organizations that provide a *combination* of collective bargaining, individual labor market services, and roles in organizational decision-making. Opposition to strikes and political activity declines in importance in organizations that combine these modes of representation and among workers currently represented by unions. These results suggest that the American workforce does not want to choose between existing unions that focus on collective bargaining and the various emerging forms of worker advocacy that focus on providing services. Significant numbers also value informal participation processes offered by employers. **Thus, today’s workforce wants to go beyond existing labor law to have available a wider array of options for gaining a voice at work and more robust roles in advising and sharing decision-making with their employers.**<sup>8</sup> Some workers, however, are reluctant to exercise the traditional sources of power (political action and strikes) that unions have relied on in the past.

## EMERGING FORMS OF WORKER VOICE AND ADVOCACY

A growing number of workers and labor advocates are now taking actions to expand the array of voice and representation options that fall outside the structures of collective bargaining and prevailing labor law<sup>9</sup> (see Figure 5). While there is no single way to categorize what these different organizations do, below we highlight some that are national or regional in scope, some that focus on particular industries or occupations, and others that provide job matching and other labor market services.

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

**Figure 5: Examples of Worker Advocacy Organizations**

<p><b>Broad-Based Organizations</b></p>	<p>Fight for \$15 <a href="https://fightfor15.org/">https://fightfor15.org/</a></p> <p>Worker Centers such as Interfaith Worker Justice <a href="http://www.iwj.org/network/workers-centers">http://www.iwj.org/network/workers-centers</a></p> <p>Jobs with Justice <a href="https://www.iwj.org/">https://www.iwj.org/</a></p> <p>Working Washington <a href="http://www.workingwa.org/">http://www.workingwa.org/</a></p>
<p><b>Industry, Occupational, or Firm-Based Organizations</b></p>	<p>National Domestic Workers Alliance <a href="https://www.domesticworkers.org/">https://www.domesticworkers.org/</a></p> <p>Coworker.org <a href="https://home.coworker.org/">https://home.coworker.org/</a></p> <p>Organization United for Respect/OUR Walmart <a href="https://united4respect.org/">https://united4respect.org/</a></p> <p>Restaurant Opportunities Centers United <a href="https://rocunited.org/">https://rocunited.org/</a></p> <p>Freelancers Union <a href="https://www.freelancersunion.org/">https://www.freelancersunion.org/</a></p> <p>The Workers Lab <a href="https://www.theworkerslab.com/">https://www.theworkerslab.com/</a></p> <p>Maine Lobstermen’s Association <a href="https://mainelobstermen.org/">https://mainelobstermen.org/</a></p> <p>Los Angeles Alliance for a New Economy <a href="https://laane.org/">https://laane.org/</a></p> <p>Coalition of Immokalee Workers</p>

	<a href="https://ciw-online.org/">https://ciw-online.org/</a> Independent Drivers Guild <a href="https://drivingguild.org/">https://drivingguild.org/</a>
<b>Labor Market Service Organizations</b>	Jobcase <a href="https://www.jobcase.com/">https://www.jobcase.com/</a>  Jobs with Justice <a href="https://www.jwj.org/">https://www.jwj.org/</a>

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

**Labor Market Matching and Service Initiatives.** Jobcase uses a variety of database tools to help match low-wage workers with job opportunities. The Workers Lab serves as an incubator and funding source for startups that serve workers in a variety of new ways, such as providing labor market information, training, and job matching services; mobilizing and advising migrant workers in dealing with their employers and government agencies; and building worker cooperatives.

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

These illustrate, but do not exhaust, the range of new forms of worker advocacy being developed and tested for different purposes, occupational groups, and industry settings. Many of them make ample use of social media, machine learning, and social networking to share information and attempt to mobilize workers to use online petitions, short (often one-day) protests and/or walkouts, and other pressure campaigns to change employer practices. Many operate outside the bounds of the National Labor Relations Act and would find it more of a constraint than a benefit to be brought under the existing law. For example, the Coalition of Immokalee Workers would be prohibited from pressuring or boycotting retail companies since their direct employers are the farmers that hire them rather than the retailers.

Yet, the retailers hold considerable power in setting the prices farmers are paid for their products and in turn what workers are paid for their labor. However, none of these emerging models have achieved large-scale, identified sources of power equivalent to what unions historically achieved through collective bargaining, or have yet developed sustainable business models (i.e., a revenue stream to support their work independent of foundation support). But, these examples do illustrate that many in the workforce are searching for new and more flexible ways to rebuild worker voice and representation.

### LABOR UNION INNOVATIONS

Innovations are also occurring in a number of existing unions, some in support of advocacy groups such as worker centers, the Independent Drivers Guild, and the Maine Lobstermen’s Association, and some within existing union structures. The AFL-CIO recently completed a yearlong study on the future of work and unions.<sup>11</sup> It is now implementing one of its key recommendations, namely to create a “technology institute” by working with major universities to help educate its members in what they need to know to engage in technology decisions at their workplaces. UNITE-HERE, a union that represents employees in the hotel and food service industries, has been active in negotiating new provisions with major hotel chains such as Marriott, Hilton, and the casinos in Las Vegas. These include providing advanced notice of major technological investments, a voice in the early-stage design and implementation processes, training in advance of implementation, and reassignment rights and adjustment assistance for those displaced from their jobs.<sup>12</sup> Two coalitions of labor unions are working in partnership with Kaiser Permanente to adapt to the future of work. Among other joint actions, they have created regional Workforce of the Future committees and negotiated changes in job structures to support teamwork and outreach to patients in what they call “next-generation clinics.” Workers participate in teams to adapt electronic medical records technologies to support the new work processes in these clinics and work together with managers and information technology technicians before the clinics open to design the workflow for serving patients and to train their peers in the new processes. In recent years, teacher organizations in states and cities across the country from West Virginia to Kentucky, Arizona, Colorado, Oklahoma, California, and Illinois have organized protests and strikes around the theme of “Bargaining for the Common Good.” By pursuing demands for increasing budgets for education and student services as well as wage increases, these organizations have been successful in building coalitions and support from parents and others in their communities.<sup>13</sup>

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

### REBUILDING WORKER VOICE FOR SHAPING WORK OF THE FUTURE

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

First, it is extremely difficult for workers to gain union representation via the election process provided in the law, especially if employers resist union-organizing efforts as they nearly always do. The most complete study of this process found that only 20 percent of unions that file for a representation

election make it through the process to achieve a collective bargaining contract. If management resists to the point that an unfair labor practice charge is filed, the success rate falls below 10 percent.<sup>15</sup> This implies that employers and their consultants and lawyers, not the workforce, have the dominant say in whether workers gain the union they want.

Second, representation available to workers is highly circumscribed by (a) the labor law's limits on the scope of issues employers are required to bargain over (wages, hours, and working conditions), and (b) the forms of worker voice and participation that the labor law protects. For example, the scope of "mandatory bargaining issues" specified in labor law generally does not extend to issues about the *choice or design* of new technologies; only the *effects* of technology decisions on wages, hours, and working conditions are mandatory subjects of bargaining. There is also considerable uncertainty over whether employers are required to negotiate over the ownership and use of personal or job performance data obtained through various forms of artificial intelligence, machine learning, digital surveillance, or algorithms. These tools are now being used in a variety of human resource decision-making processes from recruitment and selection to performance management to retention or dismissal.<sup>16</sup>

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

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

#### IMPLICATIONS FOR LABOR POLICIES

The evidence summarized in this research brief suggests that a number of changes in labor law and policy will be needed to rebuild employee voice and representation in ways that contribute to using technology both to drive and accelerate productivity and innovation and to create a more inclusive society and broadly shared prosperity. Changing labor law, however, is highly controversial and difficult. Past efforts to reform the law while staying within the basic framework of collective bargaining all failed to gain Congressional approval.<sup>19</sup> Yet, there is a growing consensus among labor policy experts that even broader changes than those proposed in prior reform efforts are needed. These include providing access to collective bargaining for those who want this form of representation *and* opening up the law to support further experimentation and development of the new forms of worker voice illustrated above.<sup>20</sup> Here, we focus on changes that would be most useful for ensuring that workers have an effective voice in the design and use of new technologies to help drive innovation and productivity, to augment and support their work, and to share fairly in the benefits from technological change.

Removing Barriers to Organizing. Approximately 16 million workers are currently represented under collective bargaining<sup>21</sup> and, as our survey results indicate, a near majority of unorganized workers indicate they would join a union if given the opportunity to do so. Thus, any new labor law needs to

respect these preferences and remove the barriers workers now experience when trying to organize and gain access to collective bargaining. This could include providing rights to workers who want to engage employers without having to achieve majority status (sometimes called “minority” unions), as well as streamlining the processes and strengthening the penalties for violations of the rules governing the election processes and first contract bargaining process for those seeking exclusive (majority) representation rights.

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

Supporting Regional or Sectoral Engagement and Bargaining. A number of labor policy experts are proposing changes in labor law that would help promote sector or region-wide collective bargaining or other forms of industry-labor collaboration.<sup>22</sup> Sector or region-wide processes would have particular value for overcoming the well-known market failure that leads to lower investment in training than is optimal, especially given the recognized importance of education and training as technology advances.<sup>23</sup> Many existing labor-industry apprenticeship programs are already negotiated and jointly administered at sectoral or regional levels.<sup>24</sup>

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

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

Opening Up Labor Law to New Forms of Participation and Representation. The above changes focus on improving labor-management relations within the framework of current labor law. While necessary, they are far from sufficient. Labor law also needs to be opened up to encourage, support, and protect the new forms of voice many workers are calling for and experimenting with in different industry settings and employment relationships. Specifically, the options for worker voice and representation provided and protected under labor law should be expanded to support workplace-level participation processes, establishment of enterprise-wide worker-management committees or councils, and employee representation on company boards of directors. These options should be available to the full



workforce regardless of whether or not they are currently covered under a collective bargaining agreement or classified as hourly, salaried, supervisory, or managerial employees.

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

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

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

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

#### COMPLEMENTARY INSTITUTIONAL AND ORGANIZATIONAL CHANGES

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

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

means of giving voice to worker concerns. The evidence from our research strongly suggests that existing unions and worker advocacy groups would do well to treat their efforts as complements to, not substitutes for, restoring worker voice and representation.

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

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

## Lessons from the COVID-19 Crisis

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

### NATIONAL WORKFORCE AND INDUSTRY COUNCIL

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

The COVID-19 crisis merits an equivalent 21st-century response to the ones we saw in the 20th century. This crisis could potentially require massive redeployment of personnel to supplement the workforce currently employed in critical services in health care, other human and public services, food services, transportation, and other areas. Redeployment of technology, production processes, and the workforce to produce and distribute critically needed health care materials and supplies is another example of the adjustments already underway. Restructuring of industries such as retail and hospitality is likely to



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

#### STATE, INDUSTRY, AND REGIONAL WORKFORCE COUNCILS

Similar broadly representative councils could serve states, industries, and regions as each adjusts to the world of work that is now playing out. As federal funds flow to states to support employment continuity, expanded unemployment insurance and sick and family leave benefits, and other services, state agencies are becoming overwhelmed with requests for information and processing of benefit claims. Shortages of health care workers and workers in other essential services are already occurring and will escalate as incumbents in those industries become overwhelmed, ill, or otherwise unavailable to meet rising demand. State-level councils, supported by the various private-sector online recruitment and job matching service firms, could help mobilize, train, and place supplementary workers as needed. Similar to wartime boards, these councils could provide and deliver the range of supportive services needed in their local areas. Industry-specific sub-councils could help coordinate the movement of personnel across organizational boundaries, and industry-specific standards or recommended practices could be disseminated and applied to ensure fair treatment and safety of workers in critical sectors. If, as anticipated, a national infrastructure initiative is enacted as part of a recovery strategy, industry boards that establish minimum employment standards for government contractors could ensure that employment practices are followed that not only support good jobs and safe practices, but also make productive use of public resources.

#### FIRM-LEVEL INSTITUTIONS

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

#### EVALUATION AND LEARNING

A good deal of innovation in employment policies, institutions, and benefits is already underway. Some is provided in the emergency legislation already enacted, such as loans and incentives for employment continuity and reduced work hours, expanded unemployment insurance, and paid sick and family leave. Other innovation is emerging from the voluntary actions of companies and nonprofit organizations that are redeploying their productive processes to meet the needs for critical goods and services. Several governors are calling on industry, education, and labor groups to support mobilization and redeployment of resources and workers in their states. All these innovations should be encouraged,

supported with coordinated efforts where helpful, and carefully evaluated so that the lessons learned can be considered in future policy and institutional reform discussions. Funds for evaluation should be provided in all future legislative aid programs or initiatives.

## Lessons from Black Lives Matter

The tragic deaths and other acts of racial injustice that kindled the Black Lives Matter movement are vivid indicators that racism continues to be a reality in America, including in some aspects of labor policies, institutions, and day-to-day workplace experiences. Domestic workers and agricultural workers, for example, are excluded from coverage under the National Labor Relations Act. These groups need to be provided rights to organize unions in ways best suited to the features of their industries and occupations.

Some unions have a history of inclusion of minorities while others have histories of discriminating or excluding minorities. All unions need to reexamine and recommit to ending legacy practices that continue to exclude or discriminate against minorities.

A number of workers who voiced support for Black Lives Matter and called for their organizations to do more to promote racial justice have been fired or have experienced other forms of retaliation. Given that a high proportion of racial minorities and immigrant workers are employed in jobs now popularly labeled as “essential,” the actions called for above in response to the COVID-19 crisis are especially important for advancing racial justice in employment.

While many organizations have increased their diversity efforts in recent years, much more needs to be done to engage minority workers and their representatives directly in these organizational diversity programs and change efforts. This is another reason for expanding the range of voice and representational forms called for in this research brief.

The widespread calls for reforming police practices and provisions in police collective bargaining contracts that make it difficult to discipline or fire officers who resort to violence or otherwise break established rules for engaging members of the public need to be modified in an effective and fair manner. While police officers, like all workers, should continue to have the right to organize and bargain collectively, rules governing discipline, discharge, and the resolution of disputes over these issues need to be revised. Since minorities are disproportionately exposed to risk of police actions, addressing these issues is critical to advancing the cause of racial justice.

## Toward a New Social Contract at Work

Rebuilding worker voice, power, and representation will ensure that workers and their representatives can help to advance the broader effort of achieving a new social contract governing work of the future. Yet, the recommended changes in labor and employment policies and complementary changes to institutions and organizations outlined herein are only necessary, not sufficient, steps for jumpstarting this process. Business, labor, government, education, and other key groups in civil society who take up the task of building a new social contract will need to decide, among other things, whether benefits such as health insurance or family and sick leave should remain tied to specific employment relationships, be made portable across jobs, and/or be provided by government. A similar question will involve how to share responsibilities among these institutions for preparing the workforce of the future and fostering the lifelong learning necessary to keep skills current. These and other issues that need to be addressed in shaping work of the future are complicated, and require the broad-based involvement of representatives from these institutions. It is time for this dialogue to begin.

## Endnotes

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7. Respondents were also asked how much in dues they would be willing to pay for alternative forms of representation. The results are essentially equivalent to those presented in Figure 5 and are presented in Hertel-Fernandez et al. cited in endnote 6 above.
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