



The Future of Worker Voice and Power

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October 2016

Center for American Progress



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Introduction and summary

American workers are not benefiting much from their contributions to their firms' profits and the country's economic growth. Economic output per person has nearly doubled over the past four decades, but the vast majority of these gains have gone to those at the very top.¹ Wages for the typical private-sector worker, adjusted for inflation, are still about where they were in the 1970s, even as inequality and corporate profits are at near record levels.²

The basic outlines of these problems are well-known, but the specific facts are still shocking. In 1973, the typical CEO of the top publicly traded companies made around \$1.1 million, or about 22 times what the typical worker made.³ Today, the average CEO makes \$15.5 million, or about 275 times what the typical worker makes.⁴ CEO pay increases have been astronomical, but others near the top have also seen sharp income gains—with incomes for the richest 1 percent more than tripling over the past four decades.⁵ In stark contrast, incomes for the bottom 90 percent have grown by just more than 2 percent in that same time span.⁶ Not surprisingly, the share of the nation's total income that the middle class receives is about as low as it has ever been, and the share of income going to the top 1 percent is approaching record heights.⁷ The U.S. economy has become much more productive over recent decades, but most workers have not received much, if any, of these gains.⁸

Raising workers' wages and strengthening and growing the middle class are the central economic challenges America faces. And yet a solution that would actually achieve these goals—increasing worker voice and power—has been largely off the table, even among progressives. Few things are as well supported by economic research as the fact that collective voice for workers raises wages and reduces inequality, but political debate has not focused much on this necessary solution.

Increasing worker voice and power so that workers can join together to advocate for themselves should be the top economic priority for progressives, but getting to where America needs to go will require a comprehensive reimagining of our labor system. Existing proposals such as the Workplace Action for a Growing Economy, or WAGE, Act are an important part of this modernization, but they should be understood as part of a broader effort.⁹

There is a need and an opportunity for a bold agenda that delivers both higher wages and greater productivity. This agenda would restructure our labor system so that it promotes growth and helps firms expand while ensuring that workers have a voice on the job and get paid for their contributions. Boosting productivity is a big deal because making more with the same or less resources is what allows for improvements in our standard of living over time, as well as what is necessary to protect the environment.

These are goals that progressives, and indeed all Americans, should support. To get there, we will have to modernize U.S. labor law.

The basic structure of U.S. labor law has not been changed fundamentally since the National Labor Relations Act, or NLRA, was passed in 1935.¹⁰ Passage of the NLRA was a watershed moment for worker rights, and the law remains of the utmost importance for providing critical protections for workers. However, it was created for a different time and a different economy, and it needs to be modernized. The biggest problem with this more than 80-year-old law is that it channels most negotiations about wages and benefits to the firm level, rather than encouraging negotiations at the region or industry level. Firm-level bargaining means that unionized firms have significantly higher labor costs than their competitors, which leads to conflict and unproductive management and union activities, as our history, academic research, and the experiences of other countries have shown. While in some circumstances the current system can enhance firm performance and raise wages for many workers, in other cases, it achieves neither goal as well as it could or should.

As a nation, we need to build a labor relations system that will serve us well in the 21st century and beyond. Even if it were possible to revive a model built for a different era, we should aim higher and create a better system than we currently have. We should strive to provide the right set of structures and incentives to raise

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wages and productivity and foster a collaborative relationship between workers and management—all of which are necessary for the U.S. economy to thrive in a globalized economy. We should aim to make workers real partners in our country's economic future.

At the heart of this new system would be transforming unions from individual firm-level bargaining units into organizations or structures—perhaps very different from unions as understood today—that negotiate for higher wages and benefits across an entire industry or sector. Along with that would come new firm-level organizations such as works councils that would be the on-the-ground loci of worker-management relations regarding the specific workplace issues at any given firm. These changes would reduce conflict because firms would have similar labor costs whether their workers were unionized or not and would boost productivity by fostering collaborative relationships between workers and firm management.

The agenda would produce very different types of worker organizations and very different types of bargaining than we currently have. Indeed, the functions that worker organizations would perform in this new system would be unlike what many Americans are familiar with unions doing. In other countries, though, unions commonly play many of these roles, and in the United States, certain unions in certain locations have done each of the tasks required.

Whether we think of this as modernizing the law, updating the role of unions, or creating new kinds of organizations to enable workers to share in the fruits of their labor, the results are the same: Workers would have real power to raise their wages, and firms could accept that exercise because it is designed in a way that levels the playing field, helps increase productivity, and enables companies to grow. Workers and firms not only would see gains from a more efficient labor relations system, but they would also benefit because the agenda would strengthen the middle class, thus ensuring the long-run success of our economy. Together, under this new American partnership, firms and workers would thrive.

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How to modernize labor law

There are four key elements to modernizing U.S. labor law: replacing enterprise wage bargaining with multiemployer bargaining for an industry or region; expanding workers’ voice in the workplace by including organizations such as works councils; encouraging membership in worker organizations; and safeguarding basic rights for all workers.

These reforms are designed to work in concert to raise wages, ensure workers have a voice, boost productivity, foster a collaborative relationship between workers and management, and help the U.S. economy thrive in the global economy. Workers would have more power than they currently do, but their power would be channeled in a productive manner, and the incentives of workers and managers would be more aligned.

Four elements of modern labor law

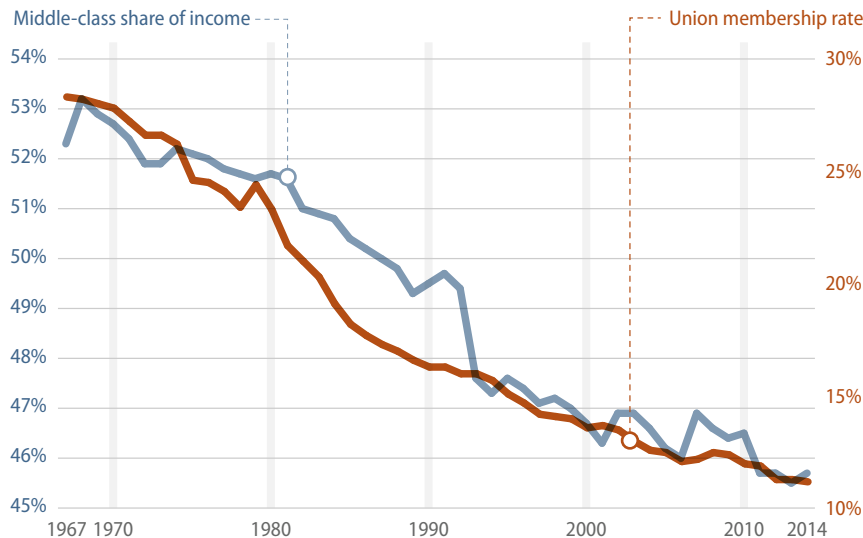
	Industrywide bargaining	Works councils	Incentives for membership in worker organizations	Real rights for all workers
What is it?	A way for workers and companies to negotiate wage and benefit standards for an entire industry or region instead of at the firm-level or below, as is currently done.	An establishment-level organization that gives workers a voice to help improve work processes and resolve issues on the job.	A platform to encourage membership by giving worker organizations a formal role in helping deliver societal goods such as worker training. Worker organizations would use this platform to recruit members.	Rights for all workers to join together and collectively bargain, instead of the current situation of incomplete coverage, inadequate protections, and weak enforcement.
How does it help?	Raises standards for all workers—not just union members—and boosts productivity by ensuring similar work receives similar pay and takes conflict outside of the workplace, setting the stage for collaborative relationships between workers and firm managers.	Provides a nonconflictual setting for workers and managers to discuss how to improve the working environment and firm productivity that complements industrywide bargaining and unions.	Helps solve the so-called free-rider problem inherent in industrywide bargaining in which workers benefit from higher standards even if they do not pay the costs of achieving them. This structure fosters the sufficient membership in worker organizations that is necessary to encourage companies to participate in industrywide bargaining and to ground negotiators in reality. It also improves the delivery of public services.	Enables all workers to speak their mind and seek to improve their workplace without fear of employer retaliation.

Why modernization is necessary to raise wages and boost productivity

In the United States today, less than 7 percent of private-sector workers are union members, as low as union density has been since the National Labor Relations Act was passed in 1935 and down from roughly one-third of private-sector workers in the 1950s.¹¹ This matters to all of us because a strong collective voice for workers increases wages and strengthens the middle class.

Workers in the United States who bargain collectively earn wages that are about 14 percent higher than comparable workers and are significantly more likely to have employer-provided health and retirement benefits.¹² When unions have sufficient density, these gains can also lead to significant wage increases for nonunion members.¹³ Much of the sharp decline in the number of people earning middle-class salaries over recent decades—defined as those who make between 67 percent and 200 percent of median earnings—is explained by the decline in union membership.¹⁴ And over U.S. history, there has been a close correlation between the share of the nation’s total income going to the middle class and the share of workers who are union members, as can be seen in Figure 1 below. Indeed, about one-third of the increase in male wage inequality in the United States over recent decades is due to the weakening of unions, according to research by Harvard’s Bruce Western and Washington University’s Jake Rosenfeld.¹⁵

Countries with stronger unions—such as Canada, Australia, and Sweden—not only have less inequality than the United States but have also been able to deliver significant wage gains for the majority of their populations over the past few decades.¹⁶ Research that compares countries across the world consistently finds that collective voice increases incomes at the middle and bottom of the income distribution and reduces income inequality.¹⁷ Economists David Blanchflower of Dartmouth College and Alex Bryson from University College London examined union wage premiums in 17 countries and found an average union wage bump of roughly 12 percent.¹⁸ And research from the International Monetary Fund finds that among advanced economies, a 10 percentage point increase in union density is associated with a 5 percent decrease in the income share going to the highest earners.¹⁹

FIGURE 1**As U.S. union membership declines, so does the middle-class share of income**

Note: The 2013 middle-class share of income is calculated from the Census Bureau subsample that received redesigned income questions.

Sources: Authors' analysis based on union membership rates from updated Barry T. Hirsch, David A. MacPherson, and Wayne G. Vroman, "Estimates of Union Density by State," *Monthly Labor Review* 124 (7) (2001): 51–55, available at <http://unionstats.gsu.edu/MonthlyLaborReviewArticle.htm>; middle-class share of total income is calculated from U.S. Bureau of the Census, "Historical Income Tables: Households," available at <http://www.census.gov/hhes/www/income/data/historical/household/> (last accessed September 2015).

Research even indicates that a stronger collective voice increases economic mobility, helping children born of modest means rise above the economic conditions of their birth.²⁰ Indeed, American children of noncollege-educated fathers earn 28 percent more if their father was in a labor union compared with children in similar families whose father was not in a labor union.²¹ Even children who merely grow up in an area that has higher union density do better than children who were raised in areas without much of a union presence, a finding that holds true when controlling for a wide range of other factors.²²

Collective voice for workers also helps make democracy work for people of ordinary means by providing a counterbalance to the money and resulting influence of the wealthy few.²³ Worker organizations encourage people to vote, provide civic training for workers, and do the hard behind-the-scenes work necessary to deliver policy reforms that benefit all Americans.²⁴ Without strong worker organizations, democracy suffers—as the current state of our politics sadly proves true.

There is no question that unions have a positive effect on wages, inequality, and democracy, but unfortunately, the impact that the U.S. system of collective voice has on other factors such as productivity, profits, and employment is more mixed. Claims by right-wing opponents that unions lead to economic ruin are way off base, yet research indicates that the U.S. system of collective bargaining has pluses and minuses.

The classic work on the economic impacts of unions was written in 1984 by Harvard economists Richard Freeman and James Medoff, and more than three decades of research has largely born out their findings.²⁵ Freeman and Medoff explained that unions have “two faces.” In one face, collective voice acts as an accountability check on management, helps workers’ preferences be accurately communicated with management, and ensures that gains from productivity are equally shared; the other, a monopoly face, can be used to “raise wages above competitive levels” and promote “restrictive work practices.”²⁶ The collective voice face boosts productivity by “open[ing] an important communication channel between workers and management,” bringing out the best in workers and management to solve problems collaboratively that could not be solved by individuals working alone. The monopoly face, Freeman and Medoff argue, can produce uncompetitive pay and inefficiencies that “lower the productivity of labor and capital,” such as through “restrictions on tasks performed.”²⁷

Both faces exist simultaneously, but Freeman and Medoff argue that, on balance, the impact of the positive face dominates, even in the United States, which has a less-than-optimal system. There has been an enormous amount of research building on and supporting the two-faces argument, looking into economic outcomes such as productivity, employment, profitability, and physical and human capital investments. Some studies find that the negative face is more prevalent, while some find that the positive face is more prevalent, but most find that the economic impact of unions is mixed.²⁸ The research is very clear that unions raise wages, but their effect on other economic outcomes depends heavily on the context, especially the response of management but also the specific firm, country, and time period under study.

While there may be a growing understanding that unions have two faces and on balance do not do dramatic harm to the economy, what is not always recognized is that certain conditions and structures lead to better or worse economic results.

One of the most important factors in determining the impact of unions is the quality of the relationship between labor and management—whether it is collaborative or conflictual.²⁹ Unfortunately, our system is geared toward producing an adversarial, conflict-ridden workplace that hinders productivity. Workers seeking to join a union typically face fierce opposition from their employers, and workplace relations often remain hostile even if the workers succeed in unionizing. U.S. law not only allows this conflict but also creates incentives for it.

Current law provides incentives and opportunities for employers to seek to evade unions. If workers want to join a union, they first have to sign a petition. If a majority of workers at a worksite sign the petition, their employer can choose to recognize the union. More likely, the employer will require an election process that enables employers to force workers to attend anti-union meetings and subject workers to one-on-one discussions about the union with their direct supervisor.³⁰ Penalties for employers that break the law and, for example, fire a worker who supports the union are laughably weak: There are no fines; only back pay minus interim earnings is required. In fact, owners sometimes refer to these meager payments as the cost of their “hunting license.”³¹ Stanford business professor John-Paul Ferguson found that when a company violates the law, less than one-tenth of organizing drives achieve a first contract.³²

This strange election process and the weakness of the penalties are important reasons why the U.S. labor relations system is so conflictual, but even more critical is that our law fosters bargaining at the firm level or below. This creates incentives for managers to oppose unions and can push unions and managers to act in ways that may not be in the best interests of the firm or all its workers.

In the United States, the law is oriented toward creating unions and collective bargaining for a particular group of workers at a particular worksite—for example, the butchers at one supermarket location. The law permits other arrangements on occasion, such as bargaining for all the butchers in a supermarket chain, all the workers at one supermarket, or even all the workers at all the supermarkets in a region. Generally, however, our system leads toward collective bargaining based on small, fragmented units in particular firms or parts of a firm. As Joel Rogers, University of Wisconsin-Madison law professor, argues, “American labor law tends systematically to constrain and fragment worker organization.”³³

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From the worker perspective, this structure means that although unions may care about a broad group of workers, the law pushes them to bargain for only the particular group of workers they represent rather than negotiating to improve conditions for all workers in an industry or a region.³⁴ The ability of unions to represent a broad group of workers is further limited because the law prevents many kinds of workers from joining unions. Many workers in new business arrangements, such as the gig economy, cannot join unions because workers classified as independent contractors rather than employees are ruled out under the law, as are domestic workers and managers, among others.³⁵ The exclusion of so many workers exacerbates the problem of fragmentation inherent in firm-level bargaining: The omission of many workers and firm-level bargaining mean that unions can negotiate for only a relatively narrow portion of the workforce and can be pushed away from advocating for the needs of all workers.

When unions had high membership rates, they could indirectly raise wages for workers outside a particular unit, but as they weaken, they have far less ability to do so.³⁶ Now, every wage increase or benefit improvement that a small group of unionized workers in a particular unit inside a particular firm achieves makes them more and more different from the nonunion workers around them. This means that unions must worry constantly that management will seek other cheaper workers to work for them. As a result, unions have incentives to create rules that ensure that work is done by their members rather than in the manner that makes the most economic sense, as well as to approach management in a defensive posture, fearful that business decisions have nefarious motivations.

From the management perspective, this structure means that if a firm or unit within a firm is unionized, employers will face higher labor costs than their non-union competitors. Moreover, managers will now have to negotiate over the way work is conducted in this unit, while their competitors will not. This can make many managers view unions as a threat to their company and ability to manage and feel that nonunion firms have cost and discretion advantages. Given these incentives, it is not surprising that many U.S. firms vigorously oppose their workers unionizing and retain an adversarial approach if their workers do unionize.³⁷

In sum, our current system, largely based on enterprise-level bargaining, leads to conflict between workers and their managers. It can also foster unproductive restrictions on how work is done and leaves too many workers out. Of course, there are many exceptions to this negative picture. High-road productive labor-

management relationships are clearly possible—think Costco, Southwest Airlines, and Kaiser Permanente, among many others.³⁸ But they are the exception, not the rule, because the incentives are stacked against collaborative relationships.

For a while, our flawed system worked reasonably well because of a number of conditions that are hard to repeat. In the first few decades after World War II, leading companies such as Ford and General Motors were structured so that most of the work—from janitorial work to engineering to parts manufacturing—was done in-house.³⁹ At the time, the United States was by far the strongest economy in the world, as war had decimated most of our competitors.⁴⁰ Due to relative economic equality and the common bonds forged in the war effort, social capital was strong, which helped people work well together.⁴¹ And union membership was high—due to rapid growth in membership after the passage of the National Labor Relations Act in 1935 and additional government support for unions during World War II—so unions were strong enough to be on relatively equal footing with business owners.⁴²

But these conditions have changed.

The way companies organize themselves has transformed. Instead of insourcing work to create a vertically integrated company, firms now increasingly focus on their core competencies and shed noncore workers.⁴³ This has caused the traditional workplace to “fissure.” That is to say, a number of a company’s operations are done by contractors, which has made enterprise-based bargaining ever more problematic because a worker’s direct employer may be very different from the company ultimately calling the shots.⁴⁴ At the same time, cultural and economic norms have shifted to a more cutthroat version of capitalism. Rising international competition—not only from a rebuilt Europe but also from newer powers such as China—means that the U.S. economy is not as dominant as it once was.⁴⁵ Common bonds among all Americans became harder to find as inequality increased and social capital withered away.⁴⁶ In this environment, unions became a target, and as they lost membership they no longer had the strength to hold together a fragile bargain.⁴⁷ All of these changes exacerbated and made more obvious the flaws in our conflictual, firm-based system.

The conditions of the middle part of the 20th century that enabled the U.S. labor relations system to function reasonably well cannot simply be recreated. Nor should they be. America can do better. The question is: What is the best way to give workers a greater collective voice?

Getting to a system that can really deliver for workers and the economy now and in the future requires a significant rethinking of our labor relations system. The right labor system will foster greater economic productivity, encourage collaborative relations between workers and managers, and at the same time give workers a voice and real power to negotiate for wage increases.

4 major changes need to be made to modernize worker voice for the 21st century

Replace enterprise wage bargaining with multiemployer bargaining for industries or regions

First, this agenda will require jettisoning our current model of collective bargaining. Instead of enterprise bargaining, where worker organizations bargain at the firm level or within parts of the firm, worker organizations would help negotiate standards for wages and benefits across industries or regions—and have relatively little to say about work rules at individual firms. This change not only would help raise wages for all workers but would also increase productivity. Productivity would increase under industrywide bargaining because workers and firm managers would be more likely to work collaboratively to solve company problems and because similar work would receive similar pay, which helps workers and firms make more efficient choices about the use of resources.

Expand the avenues for worker voice in the workplace

Second, the reform agenda will need to provide more and better ways for workers to have a voice on the job, such as works councils and employee committees. Industrywide bargaining gives workers the ability to raise their wages but not much input into how to make their jobs better or firms more productive. Works councils complement industrywide bargaining by giving workers a type of voice at their workplace—one that is unlikely to lead to workplace conflict or unreasonable work rules. Works councils encourage collaborative problem-solving between workers and management by providing a nonconflictual setting for workers and managers to discuss how to improve the working environment and firm productivity. Works councils are common in Germany and much of Europe, where they complement workplace unions, and their functional equivalents are used in a number of companies in the United States that have well-functioning labor management partnerships, but current law makes them unnecessarily hard to create.⁴⁸

Bind the system together by encouraging membership in worker organizations

Third, workers will need to be encouraged to join a worker organization. Industrywide bargaining encourages workers to free-ride because they will receive higher wages whether they are dues-paying members or not. Yet industrywide bargaining does not work very well without sufficient membership in worker organizations to push companies to participate, as well as to ground negotiators in reality. A key way to encourage membership would be to give worker organizations a formal role helping deliver societal goods, such as unemployment insurance and worker training, as is done in a number of other countries. This would not only improve the quality of government services because workers would have an advocate to help them navigate programs, but it would also provide a platform from which worker organizations could recruit the membership necessary to bind the system together. This navigator function would give worker organizations access to potential dues-paying members and help solve the free-rider problem. Further, this change would reinforce that worker organizations are advocates for all workers in society, not just those they represent.

Protect all workers and effectively enforce rights

Finally, we will need to fix some of the broken elements of our current system, such as the ridiculously weak penalties for violating the law that are the focus of the WAGE Act introduced by Sen. Patty Murray (D-WA) and Rep. Bobby Scott (D-VA).⁴⁹ Reforms will also need to ensure that these protections cover all workers, not just those that 1930s legislators thought were important. Workers cannot enjoy their rights when there are virtually no penalties for violating them, and a labor system cannot function when it only covers a fraction of all workers and excludes important sectors such as the gig economy.

Industrywide bargaining, works councils, incentives for membership, and real rights for all workers would each mark a significant improvement over current law and provide real benefits to workers and the economy.

Each element of the agenda is a big political lift, so some may want to separate them out and only tackle one. Political pragmatism may require that the agenda be implemented in pieces. Indeed, an incremental approach may make sense because

some elements of the agenda can be implemented by state and local governments and through administrative action. But the pieces should be promoted as part of a larger whole, and implementing the entire package must be the goal. It would be a mistake to limit ambitions to merely part of this agenda because these four elements are designed to complement each other and work together as a coherent whole. Enacting only a few elements of the agenda would not deliver as much for workers, businesses, or the economy.

Multiemployer bargaining provides industry-standard wages that foster productivity and innovation. It also sets the stage for collaborative relationships between workers and their managers. Works councils offer a vital channel of communication between management and workers that promotes productive cooperation. Enlisting worker organizations to help improve the delivery of public services helps solve the free-rider problem of people benefiting from collective bargaining without paying for it. Basic rights ensure that all workers can speak their mind and seek to improve their workplace.

Moving away from enterprise bargaining and toward multiemployer bargaining at the industry or regional level is the most critical change because it would raise wages and help align incentives between workers and managers. However, it is unlikely to perform well without the complement of worker organizations such as works councils giving feedback about on-the-ground conditions. Works councils might not function in a collaborative manner without multiemployer bargaining raising wages and channeling conflict outside the workplace, and they typically complement strong unions. Worker organizations need to have sufficient membership to encourage companies to participate in multiemployer bargaining, but they will have few members unless participation is made easier and the free-rider problem is addressed. And adequate protections for all workers ensure that people are not illegally punished for exercising the rights on which each of the other elements depends.

This agenda would be a very significant change from our current system. But it is not as unfamiliar as it may seem. Not only do many other advanced countries have similar policies, but at times in U.S. history, we've had some experience with policies similar to each of these reforms. Indeed, up until the 1980s, multiemployer bargaining was relatively common, particularly in parts of the manufacturing, coal mining, construction, and transportation industries.⁵⁰ Even today, elements of these reforms are in practice. A few industries in a couple regions still have multiemployer bargaining, and the state of New York recently raised wages

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for fast food workers to \$15 per hour through a wage board that is akin to multi-employer bargaining.⁵¹ Committees that foster collaborative dialogue between employees and managers exist at a number of companies. Worker organizations commonly use worker training as an opportunity to recruit new members, and a part of the business model of groups such as AARP and AAA is to charge members a fee to provide services that complement what government provides. Lastly, some states and cities have increased the coverage of worker protection laws: Seattle, for example, recently passed a law enabling some gig economy workers to bargain collectively.⁵²

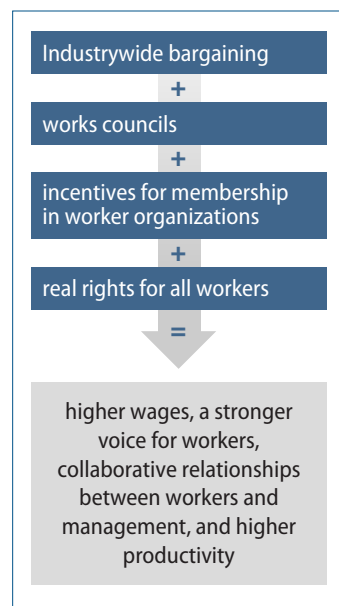
Just as important as getting behind this comprehensive agenda is to explain that these reforms—which will take many forms in a number of policy venues—are designed to move toward something better than what we have today and better than what we had in the past. These reforms will raise wages, boost productivity, foster a collaborative relationship between workers and management, and help the U.S. economy thrive in the global economy. Workers would have more power, but their power would be channeled in a productive manner. The incentives of workers and managers would be more aligned. Responsible businesses would no longer be put at a cost disadvantage. Similar work would receive similar pay, which is not only fair for workers and firms but also more efficient.

While it is difficult to predict the exact outcome of policy changes, theory and evidence indicate that these reforms are highly likely to deliver the goods, not only raising wages for workers but also boosting American productivity and competitiveness. Research based on countries that have labor policies similar to the agenda laid out here strongly suggests that these reforms would be good for the economy, although the way the United States would implement the policies would of course be unique, based on our history and culture. Although some countries are being pushed to move away from related policies, modernizing labor law is clearly consistent with strong economic performance, and it would be very hard for critics to find evidence that this package would lead to bad economic results.⁵³ Most importantly, there is a good amount of research that indicates positive macroeconomic results are likely.

For example, research on Organisation for Economic Co-operation and Development, or OECD, countries by Guy Vernon and Mark Rogers—economists at the University of Southampton and Oxford University, respectively—finds that greater union density promotes productivity growth in those countries with labor systems similar to what is laid out in this report, whereas in countries

with enterprise structures such as what the United States currently has, union strength has no impact on productivity growth.⁵⁴ Similarly, a review of the literature by Cambridge University economists Toke Aidt and Zafiris Tzannatos found support for the fact that countries with “coordinated bargaining systems,” similar to the proposal presented here, “on average, achieve better economic outcomes.”⁵⁵

Another way to understand the broad economic impacts of labor policy is to look at trade data, which provide an important insight into the overall competitiveness of an economy. While many factors affect trade, it is clear that countries with labor systems similar to the recommendations in this report are among the most successful, while countries with policies like the United States currently has are struggling. Of the OECD countries that have large trade surpluses—such as Germany, the Netherlands, Sweden, and Denmark—the majority have relatively strong labor movements and labor relations systems similar to what is recommended here, while those with big trade deficits, including the United States and the United Kingdom, tend to have weaker labor movements and enterprise-based or otherwise-flawed bargaining systems.⁵⁶



The economy is changing in ways that make these reforms especially vital

Technology is advancing rapidly, work is increasingly being restructured, and jobs are becoming ever more knowledge based. To take full advantage of the productive potential of these changes, we need to create the right set of institutions that encourages a cooperative work environment and facilitates the exchange of information between management and front-line workers. The future surely belongs to countries that figure out better ways to organize and deploy the talents of all their people in collaborative, productivity-enhancing ways.

But these economic changes also have the capacity to exacerbate the problems of rising inequality and stagnating wages and even put many people out of work; therefore, we need to ensure that workers have sufficient power to benefit from the productivity gains. Just as workers in the German auto industry have been able to ensure that investments in robots and other technologies make them more productive and highly compensated—and even ensure that temporary workers have good jobs—so too should American workers have the right set of tools to thrive in the modern economy.⁵⁷

The alternative strategy of continuing to muddle along with a very limited amount of firm-level bargaining, stagnant wages, and high inequality will not work—despite the insistence of conservatives. The conservative mantra of trickle-down economics maintains that weak unions, low wages, and high inequality will increase job creation and boost productivity growth. The reality is that trickle-down economics has failed to deliver. Productivity growth during the trickle-down period has been far slower than our rapid post-World War II growth, and the percentage of prime-age American men in the labor market has been falling for decades.⁵⁸ Even worse, low labor market participation and weak productivity and gross domestic product growth were problems even before trickle-down policies helped cause the Great Recession and threw the economy into the deep hole from which it is only slowly starting to recover.

The bottom line is that worker voice must be strengthened in a way that delivers more of what we want—wages, power, and economic growth—and less of what we do not—unnecessary conflict, excluded workers, and rules that hinder productivity. To be sure, a new and better labor relations system will still have conflict—we are talking about how to divide the pie, after all, not just how to make the pie bigger—but it will have less conflict and faster productivity growth. Understanding why this new system would raise wages and productivity while minimizing less desirable results requires a bit more background on the need for workers to have greater collective voice and how the new setup would work.

Other policies are complements to labor law modernization

A wide range of reforms are necessary to strengthen and grow the middle class, including boosting educational attainment, increasing government redistribution, and full employment. But these policy goals are not a substitute for strengthening worker voice; rather, they are complements. A high-road economic strategy for the United States must include labor modernization, as well as improvements in education, a stronger safety net, and tighter labor markets.⁵⁹

Education is of course vitally important for a productive economy and for the development of human potential, but boosting college graduation rates is no panacea for the wage crisis America faces. First, it would take a very long time to significantly increase educational levels so that most of the population had anywhere close to a college degree. Broad educational gains tend to come from younger generations gaining more education and replacing older ones rather than a big uptick in adult education, which means that any societywide wage benefits from increased educational attainment are likely to take generations to work their way through the system.⁶⁰ Further, even if by magic all workers immediately gained a college degree or the equivalent level of workforce training, a huge share of jobs—from home health aides to waiters, janitors, bus drivers, and crane operators—would not actually require such high levels of education, strongly suggesting that big wage gains would be unlikely for large swaths of the population.

Most damning is the fact that in recent years, and especially since the Great Recession, even workers with a college degree are seeing very little wage growth.⁶¹ Wages for young college graduates are less than what they were in 2001 in real terms.⁶² Even workers with advanced degrees have, on average, seen their real wages barely grow since the Great Recession.⁶³ As Lawrence Summers, Harvard economist, former chief economic advisor to President Barack Obama, and CAP Distinguished Senior Fellow and his co-authors Brad Hershbein and Melissa Kearney explain, “increasing the share of working-age men that have college degrees will do very little to decrease the overall level of earnings inequality.”⁶⁴

Similarly, government redistribution, increasing taxes on the very rich, and raising benefits for the poor and middle class is something that we need to do, but it is not a stand-alone solution. Social welfare programs play a key role in making a just and efficient society and need to be made more robust. Most every advanced country does more to reduce inequality through their safety nets than the United States does, and we can learn from their efforts.⁶⁵ But addressing stagnant wages primarily through government redistribution does not seem particularly desirable. There is a dignity in earning a living wage that is hard to replace.

Moreover, the ability for governments to undertake significant redistributive programs is contingent on a strong labor movement. Unions and their members provide the political support necessary for progressive taxation and spending.⁶⁶ Finally, a redistribution-only plan would have a hard time achieving the necessary scale. As a thought experiment, consider the cost of boosting middle-class market incomes to where they would be if they had grown with productivity over the past 25 years. This would require redistributing about 70 percent of after-tax incomes of those in the top 5 percent of U.S. households to the bottom 80 percent.⁶⁷ This thought experiment should make it clear that a redistribution-only strategy would be very costly and likely to create a host of problems. As Anthony Atkinson, a professor at the London School of Economics, explains, “Today’s high level of inequality can be effectively reduced only by tackling inequality in the marketplace.” Doing so, according to Atkinson, would “render less unequal the incomes people receive before government taxes and transfers.”⁶⁸ Therefore, we should make the market work for most people and “pre-distribute” incomes through wages, not just redistribute incomes after the fact.

Full employment is also a goal that policymakers should pursue because it means that more people have jobs and workers have greater ability to negotiate for higher pay. Since 1979, however, the labor market has only been tight enough to raise wages for most workers just 30 percent of the time.⁶⁹ Workers should not have to wait for such a rare event to get a raise. Further, as Robert Gordon, an economist at Northwestern University, argues in his book *The Rise and Fall of American Growth*, one of the greatest productivity booms in U.S. history was due in part to the combination of full employment and union voice.⁷⁰ As Gordon explains, productivity growth was much faster between 1930 and 1950 than it has been since. That growth, in part, was because the National Labor Relations Act gave workers a voice to increase their wages and because the demands of World War II helped lead to full employment, which forced firms to innovate and learn by doing to become more efficient. Tight labor markets and worker voice complement each other to raise wages and increase productivity.

Other policies, such as the minimum wage, deliver for those at the bottom of the wage distribution but do less for those in the middle. A higher minimum wage supports multiemployer bargaining by providing a universal floor but does not replace it.

Worker ownership and broad-based profit sharing have real potential, but getting to the scale necessary seems quite difficult without workers having much more power to bargain for them. Moreover, profit sharing and worker ownership operate best when they are supplemented by high wages and workers having a voice on the job—indicating that these incentives are not substitutes for collective bargaining but instead should be discussed as part of industrywide bargaining discussions.⁷¹

No matter how you cut it, worker voice delivers for the poor and the middle class. Other policy options play critical roles in getting where we need to go, but they are not a replacement for worker voice. Simply put, the path to a strong and growing middle class includes greater collective power for workers. And a strong and growing middle class is necessary for a strong and growing economy. A strong middle class provides the stable and rising base of consumer demand necessary for businesses to invest; facilitates the trust that enables people to do business with each other; supports a well-functioning government that invests in the future; and allows most people to develop their talents and fully contribute to the economy.

The argument that a strong middle class would help the U.S. economy comes not just from liberals such as Nobel Prize-winning economist Joseph Stiglitz but also from the International Monetary Fund and the business economists at Standard and Poor's, or S&P, which downgraded U.S. growth prospects in part because of high inequality.⁷² As S&P explained: "Our review of the data, as well as a wealth of research on this matter, leads us to conclude that the current level of income inequality in the U.S. is dampening GDP growth."⁷³ Indeed, the majority of economists surveyed by the Associated Press on the topic think that high levels of inequality are hurting the economy.⁷⁴

Simply put, the path to a strong and growing middle class includes greater collective power for workers.

Elements of a new and better labor system

Beyond enterprise bargaining

Several changes are needed to create a system that fosters rising wages and productivity and encourages collaborative relationships, but the key reform is to have most bargaining over wages and benefits elevated above the individual firm level. Instead of enterprise bargaining as the United States has now, basic wage and benefit standards would be negotiated at the level of the industry, sector, or region. Individual firms would have to meet these standards but would be free to go above them for some or all of their workers. All workers in an industry would be covered, whether they are employees or independent contractors.

In this new model, unions would have a very different role than they do now: They would negotiate with a group of firms over basic standards but have less to say about firm-level issues. In much of the rest of the world, unions act as an expert negotiator for an industry, including in places such as Germany, the Netherlands, Sweden, Denmark, and Australia. This is very different than what most people are familiar with unions doing in the United States—so much so that a union functioning this way could even be considered a new kind of worker organization.

Above-firm-level negotiations can go by different names and have different structures, including multiemployer bargaining; industry, sectoral, or regional bargaining; pattern bargaining; extension mechanisms; and tripartite bodies, which include government and representatives of business and worker organizations. Although there are differences between these terms, this report often uses the terms interchangeably because there are a range of ways to achieve the same goal of getting beyond firm-level bargaining. The point is to ensure that similar firms have similar labor costs and to raise wages broadly, in line with productivity growth.⁷⁵

The United States could achieve industrywide bargaining or its equivalent through any of these or other mechanisms. Indeed, U.S. history—even very recent history—is replete with possible models to build on—from so-called jobbers agreements, which brought order to the textile industry and got rid of sweatshops in the 1930s, to pattern bargaining and master contracts in the auto, steel, and other industries in the middle of the past century, to current prehire agreements for large construction projects and janitorial contracts that only become binding when most employers in a region have signed them.⁷⁶ But because union density is currently so low and all of these models required—at least at the beginning—significant union strength and struggle to achieve, it is likely that other approaches will be necessary.

Quickly getting to scale with bargaining above the firm level in the United States would probably require a wage board structure akin to the model used in Australia, where industry wage standards are set by a governmental body that works closely with representatives of industry and workers. The United States already has similar structures in some states, and the process is familiar. In New York, for example, a wage board was recently used to raise the wages of fast food workers in the state. The wage board did not engage directly in sectoral bargaining, but it did something fairly close: Representatives of workers, employers, and the government met to analyze industry conditions and determined that the minimum wage for fast food workers across the state should be increased to \$15 per hour.⁷⁷

Under the Australian wage board model, negotiations can also be conducted directly between worker organizations and firms, as long as workers are made better off than they would be under the wage board rates.⁷⁸ This approach can encourage unions and firms to negotiate directly rather than being subject to the board's decisions. Indeed, as worker organizations increase in strength in the United States, more of the bargaining is likely to be directly between workers and groups of firms.

To help grasp how this kind of bargaining could work in the United States, let's consider the National Football League, or NFL. The analogy is not perfect, but it is close enough to provide a general understanding of what may seem like a difficult concept.

In the NFL, the players union and the owners of the 32 teams bargain collectively to divide up the total share of league revenue and provide minimum salaries for rookies and veterans. For example, NFL players will receive at least 47 percent of league revenue under their current agreement, and in 2015, rookies were paid a minimum season salary of \$435,000, with veterans earning higher minimums based on their seniority.⁷⁹ Of course, teams can pay players more than league minimums, and many players earn much, much more. Players and team management still have disagreements, but most of the conflict is between the league and the players union and not with individual teams.

This kind of default structure would fundamentally change the incentives that both unions and firm managers face and lead to a whole host of economically productive outcomes.

For worker organizations, the incentive would no longer be to protect and defend the interests of a narrow group of workers; instead, they would have responsibility for maximizing the wages and employment of a broad group of workers in an industry. For firm managers, the presence of unionized workers would not be the threat it once felt like. Firm managers would no longer see unions as a source of disadvantage for their firm because they would face similar labor costs as their competitors whether or not their workers were union members. Moreover, high-road firms would no longer be at a competitive disadvantage.

Critically, this structure would foster more collaborative relations between a firm's management and its workers by helping push most conflict about dividing up the pie outside the firm. Discussions inside the firm could largely focus on making the pie as big as possible. As Kathleen Thelen, a political scientist at the Massachusetts Institute of Technology, explains, "Collective bargaining above the level of the firm supports plant-level cooperation by 'bracketing' divisive distributional issues and 'depersonalizing' industrial conflict."⁸⁰ Fostering workplace collaboration is a big deal economically because many of the productivity-enhancing benefits that worker organizations facilitate come from providing a structure that improves communications between workers and management. Greater productivity and other positive economic outcomes are often contingent on a collaborative relationship.⁸¹

As important as collaboration is, industrywide bargaining provides other economic benefits as well.

First, it creates a wage structure that enhances productivity. Not only does raising wages for workers—especially lower-income workers—boost productivity by reducing turnover and encouraging innovation, but the way industrywide bargaining increases wages is particularly beneficial.⁸² Ensuring that similar work receives similar pay—rather than the more idiosyncratic situation we have now in which pay for similar work varies greatly depending on which firm a person works for—fosters productivity through several channels.⁸³ Similar pay for similar work across an industry means that wages are generally higher than the lowest-road and least productive company would like to pay but lower than the most productive company would be willing to pay. This helps the more productive companies gain market share from the less productive companies and speeds up the movement of labor and capital from low- to high-productivity activities, which boosts economy-wide productivity and output, as several studies have shown. Productivity bumps can be quite large, as studies indicate that the most productive firms in an industry are nearly twice as productive as the least productive.⁸⁴

It is worth noting that interpretations of these productivity-enhancing benefits of more standardized wages can be consistent with the standard, but often overly simplistic, economic model based on the incentives of higher wages. In fact, the incentive to earn higher wages may motivate workers even more if the wages are bargained at an industry level because pay differentials would be based more clearly on skill upgrades rather than on all the other random factors that affect pay, such as the particular firm in which a worker works or race and gender.

Second, industrywide bargaining can promote worker training.⁸⁵ This is because it provides a framework that helps companies and workers discuss broad industry needs; encourages the creation of more standardized career ladders that enable industrywide training rather than just firm-specific training; and minimizes the financial incentives for employees to leave firms that have paid to train them because competitors' wages are comparable.

Finally, by elevating conflict about pay scales outside the firm, industrial bargaining allows and encourages the creation of new forms of workplace organizations that can boost productivity. As helpful as collective bargaining beyond the firm level would be in facilitating collaborative, productivity-enhancing relationships between firm management and their employees, workers need a voice at their workplace level to take full advantage of this potential. Improving workplace productivity is important not just for affected workers but also to help shake the nation out of a prolonged period of relatively low productivity growth—which may well be related to a decline in worker voice.

Expanding worker voice

For most firms, some sort of workplace committee is necessary for management to communicate effectively with workers, for workers to communicate their interests and views to management, and for both parties to discuss and jointly resolve issues. In all but the smallest firms, direct one-on-one meetings are simply not adequate for many kinds of discussions between managers and workers. Workplace committees—which can take many forms, including management-led organizations, works councils, and even joint union-management partnerships—provide a forum for collaborative discussions about how to make a firm run better.

There has been an incredible amount of research on these kinds of workplace organizations, and it generally finds that they are associated with increased productivity.⁸⁶ Perhaps the most convincing evidence that these workplace organizations actually cause productivity to increase and are not merely associated with high productivity is from a German discussion paper about works councils. That paper found that the longer works councils have existed at a firm, the greater the productivity improvements.⁸⁷ This strongly suggests that the efforts of the works councils, along with the knowledge and trust that builds over years of working together, leads to good outcomes, rather than merely being a proxy for good management.

Unfortunately, the market on its own rarely produces these kinds of workplace organizations. As Edward Lazear, an economist at Stanford University and chair of the Council of Economic Advisers under President George W. Bush, and Richard Freeman, the Harvard economist, explain, the effectiveness and growth of workplace organizations are hampered because management is often unwilling to grant workers the optimal amount of power to make them work.⁸⁸ Moreover, current labor law makes these workplace organizations hard to create, outlawing many types of management-led committees and works councils unless a majority of the workers have voted to join a union.⁸⁹ As a complement to industrywide bargaining, it would make much more sense for the law to encourage more forms of workplace organization and to require that workers have some basic protections for participating in them.

In order for these workplace organizations to work best, workers need to have some new powers—for example, modest information-sharing and consultation rights and protections against losing their job for making suggestions—but not wield so much influence that they can hijack the forum.⁹⁰ Workers should also receive some of the extra productivity gains that come from their participation in the workplace organizations—typically provided by profit sharing.⁹¹

But perhaps most important for these workplace organizations to function properly is that they are complements to collective bargaining.⁹² Works councils are not supposed to be about wage bargaining, but they can become a place to try to negotiate wages and benefits if workers do not have another outlet to do so. Even though works councils are legally prohibited from discussing wages, if there is no other forum for collective bargaining, workers often find ways to try to get around the ban and in effect use works councils as a replacement for a union. This can channel conflict back into the worksite, which threatens to undermine the collaborative relationship and defeats the purpose of the works council. As one study put it, “In establishments covered by collective bargaining agreements works councils are more likely to be engaged in productivity enhancing activities and less engaged in rent seeking activities than their counterparts in uncovered firms.”⁹³ In other words, works councils replicate many of the issues with our current enterprise-based bargaining system unless they are supported by collective bargaining that occurs elsewhere. But when works councils are complements to collective bargaining, they foster productive discussions between workers and management.

Indeed, works councils complement unions and collective bargaining in several other ways. At the worksite level, union representatives—such as shop stewards—and works councils often work closely together: Unions provide trainings and other support for works council members; works councils can help unions recruit members; and members of both organizations often exchange information.⁹⁴ Works councils and worksite-based union representatives also play a key role in providing a conduit for information between the workers and the bargaining agents who are negotiating wages and benefits at a higher level. Workplace organizations can help ensure that union negotiators have the necessary information and remain grounded in reality, knowing what is happening at firms and what workers really want. Absent that connection, there is some fear that industrywide bargaining does not work particularly well and can become less responsive to local conditions and the actual desires of workers.⁹⁵

Works councils also help give workers a voice on the job to not only improve their working conditions but also to have greater agency at work. The goal of the labor movement has never been solely about improving the distribution of income; it is also about expanding democracy into the workplace. Workplace organizations help achieve these goals.

One way of thinking about this kind of setup is that worker organizations would have new powers to negotiate for industrywide raises but less power to influence practices at any one workplace. Unions would still have some presence at the workplace level, but most workplace issues would be channeled through works councils. This structure would encourage firm managers and workers to have more collaborative relationships that focus on how best to grow their business, which would not only be good for workers and managers at that firm but good for society and the economy as well.

Bind the system together by encouraging membership in worker organizations

Under industrywide bargaining, all workers in an industry benefit from the higher wage scales that unions negotiate, whether they are members or not. Indeed, a goal of industrywide bargaining is to encourage unions to look out for all workers, not just their members. By design, individual workers have little incentive to pay to be a union member.

But multiemployer bargaining is hard to maintain without strong worker organizations.⁹⁶ Without high and stable membership rates in worker organizations, there is the fear that some employers will refuse to participate in multiemployer bargaining, and even a few defectors can undermine an industrywide system. Sufficient membership in worker organizations is necessary to keep pressure on most firms to participate fully. In short, without the right complementary policies, industrywide bargaining is vulnerable to collapse because it provides incentives for workers and firms to free-ride on the efforts of others.

For example, union membership in Germany has fallen by nearly 30 percent over the past decade and a half in part because its system does not have a solution to the free-rider problem.⁹⁷ This decline in membership poses a significant threat to industrywide bargaining in Germany and indeed the future of the German labor system. As one study put it, “industry-wide collective bargaining has been in retreat in Germany.”⁹⁸ There has been a similar decline in union membership in most other countries with industrywide bargaining but no solution to the free-rider problem—such as in the Netherlands and Australia—putting their systems at risk as well.⁹⁹ People join unions for many reasons, including to support communal goals, but over time—especially as cultures and work organiza-

tion changes—proper incentives that address the free-rider problem are critical to sustaining membership. And high membership rates are critical to sustaining industrywide bargaining.

U.S. history tells a similar story. At times in our past, and still to this day, a select few regional industries such as construction, hotels, and janitorial services have had something akin to multiemployer bargaining. And although U.S. law makes multiemployer bargaining unnecessarily hard to attain, some unions have been able to achieve it on occasion. But as U.S. unions have lost membership, their ability to achieve multiemployer bargaining has gotten rarer.¹⁰⁰

If industrywide bargaining is somehow maintained despite very low membership rates in worker organizations, the bargaining often does not fare very well. When worker organizations bargain on behalf of most workers but actually represent very few of them, the results can be unproductive and conflictual, as union bargainers are less grounded in worksite realities and less connected to a broad set of workers.¹⁰¹ Indeed, in France, where unions count 8 percent of workers as members but bargain for almost everyone, radical actions and strikes are often used to build leverage for negotiations.¹⁰²

America's current, enterprise-based system also has a free-rider problem because all workers in a firm benefit from union efforts whether they are members or not. However, the free-rider problem under enterprise-level bargaining is arguably less severe than with industrywide bargaining, as workers are more likely to see tangible benefits because their firm will pay higher wages than competitors. The enterprise-based solution—to require all workers in a unionized firm to pay agency fees to cover the costs of bargaining—is under attack by state right-to-work laws and a number of legal challenges that have gone to court. Despite these attacks, the agency fee model is appropriate for enterprise-based bargaining and needs to be retained until we have moved to industrywide bargaining. After industrywide bargaining is attained, however, the agency fee model makes less sense: While it is theoretically possible that an agency fee could be extended to all workers in an industry, doing so seems unlikely in practice.

For multiemployer bargaining, a more elegant solution to the free-rider problem is to provide structures that encourage workers to pay membership dues by providing incentives and making payment as easy as possible. There are a range of possible ways to achieve these goals, but the most well-known method is called the Ghent system, named after the Belgian town where it was created. The basic idea

behind the Ghent system is that worker organizations have a formal role in making certain government programs work better, and they then use the relationships built with workers during this process to recruit new members to help pay the costs of industrywide bargaining. This kind of system has worked well for decades in places such as Denmark and Belgium—though it would have to be tweaked for the U.S. context.¹⁰³

Countries with Ghent systems have relatively high union membership—and membership that is fairly stable and less likely to decline as an industry or economy faces hard times because it is not tied to a specific job that could go away.¹⁰⁴ Belgium, for example, has had no change in union membership over recent decades.¹⁰⁵ Not only do Ghent-like systems provide an incentive for union membership, but they can also help government function better.

Here's how it works.¹⁰⁶ In Belgium, the government takes the lead in funding and running the unemployment insurance system, and people can go through the government or a union for benefits. The government provides unions with funding to cover the costs of helping administer the program, but these funds are kept separate from general union funds and cannot be used for other union activities. All workers are eligible, regardless of whether they are union members, but people often chose to go through unions for their benefits rather than through the government because they think it is easier and the service better. Unions have offices in virtually every town, making them more accessible, and unions can provide additional support, such as help filling out paperwork or navigating a bureaucracy to get insurance payments or enrollment in training. Unions make negotiating the bureaucracy much easier.

This concept could be adapted to work in the United States and used to improve the performance of a range of programs oriented toward the workforce. For example, a substantial amount—roughly one-quarter to one-half—of those eligible for unemployment insurance do not receive benefits.¹⁰⁷ If worker organizations helped people navigate the system, it is likely that takeup rates would be much higher, not only helping struggling families but also increasing the macroeconomic stabilizing effect of unemployment insurance.

Worker organizations could also help connect the unemployed—and indeed, all workers—to government-supported workforce training that the worker organizations help provide. Connecting the unemployed, workforce re-entrants, and people transitioning careers—not to mention workers simply looking to upgrade their

skills—with appropriate training is fraught with challenges. The too-frequent stories of for-profit colleges and training centers luring workers into paying thousands of dollars for worthless courses are but the tip of the iceberg of a much larger problem of how best to steer workers into high-quality training.¹⁰⁸ Research indicates that when worker organizations are involved, they help increase the amount of training workers receive and ensure that the training leads to higher-paying jobs.¹⁰⁹ Further, when worker organizations are involved, workers are more likely to complete the training.¹¹⁰ The United States has a strong need to continue raising the skill level of its workforce; worker organizations could help make this a reality.

Enforcement of workplace standards such as the minimum wage and safety laws is another area that would benefit from a formal relationship with worker organizations. Wage theft and other violations of labor laws are shockingly rampant, especially in low-wage industries, with one study finding that more than two-thirds of its sample had experienced a pay-related violation in the past week.¹¹¹ Worker organizations can improve enforcement of the law because they have access to far more workplaces than government investigators will ever be able to cover in a given time period. Further, worker organizations can serve as trusted intermediaries between workers—who are sometimes reluctant to take the risk of coming forward on their own—and government agencies.¹¹²

Even proposed government programs, such as a new retirement plan for workers whose employers do not offer plans or who do not have a traditional employer, could function better with worker organization involvement.¹¹³ Having worker organization representatives involved in overseeing the plan—such as is done in the Thrift Savings Plan, the 401(k) for government employees—can ensure that the plan is designed to benefit workers, not Wall Street. Further, making decisions about how much to save and when and how to withdraw money in retirement is complicated for individuals on their own, and worker organizations can help with those decisions.

Initially, a role for worker organizations could be created in any one of these programs—unemployment insurance, workforce training, enforcement, or a new program such as retirement savings. Ultimately, however, it would be ideal for worker organizations to help make several worker-related programs function better. Workers would benefit, as they could go to one organization and know it could help them with a range of issues, especially because these issues are often interrelated. The type of job for which someone receives training can affect their retirement savings needs, for example. This is especially true for gig economy workers and others who change jobs frequently.

This sort of a structure where a nonprofit organization helps improve the delivery of government services may seem foreign, but is actually relatively common in the United States. For example, AARP sells insurance products that supplement Medicare. AARP does not have an official relationship with Medicare, but purchasing supplemental insurance is very important to a broad segment of the population it serves because Medicare only covers roughly half of the costs of seniors' health care.¹¹⁴ Moreover, because AARP has so many members, its supplemental insurance products can cost less than they would through another provider, which gives seniors a strong incentive to join the organization—especially because AARP requires customers to join in order to purchase its products.¹¹⁵

An even more analogous structure is AAA, which is chartered by the U.S. Department of State as one of two organizations authorized to provide international driving permits.¹¹⁶ AAA has locations in almost every major U.S. city and thus is easier for most people to get to than a State Department office. When nonmembers come in for a permit, AAA uses the opportunity to explain all the benefits that membership offers.

Similarly, the government helps fund a range of workforce training programs, but the actual training is commonly done by nonprofit organizations that meet government standards.¹¹⁷ Groups that provide training can use their access to recruit members. Likewise, there are a variety of consumer advocate organizations that the government pays to serve as a resource for Americans who want additional assistance when shopping for and enrolling in plans through the health insurance marketplace or dealing with other parts of the Affordable Care Act.¹¹⁸ These consumer assistance organizations help make the Affordable Care Act work better, boosting coverage rates and ensuring that people are signed up for the most appropriate coverage. These organizations are subject to a number of restrictions designed to protect consumers and the government: For example, consumer privacy must be protected, and funds can only be used to help people enroll in insurance. While being mindful of funding restrictions, organizations that are working directly with consumers can use these relationships to ask consumers to become members or participate in other activities.

It is worth noting that this membership structure has other significant features as well. First, because workers join organizations outside the employer relationship, the structure is well-suited to workers who rapidly change jobs or have a nontraditional employment relationship. Second, it reduces conflict at the workplace level because it eliminates the need for the conflictual worksite election process.

As Matthew Dimick, a University at Buffalo law professor, explains, “the Ghent system encourages employers to recognize and bargain with unions by providing workers with incentives to join labor unions prior to and independent of the employer’s recognition of the union.”¹¹⁹ Third, whether to join a union or pay fees to it is a voluntary decision.¹²⁰ Workers will have some incentive to join, but they would not pay agency fees as a condition of employment.

It is also worth noting that this structure can be complemented by a range of other policies that also encourage membership and funding for unions and help get around the free-rider problem. In particular, simple policy changes can, for example, allow workers to elect voluntarily to have dues or contributions taken directly from their paycheck, akin to how retirement contributions are encouraged or how the Combined Federal Campaign makes it easy for federal employees to contribute to nonprofit organizations. Other ways of addressing the free-rider problem could include allowing worker organizations to sell goods and services or receive some funding from firms.

Encouraging membership in worker organizations with incentives and ease of access is the glue that holds industrywide bargaining together. Not only that, but such a system also works well for the gig economy and can be used to make government function better.

Expand coverage and protections

The final set of changes necessary to expand and strengthen worker voice must address the fact that current U.S. law explicitly excludes too many workers, has woefully weak penalties for violations, and restricts many successful strategies for exercising worker power. Because fixing these types of flaws has been a long-standing goal of union supporters—from the Labor Reform Act of 1977 to the Employee Free Choice Act in the late 2000s to the WAGE Act today—many of the reforms seem quite familiar. Despite their familiarity, however, they are a necessary part of any modernization project and should be understood as such.

Roughly one in five private-sector workers are denied collective bargaining rights, either through statute or interpretation.¹²¹ Entire sectors of the economy, such as agricultural workers and domestic workers, are excluded, as are middle managers who supervise a handful of people and employees of certain small businesses.¹²² Critically for a modernization project, gig economy workers, and indeed all

independent contractors, have no rights to bargain collectively because the law excludes anyone not classified as an employee. Labor policy simply cannot work when large portions of the workforce have no rights. All workers should have basic rights to join a union and bargain collectively.

Similarly, workers cannot enjoy their rights when there are virtually no penalties for employers who violate them. Today, the best outcome a worker can achieve if they are illegally fired for trying to join a union—often only after years of legal struggle—is to get their job back and receive the pay they would have earned from their employer while terminated, from which any pay they received in the meantime from another employer is deducted.¹²³ These weak penalties create an incentive structure that all but encourages companies to break the law. Companies that cross the line may not get caught, but even if they do, they will face no additional financial penalties and at most have to post a notice saying they broke the law, even as they reap significant financial savings by avoiding the negotiation of wage increases for their workers.¹²⁴ The WAGE Act introduced in 2015 by Sen. Murray and Rep. Scott would attempt to change these incentives by creating real penalties and giving workers a private right of action to go to court on their own—like most other employment laws allow—instead of depending solely on government enforcement.¹²⁵

Finally, the basic right to strike has been significantly undermined to such an extent that workers have relatively few ways to bring recalcitrant employers to the table. Nobody wants a system that gives rise to lots of strikes, and one of the main goals of modernization is to reduce conflict, including strikes. However, the ability to withhold one's labor is a basic right, and strikes can be a necessary tool to ensure that workers have power in their dealings with certain employers.

Under industrywide bargaining, there is less of an incentive for employers to oppose unions and thus there is likely less need for workers to strike to bring reluctant employers to the table. Still, some employers may try to avoid their obligations or subvert the process, and the efforts of even a few outlier employers can weaken the entire system. Moreover, because the workings of wage-board-led industrywide bargaining can be affected by shifting political winds, workers need their own source of power that is independent of the government. The ability to strike is the main source of power that private-sector workers have.

In order for workers to have a real right to strike, companies should not be allowed to permanently replace workers who strike; otherwise, companies will always hold the upper hand in negotiations.¹²⁶ In addition, workers need to have the ability to support workers at other businesses by standing in solidarity via secondary strikes, especially against those employers that do not want to adhere to industrywide standards.¹²⁷

Expanding these rights does not necessarily portend more strife, though in the short run doing so could lead to more strikes or other visible forms of disputes. Rather, in the long run, as employers and workers learn the new system, expanding rights will likely mean less strife because these changes help equalize power between workers and employers, which fosters balanced negotiations. Indeed, some of the nations with the most cooperative labor-employer relations, such as Denmark and Sweden, include these protections.¹²⁸

Covering virtually all workers, providing real penalties for violations of the law, and allowing workers to strike are absolutely necessary for the law to function properly. But they are not the sum total of the progressive vision; they are instead crucial steps on the way toward a better, more modern labor relations system based on four principles: multiemployer bargaining; workplace voice; providing an incentive for workers to join an organization; and real rights for all workers, whether they have a formal employer or not.

Getting there

All that has been discussed here may sound good in theory, but it is bound to provoke some skepticism. Is it realistic to imagine that we can move toward this kind of system?

Certainly, this agenda is big and bold and not likely to be attained immediately. Instead, it is intended to provide a vision and framework to guide progressive action for years to come. But it is far more than a pie-in-the-sky dream. Elements of this agenda already exist, and others are achievable in the relatively short term, though complete implementation is likely a ways off.

Fully realizing this agenda will require Congress to act—and admittedly, that is a high bar. But some of it can be pushed through by administrative action, as well as by state and local governments, which is critical for the ultimate success of this project. Indeed, experimentation in the laboratories of democracy is sorely needed with labor law reform. One of the key reasons the current law has become so ossified and resistant to change is that the National Labor Relations Act pre-empts many state and local efforts—denying reforms the proving grounds that they need.¹²⁹ Policy changes of all types—from health care to the minimum wage—often need to be demonstrated in the states before they are implemented nationwide.

Fortunately, there are opportunities to prove elements of this agenda. While the goal must be to achieve the entire agenda, incremental action is clearly possible.

Bringing worker organizations into the provision of public goods such as unemployment insurance, worker training, or the enforcement of the law is something that state and local governments can do and, indeed, that they are already starting.¹³⁰ The law gives states significant flexibility in how they run their unemployment insurance programs, and states could use this flexibility to involve worker organizations to improve benefit delivery. Further, local governments have already started to create similar public-good-based models in which unions and community-based organiza-

tions help enforce basic workplace laws or promote worker training. San Francisco and Los Angeles have had worker organizations help coenforce workplace laws for years, and others locales such as Seattle work with community groups to educate workers about their rights and to report workplace violations.¹³¹ The state of Alaska is creating a model training fund for its health care industry in which a multiemployer, multiunion consortium is expanding apprenticeship training.¹³² The state of Washington has been doing something similar for years—providing high-quality training for home care workers through a labor-management partnership—and allowing unions to use this forum as an opportunity to recruit new members.¹³³

As governments increasingly rely on worker organization partners to carry out these programs and functions, they need to ensure that these organizations are broadly representative and adequately funded. Options for doing so can include not only providing funding for services rendered and a platform for member recruitment but also things such as levying incremental user-fee-type charges on employers that benefit from the programs and giving workers the opportunity to contribute voluntarily to worker organizations by having a portion of their pay deducted.

For workers who are explicitly excluded by the current law, state and local governments can prototype industrywide bargaining and expanded protections. Although no states have done exactly what is proposed in this agenda, they have taken steps forward and demonstrated that action is possible. Several states allow home care workers who are paid by the state to organize, and the way some states do this is akin to multiemployer bargaining.¹³⁴ California has expanded collective bargaining rights to agricultural workers, and in 2015, Seattle passed a law to allow independent contractors working for companies such as Uber and Lyft a voice on the job and the opportunity to negotiate for improved working conditions at their companies.¹³⁵

It is true that for workers covered by the National Labor Relations Act there is far less room for cities, states, and the president through administrative action to operate, but they still can make significant moves in the right direction. For example, as previously discussed, the New York state wage board raised wages for fast food workers. The scope of wage boards could be expanded, and more states could adopt them, which would push parts of the country toward sectorwide bargaining by bringing groups of firms and workers together to raise standards in an industry. Further, providing incentives for employers that are organized in a way that would make multiemployer bargaining possible, such as through how training funds or government contracts are delivered, is fair game for state and local governments and even the next U.S. president.¹³⁶

Still, fully implementing the agenda will require congressional action, which is a big hurdle. But even the traditional labor reforms that progressives usually champion still face this challenge. And change in Congress is not completely unthinkable: remote, yes, but possible and worth preparing for, especially because these reforms would produce a labor system that the public is likely to support—though critics may try to maintain otherwise.

Union opponents argue that the current system is flawed, or even undemocratic, because nonunion workers can be required to pay unions an agency fee to cover the costs of negotiating wages and benefits. But agency fees are democratic because a majority of workers voted to join the union and negotiate for a contract with agency fees. Moreover, other similar fees, from homeowner association dues to lawyer's bar fees, typically do not worry union opponents. Still, this agenda would provide a different solution to the free-rider problem of people receiving benefits without paying for them. In the new model, many people would pay membership dues because of the reason they always have—they support collective bargaining—but others would do so in order to receive additional assistance, such as help navigating a government bureaucracy. Incentives would nudge workers toward membership, but people who chose to do without those extra services would not have to pay—even as they received the higher pay provided by industrywide bargaining.

Even with this move, critics may still bring out their same anti-union talking points. But this agenda is democratic because its elements—industrywide bargaining, works councils, encouraging membership, and basic rights—are democratic.

Wage boards would be governmental and therefore be as democratic and legitimate as any other workplace law, such as the minimum wage. In cases where worker organizations and companies directly negotiated industrywide agreements, the agreements would have legitimacy because they would be voted on by workers in the industry. Furthermore, firms and individuals would be free to improve upon these industry standards. Works councils are clearly democratic, as members are directly elected by their peers. Similarly, involving nonprofit organizations in the delivery of services is something democratic governments regularly do. And ensuring basic rights, such as the ability to strike, is what we expect of a democratic government.

More generally, as James Madison pointed out in “The Federalist Papers,” the democratic solution to deal with a situation where one interest group has too much power is to encourage a multitude of interest groups.¹³⁷ Right now, corporations have excessive political power; more and stronger worker organizations would help balance this out and restore more democratic governance to our country.

Finally, this agenda taps into what the public wants—and helping the public achieve its goals is the essence of democracy. In their book *What Workers Want*, Richard Freeman and Joel Rogers clearly show that workers desire some type of workplace organization to give them a voice on the job.¹³⁸ Freeman and Rogers also show that workers do not want conflict with their supervisors. In short, workers want voice and power, but in a way that enables their workplace to be collaborative. This is exactly what these reforms would deliver.

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Conclusion

Boosting wages and strengthening and growing the middle class is necessary not just to help struggling families but also to get the U.S. economy back on track, as detailed in the recent book *Hollowed Out: Why the Economy Doesn't Work without a Strong Middle Class*.¹³⁹ With the middle class so weak, America's economy now resembles a less developed country more than most might like to admit.

Because wages have been stagnant for decades, Americans have had less money in their pockets to buy things, which made the economy reliant on debt-fueled spending and helped fuel the Great Recession. In the years before the financial crash, approximately 8 percent of total demand in the economy was based on extra borrowing by households in the bottom 95 percent of the income distribution—but debt-driven consumer demand was of course unsustainable.¹⁴⁰ And since the Great Recession, demand has been slow to recover, in large part because wages have hardly budged and consumers have been reluctant to take on as much debt.¹⁴¹ In significant part because of weak demand, the economic recovery has been painfully slow.

Extreme levels of inequality have caused people to feel less connected to one another and thus hesitant to trust others, which makes ordinary business transactions unnecessarily burdensome. People take all sorts of expensive precautions when they do business with people they do not trust. From the rapid increase in the percentage of lawyers and security guards over recent decades, to corporations increasingly focusing on short-term measurable results at the expense of long-term growth, the signs of declining trust and their economic costs are readily apparent.¹⁴² Even worse, the hidden costs of declining trust are possibly even higher, particular if one thinks in terms of business deals not done and innovative ideas not realized.

The quality of American government has also been severely harmed by the weakening of the middle class, which has further weakened the economy. When inequality is at extreme levels, the rich gain political power at the expense of the middle class, government becomes excessively polarized, and the public becomes

less civic minded, all of which undermines the government's ability to support a thriving economy. Over the past few decades, the wealthy have used their influence to protect their interests and block competition: The number of special interest tax breaks have more than doubled, while incidents of official government corruption have quadrupled, putting a drag on growth.¹⁴³ At the same time, investments in things that propel future economic growth and that the middle class wants, such as roads and bridges, have fallen sharply—or, in the case of higher education, stagnated—even as needs have grown.¹⁴⁴ As the middle class has declined, government has failed to provide the foundations for economic growth.

With the rich pulling so far away from the poor and the middle class, America is failing to take advantage of the talents of too many of its people. The United States has now fallen behind our international competitors on key measures of educational success—from test scores to college graduation rates—in significant part because opportunity for children to develop their talents now hinges far more on parental wealth than it should.¹⁴⁵ On tests of math and reading achievement, children from wealthy families outscore children from middle-class backgrounds by about twice the amount they did in the 1970s.¹⁴⁶ The difference in educational performance between children from middle-class families and those from wealthy families is roughly the size of the black-white achievement gap.¹⁴⁷ America also lags behind other industrialized countries in on-the-job training programs such as apprenticeships, which provide a tuition-free pathway to middle-class employment.¹⁴⁸ And in a very telling example of the economic harms of inequality, the share of entrepreneurs in the U.S. workforce is falling sharply. America has roughly half as many entrepreneurs starting new businesses as it had in the 1970s.¹⁴⁹ People need money to start a business, but unfortunately, over recent decades, most Americans have not had much. Because Americans are struggling financially, too many people are prevented from fulfilling their dreams of becoming entrepreneurs, which reduces the dynamism of our economy and ultimately stymies growth.

Anyone who looks deeply at the evidence would have a hard time coming to any other conclusion than this: Strengthening worker voice is among the most important elements required to raise wages and reduce inequality. In a highly functioning economy, worker power and corporate power help provide necessary balance for each other, minimizing the worst tendencies of each and maximizing their best features. Unfortunately, in the United States today, corporations have near-record power and profits, while union density is at about its lowest since the passage of the National Labor Relations Act.¹⁵⁰ As a result, workers, our economy, and our democracy are paying the price.

Faced with this reality, the need for more worker voice has never been greater. Stronger worker organizations would help provide balance and go a long way toward restoring more democratic governance to our country.

However, America's current labor relations system it is not the optimal system for the future: It fosters unnecessary conflict between workers and managers, incentivizes unproductive work rules, and excludes too many workers. We need better ways to organize and deploy the talents of workers in collaborative, productivity-enhancing ways. Our current set of rules was designed more than 80 years ago and needs to be modernized to deliver the goods for families and the nation.

To move toward a brighter future, a new and better labor relations system is needed. America needs to move toward a system in which workers have the power to raise wages and can do so in a way that boosts productivity and promotes a collaborative relationship between workers and management. This is a big undertaking, one that is at least on the scale of health care reform. But progressives have an opportunity and a responsibility to show the way.

About the author

David Madland is a Senior Fellow at the Center for American Progress. He has written extensively about the economy and American politics on a range of topics, including the middle class, economic inequality, retirement policy, labor unions, and workplace standards such as the minimum wage. His book, *Hollowed Out: Why the Economy Doesn't Work without a Strong Middle Class*, was published by the University of California Press in July 2015. Madland has a doctorate in government from Georgetown University and received his bachelor's degree from the University of California, Berkeley.

Acknowledgments

The author would like to thank everyone who helped inform and improve this report. I am grateful for the help and advice of numerous people at the Center for American Progress, as well as in academia, business, government, and the labor movement. I could not have written this report without their help.

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