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I. PRESIDENTIAL ADDRESS

Ensuring Respect for Human Rights in Employment

SHELDON FRIEDMAN
AFL-CIO Department of Public Policy

Thank you, Maggie, for that kind introduction. It is a great honor and privilege for me to speak here today.

As many of you know, "Ensuring Respect for Human Rights in Employment" is the theme I chose for this annual meeting. In my view, our profession faces no greater challenge in the 21st century. Today, I want to address one of the most important aspects of that challenge, namely, respect for freedom of association in the workplace—the freedom of workers to unionize and bargain collectively. Both are widely recognized as fundamental human rights, on a par with other basic freedoms such as the freedom of religion or the right to be free from discrimination based on race, sex, or sexual orientation. In the United States, freedom of association—despite being enshrined in the Constitution—stops when you enter the workplace door.

The evidence is no further away than your TV screen.

Last year, the ABC News magazine *20/20* featured the story of Gary McClain, an employee of Tenneco (now Pactiv) in Beach Island, South Carolina, who was handcuffed, detained, and involuntarily committed to a mental institution. His crime? Trying to form a union.

This case represents an extreme example of something that happens every day all across the country: employers interfering with their workers' freedom to choose a union.

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The author welcomes comments on this speech, especially by e-mail. Please e-mail your comments to sfriedma@aflcio.org. Many thanks for helpful comments on an earlier draft to Roy Adams, Kate Bronfenbrenner, Jim Gross, David Jacobs, and Andy Levin, none of whom should be held responsible for the final product.

Here's the story ABC News told.

In 1999, Mr. McClain, a 17-year employee with no history of violence on the job and no criminal record, joined together with co-workers in an effort to form a union affiliated with the International Union of Operating Engineers. In July, at a mandatory antiunion "captive audience" meeting called by Tenneco management, Mr. McClain challenged his plant manager to allow workers to hear the pro-union side of the story. The next day, Tenneco contacted the county sheriff's department, which sent a SWAT team to arrest Mr. McClain and haul him into a hospital emergency room—where he was drugged, sent involuntarily to a mental institution, and held for two weeks until a judge released him.

A law professor interviewed on the program said Mr. McClain's case reminded him of the treatment of many dissidents in the former Soviet Union—except, and here I quote, "in the former Soviet Union there was greater respect for due process."

Mr. McClain's case is extreme, but the bottom line is that the United States has a dismal record when it comes to protecting the basic freedom of working Americans to join unions and engage in collective bargaining. This dismal record should be of concern to everyone in this room and to all members of the labor relations profession—regardless of where you sit at the bargaining table.

Why? Because the freedom to join a union and engage in collective bargaining is, and should be, recognized as a fundamental human right. What does it mean to call something a human right? As Hoyt Wheeler (forthcoming)—a past president of our association—explains it, calling something a fundamental human right "means that it is a moral right that prevails over considerations of convenience or efficiency, and gives way only to other moral rights." If something is a fundamental human right, according to Wheeler, "then it trumps mere economic interests of employers or the public."

As Roy Adams, another distinguished member of our association, has put it:

> Human rights are rights possessed by all human beings solely by virtue of their humanity. They are rights that do not depend for their existence on legislation, and they cannot be eradicated by legislation. They are rights that all governments have a responsibility to uphold and promote, and which all individuals and employers have a responsibility to respect. (Adams and Friedman 1998)

Measured with this yardstick, workers almost invariably suffer pervasive, serious violations of their fundamental human rights when they try to form or join a union in the United States today. Workers who seek to form

a union nearly always face a broad array of well-honed and devastatingly effective employer tactics designed to suppress their freedom to organize.

Why are freedoms to join a union and to engage in collective bargaining fundamental human rights? Because workers have a moral right to determine jointly with their employer the terms and conditions of their employment, by means of democratically elected representatives and through organizations that workers themselves control. These are minimum conditions for workplace democracy. The alternative—unchallenged, unilateral employer determination of all terms and conditions of employment, workplace autocracy—is an unacceptable state of affairs in a modern democratic society. At the most fundamental level, denial of any worker's right to participate in work-related decisions is an affront to human dignity.

The idea that freedom to join a union is a fundamental human right has deep roots. In the Judeo-Christian tradition, for example, according to the 1986 pastoral letter on Catholic social teaching and the U.S. economy (National Conference of Catholic Bishops 1986:53–54), "the Church fully supports the right of workers to form unions . . . to secure their rights to fair wages and working conditions. . . . No one may deny the right to organize without attacking human dignity. . . ."

This notion is also deeply rooted in international human rights law. Freedom to join a union is a subset of the freedom of association, which was recognized as a human right in the 1947 Universal Declaration of Human Rights. Provisions on freedom of association can also be found in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR; Leary 1996:24).

Probably most of you are familiar with International Labor Organization (ILO) Conventions 87 and 98, which guarantee the freedom of association and the right to organize and bargain collectively. Convention 87 states that "workers . . . shall have the right to establish and . . . to join organizations of their own choosing. . . . Each member of the ILO for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers . . . may exercise freely the right to organize."

Even though the United States has not ratified Convention 87 or 98, most international law experts agree that the United States has a duty to uphold and protect the right to organize and bargain collectively.

That is because—independently of Conventions 87 and 98—the right to organize and bargain collectively is widely recognized as a "core" labor right, along with prohibition on the use of forced or compulsory labor, a minimum age for the employment of children, and nondiscrimination in

employment. As a consequence, all nations have an obligation to uphold and protect these rights, whether or not they have ratified the underlying ILO Conventions, and even whether or not they are members of the ILO (Leary 1996:29).

This U.S. obligation under international law was reinforced in 1998 by the Declaration of Fundamental Principles and Rights at Work, which committed all ILO member nations to "respect, promote and realize in good faith" core labor rights, including the freedom to organize. This declaration was adopted with the support of all U.S. delegates to the ILO, including the employer representatives.

So, to recap briefly: workers' freedom to organize is a fundamental human right, there are good reasons why it should be a fundamental human right, and workers everywhere, including the United States, are entitled to this right. This means that the U.S. government at all levels, individuals and businesses, have a duty to uphold and protect workers' freedom to organize.

So, how are we doing? Are American businesses respecting the freedom of workers to join unions? Is government doing everything it can to uphold and protect this freedom?

Anyone remotely familiar with the labor relations scene in the United States today, which includes everyone in this audience, knows the answers to these questions. And you know that the answers aren't pretty. Human Rights Watch, one of the world's premier human rights organizations, recently undertook a careful, in-depth, year-long study of the freedom of association in the United States workplace (Human Rights Watch 2000). Their report is a powerful indictment of the failure of the United States to meet its obligations under international law to protect workers' fundamental rights.

Jim Gross, a distinguished member of our association, reached a similar conclusion in an important 1999 paper.

Roy Adams (1999:72) has described our situation as "a sort of labor relations holocaust." Strong language, to be sure—but the sad truth is that Roy's analogy fits the labor relations situation in our country today.

A large and growing percentage of all workers today have no legally protected freedom to form or join a union—none whatsoever—including supervisors, most agricultural workers, independent contractors, household workers, and state and local government employees in the 14 states without collective bargaining laws.

This means, in the case of supervisors, that not only is it legal to fire them for trying to form a union but they can also be fired for refusing to participate in their employers' antiunion campaigns during organizing drives. I wonder how many supervisors would decline to participate in suppression

of union organizing if they had legal protection against job loss or other economic harm? And what impact might this have on the ability of employers to carry out antiunion campaigns?

Not only do these huge gaps in coverage leave millions of workers completely unprotected, they also create running room for employers who want to use procedural delays to tie the rights of covered workers up in knots.

And what about workers whose freedom to unionize supposedly still does have legal protection? It turns out that their situation is not much better.

When working people try to exercise their freedom to organize unions today, the vast majority face aggressive, coercive, employer-led campaigns designed to "change" their minds.

Kate Bronfenbrenner's (2000) research tells us that in 94% of organizing drives, private-sector for-profit employers force workers to attend "captive audience" meetings. And what is a captive audience meeting? It is a meeting on company time during which a strong, one-sided, antiunion message is presented. Workers can be fired for refusing to attend. Workers who support the union can be forbidden to attend. No equal time—or indeed any time—is allowed during working hours for rebuttal or for the union side to be presented.

In 79% of organizing efforts, supervisors pressure workers in one-on-one meetings to vote against joining the union. In 62% of organizing campaigns, employers show antiunion videos.

Though it is nominally illegal, each year employers discharge thousands of workers because they are seeking to form or join a union in their workplace. Employers illegally fire workers in nearly a third of all organizing drives. Illegal discharges of workers seeking to exercise their freedom of association in the workplace have reached epidemic proportions. According to Human Rights Watch (2000:8):

> In the 1950s . . . workers who suffered reprisals for exercising the right to freedom of association numbered in the hundreds each year. In the 1960s the number climbed into the thousands, reaching slightly over 6,000 in 1969. By the 1990s more than 20,000 workers each year were victims of discrimination leading to a back-pay order by the NLRB—23,580 in 1998.

In 58% of all organizing campaigns, employers threaten or "prophesize" that if workers vote for a union, their workplace will move or close. The prevalence of such threats is even higher in organizing campaigns in mobile industries; in manufacturing, it is 71%.

In workplaces with high proportions of undocumented workers, during more than half of all organizing drives the employer threatens to call the INS if the workers vote to unionize.

If strong-arm tactics such as these aren't enough, employers seeking to frustrate the freedom of workers to organize can and do take advantage of a wide range of legal and administrative stalling tactics and delays.

These are just a few of many aggressive employer tactics that rob American workers of their freedom to choose a union today. These tactics form the building blocks of comprehensive employer antiunion campaigns—in which the tactics are used in combination and coordinated by experienced antiunion consultants in order to send a devastating message to workers seeking to exercise their freedom to unionize.

Even though not all workers seeking to unionize are directly victimized by the most extreme of these tactics, such as discharge, the employers and antiunion consultants who use these tactics do so in order to produce the maximum chilling effect—to deprive all workers of their rights by singling out a few for special treatment. The logic, if that is the right word, is the same as shooting deserters from the military or prisoners of war caught trying to escape: not only is the guilty party punished, but their colleagues very quickly get the idea that it would be foolhardy for them to try anything similar.

We even have an entire industry in the United States of antiunion consultants whose sole purpose is to suppress the freedom of workers to join unions, that is, to snuff out a fundamental human right.

In a powerful memoir of the 20 years he spent as an antiunion consultant, Martin Levitt describes in detail the strategies and tactics that enabled him to defeat the union in all but 4 of the 200 certification election campaigns in which he was paid to call the shots (Levitt and Conrow 1993). One of the four elections he "lost" wasn't even a defeat for Levitt in the end since the employer kept him on to orchestrate a successful anti–first contract campaign.

According to Levitt:

> The enemy was the collective spirit. I got hold of that spirit while it was still a seedling; I poisoned it, choked it, bludgeoned it if I had to, anything to be sure it would never blossom into a united workforce. (Levitt and Conrow 1993)

Would we tolerate an entire industry of consultants whose major purpose was to suppress any other fundamental human right than the freedom to organize? What about freedom from discrimination? As Roy Adams (1999:75) puts it:

> Imagine an employer saying, "I don't want any people of color working for me, but if they show up I will follow the law." Does such a statement infringe upon the civil and human rights of minorities? Most of us would say that it certainly does. . . .

> [U.S.] companies openly pursue "union free" workplaces. Imagine the uproar that would be provoked by a company that openly pursued a "black-free" workplace or a "female-free workplace" or a "gay-free" workplace.

The consequences of failing to protect the freedom of workers to organize go way beyond the loss of wages, benefits, and dignity and respect on the job, serious though these are. They also include the silencing of workers' voices in the political process and the weakening of the counterweight against corporate power that is so essential to the preservation of democracy.

Those who seek to justify employer interference with the freedom of workers to form unions often argue that in opposing unionization, employers are simply exercising their freedom of speech. But many of the tactics used routinely by employers to snuff out the freedom to unionize are highly coercive.

Why should behavior that is intended to deprive individuals of their fundamental human rights, such as their freedom to unionize and bargain collectively, deserve protection as "free speech"? If sexually offensive language can be considered harassment rather than free speech, then what is language that is intended to harass workers who are exercising their right to form a union? Can anyone seriously contend that speech by an employer during an organizing campaign is no more coercive and therefore deserving of the same protection as speech by a politician during a political election campaign?

It is a bitter irony that virtually the only labor relations speech being restricted these days is workers' freedom to criticize corporate behavior. Through the use of injunctions, RICO suits, and other litigation, many employers and courts appear to have no problem in judging labor free speech by an entirely different standard.

Another common argument is that employer opposition to workers' freedom to unionize isn't the problem; rather, workers no longer need and no longer are interested in unions today. But if workers aren't interested in unions, isn't it odd that employers spend millions of dollars on antiunion campaigns? In reality, employer interference can have a devastating impact on workers' freedom to choose a union. According to a paper by Phil Comstock and Maier Fox (1994), 36% of "no" voters in union representation elections explain their vote as a response to employer pressure, and 86% of those mention fear of job loss specifically.

Given the obstacles and the risks and the personal costs, it testifies to the resilience of the human spirit that so many workers continue to fight

for the freedom to join unions. According to a poll by Richard Freeman and Joel Rogers (1999:67), 32% of nonsupervisory, nonunion employees want to join a union. That's more than 30 million people. Freeman and Rogers (1999:6, 89) found that the "natural" unionization rate in the mid-1990s—if there was a "free market" for union representation—would have been 44%, the highest in U.S. history.

Even this huge figure is probably a low estimate. If workers didn't have to struggle and endure employer opposition to win union representation and the right to collective bargaining, it is hard to believe that very many of them would opt for no representation and "individual bargaining" instead. Anyone who knows what is going on in today's economy knows that the economic security and advancement of working families requires an effective countervailing force to employers—and that force is unions.

To quote Roy Adams (1999) again, if we lived

> in a world in which employers actually did respect the human rights of their employees . . . in which they were willing voluntarily to recognize and bargain with any freely chosen representative . . . [then] in that circumstance it is pretty hard to imagine any group of working people willfully refusing to select a bargaining representative in order to participate in the shaping of conditions critical to their welfare.
>
> What group of employees would say to their employer, "No, we don't want to participate. We want you—unilaterally and without our input—to make up all the rules about our pay and conditions, about our health and safety, about our employment security"?
>
> It is preposterous to believe that they would do so. . . .

Now I return to my opening point: the fact that the United States falls so far short of its obligation to "respect, to promote and to realize in good faith" the freedom to organize and bargain collectively, both of which are fundamental human rights, should be deeply troubling to all of us in the labor relations profession.

You may say, "But many of the most potent practices for depriving workers of their rights are perfectly legal under U.S. law. And many others, while technically illegal, are lightly penalized, and the law is poorly enforced." True enough.

Which means that sooner or later, we will have to change the law.

What kind of legal framework would it take to protect workers' freedom to organize and bargain collectively? First, it would require the law to recognize that the right of workers to form unions is a fundamental human right analogous to freedom of speech, freedom of religion, and the right to

be free from racial or sexual discrimination—and deserving of the same kind of protection as these other fundamental rights.

To achieve this goal, we must take employers out of the decision-making process as to whether or not workers choose to exercise their right to be represented by a union.

We must also ensure that workers who choose to be represented by a union have a meaningful right to bargain that ultimately results in a contract on fair terms—even if that means giving a third party authority in certain instances to settle those terms, a practice that is not uncommon in the public sector.

And we must hold lawbreakers truly accountable, with punishment that "fits the crime," so that violations of our nation's labor laws will be dealt with as seriously as violations of our other laws.

Furthermore, we must extend the protections of the law to *all* workers who need it, regardless of their placement in such easily manipulated workforce categories as "independent contractor," "supervisor," "temporary," or "seasonal," consistent with our recognition of changing employment relations in the new economy.

But changing the law is a long-term goal. Justice in the workplace can't wait that long. We must act now to change the climate in the country so that more employers respect workers' freedom to join a union. There must be more employers out there with a conscience who would want to do the right thing—and who, with proper information, would do the right thing—despite the inadequacy of current law.

Because not all employers are this enlightened, at the AFL-CIO we've launched the Voice@Work campaign. The purpose of this campaign is to educate the public about the widespread denial of workers' freedom to organize, to expose repressive employer practices to the light of day, and to change the climate both in specific organizing drives and nationally so that workers' freedom to organize is respected and protected despite the inadequacy of current U.S. labor law. Voice@Work enlists religious, community, and political allies to persuade employers to desist from suppressing the freedom to unionize.

Although our program is at an early stage, it has already begun to pay off. For example, in Toledo, Ohio, nearly 3,000 employees of St. Vincent's Hospital took their campaign to form a union to the public through hearings and forums and a coalition with community groups. And despite an aggressive effort by the hospital to keep workers from joining together, workers successfully organized.

There are other examples. In Cleveland, the mayor helped convince a company to recognize the decision by workers to form a union instead of

fighting the workers' union. In Stamford, Connecticut, a broad coalition of civil rights groups, housing activists, clergy, and public officials helped city workers win a good contract.

But what about other members of our association apart from trade unionists? What about academics, government officials, neutrals, and management representatives who are concerned about the widespread denial of workers' rights to organize and bargain collectively and who want to do something about it?

Labor relations scholars have a critical part to play in teaching, research, and consulting and in their role as experts and community leaders. The climate in the country as far as workers' rights to organize and bargain collectively are concerned won't change for the better without your help.

You can teach the next generation of managers and advise the current generation of managers to respect the right of workers to join a union.

You can refuse to devise or participate in union avoidance and union busting—and urge your students and your colleagues to refuse as well.

You can challenge the conventional wisdom that managers' careers should suffer when workers they are managing decide to unionize. When workers opt for workplace democracy over workplace autocracy by unionizing, there is no reason for this to be viewed as a negative for a manager's career.

You can write op eds and letters to the editor explaining the importance of the right to organize and bargain collectively and publicizing violations of these rights.

You can provide expert assistance in support of the freedom of workers to organize at your university and in your community.

You can direct your research and that of your students on behalf of the freedom of workers to organize and bargain collectively.

Research is needed in two broad areas: (1) the nature and effects of employer interference with the freedom of workers to form or join a union and (2) why employer interference matters: what are the economic, social, and political consequences for the individual, the firm, the community, and the nation, and what would happen on all these levels if workers were free to form unions without fear?

Among the many potential adverse consequences of failing to protect the freedom of workers to unionize are increased inequality and poverty, suppression of wages, reduced ability of women and people of color to close economic gaps, stunting of civil society, lack of any countervailing force against corporate power, and the silencing of workers' voices on the job and in the political process.

A great deal of excellent research on these and other closely related topics has been done, but much of it is getting old and needs to be updated

and expanded.[1] Unfortunately, academics—even industrial relations academics—are paying less attention to these subjects in their research than they used to years ago, when unions were a bigger factor in the workplace and the economy. When they do pay attention, often their work focuses on the procedural side of labor relations (arbitration, dispute resolution, etc.), deemphasizing the right to organize and bargain collectively.

If any of the academics in the audience are interested, I can share with you a research agenda developed by the AFL-CIO that suggests additional important topics on which research is badly needed in support of workers' rights. We welcome your comments on the agenda, and we want your help in carrying it out.

What about managers—what can you do? First and foremost, you can do the right thing and respect the freedom of workers to unionize and bargain collectively. Your company doesn't have to wait until a change in the law requires you to do this. This need not be entirely altruistic on your part. Why shouldn't your company reap the well-documented benefits of positive labor–management relations rather than poison the well by using every trick in the book to suppress workers' freedom to unionize?

It seems to me there is an important role for all members of our association in developing and implementing codes of conduct to ensure respect for the freedom to organize. Never mind what kind of conduct the law allows or penalizes too lightly to deter; let us focus instead on what is right. What is to prevent members of our association, acting on their own, from developing model codes of conduct designed to protect the freedom of workers to join a union? What is there to prevent us from doing what we can to encourage employers and unions to abide by these voluntary guidelines?

Many of the fact-finding, mediation, and arbitration skills possessed in great abundance by members of our association and used regularly where there are established collective bargaining relationships are equally applicable, in principle, to union-organizing situations.

In some parts of the country, for example, commissions or boards have been set up on a voluntary basis to review the facts and issue nonbinding reports to publicize the parties' conduct during union-organizing campaigns. Members of our association could volunteer to serve on such boards and could establish such boards in communities where they are needed but do not yet exist. Members of our association could volunteer to conduct and monitor community-based union representation elections outside the cumbersome framework of the NLRB.

The whole area of agreements between companies and unions governing conduct by the parties during organizing campaigns has recently been

opened up as a topic for scholarly research by the work of Adrienne Eaton and Jill Kriesky (1999). While they have begun to answer many important questions, they have also raised others, and much work in this area remains to be done. Their work also helps point the way, in my view, for practitioners interested in developing model voluntary codes of conduct and model voluntary dispute resolution procedures for use during organizing campaigns.

These are examples of positive steps that members of our association could take to help change the climate in the country and in specific organizing campaigns. They could all be done here and now, without waiting for labor law reform, to promote respect for the right to organize and the right to bargain collectively, two fundamental human rights that are being denied on a widespread basis in the United States.

In the process, these steps could help us learn new ways to reform a system of labor law and administration that has so clearly broken down, that is falling so far short of protecting workers' rights.

Thank you very much.

Endnote

[1] Recent examples of useful research and scholarship in these areas include the special issue of the *Labor Studies Journal* on organizing, Vol. 24, no. 1, Spring 1999, and Bronfenbrenner et al. (1998).

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II. GLOBAL CHILD LABOR: WHAT WE KNOW, WHAT WE NEED TO KNOW

Global Child Labor: Past as Prologue

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Abstract

If child labor is a vexing social and economic problem in the world today, the history of advanced nations, all of which confronted pervasive child labor during early stages of industrialization, may provide instructive insights. This paper examines the history of child labor in the United States. I argue that U.S. history because of our decentralized system of federalism, may provide a model that is especially informative for global child labor in the world today. Selected aspects of the history of child labor in America are reviewed for the insights they yield. These aspects include supply of child workers, demand for child workers, and the roles of schooling, mechanization, and the reform movement.

Global child labor is correctly perceived as a problem of economically underdeveloped nations. But we know of no major advanced nation that did not go through a stage of pervasive child labor on the path to advancement. If pervasive child labor is viewed as predictable during certain stages of economic development, then the economic history of advanced nations may serve as guide to eradication of child labor in developing nations. My paper examines U.S. child labor history with the intent to identify lessons learned that might be applicable to global child labor today.

My main thesis—that industrialization is the cause of both the child labor problem and, later, its eradication—is not entirely novel. Before industrialization, children generally worked, but their labor was not seen as a problem.

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The ideal type of arrangement involved children, from as early an age as possible, within the confines of a kinship-based household, contributing to production for the group's own consumption. As production shifted to production for markets—that is, toward industrialization—children accompanied their elders into industrial employment. But industrial employment of children came to be seen as a social and economic problem—evil, if you will. So society reacted to protect itself and its children. To restate the thesis, during early industrialization, forces conspired to create the child labor problem; during continuing or later industrialization, forces conspired to eradicate the problem. In early phases of industrialization, factors such as habit, custom and tradition, uneven technological advancement, and lack of alternatives (especially schools) virtually ensured that children would be put to work. In later stages of industrialization, factors such as the emergence of a reform movement, continued technological advancement, and growing availability of alternatives (especially schools) operated to curb child labor.

Overview of Child Labor in U.S. History

Although industrial patterns developed earlier, the United States became a truly industrialized nation in the aftermath of the Civil War. By 1880, half of all workers were in nonfarm occupations. Almost everywhere industry went, child labor followed. It followed the movement of the glass industry from New Jersey westward until the industry centered around St. Louis (Kelley 1905). The New England textile industry grew to its dominant position making prevalent use of child labor. Then, as New England came to grips with its child labor problem, the industry shifted dramatically southward, and the whole project was repeated (Hunter 1904). Some industries, especially heavy industries, never employed large numbers of children. But new opportunities for work in the street trades were created by increasing urbanization (Clopper 1912). Substantial proportions of American children worked what would be considered (by today's standards) extremely long hours under what would be considered (by today's standards) intolerable conditions.

Table 1 provides a broad overview of child labor in U.S. history (and due caution is urged regarding the numbers). Child labor peaked around 1900, both in absolute numbers and labor force participation rates. Thereafter, presence of children at work declined steadily. Prominent child-employing sectors included agriculture, domestic service, mining, textiles, garment and needle trades, glass and furniture factories, cigar and cigarette manufacture, retail trades, newsboys, and messenger services.

TABLE 1
Gainful Workers, Ages 10–14, in the United States, 1870–1930
(in thousands)

Year	Workers, ages 10–14	Population, ages 10–14	Total workers	Children as % of workforce	Activity rates of children
1870	765	4,786	12,925	5.92%	15.98%
1880	1,118	5,715	17,392	6.43	19.56
1890	1,504	7,034	23,318	6.50	21.38
1900	1,750	8,080	29,073	6.02	21.66
1910	1,622	9,107	37,371	4.34	17.81
1920	1,417	10,641	42,434	3.34	13.32
1930	667	12,005	48,830	1.37	5.56

Source: U.S. Bureau of the Census (1997), Series A119–34 and D75–84.

Comparing U.S. Child Labor History with Global Child Labor Today

Table 2 presents a comparably broad overview of child labor in recent world history. By these numbers, it appears that global child labor has peaked and is now on a steady downward path. Again, caution is urged regarding the numbers, especially since the International Labour Organization's current estimate implies a more than threefold increase in the estimates presented here. Comparing global labor force participation rates and presence of children in the workforce with those observed in U.S. history, rough parallels can be observed in both magnitudes and directional trends. Furthermore, there are a number of striking parallels between the kinds of work performed by children in the world today and the kinds of work they performed in the United States in the past.

TABLE 2
Economically Active Population, Ages 10–14, in the World, 1950–1990
(in thousands)

Year	Workers, ages 10–14	Population, ages 10–14	Total workers	Children as % of workforce	Activity rates of children
1950	71,022	257,838	1,206,527	5.89%	27.55%
1960	76,968	310,607	1,377,254	5.59	24.78
1970	90,104	404,423	1,656,125	5.44	22.28
1980	99,530	499,846	2,054,245	4.85	19.91
1990	75,630	518,289	2,505,793	3.02	14.59

Source: International Labour Organization (1997), vol. 5, table 4.

Owing to the federalist U.S. Constitution, U.S. history may be especially informative as prologue to child labor in the world today. Constitutionally protected states' rights precluded a federal role in regulating the workplace until 1937. Before then, regulation of child labor was left to the states. But sovereign states had become increasingly integrated into a strong national economy. In certain respects, the United States then represents in microcosm the world now, in which sovereign nations struggle to come to grips with their own child labor problems in the larger context of an increasingly integrated global economy.

Supply of Child Workers

As would be expected, child labor in the United States was clearly associated with poverty. The well-to-do never had a child labor problem. But the relationship between child labor and poverty is complex. We saw examples where rising parental incomes caused a reduction in child labor. As incomes rose in cities like Philadelphia and Baltimore, participation in the annual migration to the berry fields of the eastern shore diminished. But there were also counterintuitive examples where child labor diminished as incomes declined. The most rapid reduction in child labor in Southern cotton textile industries may have occurred during the industry depression of the 1920s, when work-sharing programs were instituted.

A distinctive feature of much of the child labor in the United States was its close connection with family-wage systems. When the household hires itself out as a gang of workers, the more hands, the better. When augmented by such institutions as company towns, mill villages, tenement neighborhoods, and padrone systems, strong traditions reinforcing child labor were created. Rising incomes may have provided an economic foundation for withdrawal of children from the market, but it was also necessary to attack the cultural underpinnings of child labor. For example, when journeyman glassblowers no longer found the industry suitable for their own sons, it was the beginning of the end of child labor. The industry continued to use boys for some time, but it could never establish a reliable labor supply and eventually turned to substitutes.

The Role of Schooling

Schooling is recognized as the preferred alternative to labor for children. In the United States, the movements toward compulsory schooling and away from child labor were inextricably intertwined. Universal compulsory schooling was an enormous investment that was not accomplished overnight. Certainly, the earlier a society can provide such schooling, the better. Societies that wait until they discover their child labor problem to address education are likely to prolong child labor, as we undoubtedly did.

Where families are truly dependent on their children's earnings, compulsory schooling may exacerbate poverty. A popular policy option today suggests providing subsidies to families to keep children in school. We experimented with a number of "scholarship" programs in our own history. Relief agencies in major cities established a variety of programs. Some were income-replacement programs; others were means tested; still others provided subsidies for books, supplies, or clothing. We found that these scholarship programs were vital for some families. But most needed only a small amount of help and only for a short while. The entire cost in that era was borne by private charity. It should also be mentioned that we learned very early that migratory families presented especially difficult problems to solve—both schooling problems and child labor problems—as they regularly passed from one jurisdiction to the next.

Demand for Child Workers

We know less about demand for child workers than we do about supply. But it can be assumed that relative to adult labor, child labor is low-productivity labor. Children can work where strength, knowledge, or skill requirements are low and where pressures for productivity are subdued. This suggests clues where child labor would more likely be found, clues that are generally consonant with both historical and contemporary observations. Conditions favorable to low-productivity labor include piece-rate and family-wage payment systems; few restrictions on hours, wages, or conditions; and smaller investments in capital. Piece-rate systems make labor costs more fixed than variable and subdue productivity pressures. Some family-wage systems made productivity of the child utterly irrelevant to the employer. Any restriction on hours of work, minimum hourly wages, or health and safety requirements can affect employer incentives to get more work from each hour of labor. In the United States, hours restrictions played the more important role in reducing child labor, health and safety played a role that seemed significant but difficult to pin down, and minimum wages were less important (they came later). In the world today, restrictions in any or all of these areas may be expected to have an effect. Increased capital per worker heightens employer concern for productivity. Furthermore, where the employer can shift capital costs, for example, by subcontracting or homework, interests in productivity are subdued. We would expect to find child labor exactly where we have found it: in the least-advanced, least-protected backwaters of our economies.

The Role of Mechanization

Not only did early mechanization create the factory system, it created demand for children. Sometimes, technological advance displaced adults

with children, as when ring-spinning replaced mule-spinning in cotton textile industries. Other times, uneven technological advance left gaps in the work process between difficult or skilled jobs, gaps where children could readily fill in (as with doffers and sweepers). Continued mechanization associated with advancing industrialization eventually supported a reduction of child labor. Hand operations were mechanized, skill requirements tended to escalate, and concern for labor productivity was heightened. It should be noted that even modest technological advances could have large implications for child labor. For example, the simple expedient of putting long handles on handheld scoops of cranberry pickers displaced children by requiring adult strength while at the same time making cranberry picking a more lucrative proposition for adults.

There was often a lag between when a technological advance became available and when it was put to use in industry (thus eliminating child labor). For example, mechanical slate pickers were available well before boys were removed from the coal breakers. So long as boys were cheap and readily available, employer incentives to invest in advanced technology were reduced. When the continued child labor agitation made it more difficult to hire boys, one by one, mines began installing mechanical pickers and eliminating boys from the breakers. In mining and other industries, restrictions on child labor often spurred technological advance.

Toward Effective Reform

It is tempting to discount the reform movement's achievements and conclude that it was feeble, belated, and ultimately unnecessary. The first serious U.S. attempt to pass federal legislation, the Beveridge Bill of 1906, failed. The United States passed laws in 1916 and 1918, but both were found unconstitutional. Then the Senate recommended a constitutional amendment to the states, but it too failed. The Fair Labor Standards Act of 1938 was the first federal child labor law, and by the time it was enacted, child labor had been largely eliminated. But this ignores other important federal milestones. The formation of a Children's Bureau in 1906 and the commissioning of a massive study by the Labor Bureau were important first steps. After the 1916 law was found unconstitutional its provisions were imposed by executive order as a war-time measure on federal contractors. The 1918 law remained in force in all but the western district of North Carolina for three full years, at a critical economic juncture, before it was struck down. And finally, many consider the child labor provisions of the NRA Codes to have been the final nail in child labor's coffin.

Because of constitutional considerations, the major battles of the child labor movement were waged at the state level. This required a sustained,

multicentered, multifaceted humanitarian reform movement to carry the banner. Progressive states—usually, but not always, the more industrialized—led; others eventually followed. Specific provisions in law tended toward convergence on a common standard, but specific provisions were often less important than effective compliance and enforcement provisions. Furthermore, as the child labor reform movement intersected with other movements, the complexity of law magnified. It was not just minimum ages, hours restrictions, and compulsory schooling that mattered; a wide variety of reforms, from abolition of slavery to adoption of widows' pensions, were also important.

The United States achieved the eradication of child labor in several key sectors but remains vulnerable in several others. Mining, manufacturing, and probably commercial retail can be regarded as successes. Child labor has been eliminated in mining and manufacturing, and commercial retail is now a prominent route for socializing youth into the labor force. Especially noteworthy is elimination of child labor from textile manufacturing. While the Southern cotton textiles industry is properly seen as a major battleground in the war against child labor, it is also true that the South came to grips with its child labor problem much more rapidly than New England or certainly old England. By the time the industry had expanded westward to Texas, very few children were employed. Elimination of child labor from textiles—the first industry—stands as an achievement of global historic proportions.

In spite of its successes, the United States remains vulnerable to child labor problems in certain sectors. In our street trades and in the persistent tendency toward reemergence of sweatshops, the threat of exploitative child labor remains, but our clearest policy failure is in agriculture. First, the street trades. Industrialization contributed to urbanization, which in turn created the street trades. Most prominent were the newsboys. As industrial child labor began to wane, child labor in the street trades boomed. The news media, which could generally be counted on to support child labor reform, reacted to protect its franchise in newsboys. The children were not employees; they were independent businessmen—little merchants. Newspapers were under close public scrutiny to ameliorate exploitative aspects of the trade, but exemptions of newsboys in law allowed the practice to continue. American children remain vulnerable to a variety of street-selling scams, sometimes under the guise of charity. Second, the sweatshops. Early on, reformers recognized that to eliminate child labor from sweatshops, it would be necessary to abolish industrial homework altogether. Especially in the garment trades, homework systems were an integral aspect of the larger sweating system. But regulating homework

was tantamount to regulating private conduct in the sanctity of the home, so regulation could only go so far. We remain vulnerable to reemergence of sweatshops, especially in traditional child-employing industries like the garment trade. Furthermore, as American business globalizes, unless it is careful, it risks encountering sweating sectors in other nations.

Finally, agriculture represents the clearest failure of American child labor policy. In contrast with most other sectors, the minimum age for employment in agriculture is 12, and there are no restrictions on hours. While estimates are grossly imprecise, it is clear that hundreds of thousands of children under 16 are working as hired agricultural laborers. Compulsory schooling laws may be better enforced today, though among migratory populations this cannot be ensured, but even where enforced, it often means only a 6-hour break in a workday that runs to 12 or 14 hours.

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DISCUSSION

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Thank you for inviting me here today to discuss three papers on child labor. As you may know, the National Consumers League was founded in 1899, when people were concerned about child labor in the United States as factories, including the garment industry, employed and often exploited new immigrants and children. Today, NCL continues to work on child labor issues both here in the United States and in other countries. Our programs today include other issues: food and drug safety, health care, financial services, technology and telecommunications, and consumer fraud. We have four Web sites; child labor information is presented at the www.stopchildlabor.org site.

In 1988, NCL helped found the Child Labor Coalition, a group of more than 60 organizations that work to end exploitation of children in the workplace. I co-chair the coalition with Pharis Harvey, executive director of the International Labor Rights Fund, and Sandra Feldman, president of the American Federation of Teachers. Some recent activities of the CLC include establishing a Child Labor Resource Center with the University of Illinois, Urbana-Champaign; publishing an NGO report on the ILO 182 Action Plan for the United States on the worst forms of child labor; participating in the Rugmark USA program; exploring the replication of the program in the agriculture industry; and supporting the Children in the Fields campaign to change policy and law and to educate the public about children as migrant and seasonal workers in agriculture.

Following are my comments on the papers presented in this session.

Hugh Hindman—Global Child Labor: Past as Prologue

At the end of the paper, you mention the failures in the United States, specifically the exemption in the FLSA for newsboys, now both newspaper carriers and those who peddle candy and magazines for crew leaders (in the guise of charity but in reality for profit). You also mention our failure in agriculture and the spread of sweatshop labor both in this country and abroad by global companies. I was glad that you pointed this out because I

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kept writing in the margins as I read your paper that we still have a child labor problem in this country. Behind locked doors and down the dirt roads of America, child labor thrives in the United States today. In fact, as I mentioned earlier, the CLC and its allies submitted a report to the president on our feeling that for the United States to fully comply with the provisions of ILO Convention 182 on the worst forms of child labor, there are laws to be written, policies to be implemented, and most important, laws to be enforced.

Your premise that we might use the United States (and the various states), in ridding itself of many of the child labor problems in the early part of the century, as an example for countries around the world is a sound one. However, much of the change in this country occurred in industries where child labor was *seen.* It is often the *unseen* use of child labor and the abuse of children from immigrant and poor families that remain in the United States today. These are the children that you pointed out: "children who accompanied their elders into industrial employment" in the early part of the century. Later you mention, "When the household hires itself out as a gang of workers, the more hands, the better." That is done today—ask the labor inspectors from 7th Avenue in New York or Los Angeles or Oakland or Miami, where Chinese, Vietnamese, and other immigrants are told to bring their children to work or they won't get the job. Many of these workers are required to take piecework home so that the whole family can work at night to make garments or jewelry. Often these adults don't know about minimum wage, hourly protections, safety and health protections, human rights—and certainly not about the child labor laws in their state or the Fair Labor Standards Act.

To your tracing of the movement from New England to the South of the textile mills, I would add that these have now gone to center city or suburbs or anyplace where vulnerable people live. Unseen, a sweatshop can exist anywhere.

You mention factors that create child labor, such as habit, custom, tradition, uneven technological advancement, and lack of alternatives, especially school. I would add to that list greed, which is often the reason a company seeks lower and lower wage expenditures so that it can make more money for the product or service. This is a major factor causing child labor problems around the world today.

It is interesting that you mention, "Any restriction on hours of work, minimum hourly wages, or health and safety requirements can affect employer incentives to get more work from each hour of labor." Do you believe that if hours were limited for the agriculture-working children in this country and if minimum wage laws applied to the agricultural worker, this

would eliminate the child labor problem in that sector? Is the fact that agriculture is not "industrialized" an important factor in its prevalent use of children today?

I disagree that we have achieved the eradication of child labor and that it has been eliminated in mining and manufacturing. Child labor still occurs in those industries. For example, I am sure that in the next Congress there will be exemptions requested for children to work in sawmills. Also, it was unclear to me how you determined that child labor has been eliminated from the manufacture of textiles, which you indicate "stands as an achievement of global historic proportions." I have already pointed out the use of children in the manufacture of garments worldwide. And there are numerous reports of children in the manufacture of carpets. These reports have been mentioned in several Department of Labor International studies from the ILO and documented on film by major international networks.

Carol Ann Rogers and Kenneth Swinnerton—Inequality, Productivity, and Child Labor: Theory and Evidence

In reviewing this paper, I certainly agree with the reasons you mention for how children end up in many of the worst forms of child labor. Throughout your paper, however, I found it confusing that you do not define "children." Very young children, those ages 4–7, probably still live with their parents in most cases. These are some of the children who end up in carpet weaving, glass making, domestic work, brick making, garment factories (6–7), and other occupations. As children get older, they may be on their own—in the streets or otherwise. Whether or not a parent is the sole decision maker about whether the child works or is perhaps sold into slavery or bondage depends on a child's age.

Another comment on the paper is that independent monitoring of core labor standards to supplement enforcement may be a solution to bring those companies that are trying to compete using fair labor standards to a level playing field. In addition, even though compulsory education exists as a law or regulation, often no schools or teachers exist. It is important that resources be made available to help countries or localities establish schools so that educational opportunities are established.

Frank Hagemann—The Impact of Social Labeling on Child Labor: Experiences and Policy Perspectives

Since this paper was not available at the time of the conference, I will make my comments on your presentation. As an introduction, I would like to provide some survey responses to a national random-sample poll that was

conducted by Lou Harris and Associates for the National Consumers League, called "Consumers and the 21st Century in 1999." We found that the top consumer concern was the use of sweatshops or child labor in the production of goods: 61% of the adult consumers felt concerned about this. The highest percentage was among women, those 30 to 64 (65%) and those in the $35,000–75,000 income brackets (73%). Seventy-seven percent of adults say they will look for a label. The percentage of those who say they will look for a label increases as age increases. Fifty-five percent of adults say they are willing to pay more for products with a label. Women (59%) are more likely to be willing to pay more than men (51%). Willingness increases as education and income levels rise. Consumers do care, and as Rugmark becomes available in this country, we will see an increase in the number of consumers purchasing handmade carpets with this label. Presently, there are 191 stores in 43 states carrying Rugmark carpets. In fact, there are three stores here in Louisiana that sell these carpets.

The National Consumers League has asked consumers, including young consumers in universities, what they would want to ensure a credible label. First, they said that there must be a code or rules for a company to follow to ensure that goods are not made by exploiting children. They said that there must be an independent inspection of the company factories with an independent nonprofit organization overseeing this activity. They would want to know that children could go to school when they left the workplace. This criterion is similar to several new labeling/monitoring schemes in addition to the Rugmark model. The Fair Labor Association and SA8000 are some examples of organizations developing a transparent process to assure consumers that goods are not made by child labor. An important component of the FLA process is the requirement that local, community-based NGOs and local labor unions be consulted when factories are monitored.

We look forward to receiving the new ILO report on social labeling for child labor, and certainly the Child Labor Coalition will comment on that report when it is available.

III. NEW RESEARCH ON LABOR MARKET INTERMEDIARIES

Moving the Demand Side: Intermediaries in a Changing Labor Market

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Abstract

With the decline of internal labor markets, workers have to find jobs and improve their skills outside the firm, in the open and volatile labor market. This has meant a growing reliance on labor market intermediaries. Drawing on qualitative research in two U.S. cities, we found that most intermediaries focus on training and placing workers (the supply-side strategy). But under some circumstances, temporary agencies and union-based initiatives are actually changing the labor market itself (the demand-side strategy)—with very different effects on job quality. These examples hold important lessons for public policy and the development of worker-oriented intermediaries.

Introduction

The U.S. economy has seen a marked shift in the nature of work and production. Firms have fundamentally restructured their workplaces, driven

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by global competition, new technology, deregulation, and deunionization. The upshot of this restructuring is a shrinking of the "core" workforce, whereby firms subcontract, outsource, and hire contingent workers and whereby fewer workers can expect stable jobs and wage growth over time (Cappelli et al. 1997).

But the market is not a black box. It contains a host of organizations and institutions that help broker the employer–worker relationship—what we call labor market intermediaries. While such intermediaries are not new, they have become more important in the new economy, especially for the most vulnerable workers who have borne the brunt of firm restructuring (Osterman 1999).

What exactly do labor market intermediaries do? Intermediaries perform three general functions. The first is job placement: connecting job seekers and employers. The best examples here are temporary help agencies and government employment centers. The second function is job training. For example, many community-based organizations have gone beyond job placement to create training partnerships, often on a regional scale (Harrison and Weiss 1998). These two functions—placement and training—operate on the supply side of the labor market, where the goal is to better inform and prepare workers and to facilitate their connection to jobs. But the jobs themselves, and the wages and benefits attached to them, are taken as a given.

Here we explore a third, demand-side function of intermediaries: actually changing job quality. They might do so consciously, using a combination of sticks and carrots to convince employers to create better jobs. Or they might do so unconsciously, where their very existence in the labor market actually changes the structure of it. In both cases, it is critical that we understand this emerging landscape of intermediation. We therefore ask the following questions in this paper: (1) To what extent are labor market intermediaries changing the labor market itself? (2) What are the different ways in which they are doing so? And (3) what are the net effects on the quality of jobs? In addressing these questions, our focus is on jobs that are filled primarily by workers without college degrees since it is these workers who have borne the brunt of firm restructuring over the past three decades.

Data

We draw on a qualitative study of labor market intermediaries in Silicon Valley and Milwaukee. The case-study research was conducted in tandem across the two regions, using the same methods. We began with a series of focus groups with representatives from a wide range of intermediaries. We then selected cases for in-depth study, with at least two cases in each of the

following categories: temporary agencies, community-based or nonprofit organizations, community or technical colleges, membership-based organizations (such as unions and professional associations), and public agencies (such as welfare-to-work agencies and private industry councils). In-depth interviews were conducted with the staff of each intermediary and with at least two employers and two workers who were connected to the intermediary. We conducted a total of 146 interviews, profiling a total of 23 different intermediaries.

Case Studies of the Demand-Side Strategy

Most labor market intermediaries focus on providing two services: connecting workers to jobs and training workers for better jobs. Such services should not be undersold. They often require an immense amount of effort and coordination across different bureaucracies—for example, when community colleges link up with employers and workforce development efforts. But the supply-side strategy is inherently limited since labor demand is taken as a given: the organization of a firm or the quality of its jobs is not fundamentally affected. The result, for example, is that welfare-to-work programs often end up placing significant numbers of workers in low-wage, dead-end jobs since they have no lever on employers.

We did find, however, two types of intermediaries that may in fact significantly affect the structure of the labor market: temporary agencies and union-based initiatives.

Temporary Agencies

The most prevalent way that temp agencies affect job quality is indirectly, simply by providing their services. This is best illustrated by contrasting the employment strategies of two firms. The first, a bookbinding company, pays low wages and maintains a large number of temp workers who are essentially day laborers. The company uses a temp agency to recruit and hire these workers, do all the paperwork, and pay all unemployment and compensation costs. Although the agency charges a 55% markup on wages, the benefits to the company outweigh the costs. The strategy works, and the more it works, the less pressure there is to change it.

By contrast, a unionized packaging and delivery firm illustrates what happens when the "low road" is closed off. Packaging jobs at this firm require intense physical labor for three- to five-hour cycles, with two to three hours of dead time in between. While these jobs seem tailor-made for unskilled day labor, the use of temp workers is prohibited by the union contract. As a result, the packaging jobs are all permanent part-time, with above-average wages and excellent benefits. Still, turnover is high, and workers are hard to find. Without the option of turning to a temp agency,

the firm has come up with several innovative solutions to recruit and retain workers. The most promising is to make the part-time jobs into full-time ones by creating "combination jobs" in which a worker does one cycle of packaging and then spends the rest of the day doing nonmanual work—increasing job quality and at the same time solving the retention problem.

However, the packaging company is an anomaly. Using temp workers has become an integral part of many firms' strategies (Houseman 1997). The problem is that by providing services without demanding concessions from employers, temp agencies allow companies to take the "low road." Judging from national studies of contingent work, the net effect on job quality here is likely negative (Kalleberg et al. 1997).

Increasingly, temp agencies also have more direct effects on firm structure. There has been a rapid growth of "on-premise" arrangements, where firms outsource peripheral functions while still keeping them on-site. For example, one temp agency created a branch that is physically located within a client company, with an on-premise manager who has full profit-and-loss responsibility for the account. The agency controls staffing, training, and production flow for that department, and the workers are employees of the agency, often for long periods of time.

Temp agencies are also moving into consulting services, helping firms to analyze job design and production flow and devising strategies for cutting costs. It is an open question how these new relationships will affect job quality. Inasmuch as temp agencies advise employers on the kind of jobs needed to attract and retain workers, they have the potential to have a positive impact. We suspect, however, that this potential has its limits. In the end, temp agencies can convince employers to "take the high road" only if doing so would improve the bottom line—and usually only in the short run. What is needed, then, are new approaches that can both improve job quality and devise "win-win" strategies where employers may also gain.

Union-Based Initiatives

Sectoral Partnerships. The Wisconsin Regional Training Partnership (WRTP), one example of such a win-win strategy, is a consortium of manufacturers, unions, and public-sector partners in Milwaukee. The goal of the partnership is to support the creation of high-performance workplaces and quality jobs in the region and to ensure an adequate supply of skilled workers to fill those jobs. Seventy employers from metalworking, electronics, and related industries are members, employing more than 60,000 workers who are represented by various industrial and craft unions. Management–labor working groups focus on three issues: plant modernization, training of incumbent workers, and training of new workers. Cementing this triad

are Workplace Education Centers, which provide skills training and basic education and are on-site at most of the member firms.

The logic behind the WRTP is simple, at least in theory: provide collective solutions to problems that single firms can't afford or devise on their own, in return for good wages and benefits, job security, and career ladders for workers. For example, smaller firms have a hard time knowing exactly how to implement new technologies, and few have the resources to retrain workers. But sharing modernization funds and training centers with other firms through the WRTP can make the difference between choosing the high road and creating quality jobs or taking the low road and even moving out of Milwaukee to nonunion sites. Similarly, the WRTP ensures a sustained flow of skilled incoming workers by partnering with technical colleges and public agencies to provide customized training. A major employer in the region reports that this "managing of supply" allowed him to stay in Milwaukee and actually expand his plant.

Thus, the sectoral partnership model can actually change the nature of jobs being created. But it is quite difficult to implement, requiring coordination of a critical mass of employers and unions in a given sector and other public partners.

Hiring Halls. Craft unions illustrate the power of the hiring-hall model to regulate a volatile labor market. For example, the construction industry relies on short-term projects and requires highly skilled workers from various building trades. Unions solve the coordination and training problem by operating hiring halls (dispatching workers on a daily basis to different sites) and apprenticeship training programs. Employers that use the union hiring hall usually join the local employer association and contribute to multiemployer benefit and training funds, established by the 1947 Taft-Hartley Act.

The quality of these jobs is extremely good: the work is hard but compensated well. Health and pension benefits are generous and start immediately; sick leave, vacations, and disability are offered. The expense for employers is outweighed by a steady supply of labor, an intensive and standardized apprenticeship training program, and pooled benefits funds.

As a model for controlling the demand side of the labor market, the union hiring hall seems unbeatable. And although deunionization has occurred in the construction industry as in the rest of the economy, there are signs of renewed vitality. For example, union leaders are recognizing that their apprenticeship program is a big draw for employers (nonunion programs are notoriously inadequate and have not kept pace). Devising such new strategies for recruiting both workers and employers will be key to restoring this labor market model.

The Temporary Alternative. A final demand-side model is offered by Working Partnerships USA, a labor advocacy organization in the Silicon Valley. This model has three components. The first component is the creation of a "best-practices" temp agency with higher standards for job placement—an attempt to use the market to improve the market. The goal is for workers to opt for the agency's better package; firms will notice the benefits of higher-quality, more satisfied workers; and as a result, other temp agencies will have to adopt higher standards in order to compete.

The second component is a membership association for temporary workers, designed to enhance worker voice. The advantages of membership include access to portable health benefits and a base for advocacy (which currently involves a code-of-conduct campaign for temporary agencies). The third component focuses on training: the temp agency and the membership association have been working with a local community college to provide basic skills for welfare-to-work clients and computer training for temporary workers.

While the Working Partnerships experiment is less than two years old and the temp agency is still quite small, several lessons have already been learned. The most critical is that launching a temp agency with such high standards was overly ambitious, given the significant barriers to entry into the industry. The agency therefore hired an industry professional, which helped to boost sales and placements. It also switched its initial focus from hard-to-place workers to semiskilled workers that could be placed immediately. In this way, the agency hopes to establish a strong relationship with employers so that it can tackle the disadvantaged workforce in the future (which will require the agency to develop a more extensive training infrastructure).

Discussion

When faced with the externalization of the employment relationship, labor market intermediaries have two options. They can accept externalization and proceed without firms, trying to improve worker outcomes by improving the operation of the supply side of the labor market. Or they can try, with a combination of carrots and sticks, to draw firms back into the employment relationship and thereby affect the demand side of the labor market. While both approaches can help workers in the short term, the second holds the promise of bringing about more long-lasting improvements in job quality and worker well-being.

What have we learned about intermediaries who affect the demand side of the labor market? First, intermediaries can have both negative and positive effects. As our case studies of temp agencies illustrate, any number of actors can step into the arena and provide services that employers and workers need—without necessarily having the best interest of workers in mind.

Second, intermediaries who try to have a positive impact on job quality are facing an enormous challenge. Success seems to depend on the extent to which an intermediary can bring both incentives and pressures to bear on the employers. The Wisconsin Regional Training Partnership and the craft hiring-hall model clearly tap both of these dimensions. Each intermediary brings union power to the table (the stick), and each also solves a number of collective-action problems for employers (e.g., the carrot of jointly funded benefits or training pools that otherwise would be too expensive, and coordinated labor supply). This strategy differs from the "market innovation" approach pursued by Working Partnerships. While this strategy is promising, it currently offers only diffuse incentives to firms, and the "stick" aspects of the strategy are still nascent; these will likely need to be addressed if, for example, the temp agency code of conduct is to take hold.

If the best strategy is for intermediaries to push and pull, then this inevitably raises the question of worker power and the lack of union density in many sectors. It is a critical question, but we should not overlook that union density remains significant in major metropolitan areas and in big firms across a host of industries. In fact, this is precisely the goal of the sectoral partnership model: to become firmly established in core regions and employers and then to use that leverage to reform the rest of the sector. Still, we must acknowledge that the continuing growth of low-wage, nonunion service industries poses a serious problem for those interested in improving job quality. It will take innovative experimentation with different types of intermediaries to identify solutions for this part of the job structure.

As a society, there is ample reason to support these experiments. Such support needs to come from enlightened employers, community leaders, and flexible unions—but the public sector has a role to play as well. Government is in a unique position to support the "good" strategies and try to close off the "bad" ones: for example, via changes in labor law, codes of conduct, living wage ordinances, and incentives for collaborative training. Funding is also critical here. While the "good" initiatives may eventually be able to exist on their own, most often they need public support at the outset. This suggests a clear role for public policy in shaping the future of the American labor market.

Acknowledgments

Funding for this project was provided by the Russell Sage, Ford, and Rockefeller Foundations. A full version of this paper can be found at http://www.willamette.edu/dept/pprc/lmi.

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Staircases and Treadmills: Labor Market Intermediaries and Career Mobility

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Abstract

With the decline of internal labor markets, analysts are paying greater attention to third-party organizations that link employers and workers. This paper analyzes the extent to which these labor market intermediaries (LMIs) are able to help disadvantaged workers build successful careers. Our research found little evidence that LMIs are playing any significant role in this regard. We did, however, unearth examples of promising practices that were able to target particular occupations, allow communication with workers over an extended time, build strong relationships with employers, and provide both informal and formal training. Such initiatives involved primarily either membership-based organizations or community colleges in cooperation with other LMIs.

Introduction

Over the last three decades, as internal career ladders have declined, some workers have been able to build "career staircases,"[1] moving from firm to firm as they move up in a career. Other workers, however, are stuck on a career treadmill, confronting stagnant wages, growing job instability,

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and a decline in career mobility (Bernhardt et al. 1999; Cappelli et al. 1997; Gottschalk 1997; Mishel et al. 2001; Moss 1999). In this context, policy makers, practitioners, and researchers are paying greater attention to labor market intermediaries (LMIs), third-party organizations that engage in job-brokering activities, matching job seekers with employers (Carré and Joshi 1997; Kazis 1998). Some LMIs also provide job training, job search skills, or access to other support services.

Intermediaries come in a variety of forms, ranging from temporary agencies and professional associations to union hiring halls and community-based organizations. What these diverse LMIs share in common is an important position in the labor market.[2] Thus, in seeking solutions to poor labor market outcomes associated with the decline in internal career ladders, there are a number of important questions about the role of the LMIs: To what extent are LMIs currently able to help disadvantaged workers avoid "career treadmills" and build successful careers instead? Under what conditions are LMIs able to play this helpful role? What are the factors that hinder LMIs from achieving this goal? What are the implications of this current practice for policy initiatives?

This paper addresses these questions through analyzing the activities of intermediaries in Silicon Valley and Milwaukee. Our goal was to gain an understanding of the overall landscape of intermediary activity rather than to focus on any particular intermediary. The next section of this paper describes the research methodology. Then we examine the activities of LMIs in providing job placement services and in promoting career mobility. The subsequent section discusses obstacles to improved performance. Finally we present conclusions and some policy implications.

Data and Methodology

The regional focus of this study, which examined intermediaries in Silicon Valley and Milwaukee, emerges from our view that intermediaries are as regionally based as the labor markets they serve. Our fieldwork was conducted from June to October 2000. The case-study research was conducted in tandem across the two regions, using the same methods and protocols. We began with a series of focus groups with representatives of a wide range of intermediaries. We then selected cases for more in-depth study, with at least two cases in each of the following five categories: temporary agencies, community-based or nonprofit organizations, community or technical colleges, membership-based organizations (such as unions and professional associations), and public agencies (such as welfare-to-work agencies and private industry councils). In-depth interviews were conducted with the staff at each intermediary and with at least two employers and two

workers who were connected to the intermediary. We conducted a total of 146 interviews (84 in Silicon Valley and 62 in Milwaukee), profiling a total of 23 different intermediaries (13 in Silicon Valley and 10 in Milwaukee).

Job Placement Activities

We identified five key areas of activity that shaped LMIs' level of success in placing workers.

Outreach to Workers and Employers

To be effective in providing good placement opportunities for disadvantaged workers, LMIs need to work with both disadvantaged workers and with workers and employers at higher levels in the labor market. This helps LMIs identify better employment opportunities and avoid simply channeling disadvantaged workers into dead-end, low-paid jobs. Outreach on both sides of the labor market is essentially a marketing project. The for-profit agencies in our study had the greatest marketing capacity and are investing lots of time and energy into identifying potential workers. Many private-sector LMIs have a high level of interest in the most disadvantaged sectors of the labor market and work closely with nonprofits and public centers to find such workers. For-profit agencies have an advantage in marketing their services in that they have no eligibility requirements or complex public funding sources. Public-sector agencies, in contrast, are typically constrained to work only with people eligible for their services. For membership-based intermediaries, outreach efforts tend to be both narrower and deeper. Their membership is built on a particular industry or occupation, and thus their outreach is limited to that industry or occupation.

Assessment

LMIs market themselves on their ability to make effective connections between supply and demand, which rely on accurate assessment both of capacities and interests of workers and of the specific needs and working environments of employers. LMIs that have strong, ongoing relationships with both workers and firms are the best able to make appropriate matches. Membership-based LMIs were clearly the most effective at this. Their focus on particular industries and occupations gives them a better ability to understand rapidly changing skill requirements and employment needs. Private staffing agencies that work with specific employers for long periods of time also have a better understanding of the culture of the firm and necessary characteristics for workers. For most LMIs, however, the relationships with employers are limited, driven in part by the small numbers of people that any single LMI places in a particular firm or occupation. Employers are

unwilling to invest a significant level of time into building a relationship with a single LMI unless it will pay off for them in terms of number of people or a particular skill set. Thus, most LMIs are limited to simply taking job listings from employers in a scattershot approach, without having the resources to engage deeply in the particular needs and working conditions of the employers. In terms of building ties with workers, most of the relationships were weak, even among the nonprofit and community-based organizations. In many cases these relationships are driven primarily by short-term placement or training based on minimal assessment of workers' needs.

Training

Ideally, vocational training should be linked with skills that are in high demand in the labor market and even linked with guaranteed job placement. Membership-based intermediaries provided the most focused and immediately relevant training of the LMIs we studied. While this training was not broad in terms of the technical skills covered, it was detailed and provided clearly needed skills linked with immediate job opportunities. The LMIs with the greatest capacity for providing broad training opportunities are the community colleges. The increasing integration of the community college system with employer human resource requirements helps ensure that these training programs are oriented more toward employers' needs. Nonprofit LMIs provide another source of training, but these programs are forced to respond to the eligibility requirements and guidelines of funding agencies rather than responding directly to the needs of employers in the area. The limited long-term impact of these programs is documented in a number of studies (Bloom et al. 1997; Grubb 1996; Lafer 1994). For-profit LMIs rarely provide any substantial training. At best, they provide opportunities for self-paced, computer-based tutorial programs around particular software packages, typically the dominant Microsoft Office software.

On-the-Job Support

Ideally, employers themselves provide all the necessary support and assistance required to ensure that their employees can function effectively on the job. In reality, however, disadvantaged workers frequently encounter obstacles. Difficulties in communication, unfamiliarity with a new work environment, clash of personalities, power relations, concerns about working conditions, work responsibilities, or access to transportation and childcare are not always easily handled directly between employer and employee. On-the-job support was the most obvious weakness in the intermediaries we profiled. For most public-sector LMIs, their on-the-job support was limited

to follow-up phone calls at those intervals required by their funding sources to verify continued employment. The most promising efforts to provide on-the-job support we encountered were efforts to develop mentoring relations between new and incumbent workers, and this primarily occurred in the context of membership-based intermediaries. Private-sector on-the-job support was limited, except in the case of one agency we profiled in Silicon Valley, which has the mission of serving disadvantaged workers. The agency's staff visit the work site on a weekly basis, meeting with their workers, discussing workplace problems, and helping to avert problems before they occur. They also attempt to develop mentorship relationships, where clients and mentors attend weekly on-site workshops that offer practical support and career development assistance.

Support Services

The other critical area of assistance is access to a range of social services, including everything from stable and accessible childcare and assistance with transportation issues to treatment for substance abuse and counseling for other personal challenges (e.g., abusive relationships). LMIs rarely provide these services themselves. In Silicon Valley, the typical source for these types of support is Santa Clara County Social Services Agency and in Milwaukee, the one-stop Job Centers, which administer the state's welfare reform program, are the best sources for this assistance. In our interviews, we often heard dissatisfaction with access to the services provided. In Silicon Valley, complaints frequently related to income eligibility requirements that were so low, given the cost of living in the area, that people would become ineligible for services before fully getting on their feet. In Milwaukee, while eligibility for programs reaches higher up into the labor market, problems occur because generally only workers that have had extensive contact with the W2 agencies know what services are available.

Career Mobility Services

We suggest that there are three important areas of activity involved in promoting mobility.

Intimate Industry Knowledge

Promoting improved career mobility requires LMIs to have detailed knowledge of the skills and experience associated with available openings and an understanding of pay structures and opportunities for internal advancement. In cases where internal labor markets are minimal, it also requires identifying cross-firm occupational progressions along with the training, experience, and contacts required to make such cross-firm movements

possible. In industries or occupations with rapid technological changes or rapidly changing skill requirements, it also requires some ability to analyze future projections of employment opportunities. Intermediaries rarely have sufficient access to employers to gain this level of detailed information. In the public and nonprofit sector, the interests of LMIs are driven primarily by the needs and personal circumstances of their worker clients, and relationships with employers are quite weak. In the private sector, some LMIs clearly have closer relationships with employers, particularly in on-site relationships, but they still have only limited access to detailed industry information. The intermediaries that had the best intimate knowledge of industry dynamics were membership based. The detailed sharing of information among members, along with the close ties with employers and employers' dependence on the skill level of members, provided the LMIs with detailed knowledge of changing skill requirements and employment opportunities.

Building Worker Networks

Social networks are important for finding jobs; obtaining information on advancement opportunities; understanding changing dynamics in the firm, industry, or occupation; and learning about opportunities for skill development. Thus, helping workers build social networks is critical for building career mobility (Harrison and Weiss 1998; Melendez and Harrison 1998). Most staffing service agencies do not actively pursue the project of building networks for their workers. To the extent that workers build personal connections where they are placed and use those connections to help move into the firm and advance unassisted in the industry, the agency loses a placement. By contrast, some nonprofit and public LMIs do pay attention to building the social networks of clients. Nearly every nonprofit or public LMI that offered training spent some time on communication skills, including communication for the purpose of building useful networks. Within their particular occupations, however, the membership-based LMIs provided the best opportunities for building workers' social networks.

Advancement Training and Lifelong Learning

Once labor market information is reliably gathered, LMIs must find a way to deliver the training that advancement requires. This is no simple task, especially at the bottom of the labor market where workers juggle time and financial constraints to simply stay afloat. Long-term, daytime, and expensive training is simply inaccessible to most workers. Community colleges are clearly in the best position to offer a wide range of relevant courses in accessible formats and thus play the most substantial role in

allowing low-wage workers to advance in both regions. The increasing orientation of community colleges toward continuing education makes these training opportunities more accessible to older workers. Community colleges with strong industry connections and an accessibly delivered current curriculum are in the best position to help workers move up. In the more successful cases, however, community colleges were not doing this alone but in cooperation with membership organizations and agencies that provide support services.

Obstacles to Good Practice for Placement and Upward Mobility

Our research also provided insights into obstacles that LMIs face in meeting these best practices.

For-Profit Agencies

Staffing agencies are the largest in terms of the raw numbers of individual connections they make between workers and firms. There are significant challenges, however, to their playing a significant role in improving career opportunities for disadvantaged workers, which would require them to expand their training activities or become more closely connected to organizations that provide training or support services. The incentive structure common to all for-profit agencies makes this difficult. In cases where upward mobility involves moving from a temporary to a permanent position, staffing agencies lose their source of revenue. Staffing agencies do have a financial incentive to place more skilled workers and thus could benefit from people they place being able to move to higher positions in other firms. This is possible, however, only in the limited cases where there is a substantial demand for recurrent contract or temporary employment in skilled positions.

Nonprofits and Publicly Funded Programs

In terms of focus on the lowest levels of the labor market, the public-sector LMIs were clearly the best positioned. This very focus on serving particular population groups, however, limits their effectiveness as LMIs in at least three important ways. First, their programs are limited to particular population groups. Not only are workers subject to losing access to services when their status changes slightly, but the programs themselves are frequently driven by changes in policy or funding priority rather than directly by the needs of their constituencies. Second, these agencies have poor outreach on the employer side of the labor market. Generally, these LMIs are working with too broad a range of employers to understand career pathways in specific industries. Moreover, there are few venues to interact with employers around positions at other than entry level, making it difficult to

develop expertise in career opportunities. Finally, public-sector activities are often constrained by narrow performance measures that prioritize placement—such as percentage placed and 30-day retention rates—over measures related to the needs of the workers or employers.

Community Colleges

Community colleges in the two regions offer some model programs. This successful activity is consistently marked by partnerships with industry, community, and other LMIs. In both regions, the colleges' education and training systems did reach a broad range of workers and employers, including the most disadvantaged sectors of the labor market and also higher levels. Our field research, however, also revealed limits on community college capacity. As educational institutions, they are not always well positioned to serve in a support service capacity. Increasingly, they find themselves dealing with students who need more than just training. New partnerships with service providers have emerged to help deal with these issues, but there is still substantial work to be done. When community colleges have good information on opportunities and the technical capacity to train students to fill them, they may be able to play a substantial role in advancing low-wage workers. But community and technical colleges must also move into work sites, develop relevant short-term classes, and work to remain affordable and accessible to disadvantaged communities.

Unions and Membership-Based Organizations

Membership-based LMIs showed some of the best practices, especially relating to worker mobility. These organizations are often in a superior position with regard to critical industry knowledge, network building, and training delivery. These LMIs succeed by gaining intimate industry knowledge based on their long-term ties with workers who are able to share information on the industry from direct firsthand experience. Membership-based LMIs are the only ones in which there is a fundamental incentive structure that supports networking efforts. For unions, it is the collective strength of their membership that ensures their bargaining power, and while the bargaining activities aren't the central component of the intermediary activity, efforts to build strength through collective action also help build networks. The drawback is that the membership-based LMIs we studied typically did not work extensively with the lowest levels of the labor market. Typically, the majority of the membership base of these LMIs were people already employed and skilled enough in their positions that employers were prepared to pay a union-wage premium, thus limiting the LMIs' ability to reach to deeper levels of the labor market.

Conclusions

In this paper, we assess the current activities of a wide range of intermediaries in providing placement and career mobility services for disadvantaged workers. Our conclusion, as evidenced in table 1, is that intermediaries in Milwaukee and Silicon Valley have yet to develop an effective infrastructure that can replace formally internalized career ladders. Individual LMIs provide some valuable services, but no single organization is able to provide the full range of services necessary to have a significant impact. Furthermore, the fragmentation and lack of coordination among intermediaries, as well as the nearly universal failure of LMIs to track, much less interact with, workers over time suggest that the overall LMI system provides only minimal support for disadvantaged workers.

We did, however, find some promising initiatives in both regions. Such initiatives involved either membership-based organizations or community colleges in cooperation with networks of other LMIs. The features that characterized these initiatives include the following: targeting particular occupations or industry sectors, maintaining communication with workers over an extended period of time, building strong relationships with employers, deliberately focusing on workers' long-term needs, and providing both formal and informal learning opportunities.

These findings suggest at least three factors needed to help improve the ability of LMIs to assist disadvantaged workers in building career staircases. The first is recognizing that long-term considerations are critical but largely neglected in almost all LMI activity. For LMIs to be effective in creating an infrastructure for developing career mobility, they must become a resource for workers, not just through placement, but also through post–job placement, ongoing training and network building over time. The primary models for such a role exist in the activities of the membership-based LMIs. If unions and professional associations could be integrated with more formal training opportunities and expanded to reach more disadvantaged sectors of the labor market, the combination could provide a very significant impact on the labor market.

Second, there is clearly a need to address the fragmentation of services in the existing LMI universe. This means not just coordination among the nonprofit, community college, and public-sector LMIs, as has been the focus in many recent efforts to improve coordination (e.g., through one-stop initiatives). There is still a greater need to coordinate services with membership-based LMIs and private-sector LMIs in ways that improve opportunities for disadvantaged workers.

Finally, the activities of LMIs are in many cases limited by the lack of real partnerships or integration with employers. Providing incentives for

TABLE 1

Summary of Assessment of LMI Landscape in Terms of Placement and Career Mobility Services

	Ideal best practices	Private sector	Membership based	Public programs	Nonprofit/ CBO	Community/ technical colleges
Placement activities						
Outreach	Strong to both low and middle levels of labor market	Good	Narrow but deep	Limited to eligible population	Limited to eligible population	Minimal
Assessment	Deep knowledge of both technical skills and cultural factors of both workers & employers	Strong on employer side, weak on worker side	Strong	Minimal	Minimal on employer side; stronger, but still limited, on worker side	Some, improving on employer integration; passive career advice on worker side
Training	Strongly linked with demand	Minimal	Strong in focused areas	Basic	Basic	Extensive
On-the-job assistance	Regular and extensive	Minimal	Mentorships important	Minimal	Minimal	Minimal
Support services	Readily accessible and extensive	None	Minimal	Lots, but problems with access	Networked to county services	Minimal

TABLE 1 (*Continued*)
Summary of Assessment of LMI Landscape in Terms of Placement and Career Mobility Services

	Ideal best practices	Private sector	Membership based	Public programs	Nonprofit/ CBO	Community/ technical colleges
Career activities						
Intimate industry knowledge	Detailed knowledge of occupational progressions	Short-term focus, limited	Strong	Minimal, limited to eligible populations	Minimal, limited to eligible populations	Growing stronger
Building worker networks	Strengthening and expanding existing networks	Limited	Strong but narrow	Minimal	Minimal	Minimal
Advanced/ lifelong training	Detailed advanced technical training	None	Strong but narrow	Minimal	Minimal	Extensive

employer involvement is obviously one solution that is frequently advocated in evaluations of workforce development initiatives. Such initiatives seem most effective, however, when they involve multiple employers, are focused on particular industries and occupational progressions, and ultimately involve a carrot-and-stick approach.

Acknowledgment

We would like to thank the Ford, Rockefeller, and Russell Sage Foundations for providing funding to support this research. A more detailed, downloadable version of this paper is available at http://www.willamette.edu/dept/pprc/lmi.

Endnotes

[1] The term comes from Herzenberg et al. (1998).

[2] It is worth noting that from the view of many low-wage workers interviewed, the diverse types of LMIs are nearly indistinguishable. Workers know the address of LMIs but not their funding sources (i.e., government vs. community-based providers). Perhaps more surprising, many don't distinguish between for-profit and nonprofit entities: they are too closely linked and their services are too similar to be distinctive in many workers' eyes.

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DISCUSSION

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I enjoyed all three papers. In fact, it would have been worth the price of admission just to learn that Microsoft has a department that is actually named the Contingent Staffing Group (as documented in van Jaarsveld's paper)!

I want to start with a point made by van Jaarsveld. She contrasts between the basic matching function of labor market intermediaries (LMIs) and the adoption of broader human resource functions. She also draws a contrast between use of intermediaries that is efficiency driven (filling jobs as needed to match fluctuating demand—what she calls the "Kelly Girl" model) and firms' use of intermediaries to evade standard employer responsibilities. I would expand these two contrasts into a somewhat broader framework for looking at the purposes of LMIs. In addition to efficiency and evasion, intermediaries can serve a purpose of giving voice to workers—as seen in the case of WashTech, Working Partnerships, and others. See figure 1.

FIGURE 1
A Framework for Examining the Purposes of LMI Use

	Evasion	Specialization (efficiency)	Voice
Matching			
Broader HR functions			

Let me make a couple of points about this diagram. First of all, why do I equate efficiency with specialization? The point here stems from the fact that anything a temporary agency can do can also potentially be done in-house. If you seek to cover vacations and sick days, you don't *need* a temp agency for that; you can do it with in-house temps. And to be sure, HR functions can be performed in-house. So if there is an *efficiency* reason for shifting a function to an LMI, it must be because the LMI is better at the function, presumably due to specialization.

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There is a similar point to be made about evasion. If you want to cut wages, benefits, and job security, you can in principle implement these changes with your own workforce. The problem is that typically businesses want to make these changes only for *some* employees—just the new hires, just lower-level workers, just jobs where skill requirements are rapidly changing, or some other subset. But changing rules for some employees and not others can cause two types of problems for firms. First, it violates widely held norms (as we saw with two-tier union contracts, which engendered considerable resentment and resistance). Second, in some cases it violates laws—for instance, civil rights or tax laws.

Are all six cells in figure 1 truly meaningful? Well, I don't think the upper left cell has much in it. A business that seeks to dodge responsibilities will typically shift employer status to the intermediary, not just depend on the LMI for matching. The upper right cell may appear dubious, but it corresponds to a substantial number of hiring halls and first-source agreements (particularly those won by community groups) that just guarantee constituents access to jobs without providing an ongoing mechanism for voice on the job. The rest of the cells, in my view, self-evidently match up with real-world phenomena.

This taxonomy can then give us a way of talking about the three papers (although I admit it still fits better for van Jaarsveld's paper than for the other two). Each author or set of authors is comparing LMIs with each other. Van Jaarsveld asks of WashTech and the temporary agencies that staff Microsoft:

- To what extent are these intermediaries performing matching functions, and to what extent broader HR functions?
- To what extent are they serving purposes of voice or of evasion?

Benner and his co-authors focus on the middle (specialization/efficiency) column and ask how effectively a wide variety of intermediaries meet worker needs for

- Placement (i.e., matching)
- Careers (a broader HR function)

Bernhardt and company, instead, are looking at the very bottom of the bottom row—the broadest of HR functions—and asking:

- How much do these LMIs alter demand?
- To the extent that they do alter demand, are they helping or hurting workers; that is, what column are they in?

The papers yield a number of very interesting findings. The authors discover that there is a *lot* of action on the bottom row; LMIs are frequently

taking on a range of HR tasks. However, most LMIs do not do a terrific job of replacing internal labor markets. This should not surprise us if we believe, as I do, that the growth of intermediaries has largely been triggered by widespread acts of evasion by firms. If firms chose to reduce job security and in-house career options, it makes sense that LMIs would have a limited ability to recreate these features of jobs.

What does the map of different types of LMIs look like? Figure 2 attempts to capture the location of temporary agencies, nonprofit public and community-based agencies, community colleges, and membership organizations such as unions, as described in the papers.

FIGURE 2
Locating Intermediaries in the Framework

	Evasion	Specialization (efficiency)	Voice
Matching	(1)	(2) Nonprofits Temp agencies Community colleges Membership organizations	(3) Membership organizations
Broader HR functions	(4) Temp agencies	(5) Community colleges Temp agencies Membership organizations	(6) Membership organizations

The intermediaries that are most effective in widening opportunities for workers are those that cover more ground vertically and are located farther to the right (in the efficiency and voice columns). The papers conclude, and figure 2 depicts, that membership organizations do the best job on behalf of workers. (However, the exceptions are interesting: for instance, Benner et al. discuss a for-profit intermediary that provides extensive support services for disadvantaged workers, and one wonders if there is room for more activity in that market niche.

Unfortunately, as Benner and his co-authors point out, most membership organizations do not serve the most disadvantaged workers. But to a large extent, this was true of internal labor markets. The most developed internal labor markets were and are those for managers. Moreover, there are important examples of membership-based LMIs that *do* serve workers at the low end. Examples include the hiring halls won by ACORN and other groups as part of many living wage initiatives and hiring-hall and career advancement institutions that are being built by Local 2 of the

Hotel and Restaurant Employees in the San Francisco Bay area. I was hoping that Wade Rathke of ACORN would stoke my optimism on this score, so I am disappointed to hear him say that these examples are exceptional and exceedingly difficult to build.

One last comment: given the map in figure 2, indicating that different types of intermediaries play very different roles, it is fascinating to learn (from Benner and co-authors) that many workers do not distinguish among the categories of intermediaries, for instance, seeing for-profit temporary agencies and public or community-based workforce development agencies as all part of the same category. As research on intermediaries continues, understanding why workers fail to make this distinction must be a high-priority goal.

IV. HUMAN RESOURCES, LABOR AND EMPLOYMENT LAW, LABOR STUDIES, AND UNION RESEARCH, REFEREED PAPERS

Canadian Employment Equity Laws and Multinational Firms: An Institutional Analysis

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Globalization raises serious questions about the impact multinational corporations (MNCs) might have upon a sovereign nation's ability to implement employment policies. Here we investigate this issue within the context of Canada's efforts to ensure greater employment opportunity for groups that have been traditionally disadvantaged by analyzing data collected under the provisions of Canada's Employment Equity Act (EEA). We test hypotheses as to how foreign-owned (American and Western European) companies operating in Canada might behave under this law relative to Canadian-owned companies. We find that MNCs may well act differently from indigenous firms, though this can at times actually serve to reinforce rather than undercut national policy objectives.

The Federal Employment Equity Law in Canada

Canada has extensive legislative and constitutional protections against employment discrimination. Canadian law prohibiting discrimination based

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on gender, race, or ethnicity is similar to the protection provided by the American Civil Rights Act (1964). The Canadian concept of "employment equity" goes beyond protection from intentional discrimination and is concerned with reducing and eliminating employment practices that even inadvertently give rise to disparities in employment opportunities for specific groups. It is, thus, analogous to affirmative action policies in the United States.

Yet despite general similarities, Canadian employment equity (EE) policies differ in several respects from the U.S. approach. EE is newer to Canada than affirmative action programs are to the United States; the first enabling legislation, the federal Employment Equity Act (EEA), passed in 1986 and then was amended in 1995 (Jain 1997; Taggar, Jain, and Gunderson 1997). The United States has a long history of affirmative action and affirmative action–like programs (Konrad and Linnehan 1999; Jain and Venkata Ratnam 1994). In addition to the federal EEA, almost all jurisdictions in Canada permit voluntary EE programs through their respective human rights laws. Unlike the United States, Canadian employers are largely protected from the charge of reverse discrimination when they decide to mount and implement EE programs voluntarily (Tarnopolsky 1980). The distinction between the programs in the two countries rests in the fact that Canadian federal EEA has regulatory jurisdiction over a limited set of industries: banking, communications, and transportation across Canada. Firms in those industries, as well as the federal government departments, are subject to the requirements of the EEA. Firms in other sectors are regulated by provincial governments and are subject only to the Federal Contractors Program (FCP).

Our focus in this study is the EEA, as significant data have been collected on companies covered by the act over several years. The EEA targets four groups: women, visible minorities, aboriginal peoples, and the disabled. Visible minorities (VMs) include all non-Caucasian groups (apart from aboriginals, who are, of course, treated as a separate group). There are several groups termed VMs: blacks, South Asians, Arabs, and East and Southeast Asians.

Firms covered by the EEA are required to pursue employment goals for underrepresented designated groups across 12 broad occupational categories. Firms file annual Human Resource Development Canada (HRDC) reports indicating total employment, average pay, promotions, hiring, and terminations of all employees and employees within each of four target groups. Data in these reports are broken down by occupation, region, and employment status (full-time versus part-time). HRDC issues annual reports assessing the status of the law and the effectiveness of employment

equity programs of each firm under EEA. Companies that fail to achieve progress on employment equity goals are subject to adverse publicity through the release of the annual report. The Canadian Human Rights Commission (CHRC) has the authority to conduct on-site compliance reviews and issue a compliance direction when the employer has failed to make "reasonable progress" and does not have meaningful goals and timetables to advance minorities and women.

Foreign Ownership and EEA Compliance

Democratic governments normally enact legislation to promote the national interest and welfare of the citizenry. This would seem to be a particularly reasonable assumption in the case of employment equity legislation. Absent waivers or exemptions, governments would presumably expect both foreign- and domestically owned firms to comply with the provisions of such laws. Yet compliance with a law such as the EEA is a relative matter. Despite indications that the EEA is generally effective (Jain 1993), firms can vary considerably in terms of the total employment, hiring, promotion, and termination rates of underrepresented groups. In this regard, we might ask: Do foreign-owned firms operating in Canada that are covered by the EEA systematically differ from domestically owned firms in regard to the degree of compliance with EEA objectives? If so, do they tend to be more or less compliant with EEA objectives, or does the direction of the effect depend on factors associated with the firm? If MNC actions hamper policy implementation, then arguments raised regarding the negative impact of globalization on worker welfare are at least partially supported. If MNC actions are neutral with respect to policy outcomes, or if these should possibly enhance policy objectives, then a very different picture emerges.

What is the basis for expecting that foreign-owned firms might respond to policies such as those promoted by the EEA differently than domestically owned firms? Such conjecture rests primarily on the literature that suggests that the management policies of subsidiaries of foreign firms operating in a given host country are strongly influenced by cultural and possibly other environmental forces in the parent company's home country, as well as by host-country conditions. We base our analysis largely on arguments that derive from institutional theories of organizational action (DiMaggio and Powell 1991, Meyer and Rowan 1991). Although institutional theory is often used to explain organizational homogeneity, it can also be useful in helping to understand differences in organizations as well, such as when organizations differ in terms of national origin.

Institutional theory views organizations as influenced by different types of forces that generate pressures for conformity as organizations seek to

establish legitimacy in the external environment. Theorists frequently differentiate among three principal forces: regulative, normative, and cognitive (Scott 1995). All three of these forces can be seen to influence a firm's inclination to pursue employment equity goals. Regulative elements in the environment are immediately relevant in the case of the EEA. The law is enforceable through the coercive power of the state. However, in the case of an issue such as employment equity, the extent to which a firm is in compliance with the provisions of the law may be open to varying interpretations, and compliance is interpreted in terms of a host of factors. Normative structures represent the beliefs of key decision makers about proper and improper action (Scott 1995). Cognitive structures evolve through interactions with relevant others and are often highly subjective (Berger and Luckmann 1967). The cognitive structures that influence organizational action are expressions of the environmentally defined culture in which organizational participants operate (Scott 1995). Organizations may have internal cultures, but these are strongly influenced by the external cultural milieu in which the organization functions.

The organization's actions in relation to its environment will be shaped, then, by the regulative, normative, and cognitive structures that derive from its environment. In the case of domestic firms, we presume that the relevant environment is largely that of the host country. In the case of a foreign MNC, its home-country culture is apt to be more compelling. There are many mechanisms by which the institutional forces of the home country of a subsidiary's parent company might influence managerial decisions. The parent company may export, with minor modifications, policies formulated in the home country to its subsidiaries, policies shaped by the home-country institutional environment. Subsidiaries of foreign companies typically place expatriate managers in key decision-making roles. Even relatively cosmopolitan expatriate managers are likely to have perspectives rooted in the culture of their home countries, as indicated by the work of Laurent (1986), which could affect policies related to the EEA. Even when host-country nationals hold key positions, they might often have studied or worked in the firm's home country, be fluent in the home-country language, or have worked in the past for another company from that particular country. Finally, MNCs conduct training and socialization efforts with their host-country nationals (Schuler, Dowling, and De Cieri 1993), and these are apt to transmit cultural values that in part reflect home-country culture and institutional forces.

Hypotheses

The data set used in this study was derived from annual reports required by the EEA. Only two industries regulated by the Canadian federal

government under this law had an appreciable representation of foreign-owned firms: banking and commercial air transportation. And within that set, there were sufficient data for analysis only on Canadian-, European-, and U.S.-owned companies. Our hypotheses are formulated with respect to the likely impact of the institutional environment of a firm's home country on its openness to employment equity programs, both for women and visible minorities.

American Firms

U.S. companies generally have extensive experience with affirmative action programs, in the cases of women and underrepresented minorities. Although American and Canadian laws differ in certain respects, those aspects of the American institutional environment linked to enforcement of law are generally synchronous with the Canadian institutional environment, at least for American firms operating in sectors covered by the EEA. Features of the American institutional environment that support U.S. firms deal readily to EEA requirements. The American human resources management (HRM) field, which has undergone extensive professionalization over the past several decades, appears to have a strong commitment to employment equity as a professional standard. Extensive effort and resources have been devoted within the field to the development of tools to effect affirmative action programs (Konrad and Linnehan 1999). Affirmative action director positions in companies are often filled by women or members of minority groups, suggesting that the individuals leading affirmative action programs are likely to have a strong commitment to such efforts. Thus, the normative aspect stressed in the institutional literature, whereby professional groups often serve as conduits for knowledge of appropriate or legitimate organizational action, is quite evident in the American context.

Lobel (1999) observes that by 1997, two thirds of the Fortune 500 companies had either implemented or planned to implement diversity programs to enhance workplace opportunities for women and minority group members. Business leaders argue that diversity has become an important part of the business environment, and seeking to promote more effective use of the diverse human resources of contemporary businesses is only rational behavior. Thus, it seems that organization–environment interactions have led to cultural and cognitive transformations that cause managers to view internal, self-generated diversity efforts as desirable and perhaps necessary to legitimize the firm. American firms operating in Canada are not likely to experience conflicts between home-country and host-country institutional forces. In fact, the greater experience of U.S. firms in dealing with such issues might result in particularly high organizational competence in this area:

American-owned firms operating under the provisions of the EEA will exceed the performance of Canadian-owned firms in pursuing employment equity objectives for both women and visible minorities (*hypothesis 1*).

European Firms

Unlike the United States, the European institutional and cultural environment is quite different from that of Canada in regard to employment equity issues. There has been considerable sensitivity to discrimination against women in employment in Europe for some time, though generally less so than in North America (Bovis and Cnossen 1996). Beyond antidiscrimination laws, there are no regulations or statutes in Western Europe addressing gender issues. Thus, European MNCs do not deal with employment equity as an aspect of their home-country regulative environments, though many European companies have begun voluntary monitoring and reporting of the employment status of women in their organizations (Brewster, Hegewisch, and Mayne 1994) as a result of external pressure. Thus, in the case of employment opportunities for women, we see great sensitivity to discrimination problems reflected in the European institutional environment, though employment equity is at best a voluntary process. Based on institutional pressures, we should anticipate European MNCs to be rather sensitive to equity issues, though not as experienced in handling these matters as North American firms: Canadian-owned firms operating under the provisions of the EEA will equal or exceed the performance of European-owned firms in pursuing employment equity objectives for women (*hypothesis 2*), and American-owned firms operating under the provisions of the EEA will clearly exceed the performance of European-owned firms in pursuing employment equity objectives for women (*hypothesis 3*).

In the area of discrimination based on ethnicity, race, or related issues, there are virtually no safeguards under European law and very little environmental pressure from advocacy groups to address these issues. One exception is in the case of Northern Ireland, where, in fact, an employment equity law was enacted to promote opportunities for Catholics. The law has been of questionable effectiveness. There have been some efforts at monitoring employment opportunities for ethnic minorities in some parts of Europe (Brewster, Hegewisch, and Mayne 1994), but these are generally quite limited. Thus, there are no really significant institutional pressures confronting Western Europe MNCs that would tend to make them sensitive to employment equity issues in the case of visible minorities: American-owned and Canadian-owned firms operating under the provisions of the EEA will exceed the performance of European-owned firms in pursuing employment equity objectives for visible minorities (*hypothesis 4*).

Research Methods

The data for this study came from annual reports filed by companies covered by the EEA (described earlier) for the period 1987–1996. In any given year, a particular company could report on up to 240 distinct units (12 occupational categories 10 provinces[1] 2 full- vs. part-time employment). We restrict our analysis to women and visible minorities, as the numbers in the disabled and aboriginal groups are, in the industries considered here, too small for meaningful analysis. The four dependent variables used in our study are (1) women and visible minorities as proportions of the total workforce in a given reporting unit, (2) women and visible minorities as proportions of the total employees promoted in a given reporting unit, (3) women and visible minorities as proportions of the total employees hired in a given reporting unit, and (4) women and visible minorities as proportions of the total employees terminated in a given reporting unit.

Although several hundred firms file reports under the EEA, we use data from only 27 in this study. Of covered industries, only banking and commercial air transportation have appreciable numbers of non-Canadian firms. Five of the companies in these two sectors are American owned (two banks and three airlines), and eight are of Western European origin (four airlines and four banks), with the rest being Canadian (there were only two Asian-based MNCs, so they were dropped). We have repeated measures on all of these companies (across time, occupations, and provinces) so the actual sample size analyzed for any dependent variable amounts to several thousand observations.

Statistical analysis involved regressing a given employment status measure for women and for visible minorities against (a) a set of dummy variables indicating occupational group, (b) a set of dummy variables indicating the Canadian province to which the data related, (c) a dummy variable indicating whether the company was in the transportation sector (versus the banking sector), (d) a dummy variable indicating whether the employees in question were part-time or full-time workers, and (e) two dummy variables indicating whether the company is American owned or European owned (the excluded category being Canadian owned). A group of interaction terms is also included in each regression, as explained later. Because we have data of various companies over time, statistical estimation of the regression equations, which are in the conventional linear form, is by means of generalized least squares (GLS) rather than ordinary least squares. A random effects specification is used with regard to the time and company dimensions. The occupational, geographical, business sector, and employment status variables serve effectively as fixed-effects components

for the other dimensions. To conserve on space, descriptive statistics are not reported here.

Results

Workforce Sample

Table 1 reports the regression results for the workforce sample. The overall regression equations for proportions of both women and visible minorities in the workforce are statistically significant at the .001 level, and the R^2 values exceed .50 for both equations.[2] As indicated by the values of the occupational dummy variables in the women's equation, women are significantly less likely to be employed in almost all occupations other than clerical positions. The numbers are especially high in the case of upper management but are also high for foremen, semiskilled workers, and skilled workers (blue-collar positions traditionally held by men). So the general distributions here are as might be expected. Visible minorities are also less likely to be in certain positions, particularly managerial and supervisory jobs, than clerical positions. Again, the results indicate that minorities experience difficulty in attaining certain desirable jobs.

The variables of principal concern to us here are the firm's home-country indicator and the group of interaction effects. These variables allow us to test the hypotheses we have specified. As for the main effects of the home-country dummy variables, American firms, in general, are more likely to employ both women and minorities than Canadian firms. This result is consistent with hypothesis 1. European firms are no more likely than Canadian firms to hire women, which is consistent with hypothesis 2, but more likely to hire minorities than Canadian firms, which contradicts hypothesis 4. Note that the coefficient of the U.S. dummy variable in the women's equation is greater than that of the European dummy variable, so American firms, in general, do outperform European firms in employing women (holding other things constant), as suggested by hypothesis 3, though this difference is not statistically significant. There is no difference, however, with regard to employment of minorities between European and American firms, although this was expected.

The most important elements in our analysis are the interaction effects. In each case, we interacted certain occupational categories with the home-country dummy variables to see how American and European firms perform in certain key occupations, particularly those that are higher paying and of higher status. The U.S. Management dummy variables in both the equations are not statistically significant, indicating that American and Canadian firms perform at about the same level in generating management

TABLE 1
Regression Results for Workforce Sample
(n = 8,651)

Independent variables	% Women		% Visible minority	
	Coefficient	*t* value	Coefficient	*t* value
Constant	1.014	122.212[a]	.119	34.579
Occupation				
Manual workers	–.562	–36.627[a]	–.016	–2.451
Sales workers	–.195	–16.420[a]	–.004	–0.837
Foremen	–.653	–40.167[a]	–.028	–4.220[a]
Technical workers	–.270	–23.822[a]	–.049	–10.387[a]
Semiskilled workers	–.703	–57.807[a]	.000	–0.044
Service workers	–.290	–23.368[a]	–.018	–3.628[a]
Skilled workers	–.616	–47.022[a]	.001	0.198
Supervisors	–.015	–1.598	–.015	–4.028[a]
Upper management	–.698	–62.623[a]	–.060	–12.960[a]
Managers	–.279	–31.013[a]	–.029	–7.684[a]
Professional workers	–.211	–21.574[a]	–.011	2.730[b]
Full-time employment	–.250	–44.470[a]	.020	8.510[a]
Transportation sector	–.145	–24.750[a]	–.042	–17.082[a]
Provinces				
Alberta	.073	8.156[a]	–.057	–15.267[a]
British Columbia	.039	4.340[a]	–.008	–2.264[c]
Manitoba	.049	4.943[a]	–.071	–17.430[a]
New Brunswick	.049	4.079[a]	–.105	–21.219[a]
Newfoundland	.040	3.165[b]	–.098	–18.631[a]
Nova Scotia	.012	1.175	–.086	–20.265[a]
Prince Edward Island	.039	2.106[c]	–.106	–13.795[a]
Quebec	–.008	–1.016	–.077	–24.136[a]
Saskatchewan	.041	3.700[a]	–.096	–20.907[a]
Firm's home country				
Europe	.022	1.089	.107	12.575[a]
U.S.	.063	3.046[b]	.107	12.528[a]
Interactions				
U.S. Management	–.013	–0.321	–.001	–0.039
Europe Management	–.106	–2.979[b]	–.071	–4.804[a]
U.S. Professionals	–.164	–3.992[a]	–.001	0.072
Europe Professionals	–.373	–7.965[a]	–.050	–2.576[b]
U.S. Upper mgmt	.216	5.671[a]	–.047	–2.975[b]
Europe Upper mgmt	.111	2.993[b]	–.104	–6.775[a]
U.S. Foremen	.109	2.091[c]	–.129	–5.962[a]
Europe Foremen	.023	0.444	.015	0.684
U.S. Sales workers	.018	0.476	–.129	–8.126[a]
Europe Sales workers	.265	7.583[a]	–.066	–3.735[a]
U.S. Skilled workers	.095	2.285[c]	–.086	–5.023[a]
Europe Skilled workers	–.066	–0.646	–.125	–2.929[a]
U.S. Supervisors	–.100	–2.524[b]	.041	2.506[c]
Europe Supervisors	–.051	–1.447	–.070	–4.831[a]
R^2	.52		.58	

[a] $p < .001$; [b] $p < .01$; [c] $p < .05$

jobs for women and minorities. However, the dummy variables are negative and statistically significant in the case of the Europe Management interaction. In the case of upper management, however, the European and American firms outperform the Canadians (the coefficients for the interaction effects are positive and significant), though the American firms have a higher coefficient than the Europeans, indicating greater generation of opportunity for women by the American firms. However, the results do not hold for minorities, where both the American and European interaction effects are negative and statistically significant. But here again, the American firms have a lower (i.e., less negative) coefficient than the European firms, so they do outperform the Europeans for minorities in upper-management slots. The Europeans do much worse than both the Americans and the Canadians in the case of professional employment for both women and visible minorities; the Americans do about the same as the Canadians for minorities, though worse than the Canadians for women in professional positions.

Space limitations preclude detailed discussions of all of the interaction effects, though the reader should be able to see a general pattern here. First of all, MNC subsidiaries often do differ from Canadian firms in regard to women and minority employees. There is a general tendency for the foreign firms to hire more individuals in both categories than the Canadian firms. This is surprising in the case of European firms, especially in the case of minorities, but not so for the American firms. In the case of more desirable jobs (indicated by the dummy variables), the foreign firms often perform differently than the Canadian firms, though the pattern is a little ambiguous. In the case of women workers, the American and European firms sometimes outperform the Canadians and sometimes do not. However, the American firms generally do better than the European firms in creating jobs for women in higher-income and higher-status jobs (in that the American firms almost always have more positive or less negative coefficients than the European firms). This is consistent with expectations. In the case of visible minorities, almost all of the interaction effects are negative for the European firms, and the values of these are almost always less than those of the American firms (consistent with expectation), though the American firms often have negative coefficients for these interaction effects, suggesting less effectiveness than the Canadians (which counters expectations).

Other Samples

The workforce sample data provide an overview of employment opportunity in a static sense: what is currently the case. The dynamic measures (new hires, terminations, and promotions) tell us more about the current progress firms might be making. In the case of new hires (table 2), the

TABLE 2
Regression Results for New-Hires Sample
(n = 4,391)

	% Women		% Visible minority	
Independent variables	Coefficient	*t* value	Coefficient	*t* value
Constant	.876	68.775	.127	19.823
Occupation				
Manual workers	–.549	–18.306[a]	–.016	1.104
Sales workers	–.279	–13.061[a]	–.006	–0.526
Foremen	–.510	–7.816[a]	–.086	–2.636[b]
Technical workers	–.369	–16.836[a]	–.047	–4.204
Semiskilled workers	–.763	–33.847[a]	–.008	–0.694
Service workers	–.332	–14.749[a]	–.013	–1.168
Skilled workers	–.680	–26.406[a]	¯210	–1.598
Supervisors	–.079	–4.760[a]	–.018	–2.201[c]
Upper management	–.540	–19.709[a]	–.083	–6.040[a]
Managers	–.304	–22.127[a]	–.023	–3.281[a]
Professional workers	–.283	–18.827[a]	.010	–1.296
Full-time employment	–.174	–17.854[a]	.021	4.298[a]
Transportation sector	.007	0.610	–.035	–6.066[a]
Provinces				
Alberta	.056	3.542[a]	–.060	–7.470[a]
British Columbia	.038	2.564[b]	–.001	–0.168
Manitoba	.039	2.164[c]	–.082	–9.136[a]
New Brunswick	.096	4.632[a]	–.117	–11.217[a]
Newfoundland	.040	1.599	–.113	–8.906[a]
Nova Scotia	.048	2.403[c]	–.082	–8.229[a]
Prince Edward Island	.156	4.220[a]	–.123	–6.651[a]
Quebec	.024	1.884[d]	–.081	–12.642[a]
Saskatchewan	.021	1.010	–.109	–10.388
Firm's home country				
Europe	.003	0.094	.067	3.875[a]
U.S.	–.024	–0.770[d]	.109	6.902[a]
Interactions				
U.S. Management	–.059	–0.925	.066	2.041[c]
Europe Management	–.225	–3.608[a]	–.087	–2.766[b]
U.S. Professionals	–.089	–1.403	.005	0.161
Europe Professionals	–.332	–4.612[a]	.081	2.242[c]
U.S. Upper mgmt	.102	1.242	–.039	–0.932
Europe Upper mgmt	–.150	–2.057[c]	–.061	–1.669[d]
U.S. Foremen	.325	1.127	–.136	–0.933
Europe Foremen	–.012	–0.185	–.106	–3.205[a]
U.S. Sales workers	.285	4.720[a]	–.069	–2.263[c]
Europe Sales workers	.125	1.872[d]	–.010	–2.926[b]
U.S. Skilled workers	–.115	–0.687	–.071	–0.084
Europe Skilled workers	–.090	–1.270	.230	6.422[a]
U.S. Supervisors	–.056	–0.782	–.020	–0.559
Europe Supervisors	.876	68.775	.127	19.823[a]
R^2	.58		.54	

[a] $p < .001$; [b] $p < .01$; [c] $p < .05$; [d] $p < .10$

American firms generally do worse than the Europeans and Canadians in general hiring of women and minorities. However, the pattern for the interaction effects is quite similar to what we discussed earlier: the Europeans generally do worse than the Americans in hiring both minorities and women into management, professional, and upper-management positions, as well as some other higher-paying jobs. The Europeans outshine the Canadians and Americans on occasion, but this is not common. The Europeans generally do better than both the Americans and Canadians in promoting women (table 3), but this is not so with visible minorities. Again, with some exceptions (e.g., women supervisors), the European companies are less effective in promoting women and minorities to higher-income and higher-status jobs than the Canadians and Americans. Finally, the results for the terminations sample (table 4) need to be looked at somewhat differently because the signs of the effects are reversed. European firms have a generally lower rate of terminating women than Canadian firms, though they have a higher termination rate for minorities than Canadian and American firms (though the European–American difference is not significant). The interaction effects, however, are somewhat mixed here and not so clear-cut as with the other samples.

Conclusions

This study investigated the impact of foreign companies on part of the Canadian employment equity (i.e., affirmative action). We formulated several hypotheses, and although the results were not always consistent with the hypotheses, some general patterns are evident. American firms did not, in general, exceed the performance of Canadian firms, so hypothesis 1 is not supported. It may be that the experience that American firms have acquired over many years of dealing with affirmative action has been readily assimilated by Canadian firms. Or it may be that American firms sometimes seek to avoid following laws such as these if possible.

Hypotheses 2 and 3 do seem to be supported. Despite some significant exceptions, European firms did not do as well as American or Canadian firms in enhancing the employment status of women, especially for more desirable jobs. The impact of European firms is even greater in the case of visible minorities, where they do a generally much weaker job in generating employment opportunities than American and Canadian firms (hypothesis 4), particularly in the case of more desirable jobs.

This study has obvious limitations. The most significant is that even though the samples have a large number of cases, we only have a total of 27 companies. These companies may be quite anomalous as foreign firms go in Canada. Thus, a study considering this and related issues (such as

TABLE 3
Regression Results for Promotions Sample
(n = 5,207)

Independent variables	% Women		% Visible minority	
	Coefficient	*t* value	Coefficient	*t* value
Constant	.991	86.472[a]	.128	22.540[a]
Occupation				
Manual workers	–.571	–16.012[a]	–.034	–1.902[d]
Sales workers	–.258	–13.769[a]	–.031	–3.336[a]
Foremen	–.592	–22.720[a]	–.017	–1.299
Technical workers	–.228	–13.738[a]	–.032	–3.796[a]
Semiskilled workers	–.6001	–25.055[a]	–.009	–0.778
Service workers	–.307	–12.829[a]	–.038	–3.210[a]
Skilled workers	–.588	–24.965[a]	.014	–1.163
Supervisors	–.002	–0.145	–.011	–1.797[d]
Upper management	–.631	–37.783[a]	–.072	–8.639[a]
Managers	–.264	–23.046[a]	–.029	–5.036[a]
Professional workers	–.165	–12.688[a]	.002	–0.255
Full-time employment	–.205	–22.179[a]	.027	5.941[a]
Transportation sector	–.177	–18.117[a]	–.047	–9.525[a]
Provinces				
Alberta	.046	3.503[a]	–.071	–10.792[a]
British Columbia	.029	2.289[c]	–.005	–0.714
Manitoba	.045	3.196[a]	–.090	–12.631[a]
New Brunswick	.032	1.931	–.126	–15.021[a]
Newfoundland	.021	1.099	–.126	–13.123[a]
Nova Scotia	.011	0.736	–.100	–12.997[a]
Prince Edward Island	.040	1.607	–.127	–10.048[a]
Quebec	.002	0.142	–.092	–16.667[a]
Saskatchewan	.025	1.500	–.119	–14.599[a]
Firm's home country				
Europe	.082	2.341[b]	.056	3.146[b]
U.S.	.011	0.282	.164	8.351[a]
Interactions				
U.S. Management	.030	0.477	–.027	–0.861
Europe Management	–.136	–2.424[b]	–.030	–1.074
U.S. Professionals	–.263	–4.215[a]	–.064	–2.063[c]
Europe Professionals	–.495	–6.945[a]	.155	4.358[a]
U.S. Upper mgmt	.286	3.869[a]	–.051	–1.377
Europe Upper mgmt	.099	1.202	.038	0.934
U.S. Foremen	.249	2.598[b]	–.103	–2.150[c]
Europe Foremen	.099	–0.653	–.149	–1.962[c]
U.S. Sales workers	.153	2.399[b]	–.131	–4.140[a]
Europe Sales workers	.367	5.774[a]	–.056	–1.763[d]
U.S. Skilled workers	.170	1.863[d]	–.208	–4.565[a]
Europe Skilled workers	–.102	–1.693[d]	n.a.	n.a.
U.S. Supervisors	–.107	–2.066[c]	.049	1.616
Europe Supervisors	.991	86.472[a]	.020	0.791
R^2	.43		.54	

[a] $p < .001$; [b] $p < .01$; [c] $p < .05$; [d] $p < .10$

TABLE 4
Regression Results for Terminations Sample
(n = 5,861)

Independent variables	% Women		% Visible minority	
	Coefficient	*t* value	Coefficient	*t* value
Constant	.951	85.826	.109	22.376
Occupation				
Manual workers	–.555	–24.006[a]	–.002	–0.200
Sales workers	–.199	–11.515[a]	–.013	–1.706[d]
Foremen	–.632	–25.447[a]	–.045	–4.119[a]
Technical workers	–.367	–20.558[a]	–.036	–4.583[a]
Semiskilled workers	–.697	39.454[a]	–.013	–1.641
Service workers	–.257	–14.225[a]	–.028	–3.568[a]
Skilled workers	–.637	–32.213[a]	–.006	0.637
Supervisors	–.054	–4.198[a]	–.015	–2.679[b]
Upper management	–.711	–38.207[a]	–.064	–7.795[a]
Managers	–.364	–30.310[a]	–.022	–4.121[a]
Professional workers	–.254	–18.970	.011	1.784[d]
Full-time employment	–.188	–22.644[a]	.004	3.297[a]
Transportation sector	–.131	–15.030[a]	–.032	–8.246[a]
Provinces				
Alberta	.063	4.881[a]	–.052	–9.069[a]
British Columbia	.045	3.679[a]	–.014	–2.494[c]
Manitoba	.026	1.820[d]	–.068	–10.680[a]
New Brunswick	.037	2.205[c]	–.090	–12.113[a]
Newfoundland	.032	1.605	–.097	–11.111[a]
Nova Scotia	.021	1.338	–.078	–11.363[a]
Prince Edward Island	.060	2.105[c]	–.099	–7.859[a]
Quebec	–.009	–0.842	–.068	–14.453[a]
Saskatchewan	.046	2.744[b]	–.080	–10.853[a]
Firm's home country				
Europe	–.035	–1.120	.057	4.134[a]
U.S.	–.076	–2.515[c]	.084	6.365[a]
Interactions				
U.S. Management	.075	1.251	.072	2.738[b]
Europe Management	–.164	–3.135[b]	–.068	–2.962[b]
U.S. Professionals	–.156	–2.600[b]	.048	1.808[d]
Europe Professionals	–.342	4.743[a]	.070	2.199[c]
U.S. Upper mgmt	.267	3.840[a]	–.017	–0.558
Europe Upper mgmt	.070	1.082	–.062	–2.193[c]
U.S. Foremen	.660	4.181[a]	–.108	–1.555
Europe Foremen	.036	0.226	.232	3.332[a]
U.S. Sales workers	–.013	–0.228	–.112	–4.561[a]
Europe Sales workers	.309	5.906[a]	–.037	–1.622
U.S. Skilled workers	.243	4.059[a]	–.102	–3.874[a]
Europe Skilled workers	.050	0.186	–.084	–0.715
U.S. Supervisors	.062	0.961	.047	1.645[d]
Europe Supervisors	–.020	–0.347	–.054	–2.095[c]
R^2	.58		.13	

[a] $p < .001$; [b] $p < .01$; [c] $p < .05$; [d] $p < .10$

employment discrimination) might give better insights. However, as a starting point, we feel our paper raises important questions about the sometimes deleterious effects of MNCs on employment laws. It suggests that at least some of the arguments raised by critics of globalization have merit and need to be addressed thoroughly.

Endotes

[1] Data can also be reported for each of Canada's territories, though in practice very few cases in the data set used here came from territorial sources. Thus, territorial observations were dropped.

[2] Because the equations were estimated by GLS, the R^2 values are only approximate.

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WIA in Chicago: Constraints on Access Enable a "Work-First" System

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Abstract

The Workforce Investment Act of 1998 (WIA), which brings federal, state, and local job-training programs into one delivery system, was enacted to alleviate a skilled-labor shortage in conjunction with welfare reform. These two goals continue to conflict as WIA is implemented. Constraints on access create economic pressure to use "work-first" approaches—placing a job seeker in the first available job rather than providing training that leads to a better job—and undermine both goals. Union representation is avoided by the way WIA is structured. At least in Chicago, which has an abundance of low-skilled job seekers, the opportunities to achieve "high-road" workplaces through WIA seem slim.

The Problem of WIA

The Workforce Investment Act of 1998 (WIA), which replaced and expanded the Job Training Partnership Act (JTPA), our primary national job training program since 1982, was enacted to alleviate a skilled labor shortage and, in conjunction with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), to help move welfare recipients into the workforce. These two goals continue to conflict as WIA is implemented. The economic pressure to use "work-first" approaches—placing a job seeker in the first available job rather than enrolling him or her in training that might lead to a higher-wage job—undermines both goals. Union representation, the process by which workers who have received training might capture economic benefits from training and therefore the means by which these two goals might be resolved, is avoided by the way WIA is structured. This paper looks at the way these conflicts are playing out in Chicago in terms of the issue of access.

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How WIA Came About

WIA was the result of federal top-down planning that began in the early 1990s. The economic turnaround of 1992, combined with the government cutbacks of the "reinventing government" period lent support to a move to "fix" our job-training programs by consolidating them. A General Accounting Office report found in 1994 that there were 154 programs run by 14 federal agencies spending $25 billion per year (U.S. General Accounting Office 1994). States had additional programs: for example, Grubb and colleagues (1999:4) found that in 1992 North Carolina spent $800 million on 49 state-level programs and called the overall system "chaotic" and "an endless source of frustration." In 1996 welfare reform moved recipients off cash payments and into the job market, making it more urgent that the public employment system be rationalized. When, after several efforts to come to a bipartisan agreement, Congress passed WIA in 1998, Senator Mike DeWine of Ohio (one of the cosponsors) said, "This is the unfinished business of welfare reform. We had not given [welfare recipients] one of the tools they really needed to make welfare reform work" (Joyce 1998). However, WIA was also intended to be used to upgrade the skills of workers in growing high-skill sectors.

But by the time WIA was fully implemented in July 2000, unemployment was at a record low, and employers were reporting a high-skill labor shortage, especially in information technology and manufacturing sectors (Herman 1999). Training skilled workers for new skilled work obviously can be done faster and costs less than training unskilled workers for skilled work. Given the degree to which WIA is underfunded and that training opportunities are competing for a small pot of money—$3.6 billion dollars for WIA in 2001 ("Federal Funds Information for States" 2001) as compared with JTPA's $4.9 billion in 1999 (U.S. Department of Labor 1999)—the conflict between "cleaning up after welfare" and retraining high-skilled workers was intensified. Because of the enormous amount of local discretion devolved to local workforce investment boards, this conflict is being worked through at the local level, where it plays out in concretely dramatic forms.

How WIA Works

WIA was publicized as a "GI Bill for workers" (Associated Press 1998), but its complicated top-down structure gives much more choice to its administrators than to job seekers. WIA is administered through employer-dominated workforce investment boards (WIBs) on which organized labor may have 4% or less of the votes. Boards are at both the state and local

levels, with members appointed by the CEOs, or chief elected officials (e.g., mayors), of each service delivery area. Funds are channeled through the Department of Labor to states and then to local boards, which contract with one-stop operators (which may be educational institutions such as community colleges, state agencies, nonprofits, or for-profits). Operators then provide services to job seekers on three levels: core (brief interactions with job seekers, perhaps self-guided and computerized), intensive (more interaction but still casual), and training. Job seekers who are referred to training may then choose from a list of approved training providers. The WIB may also arrange contracts for incumbent workers or set up customized training programs for employers. Labor representatives, who are appointed by state and local central labor and building trades councils, may constitute as few as 2 members out of committees of 50 or 60. In order to have any influence, labor representatives have to form coalitions with representatives from other constituencies on WIBs.

WIA in Chicago

For the last year, I have been attending state- and local-level public meetings in Illinois concerning the implementation of WIA, studying documents and interviewing stakeholders in different parts of the process to observe what core conflicts are emerging and the role of organized labor in those conflicts.

The core conflict is over access: who gets access to the resources provided by WIA. It is interesting but not surprising that access is as much a contested area in the context of public funding for training as it is in the context of public education. In public education, this struggle is expressed in debates over funding (how many places are available in a school or class), curriculum (what students learn when they get into a class), and how students are selected for different schools, classes, or tracks. The struggle over access to training under WIA is revealed in the following examples.

Access to Training

There are more people who need training than can be funded. Klepper and Theodore (1997) demonstrated that there was a "job gap" of three to seven low-skilled job seekers to every low-skilled job opening, meaning that there simply are not enough jobs in Chicago to which low-skilled job seekers can be matched. The value of the Individual Training Accounts (ITAs) in Chicago was capped at $5,000 but may be increased to create an incentive to train for higher-paying jobs (Chicago Jobs Council 2000:2). Previous JTPA studies showed that costs of training sufficient to move a job seeker from low-skill to high-skill qualifications was between $5,000 and

$6,000 (Chicago Jobs Council 1998:19). While "hard-to-employ" job seekers—if they are given access to longer, more costly training programs—can find jobs (Lewis and Theodore 2000), a one-stop operator has a financial incentive to avoid costly training programs. Here the labor shortage and welfare reform converge, and solutions undermine each other, forcing low-road priorities for WIA services.

Access to WIA resources is constrained overall because funding for WIA is not generous and will decrease. Three streams of federal funding through the Department of Labor support WIA. Funding for 2001 totals only $3.64 billion, an increase of $102 million over 2000. As many people have pointed out, $3.6 billion is not a lot of money (TANF is $16.8 billion; Pell grants are $7.6 billion; "Federal Funds Information for States" 2001). The National Governors Association (1997) estimates that American businesses spend $232 billion annually on workforce training.

An obvious consequence of limiting funding for precious services is that populations compete for the same money. According to the Employment Training Administration (ETA) Budget State Formula Funding, Illinois's share of these streams is $110 million annually, with $38.7 million targeted at dislocated workers. In Chicago the shares are reversed: the adult stream gets $12.5 million, and the dislocated-worker stream $6 million (Mayor's Office of Workforce Development 2000:3). When dislocated-worker money is exhausted, dislocated workers look to the adult-funding stream and come into competition with other job seekers.

Ironically, there is a $675,000 surplus available to the Chicago WIB from unspent food stamp funds. This money is presently slated to be spent in three ways: $40,000 for the WIB Web site, $300,000 for transitional job centers in housing authority sites, and $335,000 to employers for custom-designed training. However, this money was originally intended for people who were eligible for food stamps. Shifting it to the Web site and custom-designed training shifts public support from people with few assets to people with more assets. There is a likelihood that this money will be reassigned to training for people who are currently on food stamps.

Access is geographical as well as financial. Nationally, states are making decisions about whether to co-locate a one-stop with a Temporary Assistance for Need Families (TANF, which replaced AFDC) eligibility office (U.S. General Accounting Office 1999). Although TANF clients need one-stop services in order to find jobs, the Chicago WIB has the discretion to choose not to co-locate them. The argument against co-location is that employers don't want one-stop offices to look like welfare offices, where people are standing in lines. As Jackie Edens, commissioner of the Mayor's Office of Workforce Development, explained at a public meeting held to

persuade public officials to site a one-stop office in a neighborhood: "You have to be able to change the mind of business that this will say work, not TANF. You have to convince them that it's not a public aid office or an unemployment office."

Access is also a matter of access to a curriculum. The state-level provider list is now out and available online. Although the AFL-CIO Working for America Institute (1999:56) recommends that a required part of every curriculum be introduction to labor and employment law—including, for example, OSHA, ADA, FMLA, FSLA, and NLRA—no training provider has publicly offered to provide this curriculum. The public sector is well represented on the list of providers: the vast majority of providers are public-sector community colleges, some offering over 100 programs, but it will take time to see whether these programs become stable offerings. However, there are no union providers on the list. Not one of Illinois's 228 signatory apprenticeship programs has become a provider under WIA. There is one union-related community service organization, IAM Cares (Machinists). This means that a job seeker coming through a one-stop could not choose a training program linked to a union in the sense that an apprenticeship program is linked to a union. A person who asked not to be identified explained one reason why a union-related trainer would not offer services under WIA: "Placement is the name of the game. If I had anything like 'union' in our name, the employer who was considering one of our trainees would ask, 'What are you going to do, organize our shop?'"

Another conflict that parallels the conflict over access in public education has to do with the span of a provider's responsibility for successful outcomes. In the public education system, successful outcomes mean scores for individual students, classes, or schools on standardized tests. Under WIA, the success of a provider is measured by the wage that the trainee is making at a point some months after the training is over. While large community college systems can and do offer a "guarantee"—retraining if a graduate is not a satisfactory worker—the small community-based organizations that do much of this training cannot take that risk. For them, an unconditional guarantee is a problem. Yet attempts to spread the burden of responsibility around the system—for example, to get a commitment from employers who hire graduates to hire them at a certain wage—do not seem likely to succeed.

Strikingly, it is not only the signatory apprenticeship programs that are absent from the provider list. Also absent are the large for-profit vocational and technical colleges, particularly DeVry. The same explanation might apply to both: neither needs the money. Both provide long-term (in the case of apprenticeships, up to six years), very expensive training opportunities

and are already well funded. WIA, with its meager funding and probable reliance on short-term training, is not sufficiently attractive. Yet union apprenticeship programs lead to high-skill, high-wage jobs, the perfect high-road employment. Furthermore, in Chicago, 82% of employers in construction (where there are many apprenticeship programs) report some or great difficulty in finding workers (Mayor's Office of Workforce Development 2000:10, table 4).

Organized Labor's Response

In Chicago, except for assisting dislocated workers, organized labor exercises its influence within WIA through representation on the WIB. In Chicago this board does not meet often, exercises great discretion, and works through subcommittees, making it, as elsewhere, an ineffective forum for labor strategies. Labor cannot draw on its organizational strength and is limited to acting as a conscience.

Outside WIA, but very much a part of the effort to promote a high-road vision of what good work means (AFL-CIO Working for America Institute 2000), the Chicago Federation of Labor (CFL), in conjunction with a consortium that includes the Chicago WIB, obtained a $750,000 Department of Labor Regional Skills Assessment Grant. This grant targets manufacturing, a sector that employs one out of five workers in Chicago. While manufacturing only anticipates a 5% growth over the next 12 months, this is still a considerable number of hires, and 56% of employers report some or great supply difficulty (Mayor's Office of Workforce Development 2000:9, table 3). The study will look at what frontline workers, both union and nonunion, already know and need to know and what the training resources are in the immediate region. Going after and getting this grant is a big step into both the publicly funded job-training and the coalition world for the CFL, which has a deeply set center of gravity in the craft unions.

At the national level, labor has developed a strategic vision of good workforce development projects (high-road projects) through the AFL-CIO Working for America Institute, a vision that is intended to challenge low-road projects that may come out of WIA. These partnership projects are either sectoral or regional and involve multiple partners around a core union or set of unions. The partners may be public or private, educational or governmental. This vision needs to be more widely promulgated in Chicago.

Conclusion

When access is constrained, whether by limited or diverted funding, geography, or curriculum, educational programs compromise by resorting

to satisfying quick outcome goals. In the case of WIA, the quick outcome means "work first." There is tremendous pressure on Chicago to run WIA as a work-first system. These pressures may be greater than labor's high-road strategy can overcome in the short term. AFSCME-represented caseworkers at welfare offices in Chicago report being told that their offices have a no-TANF goal. Their clients have to be placed in jobs. What kinds of jobs? Chicago is the home of temporary agencies, an industry rapidly polarizing into day labor and high-skill expert work (Peck and Theodore 1998), and the Mayor's Office on Workforce Development (2000:7) found that personnel supply services, which include temporary help, will be the fastest-growing local industry. Manpower is presently seeking a Chicago partner for workforce development projects. All the incentives, therefore, point to work first. A high-road vision, in this context, may be a long way away.

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Unionists' Reactions to Rising Inequality: The Relationship between Microjustice and Macrojustice Revisited

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Abstract

Based on a sample of 187 unionists, this study examines unionists' reactions to rising wage and income inequality in the United States. The main conceptual goal is to clarify the relationship between microjustice and macrojustice. Specifically, is a microjustice standard of equality a unique determinant of how unionists perceive changes in the national income distribution? We also explore whether an equality standard mediates the effects of sociostructural and institutional variables on injustice evaluations. These variables include union affiliation and union position. Results confirm a positive relationship between equality and injustice evaluations. Equality also mediates the effects of age and teacher union affiliation. Alternatively, the effects of union position were direct and independent of the equality standard. Union staff members were less likely than local activists to have strong injustice reactions to rising inequality.

The rewards of the economic boom of the 1990s have not been enjoyed by all segments of society. Despite the longest economic expansion in the post–World War II era and the first measured increase in real wages in almost 25 years, the 1990s witnessed an increase in income inequality. Average income of lowest-income families grew by only 1%, that of middle-income families by under 2%, and that of high-income families by approximately 15% (Bernstein, McNichol, Mishel, and Zahradnik 2000). Driven by the bull markets of the 1990s, moreover, stock option compensation plans generated annual earnings levels for CEOs averaging 419 times higher than factory workers' earnings (Reingold and Grover 1999). These trends provide compelling real-world examples for studying distributive justice perceptions.

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Our particular study examines factors influencing unionists' injustice evaluations of rising wage and income inequality. In particular, we are interested in determining whether or not unionists' norms regarding reward allocation at the organizational level influence their views concerning the overall wage distribution. The topic is important for two reasons.

The Relationship between Microjustice and Macrojustice

One of the contributions of this study is to refine social scientists' conceptual understanding of the relationship between microjustice and macrojustice. Microjustice is a term that refers to allocation rules and justice perceptions regarding how individuals should be rewarded. Three basic standards for individual reward allocation have been identified in the organizational literature, namely, (1) equity, (2) need, and (3) equality (Homans 1982; Tornblum and Foa 1983). Equity has been defined as allocating rewards to individuals based on their inputs. Need implies that individuals receive rewards based on their personal circumstances. Equality refers to giving equal rewards to individuals. In contrast to microjustice, macrojustice includes allocation rules and justice perceptions regarding the final distribution of resources across social aggregates. Almost two decades ago, Brickman, Folger, Goode, and Schul (1981) argued that the domains of microjustice and macrojustice were uniquely linked through the equality standard. They noted:

> Equality is a macrojustice principle because it places constraints on, and indeed completely specifies, the nature of the total distribution of resources. . . . Unlike other macrojustice principles, however, equality also specifies exactly what each individual should get. It can thus be thought of as a microjustice principle as well, and it should not be surprising that researchers unfamiliar with the idea of macrojustice should think of it only as a microjustice principle.

In this conceptualization, the equality standard simultaneously identifies a preferred individual-level reward approach and a preferred distributional pattern across a social aggregate.

To date, only one empirical study has explored the interconnection between microjustice and macrojustice, and the results of this effort suggested that there is no substantive correspondence between the two domains (Arts, Hermkens, and van Wijck 1991). Obviously, further exploration is in order, not least because unionists have been specified as constituting a potentially distinctive subgroup population with regard to distributive justice norms (J. Martin 1992). Further, we argue that union organizational goals are often complemented by collectivist norms and solidarity-enhancing practices

(Kelly and Kelly 1994; Frege 1997). Consequently, unionists may well endorse the equality standard that has been theorized to link the two domains at critically higher levels than other organizational populations.

The Effects of Sociostructural and Union-Related Variables

We also believe that our examination of the links between microjustice and macrojustice among unionists has important practical implications. As suggested by its intensive and ongoing educational campaign on rising wage inequality, the current leadership of the AFL-CIO apparently sees strategic potential in eliciting strong injustice reactions to rising wage inequality among union members and the wider public. Certainly past research has uncovered correspondences between attitudes toward the overall distribution of wages and income in the United States and support for progressive social agendas (Kluegal and Smith 1986). We maintain, however, that unionists' attitudes toward larger social issues and concerns are more profoundly influenced by their immediate socioeconomic, organizational, and workplace environments than by short-term educational efforts, laudable as these may be. Certainly, a current line of social research supports this perspective (see Schooler 1996). More particularly, we hope to demonstrate that where the individual's immediate socioeconomic environment sustains adherence to the principle of paying people equally in the workplace, stronger injustice reactions to wage inequality at the national level can be expected. In other words, our perspective is another variant of the notion that all national politics and perspectives are local in origin.

International Union Affiliation

It is beyond the scope of this present paper to delineate the precise mechanisms through which *locally based* union institutions and practices might favor equality perspectives toward allocating wages. We explore the possibility that particular union experiences correspond with differences in allocation standards by also examining the effects of membership in different international unions in this study. On the one hand, this particular measurement approach does little to clarify the precise nature of the relationship between unionism and microjustice. On the other hand, the experience of unionism obviously varies at the local level because of variations among international unions in organizational structure and occupational jurisdiction. It is possible, for example, that microjustice norms are influenced by variable approaches to structuring wages at the plant level and the effects of such practices on plant- or firm-level distributions. An equality standard conforms more with solidaristic approaches to structuring wages (e.g., uniform percentage wage increases versus uniform absolute dollar increases;

higher percentage increases to lower-paid employees versus craft differentials) that generally work to compress the wage distribution. The history of unions in resisting the introduction of two-tier wage systems and the arguments used to explain this resistance (J. E. Martin 1990) might also have a part in shaping attitudes toward the reward allocation process. Different organizational structures can also influence beliefs and behaviors about reward allocation. An equality standard may be more resonant within industrial unions where median voter models of unionism suggest that generally lower-paid workers will exert greater influence than in craft unions. These lower-paid workers will generally seek to advance their interests by endorsing and seeking to normatively rationalize leveling approaches to wage allocation (Freeman 1982; Hirsch and Addison 1986).

We also expect that membership in different international unions may have direct effects on injustice reactions to rising wage inequality. Presumably, international unions have differed in the level of their participation and commitment to the recent AFL-CIO educational campaign regarding rising income equality. Certainly attendance at AFL-CIO conferences and workshops on this issue has varied on a basis of international union affiliation (AFL-CIO 1996). Specific international unions have also devoted more internal resources to the inequality issue than others (see, for example, the AFSCME Web site, http://afscme.org).

Union Position

In their landmark study of union governance and politics, Bok and Dunlop (1970) argued and provided some empirical data to support their view that staff were generally more liberal in their political orientation than local leaders. Among other particulars, moreover, international staff were more likely to support income redistribution programs.

We feel it is especially relevant to reexamine distinctions between the views of local leaders and international staff following the erosion of the labor–liberal coalition in the post-Vietnam era, the rapid transformation in the industrial relations environment, and the accelerated pace of deindustrialization and union bargaining power. Form (1995) certainly found evidence that these factors contributed to new forms of union political action at the local level. Furthermore, manufacturing decline and corresponding decreases in union density have arguably impacted most directly on union populations at the local level, creating joblessness and underemployment in many "rust-belt" communities in particular, and possibly sharpening sensitivity to and antagonism toward greater income and wage inequality. In addition, unlike in the past when they were characteristically promoted from within the labor movement, more international staff members are

paid professionals hired from outside the labor movement (Clark and Gray 1991). Obviously, their views on how rewards should be allocated to individuals are less likely to have been influenced by the collectivist norms and solidarity-enhancing practices often associated with local union culture and policy. In sum, we presume that relative position in the labor movement may bear indirectly on injustice reactions to rising wage inequality by influencing attitudes toward how individuals should be rewarded.

In contrast, the opinions and attitudes toward rising wage inequality of union staff members might be more likely than those of rank-and-file leaders to have been affected by the AFL-CIO education campaign on this issue. Union staff also typically attend a broader range of union meetings and forums (e.g., international conventions, staff meetings, meetings of regional and city central bodies) than does the average local leader, thereby increasing the relative probability of hearing a presentation on the wage inequality issue. Consequently, we consider the possibility that union position has direct effects on injustice reactions.

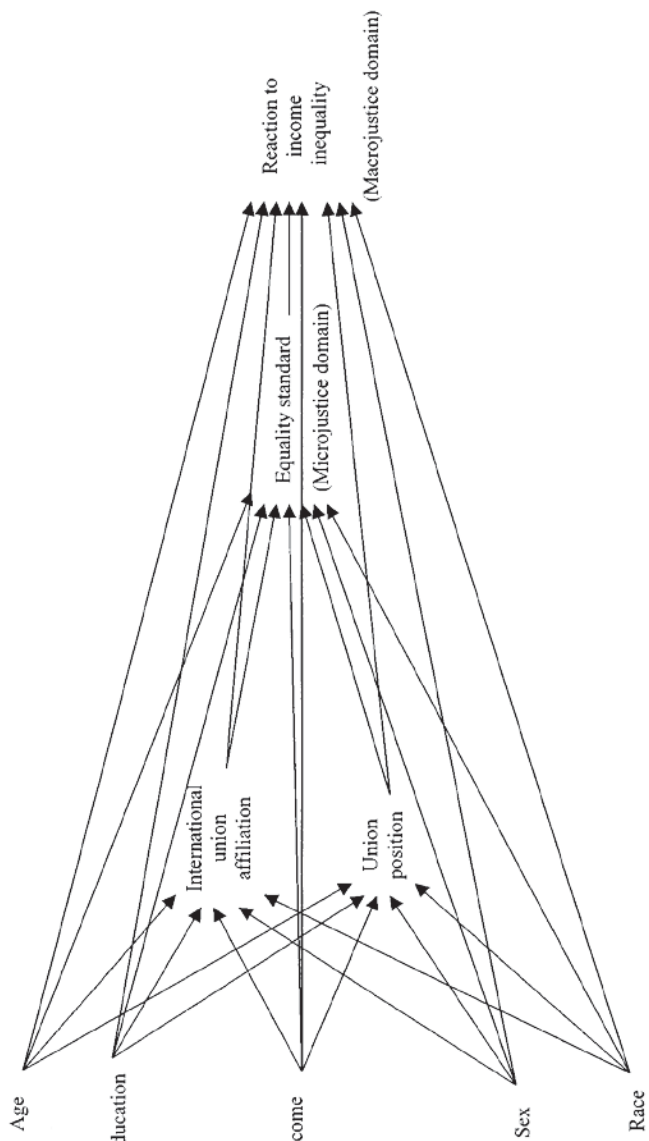
Exogenous Variables

The exogenous variables in this study include a roster of demographic variables that have been previously demonstrated to affect both attitudes toward the national income distribution and standards applied to allocating rewards within organizations. The roster includes sex, age, race, income, and education.

Conceptual Model

In the foregoing discussion, we elaborated a conceptual model wherein endorsement of an equality standard for rewarding individuals has direct effects on injustice reactions to rising wage inequality. Endorsement of the equality standard is, in its turn, affected by international union affiliation, union position, age, sex, race, income, and education. These variables are also expected to have an impact on the strength of adherence to equality and need standards in rewarding individuals, but neither of these standards is expected to affect injustice reactions. Our discussion also admitted the possibility that international union affiliation, union position, age, sex, race, income, and education have direct effects of their own on injustice reactions. We also recognize that participation in different international unions and position within the union hierarchy are not fully exogenous. Consequently, the broader socioeconomic indicators—age, sex, race, income, and education—are modeled as determinants of participation and position. For ease of interpretation, figure 1 illustrates the conjectured sets of relationships for the equality standard only.

FIGURE 1
Conceptual Model



The full conceptual model actually incorporates the same conjectured set of relationships for both the equity and need standards, except that there are no causal paths linking these standards to injustice reactions.

Methods

Our sample was composed of 187 unionists from the following internationals: (1) American Federation of State, County, and Municipal Employees (AFSCME), (2) American Federation of Teachers (AFT), (3) Independent Steel Workers of America (ISWA), and (4) United Steelworkers of America (USWA). The levels of the union organizational structure included in this sample were (1) stewards, (2) local union officers and committee members, and (3) paid international staff.

We developed a survey for this study incorporating questions designed to distinguish between microjustice standards of equity, need, and equality. Our questions represented adaptations of items commonly utilized in organizational studies of distributive justice (Martin and Harder 1988). After being asked to imagine that they are personally responsible for setting annual pay increases for all paid staff in a union organization, respondents rate the importance of particular aspects or features of an employee's case to their final decision on a seven-point Likert scale. The anchors on the extremes were labeled 1 = "extremely unimportant" and 7 = "extremely important." An example of a question designed to capture an equity standard was as follows: *Pat Smith maintains average productivity levels.* A question designed to capture a need standard included *Pat Smith faces large medical bills due to an illness in the family.* An equality standard was captured with items such as *Pay levels differ between Pat Smith and people in different jobs throughout the organization.*

Justice evaluations of rising wage and income inequality were measured through a seven-point Likert scale with anchors at the extremes labeled 1 = "extremely unfair" and 7 = "extremely fair." However, to conform to the directional effects stipulated in our hypotheses, these items were reverse-scaled during data analysis. The response items associated with this scale were four direct quotes taken from newspapers and magazines that had reported on income distribution trends during the course of 1998. Consequently, this section of the survey has an aspect of ecological validity not commonly found in studies of distributive justice.

In addition to the scale-item questions, the survey instrument contained basic demographic, union position, and union affiliation information that we used in developing other independent variables in our analysis. These variables were measured as follows:

International union. An AFT variable was coded 1 if an individual belonged to this teachers' union and 0 otherwise. The AFSCME variable was coded 1 if an individual belonged to this public employees' union and 0 otherwise. The reference group was individuals associated with the two steelworker unions.

Union position. We created a dummy variable coded 1 for individuals who were paid staff and 0 for local union activists (e.g., stewards, local officers, and committee members).

The sex, age, race, income, and education variables were treated in a conventional manner.

Results

The major data-analysis technique employed in this study was structural equation modeling. In particular, we employed AMOS 4.0 to test our conceptual model and core hypothesis.

Table 1 identifies the effects of the exogenous variables on the intermediate ones and the effects of both exogenous and intermediate variables on injustice reactions.

The results indicate that the variables collectively explain 12% of the variance in injustice reactions. Of the three microjustice standards, equality alone directly related to injustice reactions to rising wage inequality. Its effect was positive. This confirms our core prediction. Furthermore, the equality standard mediated the effects of age and teacher union membership. Union position also had direct effects on injustice reactions. In contrast to the rank and file, union staff were less likely to have stronger injustice reactions.

Superficially, the results also suggest that teacher union membership may mediate the effects of being female, income, and education on both endorsement of the equality standard and injustice reactions. However, a similar positive relationship exists between AFSCME union membership and two of these three exogenous variables, yet AFSCME union membership is not in turn linked to either a microjustice standard or injustice reactions. Furthermore, being female is positively related to endorsing equity. Taken together, these results suggest that the exogenous variables do not actually have indirect causal effects on microjustice standards and injustice reactions. Indeed, it would seem that the experience of being in a teachers union is possibly a moderator in the causal chain, somehow generating greater attachment to the equality standard among its comparatively well-educated, higher-income, female-dominated activist core. This attachment, in turn, sustains stronger injustice reactions to rising wage inequality trends.

TABLE 1

Decomposition of Effects in a Model Explaining Injustice Reactions

DV	Predetermined	Total effect	Indirect effect	Direct effect	R^2
AFT	Age	–.00		–.00	
	Female	.22		.22*	
	Race	–.01		–.01	
	Income	–.20		.20*	
	Education	.04		.04*	.42
AFSCME	Age	.01		.01	
	Female	.32		.32*	
	Race	.01		.01	
	Income	–.14		–.14*	
	Education	.19		.19*	.35
Staff	Age	–.01		–.01	
	Female	.35		.35*	
	Race	–.04		–.04	
	Income	–.01		–.01	
	Education	.04		.04	.19
Equality	Age	.02	–.01	.03*	
	Female	–.08	.14	–.22	
	Race	–.31	.00	–.31	
	Income	.07	.26	–.19	
	Education	–.07	–.02	–.05	
	AFT	1.103	.00	1.103*	
	AFSCME	–.30	.00	–.30	
	Staff	–.03	.00	–.03	
Equity	Age	.01	.00	.01	.07
	Female	.50	.01	.49*	
	Race	–.46	.00	–.46*	
	Income	–.05	–.04	–.01	
	Education	.01	.02	–.01	
	AFT	–.13	.00	–.13	
	AFSCME	.12	.00	.12	
	Staff	.01	.00	.01	.11
Need	Age	.03	.00	.03	
	Female	–.37	.15	–.52	
	Race	.73	.01	.72	
	Income	–.22	.08	–.30	
	Education	–.05	.05	–.10	
	AFT	.53	.00	.53	
	AFSCME	.20	.00	.20	
	Staff	–.10	.00	–.10	.10
Injustice reaction	Age	–.01	.00	–.01	
	Female	.03	–.16	.19	
	Race	–.07	–.04	–.03	
	Income	–.11	.04	–.15	
	Education	.09	–.02	.11	
	AFT	.22	.07	.15	
	AFSCME	–.02	–.03	.01	
	Staff	–.60	.01	–.61*	
	Equality	.09	.00	.09*	
	Equity	.02	.00	.02	
	Need	–.03	.00	–.03	.12

*Significant at .05 or below.

Discussion and Future Research

Our primary focus in this paper was to examine the relationship between microjustice norms and macrojustice evaluations among unionized employees and union staff. In line with the views of Brickman et al. (1981) that have heretofore not been confirmed in the literature, we conjectured that the equality standard alone should be positively correlated with injustice evaluations of rising wage and income equality. Our findings supported this hypothesis. While no relationship was confirmed for the equity and need standards, there was a significant positive relationship between the equality standard and injustice evaluations. Our results suggest that the equality standard does afford a unique bridge between the microjustice and macrojustice domains. Further research must be undertaken to determine whether or not this finding can be generalized to other populations.

Confirming a link between microjustice and macrojustice through the equality standard has practical implications. This interconnection suggests that where unionists are predisposed to more equal forms of allocating pay in their workplaces, they may well be more receptive to the AFL-CIO's efforts to heighten concern about rising wage inequality in the United States. Relatedly, they may be even more enthusiastic about progressive national policy agendas advanced by the top leadership of the AFL-CIO to redress rising wage inequality and the political candidates who endorse such policies. Moreover, this study has provided some evidence in support of the view that factors in a unionist's immediate socioeconomic environment are critical in shaping distributive justice norms. Indeed, the significant effect associated with the teacher union dummy variable in this study is at least suggestive that locally based union institutions also matter in shaping preferences for an equality standard. The finding on union position is similarly intriguing. Clearly, future research must be devoted to more precisely delineating the mechanisms through which unions affect normative views on allocating pay. Our initial discussion suggested that variation in union practices and policies regarding how to structure wages and pay increases is a logical first place to initiate further research (Freeman 1982; Hirsch and Addison 1986).

Finally, the relatively low R^2 associated with our path analysis indicates that there is still much to be learned about how attitudes toward the income distribution are shaped.

Acknowledgments

The authors would like to thank Linda K. Stroh and Joseph Martocchio for their comments on an earlier version of this manuscript.

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DISCUSSION

GREGORY WOODHEAD AND JANE MCDONALD PINES
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Unionists' Reactions to Rising Inequality

First, this is an important paper. The authors address a topic of great interest to organized labor. Our sense of justice and devotion to that standard are what motivate those of us who have chosen union work as our life's work. The paper asks a very interesting question and tries to answer it with a unique model.

These comments have no particular structure, but rather they are provided on a page-by-page basis as I read through the paper and reacted to the issues presented. They are not intended to be nitpicking but are offered in the spirit of constructive criticism of an overall excellent piece of research.

Discussion

The statement that "unionists may well endorse the equality standard at higher levels" is not tested by this study. The AFL-CIO educational campaign may be conducted to increase workers' class identity and to raise the alarm about an obscene disparity in incomes. The authors recommend that labor promote egalitarian approaches to workplace reward allocation. I would hope that's what unions are about.

The authors ask if current trends of inequality are permanent. It is possible that as a society, we have become insensitive to this issue and are overlooking the dangers to our democracy. Status assertion: Concerns over group welfare sharpen sensitivity to distributional concerns over all social aggregates. This appears to be an unfounded assertion.

The authors contend that one of the most obvious groups to start with is unionists. Although biased, I would submit that this is always a good idea.

Variables

The authors make an excellent point that more international staff members are paid professionals from outside the labor movement and are less inclined toward collectivism. However, some staff members, such as myself,

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come from a union background, both in my family and in my previous occupation. Union staff members are not likely to be influenced by the education campaign because it's targeted to local leaders.

The authors contend that the concept of class is under dispute. Not where I'm from. If your name is not on the heading of your paycheck, then you're in the working class.

Do older individuals support redistribution justice? The authors provide conflicting citations. It may depend on what is considered old. The generation that was forged in the Depression, when they were all destitute, may be more supportive of redistribution.

The authors make an excellent point that differences in educational content and curriculum make it difficult to determine whether status or education predominates.

Methods

The authors contend that large numbers of rank and file are nominal union members only and the effects of union practice would be minimal. That is not known. In fact, the effect or change could very well be greater. The study is biased by omission without rank-and-file members.

Some surveys were distributed by mail, and others were distributed at staff meeting, with very different response rates. This methodology is inconsistent and biased due to omission of the mailed nonresponses.

Measures

Assigning AFT = 1 and others = 0 indicates whether AFT is different from other unions.

More staff is needed in the sample.

If being female is positively related to equity and being nonwhite is less likely to endorse equity, what is the equity response of black females?

Conclusion

The authors should explicitly state that the model left 88% of the variation unexplained and, as a result, there is still much to be learned about attitudes regarding income distribution.

WIA in Chicago

An important criterion for selecting papers for publication is whether or not the topic is important. The WIA, a training program that affects hundreds of thousands of U.S. workers, is an important topic. It is also a timely research effort in that as of July 2000, the WIA became our national employment policy and is just now being implemented. Although much

more could have been written about the WIA, the paper is mercifully succinct and therefore has greater impact.

Important and Useful Points in the Paper

- The continued underfunding of employment and training programs for unemployed and disadvantaged workers compared with other industrialized countries and the consequent unwillingness of high-skill training providers such as union apprenticeship programs to participate
- The limited statutory role for organized labor to participate in state and local decision making on Workforce Investment Act programs and the problems in placing workers who've been through a union training program with nonunion employers
- The opportunities for a union "high-road" strategy to create good training and good jobs as evidenced by the Department of Labor grant to the Chicago Federation of Labor
- WIA's role as a "follow-on" to welfare reform, which poses the continuing challenge of allocating resources to those most in need versus those most likely to succeed
- The increased use of temporary agencies for placement

Points That Could Use Expanding

- It would be helpful to the reader if the terms "work-first" and "high road" were more clearly defined at the beginning of the paper.
- The one-stop delivery system under WIA was designed to bring not just workforce development programs together but adult education, vocational education, vocational rehabilitation, and economic and community development as well. Although employers have the majority of seats, all of these programs have representatives on state and local workforce investment boards and can be supportive, or in opposition, to labor's high-road agenda. The challenge for labor is to develop coalitions with government, community, and signatory employers around its high-road agenda.
- The conflict between the allocation of scarce resources should be made earlier in the paper. Evidence suggests that there will be little training under WIA because of limited resources. Most of the money will go to cheaper work-first services such as job search assistance, counseling, job placement, and job retention.
- WIBs can pick the one-stop operator and can choose among public, nonprofit or for-profit operators. The labor movement is quite concerned that for-profit one-stop operators will take resources away from those most in need and serve only those most likely to succeed.

Points That Appear to Be Incorrect or Need Clarification

- The comments about the Illinois AFL-CIO Member Assistance Program providing services only to union members should be checked. Most other state AFL-CIO dislocated worker programs provide services to union and nonunion members (including salaried workers). Even if this is the case, the federation is not diverting services from "those with some assets to those with no assets." It is providing access to services for workers who have been dislocated from union companies and helping to set up labor–management programs that can bring additional private resources to the table. Workers dislocated from nonunion companies have the same rights to service from the WIA system as well as the same rights to state and local Rapid Response services.
- The paper states that WIA money is intended to decrease at 20% per year. There is nothing in the statute that speaks to funding reductions. In fact, the FY 2001 appropriations bill increased funding for WIA youth and dislocated-worker programs and level-funded adult training.
- The paper makes the point that funding for one-stops is intended to phase out after five years. This funding began in 1994, predating WIA. The Department of Labor set up a special five-year fund to help the states set up one-stop systems. This funding has been phased out in most states, and WIA funding is expected to be used for the continuation of one-stops. It is important to note, however, that some states are having difficulty sustaining the one-stop infrastructure, particularly those states that have suffered reductions in employment service funding.
- In fact, WIA is up for reauthorization in FY 2003.

V. HUMAN RIGHTS ON THE MARGINS OF EMPLOYMENT: CONTINGENT AND INFORMAL SECTOR WORKERS IN NORTH AMERICA

Contingent and Informal-Sector Workers in North America: Workplace Human Rights

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Abstract

This paper first provides a brief statistical picture of the informal sector in Mexico and of contingent workers in Canada and the United States. Drawing on statistical definitions, it then provides a comparative analysis of coverage of informal-sector and contingent workers by labor and employment laws that protect freedom of association and the right to organize unions and that seek to eliminate child labor and employment discrimination. The paper concludes, among other things, that (1) the de jure coverage of the relevant Mexican labor and employment law appears to be broader than that of its Canadian and U.S. counterparts and (2) laws with respect to core human rights at work generally cover temporary workers in Canada and the United States but do not prevent employers from treating them less favorably on the basis of part-time or temporary status per se.

Recent years have seen significant growth in the Mexican informal-sector and contingent work in Canada, while contingent workers have remained

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The views expressed in this paper are those of the author and do not reflect any position on the part of the Commission for Labor Cooperation or any party to the North American Agreement on Labor Cooperation.

a relatively stable but significant component of the U.S. workforce. Policy makers, scholars, and trade unionists, among others, have expressed growing concern over the vulnerability of these workers due in large part to the precariousness of their livelihood. In all three North American countries, labor and employment statutes seek to protect workers in relationships with more powerful economic actors to whom they provide their labor. From this perspective, contingent and informal-sector workers are often among those most in need of legal protection. Whether the boundaries of legal protection in fact reflect the boundaries of unequal bargaining power is thus a key policy question. It requires a look at the legal definitions of both protected groups of workers and economic actors whose power the law seeks to constrain.

This paper begins with a brief statistical snapshot of informal-sector workers in Mexico and the contingent or nonstandard workers in the United States and Canada.[1] In keeping with the focus of this conference, it then provides a comparative outline of the coverage of those workers by laws in each of the three North American countries on freedom of association and the right to bargain collectively, the elimination of employment discrimination, and the effective abolition of child labor.[2]

Informal-Sector and Contingent Workers: Who and How Many?

There is continuing debate over how to define the informal sector (Roubaud 1995:ch. 1). An International Labour Organization recommendation on the statistical measurement of the informal sector has suggested that size of enterprise below a specified level of employment provides a workable touchstone (ILO 1993). However, many if not most professional occupations, while not generally considered informal, are carried out in small firms. A study commissioned by the Mexican Secretariat of Labor and Social Welfare adopts a "special definition" of the informal sector. It excludes professionals and certain capital-intensive or large-scale industries and comprises (i) domestic workers; (ii) employers, wage earners, and piece-rate workers in establishments with five or fewer workers; (iii) self-employed workers; and (iv) unpaid workers (Jusidman 1993). Based on this definition, it appears that the informal sector increased as a share of total employment between 1991 and 1995. As the economy recovered from the recession of 1995, informality decreased somewhat, but by 1998 it remained substantially higher than in the early part of the decade. In 1998, 21 million people, or 54.8% of the occupied population, were thus engaged. Partly as a result of the high level of informality in agriculture, 70.2% of total employment in the less urbanized areas in 1998 was in the informal sector, while in urban areas, 40.3% of employment was informal.

In Canada and the United States there is ongoing debate over the size of the contingent workforce. The debate reflects differences over whether groups such as longer-term temporary workers, part-time workers, or workers with unpredictable work schedules within stable employment relationships should be counted as contingent (USGAO 2000:13–14). This paper focuses on three groups of workers falling outside of the standard conception of the employment relationship—self-employed workers, temporary workers, and part-time workers—for which reasonably comparable statistical information is available from Canada and the United States.

In Canada each of these groups has grown more rapidly in recent years than standard employment. In the United States they represent relatively stable and smaller but still significant fractions of the total workforce. Notwithstanding gradual economic recovery, between 1994 and 1998, 39 out of 100 new jobs in Canada were for self-employed workers. In 1998, self-employed workers represented 11% of the total workforce. In the United States, the number of self-employed workers stood at 10.3 million in 1998, which represented almost 8% of the workforce,[3] and over the 1980–1998 period there was a trend toward a lower share of self-employment. In 1998 there were 1.4 million workers with temporary jobs in Canada, representing almost 12% of total wage and salary employment. Temporary employment growth represented 23% of total wage and salary employment growth in Canada in 1998. On the other hand, by one estimate, in the United States there were 2.4 million temporary workers in February 1997, or just 2.2% of all wage and salary workers.[4] A different and perhaps more comparable picture of temporary work in the United States (comprising agency temps, direct-hire temps, on-call workers and day laborers, and contract company workers) shows that in 1999 this group constituted 5.7% of the total workforce, down from 5.9% in 1995 (USGAO 2000:table 2). Finally, between the end of the 1970s and 1993, part-time employment in Canada grew at a higher rate than full-time employment, moving from just under 14% of the total workforce to 19.1%. Between 1994 and 1998, the share of part-time employment dropped slightly. By contrast, in the United States the share of part-time work has remained relatively stable since 1976, with increases during the recession years and decreases during recoveries. In 1998 it stood at just over 17% of the workforce.[5]

Fundamental Rights at Work

The Informal Sector in Mexico

In keeping with the preceding statistical portrait, four groups of Mexican workers are considered: self-employed workers, including working

owners of small enterprises; those employed by small establishments; domestic workers; and unpaid workers. In Mexico the power to establish labor laws and programs generally belongs to the federal government. The Ley Federal del Trabajo (Federal Labor Law, LFT) provides the rights to freely associate, to organize unions, and to strike. In addition it prohibits discrimination in employment on the basis of race, sex, age, religious or political beliefs, or social condition and provides specific guarantees of equal pay for equal work without discrimination on similar grounds or on the basis of nationality or political belief. It also prohibits employers from refusing to employ workers on the basis of age or the worker's sex, employment of children under 14, and work by children under 16 or under 18 in certain industries; it also establishes special protective conditions for workers between 14 and 18 years of age.

A "labor relationship" (relación de trabajo), which is constituted by any agreement to perform services for remuneration in which the element of subordination is present, is the key to protection under Mexican labor and employment legislation. Self-employed workers, including working owners of small establishments, are not covered by the LFT unless they are in fact in a labor relationship with another person or organization to which they provide services. Many short-term agreements to provide nonprofessional services may be temporary labor relationships if the requisite element of economic subordination is present. Moreover, the labor relationship transcends the use of intermediaries such as labor-contracting agents.[6] An enterprise that makes use of workers supplied by a labor-contracting agent is jointly and severally liable for all obligations to those workers under the LFT. In such cases, workers are entitled to the same employment conditions and entitled to the same rights as workers carrying out similar work for the client enterprise. On the other hand, a small retailer operating independently of his or her suppliers would not be in a labor relationship with them. Home workers are considered to be in a labor relationship. Any person who gives out home work, irrespective of whether he or she provides the tools or the materials for the work and irrespective of the form of remuneration, is considered to be the employer of those to whom the work is given.

Workers employed in small establishments generally have the same rights under Mexican labor laws as all other workers. However, workers in family enterprises employing only relatively immediate family members are not covered by most LFT standards, including those relating to freedom of association and the right to organize, discrimination in the workplace, and child labor. Domestic workers are generally considered to be confidential employees and thus cannot join unions of nonconfidential

employees. In practice they seldom unionize. They are covered by the child labor and antidiscrimination provisions of the LFT. Except in limited cases (mainly apprentices and volunteers), the law requires minimum remuneration for work. Where it is not required, unpaid work is not covered by the LFT since without remuneration there is no labor relationship.

Contingent Workers in Canada and the United States

The United States

In the United States most labor and employment laws are federal. The National Labor Relations Act (NLRA) gives most private-sector employees the right to organize a union, to bargain collectively, and to strike. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of race, color, religion, sex, national origin, pregnancy, childbirth, and related medical conditions. The Age Discrimination in Employment Act (ADEA) prohibits discrimination in employment against individuals over 40 years old. The Americans with Disabilities Act (ADA) prohibits discrimination on the basis of a limited range of serious disabilities. The Equal Pay Act amended the Fair Labor Standards Act to require equal pay for male and female employees performing equal work. The Civil Rights Act of 1866 prohibits discrimination on the basis of race (including ancestry or ethnic characteristics) in the making and enforcement of contracts, including the performance, modification, and termination of contracts. The Fair Labor Standards Act prohibits the use of child labor in most industries.

Legally, most self-employed workers would be considered independent contractors, and not employees, and thus fall outside the coverage of labor and employment laws. However the legal definition of employment is not uniform. Some laws use a "common-law agency test," which emphasizes employer control over the manner and means of carrying out work to separate independent contractors from employees. Others use an "economic realities" test, which is thought to cover more workers by placing greater emphasis on economic dependence in determining who is an employee. Still others use a "hybrid test," which combines elements of both. The common-law agency test is applied under the NLRA, and an economic realities test under the Fair Labor Standards Act. Courts are increasingly applying the common-law agency test to determine whether a worker is an employee under Title VII, the ADEA, and the ADA. In any event, some have argued that in practice the courts often evaluate the same factors under each test, at least in cases dealing with workplace discrimination, and place the greatest emphasis on the right to control the manner and means by which the work is accomplished (Maltby and Yamada 1997).

Independent contractors can claim the protections against race discrimination provided by the Civil Rights Act of 1866.

Temporary and part-time employees are covered by the NLRA. However, they may in some cases find themselves excluded from bargaining collectively with other (relatively permanent or full-time, as the case may be) employees because of the way in which the boundaries of collective bargaining units are drawn. These workers may find organizing a union more difficult and may have less bargaining power when they do so. On the other hand, the National Labor Relations Board has recently ruled that employees supplied to a client organization may be included in a collective bargaining unit with the client's regular employees.[7] The temporary or part-time status of an employee generally does not affect his or her rights to the protection of antidiscrimination laws or the Fair Labor Standards Act.

Where two entities codetermine matters governing the essential terms and conditions of the employment of a worker, they can be treated as joint employers. The joint employer doctrine can be used to hold the clients of temporary agencies, employee-leasing services, and the like responsible as employers of leased or agency employees. Joint employment doctrines have, for example, been applied under antidiscrimination laws and the Fair Labor Standards Act. However, the emphasis on day-to-day control excludes from joint employment many workers who are otherwise economically dependent on a business but are hired by a subcontractor who contracts directly with that business to provide work. For example, many farmworkers work directly for a farm labor contractor who supervises their work but depend economically on a grower who controls the land upon which they work and many aspects of the raising and harvesting of crops (Goldstein et al. 1999). These workers are often found to be employees of the farm labor contractor only.

Canada

In Canada, jurisdiction over labor and employment law resides with the provinces, except in certain industries falling within federal jurisdiction, such as shipping, railway transportation, and banking. Labor-relations statutes in each jurisdiction give employees the right to organize unions, to bargain collectively, and to strike. All Canadian jurisdictions have antidiscrimination statutes, which expressly prohibit employment discrimination based on race, color, national or ethnic origin, religion, age, sex, and mental and physical disability. In most Canadian jurisdictions, discrimination on the basis of national or ethnic origin, pregnancy or childbirth, marital status, ancestry, family status, creed, and sexual orientation are also expressly prohibited. The Supreme Court has held that protection against sex discrimination includes protection against pregnancy discrimination.[8] The Supreme Court

has also ruled that protection against discrimination on the basis of sexual orientation must be read into human rights statutes that do not expressly provide it.[9] Prohibitions against many types of child labor are found in employment and education laws.

Most self-employed workers fall outside of the scope of Canadian employment laws because they are considered legally to be independent contractors and not employees. Canadian legal tests for employee status tend to emphasize control over when and how work is done, ownership of tools, chance of profit, and risk of loss. However, labor-relations laws in most jurisdictions give dependent contractors (workers who, while not employees, are nonetheless in a position of economic dependence on the party with which they contract to perform work) the right to join a union and bargain collectively. Moreover, in interpreting antidiscrimination statutes, courts and tribunals have often used a broad definition of employment. A number of authoritative decisions have held that the definition of employment in these statutes covers any arrangement in which one person agrees to execute work on behalf of another (England, Christie, and Wood 1998:2.5).

In some jurisdictions (such as British Columbia and the federal jurisdiction), many temporary workers have been excluded from collective bargaining units made up of employees with "relative permanence." In the province of Ontario, part-time employees have often been separated from full-time employees for the purpose of establishing collective bargaining units. Antidiscrimination statutes and laws concerning child labor apply equally to temporary and nontemporary employees. However, part-time domestic servants are often totally excluded from the protection of minimum employment standards.

Unlike the United States, there is no joint employer doctrine in Canada that would allow for the treatment of both a temporary employment agency and the client as simultaneous employers. The determination of which entity is the true employer can thus have important implications for workers. For example, employees will probably have easier access to collective bargaining if they can participate in a bargaining unit of permanent employees of a client of the agency. A leading Supreme Court of Canada case held that the client of a temporary help agency may be treated as the employer of temporary agency workers for the purposes of labor-relations legislation in Quebec. This decision may have important implications outside that province as well.

Concluding Observations

Several points emerge from this discussion. First, the emphasis on control over the manner and means of production in Canadian and U.S. labor

and employment law shortens their reach in comparison with that provided by Mexican law's emphasis on economic subordination. This is true both with respect to contractual relations between two parties and contractual chains involving intermediaries. The dependent contractor doctrine under Canadian labor-relations statutes provides a notable exception.

Second, part-time or temporary employment status generally has little effect per se on the coverage of fundamental rights at work. However, moving beyond those rights, one finds in all three countries qualifying requirements for and exclusions from a number of minimum employment standards (such as those providing vacation or family leave) and social insurance programs that reduce the access and coverage of part-time and temporary workers (Commission for Labor Cooperation, forthcoming b). Moreover, few jurisdictions protect against an employer's treating part-time or temporary employees less favorably on the basis of such status. Notable exceptions include the Canadian provinces of Quebec and Saskatchewan, which require equal pay for equal work regardless of part-time status, and prorated benefits for part-time employees. Mexico arguably requires equal pay for equal work regardless of part-time or temporary status.

Third, further study would probably show that contingent workers are found in disproportionate numbers in sectors such as agriculture or domestic service, which are excluded from many labor-relations and employment-law protections in Canada and the United States. Finally, this discussion has not touched upon problems that economically disadvantaged workers face in enforcing their rights, particularly in complaint-driven systems, a subject that has received very little systematic comparative study but that may well outweigh questions of legal coverage in terms of its real-world importance.

Endnotes

[1] Statistics are taken from Commission for Labor Cooperation (forthcoming a) and are based on data drawn from the Canadian Labour Force Survey, the Mexican Encuesta National del Empleo, and the U.S. Current Population Survey and supplement surveys.

[2] Legal analysis is drawn from Commission for Labor Cooperation (forthcoming b).

[3] Unlike Canadian figures, U.S. statistics on the self-employed do not include workers who have incorporated their businesses, and thus U.S. numbers are understated relative to Canadian ones.

[4] These figures cover wage and salary workers who expect their jobs to last for an additional year or less and have worked at their jobs for a year or less. This includes some but not all on-call workers, temporary help agency workers, and workers provided by contract firms. The official Canadian statistical definition of temporary work includes all term or contract workers, including all those doing work through a temporary help agency and all casual workers, regardless of the length of employment.

[5] Canadian data cover workers who work less than 30 hours per week in their main job. Since 1994 U.S. figures have included those who work less than 35 hours per week at all jobs. Prior to 1994, in the United States those who considered themselves to have full-time work were not asked how many hours per week they worked. The post-1994 changes resulted in an increase in the number of part-time workers measured.

[6] A labor-contracting agent is defined as a person or corporation that contracts or intervenes in contracting for the services of a person or other persons for the performance of work for an employer, without carrying out such work with the resources of its, his, or her own enterprise.

[7] *M.B. Sturgis Inc.*, National Labor Relations Board decision dated August 25, 2000.

[8] *Brooks v. Canada Safeway Ltd.* [1989] 1 S.C.R., 1219 26 C.C.E.L.1.

[9] *Vriend v. Alberta* [1998] 1 S.C.R. 493.

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Contingent Work: The Role of the Market, Collective Bargaining, and Legislation

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Abstract

This paper examines the relationship between contingent employment and labor rights through the lens of the three main mechanisms for regulating the employment relationship: the labor market, collective bargaining, and legislation. Emphasis is placed not only on how issues pertaining to labor rights and contingent employment are handled by each of these three mechanisms but also on how the three mechanisms have given rise to contingent employment in the first place. Elements of appropriate policy responses are discussed in light of the changing role of these three mechanisms for dealing with labor rights and contingent employment.

Contingent employment is an increasingly important phenomenon associated with the new world of work.[1] Issues of labor rights have also taken on increased importance, reflecting increased diversity at the workplace and adjustment issues associated with globalization. *Each* of these areas of contingent employment and human rights is important in its own right. The interaction of *both* issues—the focus of this paper—compounds that importance.

This paper examines the relationship between contingent employment and the three main mechanisms for regulating the employment relationship: the labor market, collective bargaining, and legislation. Contingent employment is placed in the broader context of labor rights in such areas as collective bargaining, employment standards, health and safety, and discrimination. Emphasis is placed not only on how issues pertaining to contingent employment are handled by each of these three mechanisms but also on how the three mechanisms have given rise to contingent employment in the first place.

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We use contingent employment in a broad sense to include part-time work, fixed-term contracts, self-employment, temporary help agencies, on-call work, home working, and telecommuting. Alternative phrases include nonstandard employment, atypical employment, and secondary employment; albeit more loaded descriptors also include "deviant employment" and "anti-social employment" (Rubery 1998:139, 151).

Economic Explanation for the Rise of Contingent Work

Economics regards the rise of contingent employment as reflecting the interaction of the demand for such employment by employers and the willingness of employees to supply such employment. This interaction is subject to various constraints imposed by the legal system, the economic and competitive environment, and differential bargaining power.

Employer demand for contingent work has increased for a variety of reasons. The demand for labor is a derived demand, resulting from the demand for the products and services produced by employers. As such, it reflects the increased pressures placed on employers for flexibility and adaptability associated with managing change. Employers want a just-in-time workforce to meet their own just-in-time delivery pressures. The industrial restructuring from manufacturing to services is associated with new work-time requirements in part because many services cannot be inventoried—they are often produced on demand and thereby require a workforce that is available on demand. Consumers, in particular two-earner families, often want more flexibility in service availability in the evenings and on weekends. Furthermore, the increasing importance of small business means that small employers may find it difficult to provide a portfolio of jobs to buffer demand shocks. In downturns, such small businesses are not as able as larger firms to retain redundant workers, perhaps by having them maintain equipment, build inventories, or engage in training. Furthermore, small businesses may not be as able to weather downturns unless at least part of their workforce is contingent upon work being available. In that vein, a contingent workforce shares much of the risk with its employer. Some contingent employment may also be a new form of probationary period (as is often the case with internships and voluntary employment). Employers are increasingly forming joint ventures and alliances, often for the life of a particular project. In such circumstances, they may well want to hire people only for the life of the project.

Contingent employment may also be the market response by employers to the constraints imposed by legislation or collective bargaining on regular employment. Contingent employment is often not covered by the legislation or protected by collective bargaining, and even if it is covered, it may

be extremely difficult to enforce. Contingent employees often do not require the payroll taxes, parental leaves, regulated pension conditions, or pay and employment equity that are necessary for regular employees. Ironically, some of the marginalized conditions of contingent employees may be a result of the increased regulatory constraints associated with hiring or terminating regular employees—polarizing the workforce into "insiders" and "outsiders." It is easier, for example, not to renew a fixed-term contract or to stop employing someone from a temporary help agency than to terminate an employee.

Clearly, employers may prefer contingent work arrangements for at least some of their employees. Employers may also have increased bargaining power to demand those work arrangements. Globalization, trade liberalization, and capital mobility have increased the credibility of the threat of employers to relocate their plants and investments (and the associated jobs) into other countries. In a world of mobile capital, offshore production, and flexible factories, the world becomes a potential Greenfield site, and employees may have little individual or even collective bargaining power.

Some employees, however, may prefer the nonstandard work arrangements, or at least are willing to tolerate them. The growing importance of the two-earner family has dramatically changed the need on the part of employees for different work-time arrangements. Some may want part-time work, self-employment, or work through temporary help agencies to accommodate the demands of family time. Some may not miss the lack of fringe benefits if they already have spousal coverage on many fringe benefits. Nonstandard employment may facilitate transitions from school to work and from work to retirement. It may eliminate commute times that can be onerous, especially given the difficulty of locating a family residence near both jobs in the case of two-earner families. Single-earner families may want the single earner to moonlight at a part-time or self-employment second job. Telecommuting and part-time work may accommodate the needs of workers with disabilities.

The ability of the parties to provide or supply contingent work has also increased. Advanced communications and computer systems facilitate just-in-time scheduling and coordination. Computers, the Internet, and the growth of the home-office industry obviously facilitate telecommuting and self-employment.

Clearly, a wide range of forces has given rise to and facilitated contingent employment. For better or worse, it has become an integral part of the new world of work. Unfortunately, many of our labor policies were designed for the old world of work, with its large, fixed work sites; 8-to-5 workdays; five-day workweeks; and male-dominated, homogeneous, blue-collar

workforce working for a domestic market under a protective tariff. Under the circumstances, it is imperative to reassess the *need* for different types of labor policy initiatives as well as the appropriate *enforcement* mechanisms.

Market Mechanisms

Market mechanisms generally reflect the preferences of workers who are being recruited or who have a credible threat of leaving. They also reflect the preferences of firms that have a credible threat of relocating or outsourcing. As discussed previously, market forces reflecting the demands of employers and employees as well as their supply responses have been important factors in the rise of contingent employment. For this reason, the market is generally regarded as "part of the problem" and not "part of the solution" in this area.

Economists would generally argue that contingent employment arose primarily in response to the changing needs of employers and employees. While some contingent employment is involuntary in the sense that many would prefer standard employment, such "involuntary" arrangements are common in labor markets—most unemployed would prefer employment, and most who are employed would prefer a better job. Furthermore, the market response in providing such contingent employment is in part a response to the regulations and rigidities imposed by collective bargaining and legislation. In that vein, collective bargaining and regulation could be regarded as "part of the problem."

As the name implies, contingent employment is contingent on the work being available. Thus, it shifts the risk of guaranteeing employment from employers to employees. While this is generally regarded as undesirable since firms are usually better able to handle and diversify risk, this may be changing. In today's economy, two-earner families may be better able than the former single-earner families to deal with the risk of unemployment. On the employer side, the increasing number of small businesses may be less able to deal with risk than were the former large firms. This does not mean that employees are now better able to deal with risk than are firms; however, their *relative* ability to deal with risk may have changed.

With respect to issues of human rights and antidiscrimination, economists would emphasize the potential role of markets to dissipate discrimination. By definition, discrimination means that employers are bypassing the opportunity to hire or promote less costly but equally productive groups who are discriminated against. There is little survival value in that business strategy, just as there is little survival value in paying 30% more for a blue machine as opposed to an equally good red machine. In such circumstances, market forces should induce employers, at least those at the

margin of new hiring and promotion, to hire members of the less expensive but equally productive discriminated-against groups, thereby increasing their relative wages and promotion opportunities. Furthermore, as the workforce and customers become more diverse in such areas as ethnicity and sex, then customer and co-worker discrimination should dissipate, and diversity should become highlighted as good business practice. In this view, discrimination can be fostered by legislation (e.g., apartheid, segregation laws, marriage bans, and protective tariffs) and by collective bargaining if they reflect discriminatory "majority" preferences and inhibit market forces. Contingent employment can also benefit discriminated groups since it makes employment contingent upon output being produced rather than upon such factors as sex, age, sexual orientation, or skin color. Clearly, market forces will work best to dissipate discrimination when there is full employment and new jobs are being created. Being sought after because jobs are plentiful and employees are scarce is likely one of the best antidotes to discrimination.

While markets can dissipate discrimination, they can also have a darker side. They can lead to greater wage inequality (as is the case today in Canada and to an even greater extent in the United States), reflecting in part the fact that technological change and trade liberalization are biased against the unskilled. Some market outcomes can certainly be labeled as "unfair" and even jeopardize the right to a "fair wage for a fair day's work." Perfectly functioning markets can lead to efficiency, but there is no guarantee that the outcomes are fair or equitable. In fact, unequal outcomes may provide the incentives that are a driving force behind markets. Market forces can also indulge the discriminatory preferences of persons who are willing and able to pay for their preferences. In contrast, those who are offended by those preferences are not able to use market forces to "register" their offense, except insofar as they may favor purchases toward groups who are otherwise discriminated against. While market forces can have this darker side, they can also be an important force in dissipating discrimination and fostering labor rights. The challenge is to harness those more positive forces while minimizing the negative ones.

Collective Bargaining Mechanism

While market forces respond to the preferences of persons and firms with the threat of exit, collective bargaining responds more to the preferences of the median union voter within the union. Contingent employees are generally not represented by this mechanism since they are usually not organized or part of the bargaining unit.

Unions, nevertheless, have self-interest in the rights of such workers since they obviously are a viable substitute for union labor and, as such, represent a potential threat to union members' wages and job security. Contingent workers are not only generally cheaper but also more subject to managerial control. Thus, unions have an interest in trying to inhibit that substitution through various ways: organizing contingent workers, trying to have them part of the bargaining unit, bargaining for collective agreement clauses that restrict their use, and advocating legislative standards to improve their wages and conditions of employment (and hence costs) to equal those of union labor. Unions may also allow some contingent work, however, in part as a *quid pro quo* to preserve the better wages and working conditions for their core membership—in effect, condoning a form of two-tier arrangement to protect the "insiders."

Unions can also face difficult trade-offs even within their own membership. Some members may want overtime work (especially if they are in a single-earner family tying to attain the living standards of dual-earner families); others may want restrictions on overtime and long hours to share the available work (especially if bargaining-unit members are unemployed). Thus, while unions have historically fought long and hard for the eight-hour day on the grounds that long workdays jeopardize the health and safety of the workforce, today's unions may be under pressure from their membership to allow compressed workweeks that can involve 12-hour days.

In general, unions can be an important mechanism for the enforcement of labor rights. They can inform workers of their rights, represent them in disputes over those rights, articulate the trade-offs over these issues within the rank and file, and protect workers against reprisals by management. They can also enshrine these rights in the collective agreement, thereby enabling use of the grievance procedure and providing a degree of permanency should the legislative standards be rescinded. By not usually being organized or part of the bargaining unit, contingent workers do not have that assistance in ensuring that legislative initiatives are enforced.

Legislative Mechanisms

Legislative initiatives are the common response to issues pertaining to human rights in the workplace. They are generally regarded as necessary to redress the imbalance in bargaining power between employers and individual workers, especially disadvantaged workers and those not covered by collective agreements. The exit option of the market mechanism is generally not regarded as sufficient to protect the rights of disadvantaged workers. Even for more advantaged workers, the threat of exit is one that is often

regarded as a threat that should not have to be exercised to attain certain labor rights and standards.

The ability of legislative mechanisms to provide labor rights to contingent workers has been severely curtailed for a variety of reasons. The threat of capital flight and of transnational business to relocate plants and investments to countries and jurisdictions with minimal regulation is now a more credible threat, making it difficult for countries to extend legislative protection to such groups—in fact, even to noncontingent workers. Including such standards as part of trade agreements is a current policy thrust, but few countries are prepared to hand over jurisdiction to international bodies, so enforcement is weak and such initiatives are usually objected to by developing countries as thinly disguised protectionism.

Within the domestic front, it is often difficult to enforce legislative rights for contingent workers. As indicated, such workers are usually unorganized and hence do not have unions to assist in enforcement. Furthermore, if their jobs are precarious (e.g., where fixed-term contracts could lead to permanent jobs), they may be reluctant to assert their rights. Some may not even want the restrictions set out by the laws (e.g., where the regulations inhibit them from voluntarily working long hours). Many are employed in the increasing number of small businesses where the legislation is difficult to enforce. Some may be willing and able to absorb the risks, if, for example, they have multiple earners in a family or have school or retirement as a viable option in a world where such transitions are increasingly common.

Concluding Observations

Contingent work has arisen in large part because of the increased demands of both employers and employees for workforce flexibility. Many contingent workers prefer noncontingent employment, but many others prefer contingent employment, so eradicating such employment should not be a policy objective. Facilitating moves from contingent to noncontingent employment for those who want to make those moves is a sensible policy objective.

It is tempting to respond to the rise of contingent employment by regulating it through collective bargaining or legislation. It must be emphasized, however, that much of contingent employment arose in response to the restrictions imposed by collective bargaining and regulations. Furthermore, it may not be *feasible* to regulate it through collective bargaining or more legislation, given the limitations of these mechanisms in this area. More controversial, it may not be *desirable* to regulate contingent employment

to the extent that it meets the changing needs of both employers and employees.

The regulatory initiatives should perhaps focus on those in need of assistance—disadvantaged workers who are involuntarily trapped in contingent employment. In that vein, more information is needed in a variety of dimensions. What proportion of contingent workers are disadvantaged in the sense of having few opportunities *over their lifetime?* How much contingent work is involuntary in the sense that workers would prefer noncontingent work for which they would be qualified? To what extent is contingent work a stepping-stone to noncontingent work, or to what extent does it foster continued entrapment in contingent work? If large proportions of contingent workers are disadvantaged workers involuntarily trapped in contingent work, what new and innovative policy options may be more appropriate for these new work arrangements?

While it is easier to suggest broad scopes for new policy initiatives, some specific examples may be instructive. Certainly a full-employment economy will increase the proportion of contingent employment that is voluntary and facilitate the transition from contingent to noncontingent employment for those who want to make such moves. Sustaining the threat of collective bargaining can ensure that employers have an incentive to improve the wages and working conditions of contingent workers. Having collective bargaining focus on its function as a voice to ensure due process at the workplace, rather than on its more monopoly face that increases labor costs, can reduce the incentive of employers to substitute with contingent work. In the legislative arena, if enforcement is more difficult because the probability of detecting an infraction is low, then perhaps more attention should be paid to increasing the penalty for infractions that are detected. Also, providing assistance in compliance, especially to small firms, may help, to the extent that misinformation feeds lack of compliance. These suggestions are meant to illustrate the kind of rethinking that may be necessary to deal with the growing issues surrounding the employment of contingent workers.

Acknowledgment

This project was made possible through funding of the Government of Canada.

Endnote

[1] See Commission for Labor Cooperation (1997) and Payette (1998) for descriptions of the phenomenon; Zeitinoglu and Muteshi (2000) for discussions of the sex, race, and class dimensions; England (1987) and Haynes (1998) for the legal and human resource issues; and Roberts and Hyatt (1999) for its relationship to free trade and globalization.

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The Legal Landscape for Contingent Workers in the United States

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Abstract

This paper describes the law in the United States as it applies to contingent workers. We explain that for contingent workers to get the protections of law, they must be in an employment relationship with some entity or entities. Federal laws are grouped by how broadly they define the employment relationship, and leading case interpretations of the primary labor and employment laws are included. State laws, where there is the most room for ensuring coverage of contingent workers, are highlighted briefly. We make suggestions throughout the paper for increasing coverage of contingent workers under U.S. labor and employment laws.

Introduction to the Legal Problems of Contingent Workers

Contingent or nonstandard work is now present in virtually every sector of the economy. In some industries (such as computer programming, financial services, and telecommunications), these types of jobs are a relatively new development, while in others (garment, agriculture, taxi drivers), the jobs cannot be called "nonstandard" because they have been the paradigm for a century or more. Contingent workers constitute upwards of 30% of the workforce, and most would prefer to have a permanent, standard job (Economic Policy Institute 1999). The U.S. General Accounting Office (2000) reports that contingent workers' income and benefits lag significantly behind those of the rest of the workforce. The National Alliance for Fair Employment (2000), a nationwide network of over 50 labor, community, and resource groups launched earlier this year to bring the plight of contingent workers to the national stage, sponsored a nationwide poll, which found that over 68% of the public believes it is unfair that contingent workers receive unequal treatment on the job.

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Contingent work takes several forms and includes the overlapping categories of (1) contract work, a structure that dominates the garment, agricultural, janitorial, and poultry-processing sectors; (2) misclassified independent contractors, who are prevalent in the businesses of trucking, home care, taxis and limousines, and news carriers; (3) temp workers, who can be found in almost every sector but have received much attention lately in high-tech and, more recently, day-labor jobs; and (4) part-timers, who are frequently found in nursing and other health care provider jobs, fast-food restaurants, and academic faculty positions, to name a few examples. While each category of contingent work presents its own particular challenges for the worker, all share the problem that workers in these jobs are disproportionately paid less, receive fewer benefits, and enjoy less job security than their permanent, full-time counterparts.

The Nature of Legal Disputes

Legal questions regarding contingent worker status often involve one of two disputes. First, a company may claim that it has no obligation under employment or labor laws toward a particular worker because that worker is properly classified as an "independent contractor" operating a business rather than an "employee." Second, a company may concede that a worker is an "employee" but disclaim any responsibility under labor laws based on the contention that another entity "employs" that worker. In the latter situation, the worker may be supervised by an independent contractor or a temp firm with little economic power or resources and may contend that the company and the contractor or temp firm together "jointly employ" the worker and therefore are jointly responsible for complying with labor and employment laws.

Whether or not a worker is an "employee" and who or what entity is that worker's "employer" depend on the particular law relied on by the worker. A worker may be an employee for purposes of minimum wage and overtime coverage but not an employee for purposes of having the right to bargain collectively. Similarly, a temp agency and the work site or user business may be employers for purposes of providing family and medical leave but not employers in a dispute involving retaliation for engaging in concerted activity.

Labor Laws Covered by the Narrow Common-Law Standard

The U.S. Supreme Court in *Nationwide Mutual Insurance Co. v. Darden* [503 U.S. 318 (1992), hereafter *Darden*] has decided that where a statute lacks a specific definition of employment relationships, courts should apply the common law of "agency" and "master–servant" to determine whether a worker is an employee and, if so, the identity of the employer.

The common law's standard generally is called the "right-to-control" test. A company will not be deemed to be an individual's employer unless it has the power to control both the outcome of the individual's work and "the manner and means by which it is performed" [*Community for Creative Non-Violence v. Reid,* 490 U.S. 730, 751–752 (1989), hereafter *CCNV*]. The Court has remarked that "as a practical matter, it is often difficult to demonstrate the existence of a right to control without evidence of the actual exercise" of the right to authoritatively direct and control the way in which the workers perform their tasks [*CCNV,* 490 U.S. at 750 fn. 17; see *Standard Oil Co. v. Anderson,* 212 U.S. 214 (1908)]. In disputed situations under this narrow standard, workers often are unable to persuade the courts that they are "employees" entitled to labor law protections rather than "independent contractors" operating a business. In addition, the common-law test traditionally led courts to conclude that a subcontractor or labor contractor is the *sole* employer of the worker and relieved the dominant enterprise of employer responsibilities.

Furthermore, the common-law test, despite a long history, is often unpredictable because courts and administrative agencies have adopted varying sets of factors to consider and differ in the way they interpret and apply those factors. Some of the many factors used to determine whether an entity controls the manner in which work is performed include direct supervision over the performance of work; the right to hire, fire, or modify employment terms; setting wage rates; responsibility for payroll; provision of tools; location of the work; whether the work is part of an integrated production process; and the duration of the relationship.

The National Labor Relations Act and Contingent Workers

The National Labor Relations Act (NLRA) requires businesses to bargain in good faith with their employees' labor unions and prohibits the use of unfair labor practices directed against employees and unions seeking to organize them (29 U.S.C. § 151 *et seq.*). Large, dominant enterprises often use contingent workers to insulate themselves from liability and the obligation to bargain collectively.

Congress gave the NLRA the restrictive common-law definition of employment relationships and rejected the Supreme Court's early effort to apply a broader definition [see *NLRB v. United Ins. Co.,* 390 U.S. 254 (1968)]. The National Labor Relations Board (NLRB), which is owed deference by the courts in interpreting and enforcing the NLRA, has developed its own method of implementing the common-law standard.

Is the Worker an Employee or Independent Contractor? Where a worker is *not* an "employee," the relationship between the worker and the

company is considered a commercial one between a company and an independent contractor. The NLRB has applied the common-law standard to determine alleged independent contractor status, not always consistently, in such cases as *Roadway Package System,* 326 NLRB No. 72, in which the NLRB found delivery drivers to be employees, and *Dial-A-Mattress,* 326 NLRB No. 75 (1998), in which the NLRB found delivery drivers to be independent contractors.

The Single Employer Theory: Two Businesses Acting as One. One way to overcome the obstacles created by a contracting relationship is to show that the dominant enterprise and its contractor are in reality a single employer. This is possible in exceptional circumstances where the two are extremely closely related and integrated. The NLRB looks at four factors, none of which alone is controlling: common ownership, common management, interrelationships in operations, and common control of labor relations [*Dow Chemical Co.,* 326 NLRB No. 23 (1998)]. The NLRB looks to actual, not potential, control, and the potential control of parent corporations over subsidiaries is not alone sufficient. Where a single employer is shown, employees of the contractor have full protection of the NLRA with respect to the dominant enterprise and the contracting company.

The Joint Employer Theory: Two or More Employers of a Worker. The NLRB and the courts have construed the NLRA to allow for finding of joint employer status where separate entities "share or codetermine matters governing essential terms and conditions of employment. . . . The employers must meaningfully affect matters relating to the employment relationship such as hiring, firing, discipline, supervision, and direction" [*M. B. Sturgis, Inc.,* 331 NLRB No. 173 (August 25, 2000) at 4; *NLRB v. Western Temporary Services, Inc.,* 821 F2d 1258 (7th Cir. 1987); *N. K. Parker Transport, Inc.,* 332 NLRB No. 54 (September 29, 2000) at 2–3]. The NLRB de-emphasizes several factors that are in the traditional common-law test and that often operate to the worker's advantage, such as who provides the tools and other equipment needed for the work, who owns the premises where the work is performed, whether the work is relatively unskilled (and therefore needs little close supervision by the dominant enterprise), and whether the work is an integral part of the regular business of the dominant enterprise. Nonetheless, the NLRB has found joint employer status in some instances, particularly where the dominant enterprise, or "user employer," utilizes workers from a temporary worker agency, employee-leasing company, or other "supplier employer."

Joint employer status under the NLRA does not automatically establish joint liability in certain cases. For example, one joint employer may escape liability upon proving that it had no reason to know that the other joint

employer discharged a worker based on union activities and could not have prevented the illegal conduct [*Bultman Enterprises, Inc. d/b/a Le Rendezvous Restaurant,* 332 NLRB 445 (September 25, 2000)].

For some years, the NLRB had held that, absent employer consent, the temp workers jointly employed by the supplier and the user could not be in the same collective bargaining unit as the permanent employees employed solely by the user. Voicing concern for the collective bargaining rights of temporary workers and other contingent workers, the NLRB recently changed its position to allow the temp workers and the permanent employees to bargain collectively as one unit without the consent of the employer (*M. B. Sturgis*). The jointly employed workers and the permanent employees also have the option of seeking to bargain as a unit only with the dominant enterprise (the user) [*M. B. Sturgis* at 11; *Professional Facilities Management, Inc.*, 332 NLRB No. 40 (September 26, 2000) at 1–2]. However, where two employers are not joint employers or otherwise related, employer consent is required to create a multiemployer bargaining unit. Such consent often will not be given.

Collective Bargaining, Strikes, Picketing, and Consumer Boycotts. A union may lawfully negotiate a contract that restricts subcontracting to preserve the jobs of members in the bargaining unit. A union may also negotiate about terms and conditions of temp workers that affect the bargaining unit's members, such as the wages and hours of temps working on-site with union members.

Workers and unions cannot use economic power such as strikes, picketing, or coercive demonstrations against one employer in order to influence the labor relations of another employer. (There are many exceptions or limitations to this general ban on secondary boycotts or secondary activity, including exemptions for the garment industry and the construction industry.) However, unions may engage in *consumer* boycotts without violating secondary boycott restrictions. In addition, nonunion organizations, such as student groups, are free to use coercive economic power against one company to affect the labor relations of another.

Title VII of the Civil Rights Act of 1964 and Other Civil Rights Laws

Discrimination in hiring and employment on the basis of sex, race, and national origin is outlawed by Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e *et seq.*). Courts generally have followed Title VII's approach to contingent work issues when ruling on cases under the Age Discrimination in Employment Act (ADEA) and the Americans with Disabilities Act (ADA).

In some circumstances, companies may discriminate on the basis of national origin, race, or sex by selecting temp firms or subcontractors according to the demographic makeup of their workers. Such companies often will argue that they are not liable for the discrimination because it is the subcontractors who control their own workforces. In other cases, temp firms refer workers to job sites where workers suffer harassment or discrimination, but they claim not to be able to investigate every work site. A company that successfully characterizes workers as "independent contractors" can discriminate without violating laws unless the court recognizes the "interference" theory described later.

Recent court opinions regarding independent contractor status and joint employment under Title VII have applied the restrictive common-law approach that has been developed under the NLRA, described earlier. [See *Cilecek v. Inova Health System Services,* 115 F3d 256 (4th Cir. 1997); *Llampallas v. Mini-Circuits Lab., Inc.,* 163 F3d 1236 (11th Cir. 1998); and also *Caldwell v. Servicemaster Corp.,* 966 F. Supp. 33 (D.D.C. 1997), which found an employment agency not liable as joint employer because it did not know of discrimination.]

The Supreme Court has not issued a decision on the issue of contingent work under Title VII or other antidiscrimination statutes, and consequently there are several unresolved questions. A minority of court decisions have concluded that particular language in Title VII requires a more generous view of employment relationships. Specifically, although Title VII does not contain any special definitions of "employee" or "employer," it prohibits discrimination against any "individual," and not merely against an employee, and it imposes liability on employers as well as their "agents." The Equal Employment Opportunity Commission has issued regulations that interpret the law more generously than some courts, and these interpretations can be helpful in litigation until the Supreme Court clarifies the law.

The Agency Test: Companies Can Be Liable for Conduct of Their "Agents." There may be a theory separate from the joint-employer concept to make a company responsible for discriminatory actions taken by its subcontractors. Title VII prohibits discrimination by an "employer" and any "agent" of the employer. Under the common-law definition of agency, a separate entity may be considered an agent, and the agent's conduct can create liability for the larger company (the agent's "principal") [*Miller v. D. F. Zee's,* 31 F. Supp. 2d 792 (D. Ore. 1998); Denny's chain, under contract and Oregon law, had the right to control a franchise restaurant and therefore was responsible for the restaurant's discrimination under Title VII agency theory]. However, some courts believe that this statutory provision

simply means that the actions of a supervisor or other employee of an employer can cause the employer to be liable [*Williams v. Grimes Aerospace Co.*, 988 F. Supp. 925 (D. S.C. 1997)].

The "Interference" Theory of Multiple-Employer Liability. Some courts have held that a worker may sue a person or company that is not his or her employer for interfering with the worker's employment opportunities based on discrimination that is illegal under Title VII. In one case, a trucking company employed a worker to weigh trucks at a turkey-processing plant whose officials' sex discrimination allegedly caused the worker to lose her job with the trucking company. The court held that the worker may be entitled to sue the turkey plant even though it did not employ the worker [*Moland v. Bil-Mar Foods*, 994 F. Supp. 1061 (N.D. Iowa 1998)]. The future of this theory and the specific requirements of it are in some doubt after *Alexander v. Rush North Shore Med. Ctr.*, 101 F3d 487 (7th Cir. 1996).

Employment Agency Liability. Title VII makes it unlawful for an employment agency to discriminate in the job referral process. The 15-employee requirement applicable to employers does not apply to referral agencies being sued for referral activities. If a worker wishes to sue a temp agency for conduct outside the referral process, such as for sexual harassment on the job or discrimination in salary, then the worker must prove that the agency is his or her employer and that the 15-employee requirement applies.

The Occupational Safety and Health Act

The purpose of the federal Occupational Safety and Health Act (OSH Act) is to ensure "so far as possible [to] every working man and woman in the Nation safe and healthful working conditions." To that end, the law authorizes the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) to issue occupational safety and health standards applicable to "employers." These health and safety standards generally are enforced by OSHA or, in about half the states, a cooperating state agency. Generally, workers cannot file a lawsuit against their employers for violations of the OSH Act.

In considering whether an employment relationship exists, the OSH Review Commission (OSHRC) states that it relies primarily on who has control over the work environment such that "abatement" of occupational hazards can be obtained. The OSHRC examines a series of factors related to control over the day-to-day details of a worker's employment.

The OSHRC's approach differs slightly from the common-law right-to-control test. In one way, it is even harsher on workers than the common law: the OSHRC ignores several of the factors used in the right-to-control

test that that would help subcontracted workers prove the existence of multiple employers. In another way, the OSHRC slightly liberalizes the common-law standard: in determining who has control, the agency will analyze the "economic realities," or the substance of relationships rather than merely their form or contractual labels. However, this standard is not nearly as broad as the test under the Fair Labor Standards Act (which also looks at "economic realities" but emphasizes the "economic dependence" of workers rather than control over the work environment). We refer to the OSHRC standard as the "modified right-to-control test."

The Supreme Court has not directly ruled on the definition of employment relationships under the OSH Act. Because the OSH Act does not contain a special definition of employment relationships, recent Supreme Court holdings probably require application of the common-law definition (see *Darden*). Anticipating that the Supreme Court might reject any modification of the common-law test, the OSHRC now says that there is no practical difference between its current test and the common-law standard [*Loomis Cabinet Co.*, 1992 OSHRC Lexis 65 (1992); *Loomis Cabinet Co. v. OSH Review Commission*, 20 F3d 938 (9th Cir. 1994)].

Is the Worker an "Employee" or an "Independent Contractor"? The OSHRC's modified right-to-control test tends to be helpful to a company wanting to claim that an individual is in business as an independent contractor and is therefore not the company's employee. The standard is so vague, however, that the outcome of such cases is often unpredictable. Compare *S & S Diving Co.*, 8 OSHC 2041 (1980) (divers were employees of commercial fishing company/boat owner) with *Timothy Victory*, 1996 WL 109659 (1996) (divers were independent contractors involved in a "joint adventure" with, not employees of, commercial fishing company/boat owner).

Who Is or Are the Worker's Employers? Several OSHA cases concern complicated subcontracting arrangements under which each company claims that the other should be responsible for preventing occupational hazards. Several decisions have held that under OSHA more than one entity may be the employer of a single worker and may, therefore, be individually or jointly responsible for compliance with a safety standard [*Sam Hall & Sons, Inc.*, 8 OSH Cas. (BNA) 2176 (1980)]. In some cases, however, the government seems to prefer to assign employer status only to the one company that was most directly in charge of the job site and most capable of abating the hazard and not to other companies, even when they recruit, hire, and pay the workers [*CNG Transmission Corp.*, 1994 OSHRC Lexis 12 (1994); *Union Drilling*, 1994 WL 86002 (1994), companion cases]. This has a certain logic, but it may create incentives for some employers to create the false impression that they have no ability to inspect

or maintain the safety of the job site where workers are assigned. The better course would be to issue a citation to all the joint employers to send the message that all are responsible for ensuring the safety of their employees.

Contingent Workers and Social Security and Unemployment Compensation Coverage

The Federal Insurance Contributions Act (FICA) and the Federal Unemployment Compensation Act (FUTA) require employers to contribute to the federal Social Security and federal unemployment insurance systems on behalf of their employees. Congress has defined "employee" and "employer" under both laws using the common-law definitions [26 U.S.C. §§ 3121 (d), 2131(g)]. The Internal Revenue Service (IRS) has developed a list of 20 nonexclusive factors to determine employee status under the FICA, and this test has been adopted by the courts as well. The factors are overlapping and manipulable but are meant to assist the fact finder in determining whether the employer has the right to control and direct the work. Because the FICA and FUTA use this more restrictive definition and test for employment status, many workers in subcontracting situations will not be covered. Congress has been considering simplifying this test, although recent proposals still utilize the common-law approach. Note, however, that under most state unemployment insurance (UI) laws, a more expansive "ABC" test is used to determine employee and employer status, and these definitions control (National Employment Law Project 1997).

Most states define "independent contractor" in one of three ways: using a restrictive, common-law-based control test; using a more expansive "ABC" test; or, in at least one instance, using the most expansive "economic-reality" test [*Capital Carpet Cleaning & Dye Co. v. Employment Security Comm'n.*, 372 N.W.2d 332 (Mich. App. 1985)]. Under the ABC test, an employer must show that a worker meets all three of the following criteria to show that she or he is not an employee and is thus an independent contractor: (A) the worker is free from control and direction over the performance of her or his work, (B) the work is performed either outside the usual course of the business for which it is performed or is performed outside all places of business of the enterprise for which it is performed, and (C) the worker is customarily engaged in an independent trade, occupation, profession, or business. The ABC test is often misapplied by the courts and UI boards.

Employee-leasing and temping laws in the state UI systems also attempt to sort out the question of "who's the employer." At least 13 states have unemployment compensation laws under which temporary employees who do not report to their temporary agency at the completion of a job and who

fail to take any job offered by the agency will be deemed to have voluntarily quit and therefore will be disqualified from receiving benefits.

Workers' Compensation Laws

Many states have expansively worded workers' compensation laws, in part to permit employers to claim workers' compensation payments as the exclusive remedy and avoid common-law negligence suits by injured workers. Other state laws have the common-law definitions of employment but specifically include categories of contingent workers.

Alaska, Illinois, Pennsylvania, and Oregon specify that employers utilizing workers employed by subcontractors are responsible for providing workers' compensation coverage if the employees are not otherwise covered. In California, construction workers performing labor on a project are considered employees of the person having the work executed. Pennsylvania imposes workers' compensation liability on any employer who permits workers (including employees of subcontractors) to enter its premises and perform work. Washington state's workers' compensation law covers "workers," which includes employees and independent contractors working under a contract "the essence of which is his or her personal labor for an employer." Several states create statutory employees and employers in their workers' compensation statutes, creating automatic coverage. Examples include domestic workers working at least 16 hours a week (Massachusetts), migrant workers in Texas, and lease drivers in New York. More states categorically exclude certain occupations, which include many contingent workers. Examples include agricultural workers who do not meet certain threshold hours-worked requirements (in New York and Illinois, for example) and security guards in California.

Labor Laws Covered by "Suffer or Permit" and Other Broad Definitions

Some state and federal laws utilize definitions or other mechanisms to regulate employment relationships that are far broader than the common-law standard. Most notably, the Fair Labor Standards Act of 1938 (FLSA) "defines the verb 'employ' expansively to mean, 'suffer or permit to work' " (*Darden*, 503 U.S. at 324). In 1937, then-Senator, later-Justice, Hugo Black described this definition, which was taken from state labor laws, as "the broadest definition that has ever been included in any one act" [*U.S. v. Rosenwasser*, 323 U.S. 360 (1945)]. The Supreme Court in 1992 remarked on the "striking breadth" of this statutory definition. Congress later incorporated the standard in the Family and Medical Leave Act (FMLA), the

Equal Pay Act, and the Migrant and Seasonal Agricultural Worker Protection Act (AWPA).

Workers seeking to establish that they are employees of a particular employer or are employed jointly by both a labor contractor or a temp firm and the larger contracting company often fare much better in their legal arguments under this definition than under laws that utilize the common-law standard.

Contingent Workers and the FLSA, AWPA, FMLA, and EPA

The FLSA's basic requirements, subject to various exceptions, are payment of the minimum wage of $5.15 per hour, overtime pay of time-and-one-half pay for time worked over 40 hours in a workweek, restrictions on employment of children, and preparation and maintenance of employment records. In enacting FLSA, Congress concluded that substandard working conditions harmed workers and also constituted an "unfair method of competition" that harmed reasonable, law-abiding companies [*Tony and Susan Alamo Foundation v. Secretary of Labor,* 471 U.S. 290, 299 (1985)]. Legislators understood that their goal of eliminating these harms would be undermined if companies could engage in subcontracting to avoid responsibility as employers and blame all violations of the law on subcontractors. One of FLSA's tools was a broad definition of employment relationships.

Generally, a court will look at the "economic reality" of a worker's relationships with alleged employers and will de-emphasize contractual labels and technical concepts developed under the common law. It will try to determine whether the worker is "economically dependent" on the alleged employers. This economic dependence/economic reality standard is broader than common law and other economic-reality tests (such as under the OSH Act).

To determine whether economic dependence exists as a matter of economic reality, courts look at a series of factors and evaluate the "totality of the circumstances." A labor contractor or temp agency may be considered to be more akin to an employed foreman or lead person rather than an independent contractor if it has little capital, is dependent on the larger business to meet weekly payroll, has few customers, lacks specialized skill or knowledge, and is an integral part of the larger business's production process [see *Rutherford Food Corp. v. McComb,* 331 U.S. 722 (1947)].

Who Is or Are the Employers? Most, though not all, FLSA/AWPA cases are far more hospitable to the concept of joint employers than cases under laws with other standards [*Antenor v. D&S Farms,* 88 F3d 925 (11th Cir. 1996); *Lopez v. Silverman,* 14 F. Supp. 2d 405 (S.D.N.Y. 1998)]. The courts often do not explain adequately how they arrived at their decision,

but the economic reality/economic dependence standard does make a difference in practice.

These factors are very similar to the ones courts use under the narrow common-law standard and therefore fail to implement the strikingly broad definition of employment relationships in AWPA and FLSA. We contend that there should be a return to the law's literal definition, especially the words "suffer or permit to work."

Under this standard, the business could be held liable as an employer because it had suffered—failed to prevent—the work, even though another party had "employed" the worker in the sense that it had hired, paid, and supervised the worker [see *People v. Sheffield Farms-Slawson-Decker Co.*, 121 N.E. 474 (N.Y. 1918), decision on state child labor law by Justice Cardozo]. It could prevent the work when it has or should have knowledge of the work, and it should have such knowledge if the work was integrated into the defendant's business. If the contractor has his or her own business that exercises significant skill, exercises independent judgment, utilizes significant capital investment, and operates autonomously, then the workers may be employed solely by the contractor because the larger business has not "suffered" or "permitted" the work. The effort to move courts to this approach is explained in a law review article by Goldstein and colleagues (1999).

Contingent Workers and the Family and Medical Leave Act

The Family and Medical Leave Act (FMLA), enacted in 1993, provides job-protected unpaid leave of up to 12 weeks a year for workers with family and medical emergencies. The act's definitions of employment are the same broad definitions found in the FLSA, making it a potentially important tool for ensuring that contingent workers are afforded labor and employment rights.

Contingent workers' main obstacle to taking an FMLA leave arises under the act's restrictive definition of "eligible employee," which requires workers to have worked for an employer for one year and for 1,250 hours (approximately 25 hours a week) in the year immediately preceding the leave request. In addition, the FMLA covers only employers with 50 or more employees within a 75-mile radius, excluding many mid-sized businesses and even larger businesses with operations spread around the country. These requirements can act to exclude temporary workers and employees who work at smaller work sites. Otherwise, the FLSA's broad employment definitions and economic-reality test apply, bringing many contingent workers under its protection [*Bonnetts v. Arctic Express, Inc.*, 7 F. Supp. 2d 977 (S.D. Ohio 1998); *Miller v. Defiance Metal Products, Inc.*, 989 F. Supp. 945 (N.D. Ohio

1997), temp worker could count her hours worked as a temp toward the 1,250-hour requirement].

State and Local Laws on Contingent Workers

The preceding discussion focused on coverage of subcontracted workers under labor-related laws and efforts to garner legal protection by establishing that the workers meet the particular statute's definition of employment relationships. Politically, it may be difficult to persuade Congress to extend the broader definitions to those statutes in which the restrictive common-law standard applies. It may be possible, however, to persuade courts and administrative agencies to slightly broaden the unduly narrow approach taken in many cases, particularly under the NLRA, the OSH Act, and the civil rights laws. There is a need to increase enforcement efforts of those statutes containing the broad definition of employment relationships (FLSA, AWPA, Equal Pay Act, and FMLA).

Many states, counties, and cities have recognized the need to take more direct action to reduce the negative consequences of many contingent work arrangements. (Emsellem and Ruckelshaus 2000). These are some examples:

- Establishing commissions to evaluate application of their laws to non-standard workers and to recommend changes in those laws
- Broadening the definitions of employment relationships under state laws to reduce misclassification of employees as independent contractors and to increase the use of the joint-employment doctrine to encourage all employers to comply with labor laws regarding contingent workers
- Broadening coverage under unemployment compensation and other employment-related laws to eliminate exclusions based on temporary, seasonal, or part-time work
- Requiring government entities to ensure that contractors pay their employees what they would have earned if they had been government employees
- Reforming unemployment compensation laws under which temporary employees who do not report to their temporary agency at the completion of a job and who fail to take any job offered by that agency will be deemed to have voluntarily quit and therefore be disqualified from receiving benefits
- Imposing special sanctions against companies that wrongfully induce an employee to enter into an agreement stating that she or he is an independent contractor

- Requiring labor contractors to register with the state and attest to compliance with all labor laws, and requiring users of labor contractors to ensure that all labor contractors are registered, licensed, insured, bonded, and capable of meeting their responsibilities
- Specifically authorizing state occupational safety and health inspectors to cite multiple employers at a work site for dangerous employment conditions
- Protecting "day laborers," including those participating in day-labor pools, by requiring minimum standards for health and safety and granting undocumented workers full rights to enforce labor laws

Acknowledgments

This is a condensed version of a paper the authors co-authored with Laurence Norton, II, Community Justice Project, Harrisburg, Pennsylvania, and Brent Garren, Office of General Counsel, Union of Needletrades Industrial and Textile Employees, New York, New York.

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DISCUSSION

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With the dramatic expansion of part-time, temporary, and agency employment and the growth of self-employment, the relationship among contingent work, economic restructuring, and forms of regulation, especially access to existing employment-related rights, is increasingly the focus of research and public policy. Research in a variety of disciplines highlights different facets of the spectrum of social processes embodied in the concept of contingent work. The papers presented in the Symposium on Human Rights on the Margins of Employment: Contingent and Informal-Sector Workers in North America at the 53rd Annual Meeting of the Industrial Relations Research Association illustrate the extent to which contingent work has become a research and policy priority. My discussion of these papers emphasizes two themes; the first is the significance of disciplinary perspective in framing the issues relating to contingent work, and the second is the need to include gender as both an analytic lens and an object of analysis in studying contingent work.

Different Disciplines

Different disciplinary lenses provide distinctive perspectives on the relationship between contingent workers and labor and employment rights. Gunderson and Hyatt use the economist's framework to probe the influence of regulation on contingent work. They question the utility of different forms of regulation, examining the symbiotic relationship among the labor market, collective bargaining, legislation, and contingent employment. Their agnosticism regarding the efficacy of legal regulation shapes their recommendations of the kinds of policies that are needed for contingent workers. They suggest that labor regulation focus on workers who are contingent involuntarily and on increasing the penalties for infractions of labor laws since detection rates are so low.

Lawyers, not economists, prepared the other two papers presented in the symposium. Not surprisingly, they tend to assume that legal regulation

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works. Ruckelshaus and Goldstein concentrate on the extent to which contemporary employment and labor law in the United States covers contingent workers. They focus on the basic legal definitions of employee and employer in a range of different legal contexts since this is the first step to determining entitlement to employment-related rights. They provide an excellent map of a diverse and large legal landscape. Political science and history would offer geographical and geological dimensions since these disciplines seek to explain why the legal terrain has its distinctive shape. Why does the definition of the subjects of the employment relationship differ in a variety of legal contexts and over different periods of time? What are the forces that influence the scope of legal protection? Law needs to be supplemented by other types of analyses and research to provide answers to these questions.

Banks also focuses on law, but he broadens his analysis to include Canada and Mexico, as well as the United States. He surveys the treatment of informal workers in Mexico and contingent workers in the United States and Canada. The differences in the economies, labor markets, and legal systems in Mexico on the one hand and Canada and the United States on the other make the comparison complex. Using standard employment, which is full-time and full-year employment of an indeterminate or indefinite duration, as the norm against which contingent work is measured, Banks demonstrates that workers in contingent employment are less likely to be entitled to work-related benefits and rights than workers in standard jobs.

Contingent Work

The first problem with discussing contingent employment is definitional. Contingent work is marked by diversity of employment forms—including part-time employment, self-employment, fixed-term work, on-call work, home work, and telecommuting—united more by their divergence from the standard employment relationship than by any common features. Alternative labels, such as "nonstandard," "atypical," or "precarious," have been offered. While these terms tend to be used interchangeably, they are not synonymous; each focuses on aspects of the changes in the nature and outcomes of employment rather than on the impact of those changes as a whole (Fudge 1997). But, while each category of contingent work presents particular challenges for the worker, all share the problem that such workers enjoy lower wages, fewer benefits, and less job security than their full-time counterparts.

For Gunderson and Hyatt, the problem regarding the conceptualization of contingent work is not simply definitional, it is also normative. Contingent work may be a good thing; it may provide pathways to the labor

market for workers with a diverse range of human capital and still allow workers the flexibility to balance work and other non-labor-market, mostly family, obligations. However, contingent work might be a bad thing; its proliferation may signal the erosion of the standard employment relationship and a general deterioration in the coverage and quality of labor rights.

Flexibility

The question of whether the growth of contingent work is good or bad is directly related to ongoing debates about labor market flexibility and deregulation. Flexibility is a term with many meanings. From the supply side, workers need flexibility in order to combine paid employment with their lifestyle decisions, the most important of which, from a social perspective, is the decision to raise children. From the demand side, firms increasingly rely on a range of nonstandard forms of employment to respond flexibly to prevailing market conditions or to changes in the production process. In the contemporary policy debate, flexibility in work arrangements is often falsely equated with flexibility in employment and labor markets (Stanford 1996). The problem is that the shift to contingent work raises the specter of increased inequality along a variety of dimensions, including wages, job security, and social benefits (Lipseg-Mumme 1997:116; Rosenberg 1989:397). This form of flexibility tends to remove protection primarily from the weakest groups in an economy rather than exposing all groups to competition (Deakin and Wilkinson 1991).

Deregulation

Contingent work is a form of flexibility that shifts much of the risks of productive activity from employers to employees (Beck 2000). In this sense, flexibility is intimately tied to deregulation. With increased power as a result of globalization, new technologies, and government policies of competitive austerity, employers have been able to escape many of the incidents of employment-related regulation by shifting to nonstandard forms of work. While it is true that many workers choose contingent forms of employment, they do so under conditions that they do not control. For example, while women historically have opted for part-time work in order to fulfill domestic responsibilities, especially the care of young children, they do so in the absence of a national, accessible, and affordable childcare system in Canada and in the face of the enduring unequal division of domestic labor between men and women. And while it may be true that in the short term, spousal employment-related benefits provide contingent workers with access to entitlements they otherwise would not have, experience shows that in the long run, women have paid a high price for contingent work in terms of

lower income when they are old (Townson 1995). The notion that contingent workers may not need employment-related benefits provided directly to them because they might have access via a household member is based on a number of controversial assumptions that feminists have long questioned: that resource sharing and intrahousehold transfers among family members are equal, that households are stable, and that women in contingent employment can rely on a male breadwinner (Eichler 1997; MacDonald, forthcoming; Spalter-Roth and Hartmann 1998).

Gunderson and Hyatt's discussion of the three dominant forms of regulation—the market, collective bargaining, and legislation—and their impact on contingent work provides an elegant summary of the state of the debate over contingent work. However, I have two concerns with the picture they present. The first is their equation of economics generally with neoclassical economics. The second is their failure to probe the gendered dimension of contingent work.

Economics

Neoclassical economists would generally argue that contingent employment arose primarily in response to the changing needs of employers and employees and that regulating contingent work via legislation would have the impact of creating unemployment. However, not all economists would agree with this neoclassical assessment, despite the fact that neoclassical economics is clearly dominant in policy circles and has been for the past 20 years. Institutional economists argue that labor markets are not based on fair competition and that labor markets are segmented (Doeringer and Piore 1971; Humphries 1995). Feminist economists emphasize the role of crucial issues relating to labor supply, such as who cares for the children who become the workers of tomorrow, in shaping labor demand (Picchio 1992; Woolley 1993). Not only is efficiency—the touchstone of the neoclassical economist—difficult to define, what counts as an efficient allocation depends on the time frame or level from which it is assessed.

Since the early 1980s, the policy debate over employment and labor law reform in North America has been posed in stark either/or terms, contrasting equity with efficiency or opposing regulation and rigidity to deregulation and flexibility. But equity and efficiency may not be as far apart as the current debate suggests (Kitson, Martin, and Wilkinson 2000). "Efficiency" is a value-laden term that may or may not be attuned to measuring the subtle impacts of certain types of initiatives. Improving and extending labor standards may, for example, decrease employee turnover, increase morale and productivity, and reduce occupational injuries. Moreover, the proliferation of low-compensation contingent work also raises the specter

of slower productivity growth and dynamic inefficiency—the failure of firms to adapt and innovate (Herzenberg, Alics, and Wial 1998:150; Tilly 1996:162).

As Tilly (1996:162) recounts, although conventional neoclassical economic theory posits that low productivity leads to low compensation, there is a strong argument that the causality can run in the opposite direction. Paying employees poorly can trigger and perpetuate a vicious circle for firms in the service sector whereby they attract low-skilled and low-commitment workers, driving up turnover, which in turn erodes a firm's level of service. When consumers reduce their demand for the low-quality service, the firm responds by keeping compensation low. Also, access to low-cost labor may make productivity increases unnecessary for employers (Deakin, Michie, and Wilkinson 1992:9). Moreover, the neoclassical assumption that there is a transparent trade-off between the quantity and quality of jobs has not been borne out by the most recent studies of increases in minimum wages in the United States. Card and Krueger (1995) found that the employment effects of increasing the minimum wage were zero to positive. This may be due to its effect on aggregate demand (raising the compensation of the lowest-paid workers does destroy their jobs, but the greater purchasing power created by a higher wage floor generates roughly the same number of better-paying jobs), or it may be that low-wage employers mistakenly set wages too low and that enforced increases bring benefits in reduced turnover and heightened productivity that offset higher wage costs.

Furthermore, whether a particular initiative is efficient or not depends on the level at which the outcomes are being measured; " 'efficiency' at the level of the firm (micro-efficiency) is not necessarily synonymous with efficiency of the overall outcome" (Fredman 1997:409). Policies that promote equity in the labor market, in particular, may have an important impact at the macro-level in promoting productivity. As Breugel and Perrons (1995:160) point out, "There is a disjuncture between what is rational for some individual enterprises within the pre-existing gender order and what would collectively benefit employers in their need for a highly productive workforce." The examples they cite are mandatory (and generous) parental leaves and midcareer breaks that would allow the retention of skilled employees by all firms without increasing the marginal costs of a "good" firm relative to a "bad" one. Not only is there the possibility that in the absence of mandatory standards the "prisoner's dilemma" effect will prevent "good" employers from agreeing to improved employment benefits, there is also the possibility that there may be numerous divergent outcomes of a policy initiative, leading to equilibria at different levels. According to Fredman (1997:409), "The level at which equilibrium is reached, far

from being the mathematical outcome of objective forces, is heavily contingent on the inherited social pattern of advantage as against disadvantage." Contrary to the canons of neoclassical economics, deregulated labor markets tend to be associated not with a convergence upon equilibrium but with a disturbing trend toward job and wage polarization (Kitson, Martin, and Wilkinson 2000; Peck 1996:129).

Gender

My second concern is the lack of sufficient attention to gender in Gunderson and Hyatt's (and most neoclassical economists') depiction of contingent work. An important dimension of the rise of contingent employment in Canada and the United States has been its gendered nature. Gunderson and Hyatt correctly point out that many of Canada's labor policies were designed for a male-dominated, homogeneous, blue-collar workforce. The same is true of the United States. When the standard employment relationship was strong, contingent work was predominantly performed by women in order to supplement the male wage. Both forms of employment had to be placed within a particular family formation and household model and depended, to a large extent, on high and growing wages for men. Since the early 1980s, the standard employment relationship has declined, contingency has spread, and more men are working in forms of employment previously identified with women (Fudge and Vosko, forthcoming). Households have also changed dramatically. It is important to reexamine gendered assumptions about employment and the composition of the relations with families. Policies that are not attentive to the gendered division of labor and the changing structure of gender relations may exacerbate inequality and reduce the amount of social capital devoted to social reproduction, with negative consequences for the quality and stability of the population in the long run (Picchio 1998).

Law

What distinguishes the economist's from the lawyer's approach to contingent work is that the economist is attentive to how regulation may contribute to contingency in the first place. This dimension is often missing in legal analysis, which tends to ignore questions of enforcement and avoidance as matters of public policy and sociology. Ruckelshaus and Goldstein assume that the solution to the problem of contingent work is to extend the scope of employment-related protection. However, recognizing that the U.S. political climate at the national level is not favorably disposed to extending and improving employment rights, they advocate litigation and state measures to address the problems that contingent workers confront.

But they fail to address a crucial question that Banks raises: whether the problems that economically disadvantaged workers face in enforcing their rights in a complaint-driven system outweigh questions of legal coverage in terms of real-world importance.

Research on the relationship between contingent work and human rights needs to incorporate three dimensions. First, it is crucial to elevate gender in the analysis of contingent forms of employment. Not only is it an important antidote to the neoclassical tendency to erase the effort and organization, primarily performed by women, that goes into producing the workforce, it helps us to understand how contingency has been institutionalized historically and which groups of workers have borne its costs and how. Second, it is necessary to engage in interdisciplinary analysis of contingent work in order to understand its origins, rise, and distinctive features. New employment norms need to inform human rights and labor regulation, norms that both reflect what a huge proportion of the working population already does to make a living and assume that all people are engaged in caring labor. Third, research needs to focus on the relationship between legal regulation and enforcement. Human rights for contingent workers may offer little more than hollow symbolism unless new mechanisms of enforcement are developed.

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DISCUSSION

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One of the stimulating intellectual challenges of North American economic and social integration, most recently represented by the North American Free Trade Agreement, is development of an overall framework with which to analyze all three countries with parity, treating the three in a parallel fashion and identifying common points where appropriate on the one hand, while not losing sight of fundamental differences on the other. Also important is to see each country and the region dynamically, as they experience regional, extraregional, and global social and economic processes. Though uneven, this panel is a step forward in the first two areas in its analysis of nonstandard employment, defined as the informal sector in Mexico and "contingent" employment in Canada and the United States, and the legal regulation of the individual and collective aspects of these types of employment in the three countries. In line with the assigned division of labor, I focus on the papers by Banks and by Ruckelshaus and Goldstein.

Of the papers in this session, the Banks paper best addresses the issues of nonstandard employment in the three countries of North America. For comparative purposes, it juxtaposes informal employment in Mexico with contingent employment in Canada and Mexico and provides a general statistical overview of these sectors and also a discussion of the legal coverage of these types of employment relationships, especially around the themes of freedom of association and right to organize. In the statistical area, we learn that there are significant differences among countries. In Mexico the informal sector, which includes the self-employed, workers in establishments of five or fewer employees, and domestic workers, accounted for 54.8% of the economically active population in 1998 and fluctuates counter-cyclically. In Canada and the United States, the contingent sector, defined as the sum of the self-employed, temporary, and part-time workers, is about 40% in Canada and 27% in the United States, with the difference being largely in the larger proportion of temporary workers in Canada. In the legal area, we learn that the self-employed can be counted as employed

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for some purposes in Mexico, while they are generally counted among the independent contractors in the United States and Canada. Generally speaking, employment law does not exclude part-time or temporary workers, but as a practical matter, they might receive less protection. In terms of the status of employees of subcontractors, Mexican law is the most inclusive, with all workers in a situation of "economic subordination" potentially in a labor relationship with the contracting firm, compared with the United States and Canada, where there is heavy reliance on the agency doctrine, which defines the party that controls and directs the work as the employer. Some statutes in the United States use a broader definition of the employment relationship that emphasizes the "economic dependence" of the employee on the larger firm, even if the immediate employer is the subcontractor.

The Ruckelshaus and Goldstein paper, after a brief sketch of the types of nonstandard (labeled as contingent) employment in the United States, focuses almost exclusively on the segment of contingent employment where the worker may be the direct employee of a subcontractor rather than of the manufacturer or other business entity that subcontracts. The paper analyzes the various federal labor and employment laws, especially the National Labor Relations Act, in terms of who has the responsibility as the employer either under the common-law theory of agency, where the employer is that which pays and probably supervises the work. The alternate, broader position is that of "suffer or permit," which focuses on the economic dependence of the subcontractor and the worker on the contracting firm that creates the job through its demand for the work. The firm that "suffers or permits" then is responsible for the working conditions of workers that are technically employees of the subcontractor. This language came out of the battles against the subcontractor sweatshops in the last century and is embodied in the Fair Labor Standards Act and several others. The authors propose that the reach of the "suffer or permit" doctrine be expanded through further legislation, through legal interpretation by the courts, and through enforcement.

In the review of the various U.S. statutes and in the proposals, one sees how the law can be crafted to address the problem of finding and holding an employer accountable for the responsibilities of the employer. This remedy could be applied across borders to the entire supply chains of U.S.-based or -identified manufacturers such that they could be held accountable for the actions of their subcontractors. We see the beginnings of this in worker rights groups' challenges to labor policies of major shoe and garment manufacturers and their suppliers and to the adoption of corporate codes. In the case of Mexico, this principle, reinforced by the concept of "economic subordination" in Mexican labor law, could be applied to the

situation of in-plant subcontracting in Mexico, where the work is contracted to a subcontractor whose crew works in the main plant, thereby avoiding the union of the main employer, if not any union at all.

In the preceding discussion, in a formal sense, Mexican labor law appears to come out ahead of its counterparts in Canada and the United States. While it is the case that Mexican labor law in a formal sense provides more protection for workers than do statutes in Canada and the United States, in reality the protection may not be provided or may even have a perverse result. For example, Mexican law provides what in the United States would be a closed shop. In Mexico, the "exclusion clause" requires the employer to exclude from employment workers who are not union members, thereby allowing the union to exclude workers who are not supportive of the union or who are supporters of an alternative union. Similarly, union representation on the local conciliation and arbitration boards can result in workers' not having the union representation they seek. Many of these issues are highlighted in Hathaway (2000) on the struggles of Mexico's Authentic Labor Front (FAT) against the employers, the state, and the official unions to organize independent unions in Mexico.

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WHAT WORKERS WANT: DIFFERENT APPROACHES TO EMPLOYEE REPRESENTATION

Worker Representation in the Truckload Sector: What Do Truckers Want?

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The purpose of this paper is to gain greater understanding of worker erences for interest representation in a specific industry: trucking. ginally this research was to compare worker preferences in two highly petitive industries characterized by widely divergent wages and bene- atypical work organization, and subcontracting, namely, both trucking construction. Difficulties in gaining access to employees in the union construction sector limited this survey to the trucking industry, hich the author has significant opportunities for access.

The purpose of this research was to gain a better understanding of dif- nces between employee drivers (drivers who supply their labor only) drivers who own their own trucks and lease them to motor carriers g with their labor. The debate is whether they are independent busi- operators because they give up their status as employees by leasing a k to the carrier. In this paper, I refer to them as owner-operators ause that is the common term, not an acknowledgment of the validity of concept. I adapted the Worker Representation and Participation Sur- (WRPS), a survey conducted by Freeman and Rogers (1999:157–201) ,408 workers in the United States working in private firms or the non- it sector, for use in the form of a mail survey. My modified survey was

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to approximately 1,200 drivers who work for a large nonunion
ad firm (for a detailed explanation of industry structure, see Belzer
About 200 surveys have been returned due to problems with the
s (mainly moved, left no forwarding address, or forwarding expired).
rvey was mailed about the first of December 2000, and 121 respon-
eturned valid surveys in time for final analysis. While this response
rather low and caution must be used in interpreting survey results,
ere received and analyzed in two batches of approximately equal
d frequencies of response categories did not change significantly.

s carrier employs approximately 500 drivers at any one time and is
f a multicarrier group owned by the same family and employing
imately 3,000 drivers. About half of the surveyed drivers are cur-
affiliated with the carrier, and about half have terminated (mainly
uring the past year. Turnover at this carrier is approximately 100%
y, typical for the industry.

e carrier employs both "company drivers" (employees who provide
abor only) and "owner-operators" (drivers who provide their trucks—
permanently to the carrier, typically with a 30-day contract-cancella-
ovision—and their own labor). There is considerable dispute on
r the latter constitute "employees" or "independent business own-
lthough the Teamsters Union was formed by as many owner-opera-
company drivers, and although the Teamsters represented a sub-
number of owner-operators as recently as 30 years ago, subsequent
decisions have severely limited the rights of drivers who own their
ucks, and they are not allowed to join a union anymore. Under the
egime that existed until the early 1970s, unionized "owner-drivers"
ired as employees who also leased their trucks to the carriers, which
paid them in two checks: one paying the driver's wages and another
for the truck lease. Any effort to organize by these drivers today
ing down the weight of the U.S. Justice Department to investigate
onspiracy in restraint of trade," as has happened during the past year
er-drivers in intermodal operations, particularly in the ports, have
o organize. In addition, the National Labor Relations Board no
recognizes these drivers' rights to organize under the NLRA, and
vers need not recognize any organization of owner-drivers. Regard-
mpany drivers and owner-operators perform the same work, are dis-
d by the same managers, haul the same freight, and drive trucks
e carrier's name prominently displayed.

ee quarters of respondents are owner-operators, so it is important
nguish their responses from those of employee drivers. However,
f the responses are quite similar, supporting the contention that

e is no true difference between them (most of the differences probably be attributed to their perception that they are not allowed to have col- ve representation even if they want it). The median annual earnings of loyee drivers is $30,600. Owner operators report median earnings of 000, but several respondents apparently supplied annual earnings fig- that reflect their gross, not net, revenue (I did the best I could to ex- e those outliers). Thus, we can be confident that the employee earn- figure is approximately typical for both company and owner-operator ers. This figure also is consistent with that determined by the Univer- of Michigan Trucking Industry Program (UMTIP) driver survey (Bel- et al. 1998; Belzer 2000), although it is about 10% lower. Drivers are by several different methods: hourly, by the mile, or by percentage of nue. Of the respondents, 50% provide all or almost all of the income ed by their families, and 75% provide most or all of family income ough many reported that their earnings were so low that they could send any money home). The respondent group is unusually stable, with % married or living as married (this compares with 45% to 55% at J.B. t; Rodriguez and Belzer 2000). Perhaps reflecting these drivers' rural iciles, 38% say they are Republican, 22% say they are Democrat, and remainder are independent (owner-operators are 64% more likely to Republican). Terminated drivers look similar to current drivers.

Hours of work are of interest in this group of workers. The legal limit truck drivers' work hours is 60 hours in a seven-day period. UMTIP's er survey showed that the median nonunion long-haul driver (the pop- ion from which this sample is drawn) works 70 hours per week, includ- both driving and nondriving labor. Current drivers work somewhat er hours than do former drivers. Eighty-seven percent of current driv- report working more hours than the legal limit, with 64.5% working 75 rs or more; 91% of terminated drivers report working 60 or more rs. This is the major reason that the carrier's name cannot be disclosed.

TABLE 1
Work Hours

Hours	%
Less than 35	3
35–44	2
45–59	8
60–75	23
76 or more	65

Turnover among this group of respondents appears rather low, suggest- another bias. If turnover is closer to 100%, which the carrier reports,

ore respondents should indicate less than one year of employment. , almost half the respondents have worked for the carrier for three r more, suggesting that those with greater investment in the firm ore likely to respond. Turnover generally is high in this sector of the g industry (it is low only in the unionized sector). It is particularly the truckload sector because the low wages, long hours, and irregu-edules make the job undesirable. This makes it relatively easy for rivers to churn, and 73% of them are very confident they can easily other job at the same or better pay (current and former drivers gave identical answers).

TABLE 2
Tenure

Tenure	%
Less than 1 year	29
1–2 years	25
3–5 years	19
6–10 years	16
More than 10 years	10

ven these onerous conditions and circumstances (and turnover), loy-surprisingly high, even among former employees. Sixty-nine percent o be loyal to their supervisor, more than 67% are loyal to fellow yees, and 55% are at least somewhat loyal to the firm. Perhaps most ing, 43% of terminated drivers are at least somewhat loyal to the (see Freeman and Rogers 1999:46).

TABLE 3
Loyalty

	Loyalty to supervisor (%)	Loyalty to other employees (%)	Loyalty to firm (%)	Loyalty to firm, from WRPS (%)
loyalty	32	18	19	54
yalty	37	50	35	32
ttle loyalty	14	23	17	10
ty at all	17	10	28	4

st is moderate. Not surprisingly, current drivers trust the firm more rminated drivers do. That said, these drivers have a great deal less an do the employees surveyed in the WRPS. Again, remarkably, 35% erminated drivers indicate that they trust the carrier, at least some-While these are substantially lower figures than those in the WRPS

eman and Rogers 1999:46), given the sweatshop conditions under which e drivers work, this might be more trust than one would expect. It seems these drivers may have some sympathy with the competitive circumces in which this particular carrier finds itself. Regardless, this low trust e and weak loyalty make it difficult to engage employees in the firm's sion. This trust may even be overstated, if, as suspected, the respondents biased toward the most stable and therefore the most committed.

TABLE 4
Trust Firm to Keep Promises

	All drivers (%)	Current drivers (%)	Terminated drivers (%)	All employees, from WRPS (%)
	15	18	12	38
ewhat	30	37	23	42
a little	23	21	25	12
at all	33	24	40	7

Employees and owner-operators do not look very different, but the ll cell size for employees makes this comparison difficult to interpret. st important, respondents to the WRPS survey broadly report nearly e as much trust as do respondents from this carrier (Freeman and ers 1999:46). In table 5 "a lot" and "somewhat" are summed, and "only tle" and "not at all" are summed.

TABLE 5
Trust Firm to Keep Promises

	Employees (%)	Owner-operators (%)	WRPS (%)
	46	45	80
	54	55	19

When asked whether labor relations are better at this carrier than at rs, almost half the respondents report below-average relationships. vever, 46% of owner operators rate the carrier worse than others, while % of employees rate it worse. This could result either from perceptual erences or from a variance in the way the company treats owner-operafrom the way it treats employees (some employees work for brokers racted to the carrier).

One of the core issues raised by the WRPS is that of "influence." Influe is the core concept behind any sort of representation. Drivers report r relationship to the carrier as somewhat unilateral; as table 6 shows,

dicate that they are unsatisfied with their level of influence on com-ecisions compared with 19% from WRPS. These workers are much tisfied than those surveyed by Freeman and Rogers (1999:47–53). 7 shows the influence gap for these workers on seven dimensions nce gap is the difference between the influence that they have and luence that they want, measured by their response that "a lot" of ce was wanted). The comparisons with the WRPS are striking, as workers' influence gap is quite large: for every element the influence substantially larger and the average gap is 40% greater.

TABLE 6
Satisfaction with Influence

	All drivers (%)	WRPS (%)
sfied	10	28
at satisfied	24	53
satisfied	29	12
sfied at all	37	7

TABLE 7
Workers Wanting Influence on Their Work

	Want influence (%)	Have influence (%)	Average gap (%)	WRPS average gap (%)
rk is organized	90	69	21	19
	76	37	38	33
es	87	69	18	12
pay	89	32	57	35
ogy	80	36	44	24
	86	50	36	20
	91	30	61	54
	85	46	39	28

e gap also is reflected in the fact that 86% of respondents would like nfluence than they currently have. Unfortunately, they also believe, ke margin, that the carrier will not give it to them. They report pro-suggestions to the carrier sometimes or often (73%) but report gnored just as frequently (70%). Still, two thirds of all drivers give tions even though they think it may cost them their job and even a substantial number of them do not expect the carrier manage-o listen. This desperation shows up in their response to the question ther they think that if they acted as a group they would have more ce: 52% said this would not help. Drivers believe this influence

ld have a payoff to the firm as well: more than 85% of all of the drivers
eyed believe the carrier would be stronger against the competition if
e decisions were made by drivers rather than managers. While 94% of
ers would not characterize the carrier as encouraging employee in-
vement, more than 90% would welcome it.

Like many firms, particularly paternalistic ones, almost three quarters
ll drivers perceive that this carrier has an open-door system for han-
g issues that may arise. Only 13% would characterize the firm's pro-
n as including anything like a formal grievance system. By a margin of
% to 39%, they consider the carrier's methods of resolving individual
vances to be ineffective, and almost 85% believe that the system would
more effective if employees had more say in how problems are resolved.

Like the workers interviewed for the WRPS, by a nearly 2:1 margin,
e drivers would feel more comfortable raising issues as a group. Driv-
do not seem to be hung up over who selects the representatives, though
have clear preferences. By a 68% to 32% margin, workers say a man-
ment-selected committee of drivers that discusses drivers' concerns
ld be more effective than the current system. By a similar but greater
gin, 84% to 16%, drivers believe that a driver-selected committee
ld be more effective. In fact, when asked who should pick participants,
% believed they should be elected and less than 3% said that manage-
t should select them (see Freeman and Rogers 1999:53–60).

A modest majority (53%) of these drivers have been in a union, and
% of those who were in a union were Teamsters. It is not clear, however,
prior union experience causes people to have an interest in group solu-
s. Contingency tables comparing drivers' past union membership
mster or otherwise) and their preference for rank-and-file group meet-
with company representatives are not significant, using a simple chi-
are test. In fact, their general experience with unions has not been over-
lmingly good: 57% are positive about their prior union experience, and
% are negative. While this past experience does not completely predict
kers' choices, it is significantly related to their current preference for
ns.

In fact, company drivers and owner-operators combined indicate by a
margin that they would vote to join a union, given the opportunity.
ner-operators are just as likely as company drivers to favor a union, so
small-business mentality they may have seems to be swamped by their
sciousness as workers. A chi-square test confirms (p = .02) that those
have never been members of unions are significantly less likely to vote
a union in this case, and those who have been members are significantly
e likely to vote union.

TABLE 8
How Union Experience Affects Preference for Union

	Vote yes on union # (%)	Vote no on union # (%)	Total # (%)
een a member	27 (25%)	23 (21%)	50 (46%)
nion member	44 (41%)	14 (13%)	58 (54%)
	71 (66%)	37 (34%)	108 (100%)

w would these workers feel about an organizing drive? About 43% ers have experienced an organizing drive at a previous place of yment. Overwhelmingly, though, they experienced a strong and ive management counterattack. Management opposition was expe- in 90% of the cases, and in 54% of the cases, management used ating tactics. Drivers believe management at this carrier would do ne: 91% believe management would oppose an organizing drive, and would expect them to use intimidating tactics. Regardless, almost f them would change their votes for or against the union because of ement's tactics. Again, recall that they overwhelmingly believe that n get another job just as good or better than this one.

TABLE 9
Management Response to Unionization

	Experience with previous employer (%)	Expectation of current employer (%)
e union	3	2
union with information	36	34
ting tactics	54	57
onse from management	7	7

ven management's expected response, these drivers have very similar nceptions of their rights under U.S. labor and employment law. misconceptions may be typical of most in the nonunion sector of the g industry, as they are among other employees surveyed by the (Freeman and Rogers 1999:119).

some dimensions, the drivers preferred more independence for ypothetical employee organization than did the WRPS respondents, ey thought jointness was preferable. Drivers would prefer an em- organization to have an outside arbitrator to resolve issues rather

TABLE 10
Drivers' View of What Is Legal: Incorrect Understanding of the Law

l management actions	Drivers who believe these acts are illegal (%)	WRPS respondents who believe these acts are illegal (%)
an employee for no reason	89	83
someone for refusing to do zardous work	78	83
anently replace someone who es on strike	59	74
age % of three legal acts employees lieve are illegal	75	80

TABLE 11
Drivers' View of What Is Illegal: Correct Understanding of the Law

al management actions	Drivers who believe these illegal acts are illegal (%)	WRPS respondents who believe these illegal acts are illegal (%)
e someone to a job with less pay or sponsibility for trying to form a union	93	86
d hiring blacks or other minorities if a siness has good business reasons for ing so	78	76
se family leave so an employee can care r a sick child	79	73
age % of three illegal acts employees lieve to be illegal	83	78

have management decide them. While 83% of these drivers support ide arbitration, only 59% of the WRPS respondents preferred outside tration. Almost 82% of all drivers thought labor and management uld run an organization jointly, however (similar to the 85% support rted by the WRPS). More than 85% prefer that key participants be sen by election rather than be chosen by self-appointment or manage- t choice; this compares with only 59% in WRPS. Drivers are evenly about whether to include management in the organization, much like loyees surveyed by the WRPS. Drivers prefer that the organization has ss to confidential information, and this preference of 79% far exceeds

% found by the WRPS. They also indicate, by a nearly 2:1 margin, ey prefer that the organization support itself rather than be sup- by the firm; this compares with only 34% in favor of self-support by the WRPS (Freeman and Rogers 1999:68–77, 81–87). Finally, so indicate that they need legal protection by an almost 3:1 margin. ntire stream of results suggests that truck drivers may be inclined to g form of worker interest representation: they want elections, they ne organization to be self-supportive, and they want it to have access idential information. At the same time, they want it to be run jointly r and management, a preference that may be difficult to reconcile.

the critical question of whether management's cooperation is to make the organization successful, drivers overwhelmingly indi- at they believe that the organization cannot succeed without man- nt cooperation. This finding is highly consistent with that of the . Again, quite consistent with findings from the WRPS, drivers prefer an organization with which management cooperates but that power rather than a powerful organization with which management t cooperate (Freeman and Rogers 1999:140–55). In fact, prior expe- with a union does not lead to a significantly greater or lesser prefer- or organizational independence. These results suggest that even workers believe that the firm (and they themselves) would be bet- with an organization, they do not seem to be interested in class e. They are interested in working together with management to e a mutually favorable outcome. While they believe that they should money, they are entirely supportive of the notion that the firm should money also.

TABLE 12
Effectiveness and Cooperation of Employee Organization

	Drivers (%)	WRPS (%)
effective without cooperation	23.4	17
effective only if management cooperates	76.6	72

TABLE 13
Preference for Cooperation versus Power of Employee Organization

	Drivers (%)	WRPS (%)
ment cooperation, even if no power	63.2	63
ower, even if management opposes	36.8	22

ile clearly both employee and owner-operator drivers would prefer ntation, and this representation may well be in the interests of both

public and business enterprises as well, the issue of worker interest esentation remains in a legal and institutional netherworld. It is virtu- impossible for the Teamsters or any other union to consider trying to nize these drivers, regardless of their preferences, because manage- t has all the power levers in the organizing relationship. A successful nizing drive under the current labor law regime would by necessity ire a mass organization that would bring the nation's commerce to a because existing labor law encourages aggressive employer resistance mployee preferences for representation in the interest of preserving a er libertarian concept of freedom of contract (at the expense of loyee self-determination; see Gross 1995). Laws preventing employer- inated company unions also make it unlikely that we will see any form rm-initiated works council–style organization. Furthermore, the reor- zation of the work process, including the redefinition of employees as contractors, has outpaced our legal institutions, creating a legal limbo workers. Labor, tax, and antitrust laws conflict and hamper our ability ose the influence gap.

All that remains is a policy paradox. By overwhelming numbers, truck ers would prefer worker interest representation. Just as overwhelm- y, they participate in a legal, economic, and institutional environment makes such representation impossible. As I have argued elsewhere zer 2000), unionization is one among very few alternatives available for cy makers hoping to counter the sweatshop conditions now prevalent in king today.

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Engineers' Voice in the Internet Economy

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Abstract

Two key characteristics of the Internet economy—easy capital for start-ups and a focus on time to market—coupled with a tight labor market and bullish stock market created a market-driven labor market that affected the voice and labor market outcomes for engineers. Rapidly changing technology and the rush to market resulted in young engineers' bargaining power increasing relative to experienced engineers. Voice and career building, which had been exercised within a company's internal labor market, now became exercised through job hopping and professional networks. Internet engineers gave up security and stable earnings for high-risk, high-return compensation packages.

The Internet economy, which has changed the way that businesses operate and people communicate, has changed the way the labor market functions by creating new norms for its own market for engineers and managers. In 1999 the media embraced the legends of 25-year-old CEOs, IPO multimillionaires, Porsche signing bonuses, foosball tables, and money everywhere. In 2000 the new legends are of young engineers wearing their failed start-ups as badges of honor, stock options that are underwater, engineers running from start-ups to established firms and job security, and doom everywhere. These legends capture (and create) common perceptions of Silicon Valley, but how well do they capture the experience and bargaining power of the Internet economy's average engineer? By analyzing the careers and labor market outcomes of Internet engineers, this paper provides a snapshot of how the labor market for engineers is evolving. First we discuss how several key characteristics of the Internet economy affect the voice and labor market outcomes of engineers. Then we use data from original fieldwork to ask what engineers want in their jobs. Finally, we discuss current trends in the Internet economy and their implications for the future of engineers' labor market.

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Engineers' Voice

Freeman's (1980) seminal article applies Hirschman's exit–voice dichotomy to the unionized workplace to analyze how workers can use "voice" (especially through the grievance system) rather than "exit" when dissatisfied with conditions. Many nonunion companies, often in order to keep unions out, have instituted grievance and other procedures that allow employees voice (Jacoby 1997). These procedures are part of a large company's internal labor market, which allows professional employees, who forgo leaving for a higher wage in boom times, and employers, who forgo laying off in downturns, to share risk over the business cycle and to share the costs and returns of training. (Brown et al. 1997).

Engineers care deeply about their job assignment and want challenging projects that allow them to learn the latest technology. At work they want their voice to be heard through their contribution, so they have used movement through their company's internal labor market both for voice and for career building. However new high-tech companies, especially in Silicon Valley, changed the rules governing career ladders, training, and security with the rise of the Internet economy during the past decade (Cappelli 1999). The Internet workforce became more market driven, and engineers began to rely more on job hopping and professional networks and less on company ties to express their voice and build their career. Two things—strong labor market demand and bullish stock markets—facilitated these changes. In a hot labor market, the reward for risk sharing with a company becomes less attractive as the threat of unemployment fades. Bullish stock markets in the mid-1990s allowed early-stage companies to offer high-reward, high-risk stock options, while older high-tech companies offered equity whose value tended to stagnate. Knowing only strong labor and stock markets, young engineers enthusiastically spurned the job security and reliable pay offered by internal labor markets in favor of job hopping and equity-based pay offered by Internet companies. Many viewed the internal labor markets of older companies as holding them back and viewed the market-driven labor market of the Internet economy as offering them the latest technological challenges and possible wealth.

Creation of Internet Labor Spot Market

The labor market for the Internet economy in the 1990s was based on venture capitalists' making high-risk, high-reward investments in early-stage companies. A guiding principle of the early Internet economy was "winner take all": the first company to provide a decent product to a new market would dominate. The perceived first-mover advantage led to two characteristics of the Internet economy that have important labor-market implications:

- "Internet time"—The focus on time to market drove companies to grow quickly and employees to work longer hours. Since throwing more computer scientists at a particular problem does not necessarily accelerate a solution (the "pregnancy conundrum" of nine women creating a baby in one month), engineers worked long hours to meet aggressive deadlines.
- Easy capital for start-ups—Investors sought to accelerate the rate of growth for young companies by offering large amounts of cheap capital. Companies with large bankrolls offer premium compensation packages to attract engineers with the latest skills.

The conditions of easy money and very short deadlines gave engineers in the Internet economy tremendous bargaining power. A hot labor market gave engineers bargaining power in the hiring process, and once hired and involved in projects, their power skyrocketed. This has translated to excellent labor-market outcomes for engineers who have the latest skills and are willing to work long hours. Of course, these are mostly recent graduates.

A very tight labor market allows engineers to choose the job that reflects their preferences from among a diverse group of firms. For example, risk-averse engineers can choose to work for established firms, and risk-loving engineers can work at start-ups. Challenging projects creating and using the latest technology are highly demanded by skilled engineers and are the primary way, along with compensation, for attracting and retaining talented engineers. Employers had to become creative with compensation packages and had to give power to their new hires. One of the companies in our study allowed employees to choose how their compensation would be divided between cash and equity.

Although engineers with the latest skills have tremendous market power, engineers whose skills are not up to date do not fare as well. With large coffers of cash and a mandate to grow quickly, companies chose to pay high salaries for recent graduates rather than retrain experienced engineers. Consequently "vintage" engineers (over age 30 or so) get stuck working with the legacy technology. Engineers in high-tech industries have experienced declining returns on experience relative to professionals in other occupations throughout the 1990s (Brown and Campbell, forthcoming).

With rapidly changing technology, engineering knowledge quickly depreciates, and engineers must continually update their skill base. While young engineers with the latest skills are working 100-hour workweeks in order to meet deadlines, they do not have the time to update their skills. This leads to a churning labor market where young engineers who developed the most recent skills in college are highly sought after for the first 5 to 10 years of their careers. In the Internet economy, as engineers age, they

find their skills depreciate, and they want to work less so that they can spend time with their families. Engineers have a small window during which they have strong bargaining power, so many young engineers trade work conditions and security for higher and riskier compensation since later in their careers they will be in less demand.

Over the course of the 1990s, easy capital and speed to market created a bifurcated labor market for engineers where young engineers wielded tremendous power while experienced engineers were squeezed out of the best jobs by both domestic and temporary foreign workers. Young engineers were not only highly paid but could choose many of the conditions of their work environment as long as they were willing to work long hours, while vintage engineers experienced declining bargaining power marked by decreased return on experience.

Compensation

We analyze compensation of Internet technical professionals using data collected from the Industry Standard's "Internet Workforce Compensation Study 2000" (2000). The Industry Standard found that the median annual salary ranged from $90,000 for software engineers to $60,000 for web production (see table 1). Stock options are held by 39% to 64% of employees in each occupation, while the median number of stock options varies between 2,500 and 8,000.

TABLE 1
Median Compensation, Options, and Hours for Internet Professionals

	Information systems engineer	Software engineer	Web production	Web design
Total compensation	$77,000	$90,000	$60,000	$61,000
Base compensation	$75,000	$88,000	$59,000	$55,000
Stock options	39%	64%	48%	56%
Median number of stock options	4,000	8,000	3,000	2,500
Average hours/day	9.8	10.1	9.4	9.5

Source: Industry Standard (2000).

A similar survey conducted by Dice.com focuses on the difference in compensation between full-time engineers and contract engineers in the information technology (IT) industry, which is a superset of the Internet industry. Dice.com found that average annual earnings for IT professionals in the United States are $67,642, while a contractor earns $116,154, or a 71% premium. In the San Francisco Bay Area, IT professionals average

$82,358, and contractors average $133,154, or a 61% premium. The difference in wages between full-time professionals and contractors reflects, in large part, the value that full-time workers place on stock options.

We can conduct back-of-the-envelope calculations to estimate the value that Internet professionals place on stock options and their expectations of success. We present four scenarios to reflect a wide variation in annual earnings, contractor earnings premiums, and equity compensation across different occupations and companies (see table 2). Case 1 covers software engineers working for a late-stage start-up or established company with a compensation package of $90,000 per year plus 5,000 stock options, while the contractor earns 70% more and receives no stock options. Full-time engineers value their stock options at $12.60 per share (*ceteris paribus*). A typical rule of thumb in the Internet economy is that in a successful company, after the three-year vesting period, stock options will be worth $20 per share more than the strike price. Alternatively, an unsuccessful company will be worth nothing. Thus, this typical engineer expects the probability of success to be approximately 63%. Three other scenarios (case 2 is an engineer in an early-stage company; case 3 is a technology professional at a late-stage company; case 4 is a technology professional at an early-stage company) give implied probability of success of 23%, 70%, and 24%, respectively. Even the smaller probabilities indicate that the Internet employees have very high expectations of success that exceed what would be considered rational. The irrational exuberance of the pre–March 2000 stock market seems to have affected their judgment.

TABLE 2

Internet Professional Compensation Packages and Implied Expectations

	Case 1	Case 2	Case 3	Case 4
Full-time engineers	$90,000	$90,000	$60,000	$60,000
Contractor premium	70%	40%	70%	40%
# Stock options	5,000	8,000	3,000	5,000
Implied value of stock options	$12.60	$4.50	$14.00	$4.80
Implied probability of success	**63%**	**23%**	**70%**	**24%**

What Engineers Want

Next we address the questions of what engineers want from their jobs and what their jobs want from them by analyzing a summer 1999 survey of engineers at BayTech, an engineering division of a large Bay Area telecommunications firm. Data for 153 on-site BayTech employees (engineers, analysts, and support staff) were collected through an employee questionnaire. BayTech employees have chosen to work at an established company

and reflect the outcomes of relatively risk-averse high-tech workers. The average BayTech employee has 10.2 years of experience in the telecommunications field and 3.6 years at BayTech. However, the sample includes both old-time employees and recently hired employees so the *median* experience levels are 5 years in telecommunications and 1.5 years at BayTech. This pattern is consistent with an established firm that is undergoing an intense growth phase.

Many BayTech employees work long hours; 58% report working more than 40 hours per week on average. Only 7% report working less than 40 hours per week. Typical of U.S. workers, our respondents rate their own work performance very highly: 43% claim that their performance is in the top 10% of the firm, 75% think that their performance is in the top 25% of the firm. Our respondents are more realistic about their pay (compared with workers with similar talents): 16% think their compensation is in the top decile of pay, 56% claim to be in the top half, and 9% claim to be in the bottom decile. Taken together, the answers to these questions indicate that the majority (54%) of respondents feel undercompensated since they think their relative performance is higher than their relative compensation. One third (34%) feel adequately compensated since they think their relative performance and compensation fall in the same range. Only a small minority (11%) feel overcompensated, with relative performance being higher than relative compensation.

Our sample of engineers think the evaluation system at BayTech is performance based: 81% think that technical skills are important, 74% think that creativity and initiative are important, and 95% think that meeting goals or targets is important in their evaluation. Only 24% responded that seniority is important in their evaluation.

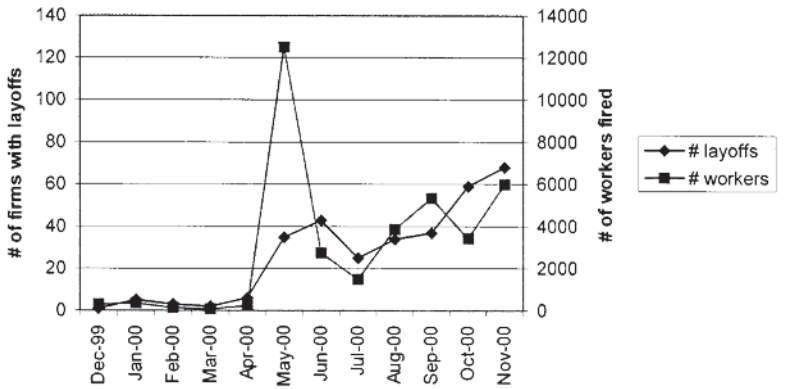
When we asked workers what is important to them in their jobs, they responded that they want to use their skills and creativity (94%) and to be compensated (90%). Over half also think that job security (55%) and opportunity for advancement (52%) are very important. Most of our sample engineers also think that challenging projects (88%), opportunity for advancement (87%), and recognition of contribution (84%) are important or very important. Many (78%) also value the ability to schedule time away from work. These responses about what workers want are similar to those reported by Freeman and Rogers (1999), who found that workers want voice and influence at work. However, their sample of workers was prevented from having as much voice at work as desired because of management resistance. In contrast, our highly skilled engineers have much more power at work than the typical worker so what they want and what they get are closely matched, especially for the younger engineers.

BayTech exemplifies the labor market outcomes for many Silicon Valley engineers working at the more established, larger companies. These engineers want to be challenged and well compensated. BayTech rewards workers based on ability to meet deadlines and skills but does not reward experience. Yet BayTech engineers care about what happens to the experienced engineers since the majority think that employment security and opportunity for advancement are very important.

What the Future Holds

After the stock market turned downward in March 2000, young companies could no longer afford to be free spending. With cheap capital no longer available, companies had to control costs and focus on profits as well as on time to market. Layoffs, unheard of in high-tech industries during the 1990s, became an increasingly common occurrence (see figure 1), and a fall in the NASDAQ from over 5,000 to under 3,000 dramatically reduced the attraction of stock options and equity compensation.

FIGURE 1
Internet Economy Layoffs



Source: The Industry Standard's Layoff Tracker, <http://search,thestandard.com/texis/trackers/layoff>.

Firms must hire skilled engineers in order to grow, but employers lack the ability in 2001 to offer the same level of perks and signing bonuses as in early 2000. As the demand for engineers cools down and as the ability to pay (both in compensation and equity) declines at most start-ups, the bargaining power of new hires declines at the established companies. Meanwhile, engineers who have seen their dreams of valuable stock options tumble with the NASDAQ have become more discriminating in evaluating prospective employment at start-ups. Experienced engineers face the same constraints

as before the downturn. The emphasis on speed coupled with rapidly changing technology still reduces the value of experience.

In the market downturn, engineers are reevaluating the security and compensation packages offered by established firms, and they are adopting a more realistic evaluation of the stock options offered by both early-stage and mature companies. We expect to see the compensation at start-ups be comparable to the established companies and to see risk-averse engineers opt for internal-labor-market security and risk lovers opt for start-up stock options. These two segments of the high-tech sector will also continue to express their voice and build their careers in different ways—internally within established companies or externally through job hopping—but returns on experience will still lag behind that of other industries.

In the internal labor market of established companies, the risk sharing between companies and employees over the business cycle will continue. However, the Internet economy has changed the internal labor market in very important ways that we think are long lasting:

- Assignments and performance: The most talented engineers will be put on the most challenging projects that create or use the latest technology, and performance rather than tenure will be used for project assignment and promotions.
- Training: Engineers who want to keep up with the new technology will have to rely on themselves to get the training rather than on their companies, which are willing to pay for tuition but not to provide the training through the company.

Of course, when the United States experiences another nine-year expansion that produces tight labor markets and booming stock markets, we should expect younger workers' preferences to shift once more toward the spot market.

Acknowledgments

The authors thank the Alfred P. Sloan Foundation and COHRE at the Institute of Industrial Relations at the University of California–Berkeley for their financial and administrative support of this project. Our appreciation to David Levine for his help in setting up our survey at BayTech and to Joanie Connell, Frank Flynn, and Sandra Spataro for help in administering the survey. Clair Brown may be contacted at cbrown@econ.berkeley.edu and Benjamin Campbell may be contacted at campbell@econ.berkeley.edu.

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VII. LABOR LAW, EMPLOYER OPPOSITION, AND THE DIVERGENT DEVELOPMENT OF U.S. AND CANADIAN INDUSTRIAL RELATIONS

Explaining Canadian–American Differences in Union Density

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Abstract

The rate of unionism in Canada is approximately double the unionism rate in the United States in both the public and private sectors. This paper reviews some of the explanation for the Canada–U.S. density gap. Discussion is limited to two main points: first, there are few significant demand-side differences between Canadian and American workers or the desires of managers to operate union-free. Second, the legal and public policy framework is an important supply-side contributor to the divergence. In particular, I examine the treatment of union security for both public and private sectors and certification procedures in the public sector.

Union density in Canada and the United States now officially stands at 30% and 13%, respectively. In 1999, Canadian public-sector density was almost 71%, while private-sector density was 18.2%. The American breakdown is about 37% in the public sector and 9.5% in the private sector. In other words, the rate of unionism in Canada is approximately double the unionism rate in the United States in both the public and private sectors.

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This paper reviews some of the explanation for the Canada–U.S. density gap. Given the shared features of both countries, scholars have used this density divergence as a natural experiment to test the effects of economic and contextual factors, public attitudes, public policies, union organizing and servicing vitality, social unionism versus business unionism, and even the effects of irregularities in the density measures themselves. Space constraints do not permit a full discussion of both supply- and demand-side explanations for the union density divergence. Discussion is limited to two main points: first, there are few significant demand-side differences between Canadian and American workers or the desires of managers to operate union-free. Nevertheless, union fortunes are quite different on opposite sides of the border. Second, the legal and public policy framework is an important supply-side contributor to the divergence. In particular, I examine the treatment of union security for both public and private sectors and certification procedures in the public sector.

The Divergence/Convergence Debate

Mainstream industrial relations scholars on both sides of the border have long accepted the idea that there is a divergence between Canadian and U.S. union fortunes (e.g., Riddell 1993; Rose and Chaison 1996; Taras 1997). Over the past decade, however, Leo Troy (1991a, 1991b, forthcoming) has strenuously argued that the situation is one of convergence: economic forces are at work on both countries, leading to similar union-density decline in the private sector (with a slight lag in Canada). He argues that the "Canada crowd's" premise that "government regulation of private sector labor relations can overpower the market is faulty" (1991a:9). Further, he asserts that Canada's public-sector union strength is the product of "interventionist policy so intrusive as to be rejected" in the United States (1991a:31).

However, most of the scholars Troy labels part of the "divergence" school no longer, or never did, argue that Canadian density was going up while American density was going down. Instead, we simply sought to explain why Canadian density was higher than American density, and indisputably, it is. On the whole, we argued that public policy buffered Canadian unions from the combination of economic forces and concerted anti-union activity that beset the American labor movement. And we continue to make this argument. The Canadian trend lines in aggregate and in the private sector alone seem significantly gentler in their decline, and stock market technical analysts would have a hard time predicting whether the decline might sputter into stability or even a very mild upturn. In fact, the Canadian private-sector rate rose to 18.8% in the first few months of 2000. Recent evidence from Ontario indicates that in response to a more hostile

political environment for labor, unions have reoriented their strategies and approached organizing with renewed vigor (Yates 2000). I wouldn't short-sell the Canadian situation yet.

Conventional wisdom had it that Canada is kinder, gentler, and more collectivist (Lipset 1986, 1989), providing fertile ground for unions to grow. Perhaps union strength in Canada rests on demand-side explanations—that Canadian workers translate their nascent collectivism into union support. Survey data, however, belie the continued reliance on this stereotype (Bowden 1989; Baer, Grabb, and Johnston 1993; Lipset and Meltz 1997). Nonunion Canadian workers for many years have indicated much less likelihood than Americans of voting in favor of union representation given the opportunity and have less favorable opinions of unions (Bowden 1989:734; Lipset 1989). Lipset and Meltz (1997) confirmed these findings.

Furthermore, the left-of-center New Democratic Party (NDP), an influential source of union succor, lost influence in the Canadian national political landscape. In the 2000 election, the political agenda strongly tilted toward the right. In a recent poll, half of all Canadians felt that "Canadians have become more like Americans in the past decade" ("Peering Inward" 1999:48). Canadian pundits and political scientists have noted this attitudinal shift (Nevitte 1996). The NDP remains strong in a number of provinces, while in others its support has flattened. The picture is not of a country with a healthy collectivist party but rather a fragmented country ripped at regional or provincial lines. A 1993 study rejected Lipset's thesis that national character differs between Canadians and Americans, finding instead that a cultural map yields three major regions: a left-liberal Quebec, a conservative American south, and a moderate sector encompassing the remainder of both countries (Baer, Grabb, and Johnston 1993). A Manitoban probably has more in common with a Minnesotan than a New Yorker has with an Alabaman.

Are Canadian employers less aggressively anti-union than their American counterparts? In response to the growing American literature on corporate and government top-tier strategic decisions to weaken unions, early studies distinguished Canada's employers as practicing greater union acceptance (e.g., Thompson's assessment of major employers in the early 1990s). There is evidence that major Canadian companies have a greater likelihood of accepting unions (Thompson 2001) but also that industrial relations strategic choices are less important than other business context variables (Godard 1997). Rose and Chaison (1996:92) explain that "union acceptance may be the norm in Canada, but this is most likely the result of the low probability of escaping unions." A correlation between high union density and a union-acceptance strategy is not surprising.

In surveys looking specifically at Canadian–American comparisons, findings indicate that Canadian employers are as likely as American employers to voice their preference to remain union-free (Saporta and Lincoln 1995; Taras 1997:308–9). Indeed, according to the recent Lipset and Meltz (1997) survey, Canadian managers today are twice as likely as their American counterparts to declare that they would threaten adverse consequences or take reprisals against employees who participate in union organizing. In a study of employer behavior during union organizing in Quebec and Ontario, Thomason and Pozzebon (1998) found that though anti-union interventions are not pronounced in Canada, some tactics are quite effective in decreasing union support, particularly captive audience speeches. And Karen Bentham (2000) in her survey of Canadian managers' attitudes and practices found a high level of union avoidance and suppression that was previously unimaginable. It almost rivaled American rates in both intensity and effect. When governments are the employers, the hard bargaining tactics and return-to-work orders do not paint a benign picture either (Panitch and Swartz 1993). Noteworthy examples of concerted union avoidance strategies can be found in Canada's major banks and retailers. The steel giant Dofasco and the premier petroleum company Imperial Oil have used nonunion employee representation systems as union substitutes for generations. Still, Canadian employers are not as likely to engage in anti-union practices as American companies: the desire is there, to be sure, but Canadian employers find greater constraints against overtly anti-union activity. Certainly public policy offers one potent explanation.

There also is a stream of literature (critiqued in Troy 1991b, forthcoming) that demonstrates that Canadian unions exhibit greater organizing vitality than their American counterparts. According to Rose and Chaison (1996), Canadian unions are more active in recruiting new members and assign a high priority to organizing. They have been more able to resist concession bargaining and deliver gains to their members (Budd 1996; Katz and Meltz 1991). They also have been more politically influential (Bruce 1989). Canadian unions have greater organizing success (Robinson 1993; Meltz and Verma 1996; Gilson and Wagar 1995) and bargaining power (Widenor 1995). Indeed, if one measure of the union movement's strength and vibrancy is the exercise of its right to strike, then Canada's militant unions certainly were a beacon to the world, from 1996 to 1995 leading all G-7 industrial nations and greatly exceeding the average of 24 OECD nations (Gunderson, Hyatt, and Ponak 2001:316). Furthermore, two studies posit that international (U.S.-headquartered) unions are unable to match the organizing performance of Canadian-initiated or Canadian breakaway unions (Jackson 1991; Gilson and Wagar 1995). Thus, there may

be more credence to the supply-side than the demand-side explanations of union density. But from what wellspring does Canada's union movement draw upon for this apparent strength? I believe they derive considerable strength from the public policy environment in Canada.

Researchers have concluded that Canada's labor laws are more hospitable to unions and propose that some of the union density gap can be explained by public policy. And there is a great deal of truth to the assertion that the historic decision of Canadian unionists to practice social unionism in allying themselves with the political movement that later became the NDP was a wise one. Because the NDP in some provinces wrote labor codes while in other provinces provided the voice of the official opposition and at times posed enough of a swing vote to scare whatever party was in power to include labor's agenda on the public stage, the original promise of the Wagner Act to encourage collective bargaining was not later altered or rescinded by Taft-Hartley-type amendments.

Although broadly similar to the American National Labor Relations Act, Canadian labor laws contained some noteworthy departures, most of which bolster the collective bargaining regime (Taras 1997). For example:

- faster certification procedures and fewer delays;
- greater job protections for striking workers, and in some provinces, restrictions against the use of replacement workers during strikes and lockouts;
- widespread use of card-based certifications rather than votes in some of the larger jurisdictions;
- greater remedial powers to some labor boards, for example, to certify without a vote or to order a first collective agreement;
- jurisprudence that restricts employer campaigning even in jurisdictions in which employer free speech is guaranteed by statute in language identical to the free speech protections afforded American employers in Taft-Hartley (Taras 1997).

To what extent do these powers add appreciably to Canadian union density? We are not certain. Some Canadian laws and board interpretations are aimed at deterrence of the rational employer who is contemplating crossing the line into illegality during union organizing. But no law is an adequate deterrent against the pathologically anti-union employer. When unions spend their monies seeking relief from labor boards, the big picture often is pretty bleak. For example, while the Ontario Labour Board ordered the certification of a Wal-Mart bargaining unit, the union was unable to conclude its first collective agreement (and the Labour Board itself then

became the target of alleged reprisal by a right-wing provincial government). Many of the Canadian policies are not intended to boost union density beyond that which unions could achieve through persuading employees of the merits of collective bargaining *in the absence of employer interference*. By contrast, the legitimacy of management electioneering in union organizing "campaigns" (a Taft-Hartley concept that is soundly rejected in Canada) is a clear example of American public policy accepting a different vision—that *unions must engage in active combat with management* to entice worker support.

There are, however, two areas of Canadian public policy that merit further investigation, as they may have boosted union density appreciably. First is the treatment of union security. Second is the manner in which some public-sector unions were launched by government fiat.

Union Security

Surprisingly, union security as a comparative public policy variable has been rarely examined. While 20 American states have enacted right-to-work (RTW) reforms, banishing compulsory union membership and universal dues payment, by contrast, 7 out of the 11 jurisdictions in Canada have made the agency shop the statutory minimum (including Ontario, Quebec, British Columbia, and the federal government), likely accounting for over 90% of employment. There are a multitude of U.S. studies that have attempted to measure the impact of RTW and union-security laws on union fortunes, and the most comprehensive recent review of these studies concluded that RTW laws reduce union density (Moore 1998). Within Canada, Martinello and Meng (1992) found that mandatory dues checkoff provisions increase the probability of coverage. Thus, within each country there are scholars who have used union security as a variable. However, in the comparative literature this variable is virtually unnoticed, which is somewhat unnerving, given that Canada's mandatory agency-shop policy approach is the very opposite of RTW and may well explain at least some of the variance in the labor movements' growth patterns in the two countries. There are sound reasons to propose that the Canadian approach of a mandatory agency shop has protected union institutional strength and financial stability, enhancing union growth, while the American approach has produced the opposite result (Taras and Ponak, forthcoming).

"Forced" Unionization

I believe that a significantly greater component of the public-sector unionization figures in Canada than in the United States might include bargaining units that did not vote for unionization or otherwise engage in a

normal certification process (which in Canada can include card-based certifications). There are three subcomponents in this category.

First, when the Canadian public sector was finally given the right to unionize in 1967, there was a wave of voluntary recognitions by federal and provincial governments. In the United States, the public sector also enjoyed a swift transition from associations to unions. As Troy (1991b:20) put it, the public-sector unions tended to "organize the organized." Many American states, however, do not allow their public servants bargaining rights, the transition to unionization is not as easy as it is in Canada, and there are more prohibitions on public-sector strikes in the United States than in Canada (Hebdon 1998).

Second, some workers are unionized by statutory declaration. For example, even in right-wing Alberta, the Alberta Universities Act declared that there *shall be* collective bargaining and even proclaimed that the vehicles would be faculty associations. Hence, at the University of Calgary, professors are unionized by statutory declaration rather than by the desires of the faculty expressed through a secret ballot vote (the usual procedure in Alberta). There may be more situations like this across Canada. I know of no comparable situations in the United States.

Third, particularly in the field of public education, it is difficult to practice the profession without joining a union. The union and the professional accreditation association are one and the same. When public-sector and education workers were allowed to unionize, the transition was to occur rapidly. The professional accreditation bodies took on the function of formal collective bargaining (Rose 1984:107). Nursing unions also held the dual function until an important court decision decoupled the nurses' bargaining function from the professional accreditation function but only after much of the unionization had occurred.

Comparing the transition to unionization and the degree of public policy intervention into employee choice is a new research agenda for scholars of the Canada–U.S. density gap.

Conclusion: Back to the Convergence/Divergence Debate

I have argued that public policy has contributed to the gap between the two countries, propping up the Canadian figure substantially. At one time, when Canadian union fortunes were tied to the NDP and it had considerable electoral might, policies were put into place that have since become embedded (Bruce 1989; Robinson 1994). The agency shop, which swept the country in the 1970s, is one example. Another is the government's voluntary recognition and promotion of public-sector collective bargaining between 1967 and 1974.

The real issue for the convergence/divergence debate is not the disaggregation of public- and private-sector unionism, or "new" and "old" unionism (Troy, forthcoming) but whether public policy is strong enough to stem the forces propelling a downward slide in union density. I believe that the absolute number of workers covered by collective agreements in any country, whether the source is from the private or public sector, matters a great deal in determining industrial relations outputs and union power. When unions represent a significant portion of the electorate, they have large and secure coffers from which to commence organizing, servicing, and political activities and can guard labor laws from unfavorable erosion.

The extent of union density may also determine the spillover effects of unions onto nonunion workers (e.g., wages, benefits, grievance procedures), the professionalization of managerial practice within industries (e.g., clear communication of reasonable rules and policies), and how management responds to the union threat effect.

Furthermore, public-sector and private-sector activities do not occur independently of each other. Often wages are compared, and the two sectors track each other's activities in attempts to increase bargaining power and create an "orbit of coercive comparisons." In the area of pensions alone, there is considerable influence of one sector on the practices of the other. Troy concentrates his arguments on the apparent converging trend lines between Canadian and American private-sector union densities. This bifurcation into public and private is artificial when viewed from a more macro-level than that adopted by Troy.

If it is indeed the case that Canadian union density figures will begin to mirror the American decline (as argued in Troy 1991b, forthcoming), I do not believe that the evidence is yet decisive. Canadian density is propped up by deeply embedded public policy, which counteracts market forces and makes true convergence between the two countries unlikely.

Acknowledgment

I am grateful to Allen Ponak for his insights and support. A fuller version of this paper is available. Feedback on this draft is warmly welcomed; please contact me at dgtaras@mgmt.ucalgary.ca.

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Frustrated Demand for Unionization: The Case of the United States and Canada Revisited

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Abstract

In this paper we demonstrate that there is a substantial union representation gap in the United States. We arrive at this conclusion by comparing Canadian and American worker responses to questions relating to desired union representation. We find that a majority of the gap in union density between Canada and the United States is a function of greater frustrated demand on the part of American workers. We then estimate potential union density rates for the United States and Canada and find that given current levels of union membership in both countries, if effective demand for unionization among nonunion workers were realized, then this would imply equivalently higher rates of unionization (37% and 36% in the United States and Canada, respectively). These results cast some doubt on the view that even minor reforms to labor legislation in the United States, to bring them in line with those in most Canadian jurisdictions, would do nothing to improve the rate of organizing success in the United States.

Introduction

> Tastes neither change capriciously nor differ importantly between people. On this interpretation . . . the economist continues to search for differences in [constraints] to explain differences or changes in behaviour. (Stigler and Becker 1977)

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This paper employs a model of supply and demand for union representation in an attempt to better understand why union density in the United States is less than half of that in Canada, a country comparable in many respects, with similar collective bargaining laws and which in the mid-1960s had a similar rate of unionization. In our model we assume, in the spirit of neoclassical economic theory, that employees in the United States are much like their neighbors north of the border; what differentiates them are the constraints they face. In our model, however, we take constraints to mean not only different material conditions (e.g., unemployment rates, income levels, industrial mix, etc.) but also deep-seated value systems, which give rise to different institutions, laws, and their enforcement.

By controlling for differing constraints and applying the similar-taste view of consumer theory to the question of union density differentials, we arrive at a rather intriguing implication: that preferences for union representation at the workplace should be the same in both countries. Given our assumption of homogeneous preferences, the divergence in union density between the United States and Canada can be explained by either greater frustrated demand for unionization in the United States (underrepresentation) or greater numbers of dissatisfied unionized workers in Canada (overrepresentation). Put simply, if workers have the same underlying preferences, then at present "someone isn't getting what they want."

Three testable propositions emerge from our model of supply and demand for unionization. The first proposition builds on the notion that because of differing legal regimes, it should be more costly for U.S. employees to gain representation at the workplace and more costly for Canadian workers to opt out of unionized environments. This assumption is fairly tenable, given what we know about the American and Canadian versions of statutory recognition. In the United States, nearly 40% of American workers are covered by right-to-work laws, which forbid unions from signing collective agreements compelling all workers covered to pay dues. In Canada, on the other hand, a quasi-closed-shop rule is operative in all 10 provinces. This essentially prohibits individual workers from opting out of the payment of union dues and hence ensures (*de facto*) union membership for all employees working in unionized environments.[1] Given this small, yet crucial legal difference, one should therefore observe greater levels of frustrated demand for unionization among nonunionized workers in the United States and greater levels of dissatisfaction among unionized workers in Canada. Second, if opposition to union organizing and legal impediments are greater in the United States than in Canada (as is commonly assumed), then a majority of the density differential can be ascribed to supply-side constraints south of the border. Finally, if one were to construct a potential

"market demand" for unionization, given data on actual union density and voting intentions of union and nonunion workers, then levels of union density should be statistically similar in both countries.

The Supply and Demand Framework of Union Representation

A useful framework for analyzing and testing our three propositions is the supply and demand framework of collective representation (see Farber and Krueger 1993; Riddell 1993; Abowd and Farber 1982). In this model workers may prefer to be unionized, but for various reasons, they are not. Following Riddell (1993), let z_i represent the difference between the expected utility of any job (union or nonunion) for individual *i*. The utility loss or gain, which is unobserved, is dependent on a host of variables (X_i), such as differences in working conditions, job security, and the wage differential between otherwise similar union and nonunion jobs.

$$z_i = X_i b + \quad_i \tag{1}$$

If we let D_i be a dichotomous variable taking the value 1 for individuals who would prefer to belong to a union, and hence prefer unionization, and 0 for those who do not, then

$$\Pr(D_i = 1) = \Pr(z > 0) = \Pr(u_i > -X_i b) \tag{2}$$

Now let $U_i = 1$ for individuals who are unionized and $U_i = 0$ for nonunion workers. If one assumes—as neoclassical labor economists often do—that labor markets are in equilibrium, then individuals have sorted themselves into the jobs of their choice. If this is so, then it would be the case that

$$\Pr(U_i = 1) = \Pr(z > 0) = \Pr(u_i > -X_i b) \tag{3}$$

This equation implies that the factors determining the demand for unionization could be estimated using information on union status alone.

However, there are several reasons that unions do not necessarily represent all individuals who prefer to be in a union job. One of the most obvious reasons relates to the costs of organizing a union for an individual worker. If employers actively oppose unionizing attempts, then from an employee's perspective, the costs of unionizing may outweigh the benefits. Thus, even if a majority of current workers in a workplace prefer or would vote for unionization, they may remain nonunionized as a result of organizing costs.

The "total" demand for union jobs is therefore defined by the fraction of workers who either are union members and would remain so if a vote were held or are not in a union and would vote for unionization at their workplace. The supply of union jobs relative to demand is measured by the

fraction of workers who are union members compared with those demanding union representation. If there were no queues for union jobs, the fraction would be 1. To the extent that there are nonunion workers who prefer union representation, this fraction will be less than 1. The fraction of individuals in the nonunion sector ($U_i = 0$) who would vote for unionization at their workplace ($D_i = 1$) therefore constitutes a measure of "frustrated demand" (or an inverse measure of relative supply).

These two components can be more formally specified. Following Farber and Krueger (1993), the probability that a worker is unionized is given by

$$\Pr(U = 1) = \Pr(D = 1) - \Pr(D = 1, U = 0) \qquad (4)$$

The first term on the left-hand side is the desire for unionization among union and nonunion workers and therefore represents the demand for union representation. The second term represents frustrated demand. The probability that a worker is unionized, therefore, is equal to the probability that he or she desires union representation minus the probability that the worker desires union representation but is not working in a unionized job.

Formalizing Three Testable Hypotheses

The demand and supply framework is useful in evaluating competing explanations for the difference in unionization rates between Canada and the United States. Taking the case of the Canada–U.S. difference in the probability of unionization, an equation analogous to equation (4) can be specified:

$$\Pr(U_c = 1) - \Pr(U_a = 1) = [\Pr(D_c = 1) - \Pr(D_a = 1)] - [\Pr(D_c = 1, U_c = 0) - \Pr(D_a = 1, U_a = 0)] \qquad (5)$$

where the subscript *c* refers to Canada and the subscript *a* refers to the United States. The term in the first brackets measures the difference in demand for unionization between Canada and the United States. The term in the second brackets measures differences in frustrated demand. Based on equation (5), we can now test our first proposition (formalized next) by comparing levels of frustrated demand in both countries.

> *Proposition 1a:* Given a higher rate of unionization in Canada and our assumption of similar preferences for union representation, there should be more frustrated demand (less supply) for unionization south of the border. That is, there are relatively more nonunion workers in the United States than in Canada who would prefer to be in a unionized workplace but who are not currently being represented.

> *Proposition 1b:* Given a higher rate of unionization in Canada and our assumption of similar preferences for union representation, there should be more frustrated union members north of the border. That is, there are relatively more union workers in Canada than in the United States who would prefer not to be unionized but who are currently being represented.

If we take the difference in unionization rates across both countries in 1996—the term on the left-hand side of equation (5)—and decompose it into differences associated with the desire for unionization (demand) versus differences in relative supply (frustrated demand), then we can provide an estimate for the terms on the right-hand side of equation (5). Once again, based on equation (5), our second testable proposition can now be formalized:

> *Proposition 2:* Given our assumption of greater levels of opposition to unions in the United States than in Canada, if one were to decompose the difference in union density between the two countries according to supply and demand factors, a majority of the density differential can be ascribed to supply-side constraints.

Clearly, if we find evidence of a supply-side constraint in the United States, then the idea of a hypothetical level of union density that would be more or less equal in both countries emerges. As a consequence, our third proposition is the following:

> *Proposition 3:* If one were to construct a potential "market demand" for unionization—given data on actual union density and voting intentions of union and nonunion workers combined with similar preferences and greater frustrated demand for unionization in the United States than in Canada—then levels of union density should be statistically similar in both countries.

This proposition can easily be tested by simply constructing a hypothetical union density rate based on the following equation:

$$(U^* = 1) = [\Pr(U = 1)^*\Pr(D = 1 \mid U = 1)] + [\Pr(U = 0)^*(D = 1 \mid U = 1)] \quad (6)$$

where U^* is potential union demand as a function of the proportion of existing union members who would prefer to remain unionized (first term in brackets) plus the proportion of nonunion workers who would vote to become unionized (the second term in brackets).

Results: Decomposing the U.S.–Canada Union Density Differential

The data for this paper are drawn from a 1996 Angus Reid survey conducted for Seymour Martin Lipset and Noah M. Meltz, covering a total of 3,176 respondents: 1,681 in the United States and 1,495 in Canada. A summary of this data can be found in Lipset and Meltz (1997).

At the time of the survey, the probability that a Canadian employee was unionized was more than double that of an American worker (.34 versus .15). Our measure of demand for unionization is based on replies by our sample of employed workers (union and nonunion) to the question: "All things considered, if you had a choice, would you personally prefer to belong to (remain in) a labor union or not?" Table 1 presents the results of our demand–supply framework.

TABLE 1
Canada–U.S. Comparison of Union Preferences

Probabilities	Canada n = 938	U.S. n = 1,159
Pr($U = 1$)[a]	.34	.15
Pr($U^* = 1$)[b]	.36	.37
Pr($D = 1 \ \ U = 0$)[c]	.22	.31
Pr($D = 1 \ \ U = 1$)[d]	.65	.77
Pr($U = 1 \ \ D = 1$)[e]	.97	.44
Pr($D = 1, U = 0$)[f]	.14	.26

[a] The probability that a worker is a union member. The percentages are drawn from BLS and LFS estimates of union density.

[b] Hypothetical level of union density, or the probability that a worker desires and receives union representation. This is the sum of the probability that a worker is a union member and desires to retain union membership plus the probability that the worker desires union representation but is not employed on a union job (union membership plus frustrated demand). Formally, this is Pr($D = 1 \ \ U = 1$)*Pr($U = 1$) + Pr($D = 1, U = 0$).

[c] The probability that a nonunion worker demands union representation. Computed from tabulations of the 1996 Angus Reid survey from the question: "Would you prefer to belong to a union or not?" Individuals who responded yes were coded $D = 1$.

[d] The probability that a union worker demands union representation. Computed from tabulations of the 1996 Angus Reid survey from the question: "Would you prefer to belong to a union or not?" Individuals who responded yes were coded $D = 1$.

[e] The probability of being unionized conditional on the desire to be unionized. This represents the ease of obtaining a union job, given that a worker desires a union job. Riddell (1993) interprets this as a measure of relative supply.

[f] The probability that a worker demands union representation but is not employed on a union job (frustrated demand). Computed as Pr($D = 1 \ \ U = 0$)*Pr($U = 0$). ($D = 1 \ \ U = 0$) was obtained from this table, but Pr($U = 0$) was obtained from BLS and LFS estimates of union density.

There Is Greater Frustrated Demand for Unionization in the United States Than in Canada

In accounting for the union density gap, an important factor does seem to be greater frustrated demand for unionization south of the border (.31 in the United States versus .22 in Canada). Our results also confirm that by far the greatest difference between the United States and Canada is the greater supply of unionization conditional on a worker's desire for union membership (see row 5 in table 1). That is, a Canadian worker who desires union representation has a far greater chance (137% higher) of being unionized than an American worker who desires the same representation. These statistics indicate that Canada's greater union density is due to greater supply of union coverage than in the United States.

There Is a Greater Desire for "Free-Ridership" in Canada Than in the United States

As expected there are more "frustrated" union members in Canada than in the United States. The probability that a Canadian union member prefers to remain in a union is 12% less than a comparable American worker (see row 3 in table 1). This likely reflects differences in collective bargaining legislation in the two countries and the greater enforcement of labor legislation in Canada (Meltz 1985; Bruce 1989). For example more than 20 states in the United States have right-to-work laws that outlaw union shop agreements where every employee covered by a collective agreement has to belong to a union. In most Canadian jurisdictions, it is the reverse: at the request of a union, collective agreements can require payment of dues by all employees (no free-riding). This is known as the Rand Formula, a compromise recommended by Justice Ivan Rand in 1946 to settle the strike by the UAW at Ford of Canada (Taras and Ponak, forthcoming).

Supply-Side Constraints Are the Greatest Cause of the Canada–U.S. Density Differential

In order to assess the relative importance of demand and supply factors, the gap in union density can be decomposed using equation (5). In 1996, the difference in union density between Canada and the United States in BLS and LFS data was 19 points (34% – 15%). Using our estimate of $\Pr(D = 1 \; U = 0)$, then $\Pr(D_c = 1, U_c = 0) = .22(1 - .34) = .14$. The corresponding figure for the United States is $\Pr(D_a = 1, U_a = 0) = .31(1 - .15) = .26$. Therefore, 12 points of the 19-point gap in union density between Canada and the United States are attributable to less relative supply. The remaining difference (7 points) is due to greater demand for

unionization north of the border. Therefore, a full 63% of the Canada–U.S. difference in union density is accounted for by supply-side factors, while only 37% is attributable to demand-side differences. This result is in line with Riddell (1993) and Freeman and Rogers (1999).

The Potential Level of Unionization in Both Countries Should Be the Same

In terms of desired representation, we find that potential levels of union membership are nearly identical in both countries (see row 2 of table 1). This result is slightly at odds with previous estimates by both Riddell (1993) and Farber and Krueger (1993), which pointed to greater demand for unionization in Canada than the United States. This, however, was due to the fact that "dissatisfied union members" were not taken into account, so observed density was used as an indicator of desired representation. The reason for the upward bias in Canada is also partly attributable to the fact that previous studies were working with separate Canada–U.S. data sets and differently worded questions. Whereas the U.S. question in the Riddell (1993) and Farber and Krueger (1993) studies was similar to our own survey, the Canadian question was slightly more ambiguous.[2]

Conclusions

In this paper, we began with an assumption borrowed from an often-cited but controversial paper, in which consumer preferences were treated "as stable over time and similar among people" (Stigler and Becker 1977:76). Applying this interpretation of consumer preferences to the question of why America's union density is less than half that in Canada, we produced three testable propositions. In each case, our propositions were confirmed. We found the following:

- There is greater frustrated demand for unionization in the United States (substantial underrepresentation) than in Canada, and there is greater dissatisfaction among Canadian union members (some overrepresentation), although it is less important in relative terms than the representation gap (Towers 1997) among nonunion members in the United States.
- A full 63% of the 19-point gap in union density between Canada and the United States at the time of the survey could be accounted for by unsatisfied demand (supply-side constraints). That is, a Canadian worker who desires union representation has a far greater chance (137% higher) of being unionized than an American worker who desires the same representation.
- Given data on actual union density and voting intentions of union and nonunion workers, potential levels of union density are higher than

presently observed (4 and 23 points higher in Canada and the United States, respectively), and levels are nearly identical in both countries.

We consider these results as direct confirmation that workers, at least in terms of preferences for representation at the workplace, are similar across borders and conform to the "naive" model of consumer choice. In both countries, two fifths of the population desire representation. In Canada 90% of those desiring representation are covered, whereas in the United States only 39% receive the same representation. We interpret these results as providing powerful, albeit indirect, confirmation that the legal environment and employer resistance pose greater obstacles to union organizing in the United States than in Canada. We also feel that deeper constraints, located in the value systems of both countries, may hold the key to understanding why preferences for unionization are not being realized south of the border. As a subject of future research, it may be useful to construct models in which the desire for unionization is seen as an individual "search cost," which requires some knowledge that has to be obtained (perhaps knowledge about whom to contact or how to circumvent employer obstacles) in order for worker preferences (frustrated demand) to be realized.

Acknowledgments

We gratefully acknowledge the William H. Donner Foundation for a grant to conduct this research. The authors wish to thank Mag Burns, the Angus Reid Group, and Ivan Katchanovski for their helpful research assistance.

Endnotes

[1] Legally, workers are free to have their names stricken from union membership lists, but since this will not affect the payment of dues, there is little reason to do so. One can think of the Canadian system (where not all workers are covered, but those that are have to pay dues) as the opposite of the French and German systems (where most everyone is granted coverage, but no one is compelled to pay dues or join the union).

[2] In the earlier studies, they assumed $D = 1$ for all union members. In our study, we factored in the dissatisfied members. In addition, the Canadian question read, "Thinking about your own needs, and your current employment situation and expectations, would you say that it is very likely, somewhat likely, not very likely, or not likely at all that you would consider joining or associating yourself with a union or professional association in the future?"

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VIII. THE CHANGING NATURE OF LOW-SKILL WORK: EVIDENCE FROM FIELD RESEARCH

Preliminary Evidence on Employment Practices in Central New York Firms

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Abstract

We overview the key aims and methods of our project on changing employment practices in medium-sized establishments (employing 100 to 500 workers) in metropolitan and nonmetropolitan areas in central New York. After outlining the need for fact finding and discussing basic hypotheses, we report preliminary findings, which are mainly derived from our most unusual surveys of individuals in upstate New York. We find that (1) high-performance workplace practices (HPWPs) tend to occur in clusters; (2) financial-participation HPWPs are less prevalent in rural locations (which supports our hypothesis on the role of geographical isolation), though the incidence of nonfinancial participation provides only weak support for this hypothesis; (3) HPWPs tend to be found in bigger firms; and (4) HPWPs are associated with individuals' receiving higher pay. Our findings imply that HPWPs potentially play an important role in rural revivals.

Introduction

One goal of this paper is to overview the key aims and methods of our project on changing employment practices in medium-sized establishments

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(that employ 100 to 500 workers) in metropolitan and nonmetropolitan areas in central New York. This objective is partly accomplished in the next two sections, where we outline the need for fact finding on this topic and review the diverse and multitrack data collection and empirical methods we employ in this study. In the rest of the paper, we report some findings. In part because our work is preliminary, we focus on findings that have emerged from our most unusual surveys of individuals throughout upstate New York, though we also note early results from case studies.

Fact Finding and Hypotheses

We define *high-performance workplace practices* (HPWPs) broadly to include extensive training (such as job rotation), work teams, flexible job assignments and greater worker responsibility for quality control and problem solving, information sharing between labor and management, and financial participation (including profit-sharing plans, gain-sharing plans, and employee stock ownership plans). The potential importance of HPWPs for economic success in medium-sized firms has been highlighted by several researchers (e.g., Cappelli et al. 1997; Levine 1995; Ben-Ner and Jones 1995). Nevertheless, the available empirical research has important limitations, four aspects of which we seek to redress in this project.[1] First, we hypothesize that there are important differences in the incidence and effects of HPWPs in metro and nonmetro regions. Second, empirical work that concentrates on establishments that are medium sized is also scant. Third, addressing uneven industrial coverage, we study firms in industries that have been comparatively neglected, such as in retailing. Finally, while we focus on the nature and effects of HPWPs as they concern workers who are mainly poorly educated, we also seek to provide comparative data for other workers in those same establishments.

We hypothesize that differences in economic contexts and in the nature of the labor and product markets will produce major differences in outcomes, for example, in terms of firms' employment practices. We also examine hypotheses on whether economic restructuring has had different effects on workers in firms in metropolitan and nonmetropolitan areas. We note that the effects of corporate restructuring on internal labor markets in larger firms in metropolitan areas are well known. Thus, many have vividly documented how restructuring has led to the destruction of the implicit long-term employment contract with a single employer (e.g., Cappelli et al. 1997; Tilly 1997). But in general, much less is known about the effects of economic restructuring in nonmetropolitan areas where workers with low skills and limited education face a unique set of challenges and circumstances (Salant and Marx 1995; Weinberg, forthcoming).[2]

A particular focus of the project is the investigation of issues relating to the incidence and effects of HPWPs in firms in nonmetropolitan and metropolitan areas. Compared with firms in metropolitan areas, we hypothesize that because of differences in socioeconomic contexts and in product and labor markets, such practices will be adopted more slowly by firms in nonmetropolitan areas and also will be more difficult to sustain. Differences in labor market conditions are also hypothesized to produce effects on firms and individuals (e.g., concerning employee attitudes and employee commitment) that will differ by location.

While a more expansive treatment of our conceptual framework is provided elsewhere (Jones, Kato, and Weinberg 1999), some of the issues we examine are quite familiar, such as hypotheses that (1) there is a greater likelihood that HPWPs will occur in bundles; (2) the economic effectiveness of HPWPs is greater when packages of such measures coexist; and (3) HPWPs are associated with a better quality of jobs (such as higher employment security and higher earnings) and hence with a more committed, productive, and satisfied labor force.

Besides these traditional hypotheses, in our project we also stress some factors that have tended to be neglected in the literature. One theme is that of the importance of *geographical isolation.* We hypothesize that for several reasons, including geographical isolation, it is harder for managers in nonmetropolitan firms to innovate than their metropolitan counterparts. Also, factors such as the size of the firm, the small size of towns, the depressed nature of local communities, and geographical isolation reduce the amount of new talent coming into firms. A second theme is that workers in nonmetropolitan areas tend to have *fewer employment options* than their urban counterparts and that this, in turn, shapes labor relations. Especially in rural areas, for any given occupation, there is likely to be only one or two potential employers. A third theme is the differential impact on firms in different regional locations of the pressures of *changes in product markets, including increased competition.* In all sectors, large organizations are moving into markets traditionally dominated by local firms (Salant and Marx 1995).

Data Collection and Empirical Methods

To permit fact finding on changing employment practices in medium-sized establishments in metropolitan and nonmetropolitan areas in central New York, we are gathering data using two complementary methods. Our basic approach is to collect diverse data from about 30 cases. From a population of 538 medium-sized establishments in four adjacent counties in central New York in 1998, we aim to select 20 medium-sized cases in nonmetropolitan areas of central New York and, for control purposes, 10

"matching-twin" establishments in the metropolitan area of Syracuse (located within Onondaga County).

Having selected the cases, we are using various data-gathering methods. Initially, we interviewed key management personnel in the establishment, most often the HR director or the top manager. In this process, we used semistructured interviews, and the design of this phase of our work has drawn on the experiences of other researchers who are working on parallel projects. A second method is to undertake worker shadowing. A third method of collecting data from cases is the use of worker interviews and surveys. Thus far, we have undertaken pilot samples (usually about 10 interviews) of workers in six cases. Moreover, at this stage we have secured cooperation from one employer to undertake interviews of all employees (about 290) in that establishment.

The second approach we are using to gather data makes use of the first random-sample telephone survey of adult residents in the upstate region of New York. This Colgate-Zogby survey provided us with the opportunity to ask respondents a series of questions on workplace practices. Between April and October 2000, data were collected from about 3,000 respondents, about 1,000 of whom are low educated. Moreover, many of these respondents agreed to participate in follow-up surveys. So far, we have collected data from about 300 respondents through these second-stage, in-depth surveys.

To the best of our knowledge, this is the first time that data on workplace practices have been collected in this manner, and certainly it is the first such instance for upstate New York. Normally, workers or other individuals in firms or establishments, rather than individuals in general, are surveyed. These data will provide an excellent baseline against which to judge the facts that emerge from our cases.

Findings

Since at this stage we have more systematic data available from the surveys of individuals, in the rest of the paper we focus on findings derived from those data. Since our focus is low-education workers, all results refer only to working individuals without four-year college degrees. In this first-stage survey, we focus on five particular practices, namely, self-directed work teams, job rotation, quality circles (QCs), employee ownership, and profit sharing. Respondents indicated not only whether they participated in such a practice but also whether or not such a plan existed in the firm at which they worked. This preliminary analysis yields many interesting findings, some of which are summarized in table 1, where each column represents findings from analysis of the factors associated with the existence of a particular HPWP.

TABLE 1
Summary of Key Findings from the Colgate-Zogby Survey of Low-Educated Workers in Upstate New York

	(1) Those who receive part of their pay as profit sharing or gain sharing	(2) Those who work in firms with self-directed work teams	(3) Those who take part in self-directed work teams	(4) Those who work in firms with rotation	(5) Those who take part in rotation	(6) Those who work in firms with QCs	(7) Those who take part in QCs	(8) Those who work in firms with ESOPs	(9) Those who take part in ESOPs
To be PSP workers		More likely	More likely	More likely	Same	More likely	More likely	More likely	More likely
To be working for firms with self-directed work teams	More likely			More likely	Same	More likely	Same	More likely	More likely
To be participating in teams	More likely			More likely	More likely	More likely	More likely	More likely	More likely
To be working for firms with rotation	More likely	More likely	More likely			More likely	More likely	More likely	Same
To be participating in rotation	Same	Same	More likely			More likely	More likely	Same	More likely
To be working for firms with QCs	More likely	More likely	More likely	More likely	More likely			More likely	Same
To be participating in QCs	More likely	Same	More likely	More likely	More likely			Same	More likely
To be working for firms with ESOPs	More likely	More likely	More likely	More likely	Same	More likely	Same		

TABLE 1 (*Continued*)
Summary of Key Findings from the Colgate-Zogby Survey of Low-Educated Workers in Upstate New York

	(1) Those who receive part of their pay as profit sharing or gain sharing	(2) Those who work in firms with self-directed work teams	(3) Those who take part in self-directed work teams	(4) Those who work in firms with rotation	(5) Those who take part in rotation	(6) Those who work in firms with QCs	(7) Those who take part in QCs	(8) Those who work in firms with ESOPs	(9) Those who take part in ESOPs
To be participating in ESOPs	More likely	More likely	More likely	Same	More likely	Same	More likely		
To live in rural towns	Less likely	Same	Same	Same	Same	Same	Same	Less likely	Same
To work in rural towns	Less likely	Same	Less likely	Same	Same	Same	Same	Less likely	Same
To be union members	Same	Same	Same	Same	More likely	More likely	Same	Same	More likely
To be working for large firms with 1,000 or more employees	More likely	More likely	Same	More likely	Same	More likely	Same	More likely	More likely
To earn over $50,000 a year	More likely	Same	More likely	Same	Same	More likely	More likely	More likely	More likely
To think that they are better off than four years ago	More likely	More likely	Same	More likely	Same	More likely	Same	Same	Same

Notes: "More likely" and "less likely" are based on statistically significant differences using 2-by-2 chi-squared tests at the 5% level or better. Data are from the Colgate-Zogby surveys of individuals during 2000 and are for low-educated workers only.

Perhaps the most striking finding is that these HPWPs tend to occur together. The strongest evidence is for individuals who participate in either profit sharing or gain sharing. Thus, from the first column we see that individuals who receive part of their pay as profit sharing or gain sharing are also more likely to participate in self-directed work teams, quality circles, and an ESOP. For workers who participate in self-directed work teams (column 3) we see that they are more apt to receive part of their pay as profit sharing or gain sharing and to participate in job rotation, quality circles, and an ESOP. Even for individuals who participate in rotation (column 5), in quality circles (column 7), or in an ESOP (column 9), there is considerable evidence that they will also participate in the other HPWPs that we investigate. All in all, these findings indicate that there is support for the hypothesis that HPWPs are increasingly likely to be found in clusters.

Other findings relate to our hypotheses on the role of geographical isolation. From column 1 we see that as hypothesized, individuals who receive part of their pay as profit sharing or gain sharing are less likely to work in a rural firm and also to live in a rural area. From column 8 we see that a similar finding emerges for the other form of financial participation for which we gather data, ESOPs. That is, individuals who work in firms with ESOPs are less likely to live and work in rural areas. However, interestingly, there is no association between where an individual lives and works and whether or not that individual participates in an ESOP (column 9). In sum, these findings on financial participation provide reasonable support for our hypotheses on the role that geographical isolation plays in influencing the adoption of HPWPs.

However, the situation is rather different when one examines practices that provide for employee involvement. By examining responses to questions on individual participation in self-directed work teams, job rotation, quality circles, and whether or not firms had such practices (columns 2–7), we see that there is only weak support for the proposition that geographical isolation has a clear and adverse effect on the incidence of such schemes. Only for individuals who participate in self-directed work teams is there some support for the geographical isolation hypothesis.

Our findings offer some support for those who argue that some HPWPs are more likely to be introduced in unionized workplaces. Thus, from the fifth column we see that individuals who participate in rotation are more likely to be union members. Similarly, the evidence summarized in column 6 is consistent with the argument that quality circles are often introduced in unionized workplaces. Finally, as reported in column 9, ESOP participants are more likely to be union members.

Our results suggest that size plays an important role in affecting the incidence of HPWPs. The data indicate that those who receive part of their pay as profit sharing or gain sharing, those who participate in an ESOP, and those who are at a workplace that has self-directed work teams, rotation, and quality circles are more likely to work in firms that employ 1,000 or more workers. Thus, these findings are somewhat in line with our hypothesis that smaller firms (in particular smaller firms in rural communities) tend to struggle more with their effort to introduce HPWPs.

The last finding we highlight concerns the role of income on the prevalence of HPWPs. Our results strongly indicate that there is a powerful relationship between higher earnings and the likelihood that individuals participate both in financial HPWPs, such as profit sharing and ESOPs, and employee involvement programs, such as quality circles and self-directed teams (columns 1, 3, and 6–9). Moreover, there is a link between the incidence of HPWPs and individuals' attitudes toward their economic well-being. Specifically, those individuals who receive part of their pay as profit sharing or gain sharing and those who work at workplaces with teams, rotation, and quality circles are more likely to believe that they are better off than they were four years ago.

In addition, we undertook a second-stage survey. From preliminary findings based on this more detailed follow-up survey, we find evidence for stronger commitment and loyalty by individuals who participate in teams or QCs than by other individuals. Furthermore, the follow-up survey tends to support the notion that these teams are indeed self-directed.

Finally, we report briefly on some very preliminary results from our cases. In some important respects, we find that this evidence mirrors that based on the surveys of individuals. Thus, even at this stage, the case study evidence does suggest that the incidence of certain HPWPs on average may be lower in rural areas than in metro areas. This is apparently especially evident concerning instances of financial participation. Also, concerning our hypotheses on the roles of differences in networking in the adoption of HR practices, some tentative evidence supports the view that HR personnel in rural locations have networks that are quite different from those of their counterparts in metro regions.

Conclusions, Implications, and Future Work

At this stage in our project, our most reliable findings are those derived from our most unusual surveys of individuals in upstate New York. These surveys reveal many interesting findings about the scope, nature, and determinants of HPWPs in this area. Perhaps of special note is the finding that HPWPs tend to be associated with individuals' receiving higher pay.

This last finding has a potentially important implication for rural community development and rural revitalization. The real question for community development is *jobs*. Communities tend to do better when they increase the stock of jobs both quantitatively and qualitatively. An economic development strategy for rural and depressed communities such as those in central New York ought to consider a potentially important role that HPWPs play in rural revival. Bringing more HPWPs into rural and depressed communities such as those in central New York may mean more "good jobs" (better pay and benefits, skill enhancing, meaningful, stable) for central New Yorkers.

At the same time, we recognize that all of these findings are preliminary. More rigorous statistical analysis based on the new survey data is needed of the findings. In future work that uses these survey data, we will complete remaining data processing and undertake multivariate regression analysis that allows control for many variables.

Acknowledgments

We are grateful for support from the Russell Sage Foundation and Rockefeller Foundation programs on firm-based case studies of the effects of economic restructuring on low-education workers and for support from Colgate University and Zogby International.

Endnotes

[1] For example, in the United States there have been relatively few large-scale surveys of broad ranges of HPWPs. An exception is Osterman (1994). For Japan, in which such practices are considered the hallmark of their management system, see, for example, Jones and Kato (1995), Kato and Morishima (1998), and Kato (2000).

[2] However, there is a long tradition of research supporting the connection between the forms of job and community development (e.g., Wilson 1996).

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From Piece Rates to Group Incentives: Can the Company and Its Employees Gain?

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Abstract

Most of the research on compensation has focused on how methods of pay affect the firm, with little evidence on whether employees gain from it. We report results of an ongoing study that examines how a change from a piece-rate method of pay to a value-added gain-sharing method of pay (called VAG) affected both a company and its low-wage production employees. We find that the change from piece rates to VAG reduced productivity, but labor costs declined even more, resulting in an increase in profits. Even though pay declined and work effort increased, according to the employees at the firm, satisfaction with work remained about the same.

Introduction

Method of pay has long been an important issue in industrial relations that affects both the employer and the worker (Commons 1909). However, most of the research on this topic has focused on how methods of pay affect the firm, with little evidence on whether employees gain from it. We report results of an ongoing study that examines how a change from a piece-rate method of pay to a value-added gain-sharing method of pay (called VAG) affected both a company and its employees.

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Why Do Firms Choose to Abandon Piece Rates?

One of the oldest forms of workplace motivation is piece-rate plans, which say to employees, "The more you produce, the more you make." The main hypothesized effects of these plans are that they get workers to work harder, which should increase their output and pay. A main cost of piece rates is that workers may skimp on quality. An additional problem with piece rates is that employees are resistant to accepting new work or product lines because they are familiar with their previous type of work. Workers can maximize their earnings by staying with the same type of work. Employees earn the most when they are farther up their own learning curve of production on the same product; production and pay are lower when they change to a new, unfamiliar process. Generally, workers are assumed to be resistant to change under piece rates and are less likely to share knowledge about production or to work in teams.

Firms who choose piece rates think that the gains should increase both output and pay, which would increase returns to both labor and capital (Brown 1990). Piece-rate systems are expected to raise the average pay of workers, due to the incentive effect, and to increase variations in pay among workers. Under most piece-rate systems, the more able or hard-working are rewarded for their production, while the less able or less hard-working remain at the job producing fewer pieces or are terminated by the firm. Beyond the issues raised earlier, workers may stockpile materials under piece rates and take greater risks at the job, which raise injuries and expenses under worker compensation laws. For industrial engineers and human resource managers, it is difficult to get the right level of pay for each job. Consequently, many jobs are valued either at too high or too low a level of pay, and there are incentives for many of the workers to maintain these levels of job evaluation or to engage in games with management in order to find the job "rents" (Freeman and Kleiner 1998).

In the context of modern production—with its emphasis on teams, multiple skills, and on-the-job training—the use of piece rates may no longer be the optimal method of pay, even though some research shows that moving from time rates to piece rates does increase individual productivity (Lazear 2000). Case-study evidence on the switch from piece-rate to time-rate methods of pay shows that productivity goes down and that employee satisfaction initially declines (Freeman and Kleiner 1998).

A form of compensation that is gaining in popularity is group incentive pay (Freeman, Kleiner, and Ostroff 2000). Under this pay program, the group's or organization's success determines the bonus pay to be shared among employees. Generally, the bonus portion of the pay is between 10%

and 15% of total compensation (Canyon and Freeman 2000). The advantages over piece rates are the general reduction in labor costs and the greater compatibility with team work and other modular forms of production, which some suggest is the way to enhance firm financial performance (Freeman and Kleiner 1998). However, unlike studies of changes from piece rates to time rates or vice versa, no studies have examined the impact of the transition to incentive pay from piece rates on either the company or its workers (Lazear 2000).

The Industry and Firm

We examine a firm in the auto supply industry to find the effects of changes from piece rates to gain-sharing policies. Under a confidentiality agreement with the firm, they provided us data and access to give employees a satisfaction questionnaire on their views of work at the production facility, under the condition that we do not use their name in published works. Since the company manufactures small auto parts, we call the firm Small Parts, or SP.

The market for auto supply parts is highly competitive, with many producers who either are in the aftermarket for car parts or compete to meet the demanding specifications of the major auto manufacturers (Helper, Levine, and Bendoly, forthcoming). During the 1990s, there was a decline in the profitability of the auto supply industry as the major auto firms, who were under competitive pressure, required their suppliers to cut margins and increase the reliability of the product. Firms restructured their labor and capital in an effort to reduce defective products and increase overall efficiency (McKinsey and Company 1999).

SP is a relatively small, nonunion firm that initially had two plants in a large metropolitan area with an above-average cost of living. The company was established during the early 1900s and during the 1990s expanded to add two U.S. establishments and one in Mexico. In addition, they purchased establishments in Western Europe. This expansion was implemented to allow it to compete with the other major auto suppliers in the industry who offered a broader array of products and made them more suited to the larger, more diversified orders that came from the auto makers during the 1990s. The company has outperformed most other firms in the industry. For example, during the period 1992 through 1996, its rate of return on assets was about twice the industry average (McKinsey and Company 1999).

The firm's production is capital intensive, with labor costs generally below 7% of total costs. Innovation takes place through breakthroughs by engineers who design new or improved auto parts for the initial market or

for the replacement market. Production employees monitor the automated production of parts and aid in their assembly and packaging. The company used a time-rate method of pay until the mid-1960s, when time and motion studies were introduced, which led to the introduction of piece-rate methods of pay. Under piece rates, the employees were paid a low base wage and made between 50% and 100% of the base in piecework incentives, with reasonably high performance. As with most piece-rate systems, there was much variation in wages across jobs and within job categories, and management thought there was considerable stress among the workforce as they tried to meet production quotas so that their daily pay would be high.

As part of a strategy to move away from commodity production and toward making rapidly changing products of its own design and engineering, SP changed its compensation structure from a piece-rate system to a plant-level value-added gain-sharing (VAG) plan in 1996. Starting wages following the change during the late 1990s were $9.50 per hour, with an average wage around $10.50 per hour without the gain-sharing bonus, which averaged about $1.00 per hour. In comparison, the average wage in manufacturing in 1999 was $14.40 per hour, and it was $15.03 per hour for workers in industrial machinery (Jacobs 2000).

Did the Company Benefit?

The view by executives in SP, in cooperation with an outside consultant, was that a gain-sharing plan that was tied to plant-level measures of both output and quality of the product would complement this increased emphasis on engineering and quality. The move away from piece rates would both reduce worker resistance to introduction of new products and increase incentives to meet the auto industry's increasingly strict quality requirements. In addition, the VAG led to a large reduction in the average wage, which was the expectation of management and the outside consultant. The full VAG plan took almost one year to fully implement, starting in 1996, with workers receiving compensation at their piece-rate level for some time in the future based on seniority with SP. Some employees saw their hourly wage drop by $4 to $5 per hour over the course of several years.

When the company implemented the gain-sharing plan, it did so at both plants in the northeastern city. The VAG plan was a bonus that was determined by the number of units sold at the market price minus a fixed percentage for the number of items that were found to be defective by the major auto manufacturers. The payouts under the gain-sharing plan averaged about 10% of the base pay, but there were years in which payouts were zero for at least one of the two plants we studied.

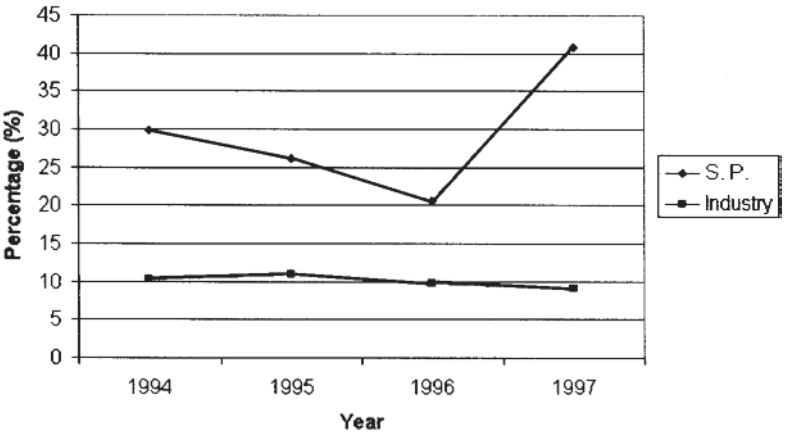
To see the impact of these policies, we estimate a variant of a Cobb-Douglas production function that uses value added as the measure of productivity. The form of the model is

$$\ln Q = a + b(\ln K) + c(\ln L) + d(\mathrm{VAG}) + \mathrm{TRANS} + \mathrm{YR} + \mathrm{LD} + u \qquad (1)$$

where Q is sales minus material costs, L is total employment, K is book value of assets from the company files, VAG is a dummy variable to measure the period after the adoption of a value-added gain-sharing compensation policy, TRANS is the transition period for the change from piece rates to VAG, YR is a time-trend variable, and LD is the dependent variable lagged.[1] We have monthly data from 1992 to 2000 for a total of 97 observations.

Estimates from this production function using autoregressive time-series models that both include and exclude the value of the dependent variable were developed. First we analyzed the sales data using an autoregressive time-series model, and next we dropped the lagged dependent variable. The results from the regression showed that labor productivity declined by approximately 19% with the move from piece rates to value-added gain sharing. However, the cost of labor declined by between 40% and 41%. For this firm, lower productivity meant higher profits because labor costs declined much faster than productivity. In large part, the reasons for this gain in profits were that hourly earnings declined because of the decline in the piece-rate premium and that some high-wage workers who could have made the premium may have left the firm and were replaced by lower-wage employees.

FIGURE 1
Comparison of SP Return on Assets and the Automotive Supplier Industry



The return on assets for the firm grew from 2.5 times the industry average one year before the change to 4 times the industry average one year after the full implementation of the change from piece rates. Part of this gain was a consequence of the firm's better utilization of capital within the firm and their introducing new, higher-quality products that would have been difficult to produce under piece rates but that now can be manufactured in a just-in-time environment. In a survey we conducted of managers and engineers in the same plants, 23% thought the company performed better with VAG, while 14% thought the company was worse off now than when piece rates were used. Finally, overall product quality was higher as measured by defective or rejected parts. In addition, the company brought in many new engineers to design new products that could be brought to market more quickly under a VAG system of compensation.

Did the Employees Benefit?

It appears that the company benefited from the change to VAG, but did the employees gain? To examine this issue, we conducted a variation of a standard satisfaction survey, the Minnesota Multiphasic Satisfaction Questionnaire (MMS), of the employees in the two plants who had been present under both piece rates and the gain-sharing plan.[2] We used the baseline questions in a Likert-type scale that has been used in the MMS for almost 50 years to gauge employee satisfaction. In the development of the questions, we conducted several focus group sessions in each of the plants before we administered the final questionnaire. Since overall turnover in the plant for production employees is about 2% to 3% per year, almost 90% of the employees who answered the satisfaction questionnaire were also present during the piece-rate time period. The questionnaire was given during work hours for all three shifts in the plant, and individuals were encouraged by their supervisor to complete the survey. Virtually all the employees in the older plant filled out the survey, and three quarters of the employees in the newer plant took the questionnaire. The survey was anonymous. The employees were told that individual survey entries would be seen only by the professors administering the questionnaire and that only tabulations by large groups would be given to supervisors. Since the average response to the overall worker-satisfaction score was below the national average, we think that the employees were frank in their response to almost all questions.

The production employees in the plant were highly diverse. About one third of the employees were of Vietnamese descent and spoke and were literate in Vietnamese, approximately one third were from the Cape Verde Islands and spoke and were literate in Portuguese, and the remainder of

the production employees were from the United States or used English as their primary language. Consequently, the original questionnaire in English was translated into Vietnamese and Portuguese. Care was taken to make sure that the questions were similar across the three languages, and we used interpreters from the plant to explain questions to the employees in their native language when they had questions about the survey.

TABLE 1
Responses by Employees Who Worked under Piece Rate Before, $n = 320$

Survey question	Yes	No difference	No
I work harder under Value Added Gain-Sharing Plan than I did under piece rates.	43.0%	29.4%	27.6%
I make more money under Value Added Gain-Sharing Plan than I did under piece rates.	27.7%	27.0%	45.3%
Considering everything, I am more satisfied with the quality of my work life now than I was under piece rates.	38.5%	25.8%	35.4%

Note: "Yes" includes persons who answered "agree" or "strongly agree"; "no" includes persons who answered "disagree" or "strongly disagree."

Table 1 presents our basic results for the satisfaction scores for the individuals who were present at SP under piece rates. The first question asked the employees to respond to the following statement: "I work harder under Value Added Gain-Sharing Plan than I did under piece rates." More than 15% of production employees said that they worked harder under VAG than under piece rates, but 29.4% said that there was no difference in their effort. The second statement asked their response to "I make more money under Value Added Gain-Sharing Plan than I did under piece rates." By a margin of almost 18 percentage points, more workers said they made less money than those who said they made more money. However, the third statement asked, "Considering everything, I am more satisfied with the quality of my work life now than I was under piece rates." Despite the clear plurality who thought they were worse off financially, slightly more (3.1 percentage points) respondents thought they were better off under VAG than under piece rates.

Since table 1 shows that employees thought they now work harder and for less pay, why are they about as happy now as under piece rates? There are several potential explanations. Initially, the training that occurred to implement the total quality management program, which included efforts at stating the competitive pressures at SP that employees needed to meet

in order to keep jobs, may have added to company solidarity. Further, efforts at teamwork could have created a friendlier work environment that could have partially countered the negative effects of the harder work and lower pay.[3] The stress that many employees felt under a piece-rate system, where a substantial percentage of pay was based on daily performance, was reduced under the VAG system. However, employees do not perceive themselves to be much better off under the new system than under the piece-rate system of compensation. Another possibility, however, is a change in composition of the workforce. If workers in the top tail of the pay distribution were the ones who left, the employees who filled out the survey lost far less than 41% of their wages. This interpretation is supported by our experience in the focus groups, where workers who were already senior when the VAG was implemented were more unhappy with the plan than were workers who had been hired in the mid-1990s and had not learned enough to do well on incentive pay (or had not gained enough seniority to get an easier job).

Conclusions

Our analysis finds that the company benefited from the change from piece rates to the VAG program through lower labor costs and the ability to obtain larger contracts with the large auto manufacturers, even though productivity declined. This resulted in the firm's increasing its rate of return on assets relative to the average firm in the industry. For employees, the results were not nearly as clear. The workers in the firm perceived themselves as working harder and receiving less pay but are about as satisfied as they were before the transition. We are continuing to analyze the survey data on this question. The lack of change in satisfaction may have occurred as a consequence of less stress and increased employee involvement in teams, which may have counterbalanced the other changes in the firm that negatively affected employee attitudes, or it may be an effect of workforce composition.

Acknowledgments

This study was funded by the Rockefeller and Russell Sage Foundation and the Sloan Foundation.

Endnotes

[1] Because the full implementation of the VAG system took place during 1996, we estimated the model without a transition period of 12 months and found basically the same qualitative effects.

[2] We also asked questions about overall satisfaction, worker safety, employee involvement, financial participation, and employee benefits. These results will be given in a later analysis of these results.

[3] For example, 67% of the employees say they are proud to work for the company, and 74% say they encourage teamwork, which may contribute to greater workplace satisfaction. Moreover, of the managers and engineers who say there were major changes, 9% more say the company works better now under VAG than under piece rates.

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DISCUSSION

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The papers in this session take a common approach in focusing on the employment practices and other mechanisms inside firms through which labor market outcomes occur. What we learn from these accounts is, first, that the mechanisms are crucial to shaping outcomes such as wages and, second, that they vary greatly across organizations. The papers also have in common that they concentrate on what we might call the great unwashed of the American industrial landscape. These are not stories about Silicon Valley and cutting-edge firms. They are reports from the heartland about low-wage, sometimes struggling companies, where no doubt the vast majority of Americans work.

The first paper by Derek, Takao, and Adam is based on surveys of employers in central New York, a region where I was born and raised and that has been in economic decline for perhaps two generations. Their study asks, among other things, is there something different about work practices in regions like this that might explain why employers do not do better? We know from studies of economic geographers that the evidence about the success of regions increasingly points to employees—their abilities and mobility in particular.

The authors focus in on the spread of high-performance work practices in this central New York region and find that the incidence of these practices is lower in the more rural regions. What is interesting about this question is that it tests for the ability to adopt new practices. High-performance work practices are not a new idea. The story should simply be about adopting them. Practices and ideas spread through employees. The authors note that because the job prospects in this region are so poor, it is difficult to get new workers with new ideas (presumably new managers in particular) into the facilities; because the tenure of current managers is so long, it is difficult to get the old practices out; because the employees do not turn over, it is difficult to change organizational cultures that otherwise resist change.

The fact that the "metropolitan" areas in the study are still pretty isolated—it's Syracuse and its suburbs, not New York City here—means that the range of the distribution of practices is truncated. A comparison of the

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extent of these practices with real metropolitan centers would no doubt show even bigger differences. A more general problem that all studies of high-performance work practices face, at least those based on surveys, is knowing how to code informal practices. Small establishments in particular are unlikely to have formal team and related structures. Some of the groupings of the data, such as rural operations, may be correlated with size, which could confound the interpretations somewhat.

Rachel's paper looks at firms in another region of the country, rural North Carolina, and shows how employee issues shaped the survival of the hosiery industry. In this case, it was patterns of family and ethnic relationships that played the key role in shaping outcomes.

One striking issue in this paper was the extent to which, despite the best efforts of scientific management and management influence, individual employees still exert considerable control over their jobs in this industry. The fact that the jobs of the employees who repair the knitting machines are skilled and idiosyncratic meant that those workers could not easily be replaced, and this fact alone seemed responsible for preventing the companies from moving the work to lower-wage countries. The traditional resistance that these employees had to passing along these skills to others outside their network of family and friends was broken down by the fact that the Laotian immigrants in the area were the only ones around to do the jobs. Necessity being the mother of invention in this case facilitated the entry of this new immigrant group into the ranks of skilled workers. Finally, the paper helps to illustrate exactly how public policy facilitates economic development through human capital: North Carolina's Hosiery Technical Center helped develop and then spread innovations throughout the region, and a policy of low tuition for postsecondary education helped develop the workforce.

The paper by Maury and Susan looks within a single company, a low-wage and low-skill manufacturing operation, to see what happens when work and compensation systems change. It's fascinating to see, as they demonstrate, that there were firms still discovering scientific management in the 1960s. This firm finally abandoned it and the piece-rate pay system that went with it only in the mid-1990s with a move toward teamwork, total quality management, and a group-based gain-sharing system.

One result was a small drop in overall productivity but a much bigger drop in labor costs that caused overall firm financial performance to rise. It is useful to be reminded that firms can make money by lowering labor costs, even if productivity isn't improved. It would be helpful to know, however, to what extent the 40% decline in labor costs was due to lower wages for the same employees, to fewer employees, or to a shift from higher- to lower-wage workers.

Another result, based on employee attitude surveys, finds that while the employees believe that they are working harder for less money, they are about as happy as before. The authors present this as a puzzle to be explored, but it would seem that the answer is at hand: we know that changes in work systems associated with employee involvement and teamwork raise job satisfaction. What is interesting here is that the effect appears big enough to offset other factors that one might expect to have lowered satisfaction.

The paper by Susan, Arne, and Eric looks at how a particular practice, temporary help, is used across firms and how it affects the operation of those firms. They raise several compelling arguments about why it might make sense for firms to use temporary help in different contexts, but the most intriguing is the one that suggests why firms use temporary staff to fill vacancies while they are trying to recruit full-time employees and when the temporary workers are paid more than the employers are paying new hires. This situation seems irrational—why not just raise starting salaries and fill the vacancies more quickly? As they point out, it makes sense to fill the positions with temps, even indefinitely, because the alternative of raising wages for new hires would likely require raising wages for current employees as well. In my view, this situation most likely occurs not when there are internal labor markets but, as in nursing, where the jobs are otherwise very similar and not easily differentiated. The use of temps is something like individual contracting and allows the employer to price-discriminate. This argument seems very powerful. What would be interesting for the authors to do next is to develop some taxonomy that allows them to predict which explanations are likely to make sense in which contexts.

Finally, the paper by Chip, Steffanie, and Rose, which outlines a project still in progress, extends the theme that mechanisms at the firm and job level drive real differences in employee outcomes. In their study, firm-level issues such as business strategy as well as practices associated with internal labor markets cause some call center jobs to be the stereotypical "bad" jobs, while others, at least in terms of labor market outcomes, are much better. Their study takes the story up the level of analysis to see how these workplace outcomes can flow from business strategy decisions.

Together, these papers suggest several themes. The story about what drives labor market outcomes and low wages in particular is very complicated. There is enormous variation within sectors, within companies, and sometimes within occupations that is masked by simple stories about averages and overall trends. The variation is driven by context broadly defined—differences in industry networks, community and workforce characteristics, and the institutions and structure of occupations and jobs—as well

as by employment institutions. These are the factors that fall neatly between most academic fields, with the exception of industrial relations. The challenge will be to think about how to encourage and develop our understanding of these factors into something more systematic and to do so in the context of an academic environment in which they are at present marginal topics.

IX. NEW ISSUES IN GROWING OLDER: PENSIONS AS PART OF THE CONTRACT OF EMPLOYMENT

The Ephemera of Pension Plans

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The swift movement of capital in our modern economy, the frequent change in ownership, and relocation of work have led to more frequent use of early retirement incentives in order to manage a labor force (Cappell and Schmall 1994:123). Employees may have to make very difficult choices about how and when to leave a job they had hoped to keep until retirement. Motivated by a desire to reduce its forces efficiently, expeditiously, or humanely, many firms offer enhancements to benefits in order both to accelerate an employee's departure from the company and to lessen her misery and the diminution of the company's goodwill associated with the discharge. They often include some type of severance payment, an opportunity to immediately accrue enhanced benefit eligibility in a pension plan, or some promise that nonvested benefits, such as health insurance, will remain in force. In every case, the firm rids itself and saves the cost of what it considers to be a superannuated employee.

In most lawsuits for pension enhancements or for inclusion in a program designed to entice early retirement, there are no legal barriers constraining a company's decisions—either as settlor/employer or as trustee/employer. Only pension benefits vest, and employers as managers can decide to create, reduce, modify, or terminate any other kind of benefit, pursuant to the rules for amendment created in the trust documents. When employers as trustees/administrators interpret the terms of a plan to exclude a participant or class from coverage, their decision is typically reviewed deferentially,

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which means that the decision may not be arbitrary or capricious [*Firestone v. Bruch,* 489 U.S. 101 (1989)]. Courts are perplexed about whether managers are subject only to the business rule or, if dealing with employee concerns about benefits, are held to the higher standards of fiduciaries.

Retirement incentives are neither mandated nor considered employee property or expectation, even when they are offered as inducements to early exit from a firm. In the case of health insurance or other nonvested benefits, which courts often find retirement incentives to be, they can be withdrawn *even after* retirement [*Sprague v. General Motors,* 133 F3d 388 (6th Cir. 1998)]. Pension enhancements or severance promises cannot be relied upon unless they are made by a fiduciary. And there is no duty to tell the truth about an incentive unless the company's plans are finalized [*Fischer v. Philadelphia Elec. Co.,* 96 F3d 1533 (3d Cir. 1996)(*Fischer II*), *cert. denied,* 520 U.S. 1116 (1997)]. Moreover, such a disclosure duty does not arise if the retirement incentives are not covered by ERISA. Courts are mixed as to whether retirement incentives are part of an ERISA plan. Often courts find incentive plans to not vest because an employer needs to react to current costs and current demands. Health plans are specifically exempted from vesting requirements under 29 U.S.C. §1051(1) [*Curtiss-Wright v. Schoonejongen,* 514 U.S. 73 (1995)]. They should be since they form part of the consideration given in exchange for an employee's voluntary quitting and since they alter the terms of an existing employee benefit plan. When an employee voluntarily leaves a firm in exchange for some type of enhancement or early retirement benefit, she suffers a significant decrease in her wealth. Judges who persist in finding that benefits are an employer's largesse rather than an employee's property fail to consider that an employee has suffered a detriment, that is, a reduction in wages to set off the cost of the benefit. And she has given valuable consideration, that is, her ongoing and continued labor, for her pension (Ghilarducci 1992).

The litmus test for determining whether early retirement incentives violate federal antidiscrimination law is "whether, under the circumstances, a reasonable person would have concluded that there was no choice but to accept the offer" (EEOC 2000: chap. 3, p. 37). "A plan will not be voluntary if an employee was given inadequate time or insufficient information whether to accept the employer's offer" [*Auerbach v. Board of Education,* 136 F3d 104 (2nd Cir. 1998)].

For generations, the defined benefit plan was the premier protection against retirement insecurity. Under such a plan, the employer pays retired employees a cash pension benefit, the amount of which is based on some kind of predetermined formula, typically, the average compensation and the number of years of participation in the plan. Increasingly firms are

switching to self-managed or defined contribution plans, of the type allowed by Internal Revenue Code §401(k) [Pension and Retirement Plans, 249 DLR 5-19 (2000) (12/28/2000)]. In either case, throughout the course of an employee's career, the employer makes contributions to a trust, which is used to fund the benefits payable to the employee when she retires [29 U.S.C. §1002(35)].

Depending on how one counts and whether one counts among large and medium or all firms, inclusive or exclusive of public employers, about 40% to 50% of all workers have some pension benefits, although there is wide disparity in pension wealth. The median annual income from retirement for people over 50 in 1995 ranged from $1,752 to $20,189 (Employee Benefits Research Institute 1997:68, table 8.4). These benefits have been effective in reducing poverty among the elderly.

It is precisely for the protection of these types of benefits that the Employee Retirement Income Security Act (ERISA) [Public Law 93-406 88 Stat. 829 (1974)] was passed. The statute has been called a negotiated and compromised effort to balance federal regulation with a system of voluntary firm sponsorship of those employee benefit plans (Muir 1997:1355). But it has not afforded much protection in retirement incentive cases.

First Duty to Inform

ERISA is a procedural rather than a substantive statute that attempts to guarantee the funding of deferred benefit plans and the fair administration of those plans under a series of complex fiduciary rules. The predominant authority for ERISA is the common law of trusts since it considers fairness above contract, injunctions before there are injuries, and protection of dependent beneficiaries from the caprice and dishonesty of the trustee who controls the participants' accounts (Hylton and Schmall 1998:318–20).

Before Congress enacted ERISA, courts uniformly applied broad general disclosure obligations upon fiduciaries of employee benefit plans, especially upon those unions that controlled and managed plans for members and represented nonmembers. Just recently, the Supreme Court considered the claims of thousands of employees whose employers induced them to transfer to a newly created subsidiary by assuring them that their ERISA benefits were secure. The company, but not the employees, knew that the subsidiary was underfunded and doomed to failure. When it collapsed, the transferees sued. Twenty years after ERISA became law, the Court held that the statute imposed a broad duty on employers, as fiduciaries, to disclose relevant facts about a plan to its employees, although it did not decide whether fiduciaries must disclose information on their own initiative [*Varity Corp. v. Howe*, 516 U.S. 489, 506 (1996)].

Overall, ERISA is a complex series of sometimes highly specific requirements aimed at ensuring that trustees place the interests of beneficiaries first in every instance. To achieve that goal, ERISA mandates a steady flow of information from fiduciary to beneficiary, sometimes in a highly specific fashion and sometimes by implication alone.

ERISA requires fiduciaries, specifically plan administrators, who are often company managers, to provide a summary plan description within 90 days after an employee becomes a participant in a plan. This summary plan description must explain the benefits, identify the administrator and trustees, describe the eligibility and vesting requirements, and outline the plan's claims and appeals procedures. The administrator must also prepare an annual financial statement for the plan, which lists the plan's administrative expenses, the benefits paid to participants and beneficiaries, the value of plan assets, and the level of increase or decrease in the plan's net assets. The summary annual report must be given to participants and must be filed with the Internal Revenue Service, the Department of Labor, and the Pension Benefit Guaranty Corporation. From these statutory mandates, courts have fashioned the broader duties to inform.

ERISA mandates that once an employee has satisfied the plan's minimum participation requirements—usually a term of years—the employee is vested and can never be divested. However, a multitude of situations can lead to a loss of those benefits. Plans can be terminated either voluntarily, when a company asks the Department of Labor for permission to terminate a plan, or by mandate of the Pension Benefit Guarantee Corporation because of the company's precarious financial position [e.g., see *Nachman Corp. v. Pension Benefits Guarantee Corp.,* 446 U.S. 359 (1980)]. Firms sometimes fail or refuse to credit their workers with participation, and trustees have been known to wrongfully deny benefits. Employees can be fired before they become vested in a pension plan, and everything the company has paid into their accounts—their deferred wages—are irrevocably lost and reverted to the fund. Finally, employees can be induced to retire early, contingent upon some promised benefit.

Although cognizant of the high level of trust and fiduciary duties, courts have too rarely applied doctrines such as equitable estoppel, promissory estoppel, or other legal arguments to prevent injustice and to avoid allowing a company or plan to defeat employee expectations. The factual landscape of these decisions does not often lead to full disclosure. A company's concerns about profits, along with managers' desires to retain their own jobs, create fertile ground for an employer's opportunistic behavior.

Federal courts have reached consensus that employers cannot lie, misrepresent, or defraud their employees regarding their benefit plans [*Maez*

v. Mountain States Telephone & Telegraph, Inc. d.b.a. U.S. West Communication, Inc., 54 F3d 1488 (10th Cir. 1995)]. But courts differ sharply when defining these claims and tread gently over management prerogatives. Courts are not sure when fiduciary status attaches to the words or acts of company managers. It has not been easy for courts to determine when a plan is sufficiently concrete to mandate its disclosure. They are confounded by whether a duty to be truthful arises only when employees ask, when managers affirmatively represent, or any time that silence would harm the participants. They are not convinced that promises to potential retirees must be kept, especially if they relate to nonvested benefits. Those already retired may no longer have standing to sue.

Communication and Timing

Probably the greatest hurdle facing employee plaintiffs and the most threatening issue for management is determining when a retirement incentive becomes sufficiently concrete to be subject to disclosure. The Third Circuit developed the general rule governing interactions between a company as fiduciary and its employee beneficiaries regarding changes in benefits in this context: "A plan administrator may not make affirmative material misrepresentations to plan participants about changes to an employee pension benefits plan" [*Fischer v. Philadelphia Electric Co.* (*PECO)*, 1991 U.S. Dist. LEXIS 3026 (E.D. Pa.); *rev'd and remanded*, 994 F2d 130 (3d Cir. 1993), *cert. denied*, 510 U.S. 1020 (1993); on 2d remand, 96 F3d 1533 (3d Cir. 1996), *cert. denied*, 520 U.S. 1116 (1997)].

The *Fischer* court realized that corporations regularly review benefit packages and constantly consider changes in corporate benefit plans, concluding that a corporation could not function if ERISA required complete disclosure. But the court also recognized that there is a fiduciary duty to be truthful when an incentive is being seriously considered. "[S]erious consideration of a change in plan benefits exists when (1) a specific proposal (2) is being discussed for purpose of implementation (3) by senior management with the authority to implement the change" (*Fischer,* at 1538).

Courts keep trying to apply these duties to protect employees' expectations but with little success. The Sixth Circuit approved the *Fischer* test, but added that the proposal does not need to be in a final form. "[A] proposal is sufficiently concrete on the date when a company committee discusses the practicalities of implementation" [*McAuley v. IBM,* 165 F3d 1038, 1043 (6th Cir. 1999)].

The Ninth Circuit was asked to answer a timing question about when employees belong to a union. The court found that the company remained deliberately opaque about what future early-retirement options might exist

and actually answered employee questions in a way that contained an "implicit threat that employees who did not accept the current early out, ran the risk of being . . . fired" [*Wayne v. Pacific Bell,* 189 F3d 982 (1999)].

When a later, better offer was finally negotiated in the collective bargaining agreement, the employees who accepted the earlier retirement plan sued. The Ninth Circuit decided that the point at which the plan was being seriously considered and subject to disclosure was when the company first made its proposals to the union (*Wayne,* at 988). But it is rare that employees prevail.

There are almost no cases in which employees "win" when they go to court over communication problems in connection with their early retirements. Courts appear to be more attuned to business needs than to employees' concerns. For example, in *Bins v. Exxon Company, USA,* an employee scored a procedural legal victory but came out no better than he had before he entered the lawsuit. When Bins became eligible for retirement, he heard rumors that in addition to regular retirement benefits, the company would offer a lump-sum retirement incentive. He postponed his retirement in part because of the rumors. He was unable to find anybody who could verify the rumor. Between his last inquiry and his last day of work, an incentive was in place. Bins failed to keep asking, but his successors should be in better stead [220 F3d 1042 (9th Cir. 2000)].

The Ninth Circuit held that "if an employee, in the course of inquiring about possible plan changes, asks to be kept abreast of any changes in the status of a potential change and the employer provides assurances to that effect, then the employer will have a fiduciary duty to follow up with that employee" (*Bins,* at 1053). According to the Court, "in such a situation, the employer should know that silence on its part thereafter conveys an implicit message that no serious consideration has occurred and that the employee will rely on that silence to his or her detriment" (*Bins,* at 1053).

There are cases in which courts have found a breach of fiduciary duty based on a failure of a company creator to inform participants of plan interpretations or, alternatively, their rights under plans when the participants detrimentally relied on the company's information or its silence. In *Harte v. Bethlehem Steel Corp.,* a retiree sued for, *inter alia,* a breach of fiduciary duty against his company for failing to notify him in a timely manner that his continuous service had been broken by his absence while receiving long-term disability benefits from the company [214 F3d 446 (2000)]. He learned 17 years after the company's actions that he had been terminated from continuous services for purposes of his pension vesting. Mr. Harte was 19 days short of eligibility for a pension based on 15 years of continuous service. Although the court found that the company would have had

the right to exclude him from coverage, it found that the company had breached its fiduciary duty to provide the information a reasonable employee would need to make decisions about his or her retirement (*Harte,* at 451).

In *Sprague v. General Motor Corp.,* the plaintiffs proved that they had accepted early retirement only after the company made representations that it would provide basic health care coverages at GM's expense for an employee's lifetime and that the right to such coverage vested on retirement. The company was not held to that promise because the plaintiffs had in their possession summary plan descriptions of the company's health insurance policies and programs, which put the plan participants on notice of GM's right to change or terminate the health care plan at any time. The Sprague court concluded that "reliance on repeated assurances of free lifetime healthcare, sometimes couched with timid caveats, from one of the largest corporations in the world was not justifiable." The dissenters, with whom I agree, concluded that the Sixth Circuit had read *Varity* "much too narrowly," that the early retirees had bargained with GM for coverage, and that GM had a duty to be completely open and forthcoming with these employees.

Similarly, in *Young v. Washington Gas Light, Co.* [206 F3d 1200 (Ca. DC 2000)], the court found that ERISA did not apply to a one-time retirement buyout because it was not an ERISA plan. The ERISA claims of the employees—that the company failed to inform them that it was restructuring and intended to implement a retirement incentive program—could not be litigated as a breach of fiduciary duty under the ERISA. In one case, potential retirees who were assured by their managers in a series of mass meetings that their health insurance could continue did not prevail because a third-party insurer, and not the company, administered the plan [*Bertram v. NuTone, Inc.,* 107 F. Supp. 2d 957 (S.D. Ohio 2000)]. In another case, employees were given a choice to retire or go to work for their firm's purchaser. Potential employees were never given the information about benefits that they needed to make an informed decision about retirement. The court found that plaintiffs' former employer, GE, had no duty to inform about their successor's, Martin Marietta's, benefits and that once retired, plaintiffs had no standing to sue Martin Marietta under ERISA [*Flanigan v. General Electric Co.*, 93 F. Supp. 2d 236 (D. Conn. 2000)].

Conclusion

Reluctantly, I recommend that Congress amend ERISA to guarantee jurisdiction and standing; to require that promises vest, even if the benefits promised do not; to allow common-law remedies for fraud, such as contract

reformation and rescission; and finally, to mandate that retirement incentives be offered both prospectively and retroactively to employees who retired a reasonable period before the offering.

I agree with Judge Jane Bond Arterton, an experienced ERISA attorney, who as a judge has dealt with some of the most complex recent cases in this area, that "Congress is the appropriate entity to balance the competing interests at hand" (*Flanigan*, at 242).

In another case where the plaintiff retirees complained that their employer failed to adequately inform them of the potential tax consequences of early retirement, two judges wrote concurring opinions calling on Congress to revisit ERISA and address the limited remedies available for breaches of the fiduciary duty to inform [*Farr v. U.S. West Communications, Inc.*, 151 F3d 908, 916 (9th Cir. 1998)].

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ERISA's Failure to Adequately Protect Defined-Contribution-Plan Participants

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Abstract

The last two decades have seen a significant movement toward defined contribution plans as the primary type of employer-sponsored pension plan. Although such plans are promoted as attractive to an increasingly mobile workforce, the reality is that they create the risk that millions of plan participants will retire with insufficient assets to see them through their retirement years. This paper examines the concerns raised by the provision of benefits through participant-directed defined contribution plans and the failure of the law to address those concerns. It offers as a solution to such concerns the elimination of participant direction of the investment of defined-contribution-plan assets.

Introduction

When Congress enacted the Employee Retirement Income Security Act (ERISA) in 1974, the pension landscape was dominated by defined benefit pension plans. Since 1974, the pension world has changed dramatically. The trend for many years has been away from traditional defined benefit pension plans and toward defined contribution plans as a means of providing retirement benefits to employees. Within the defined contribution genre, 401(k) plans have become the most dominant vehicle for providing such retirement benefits.

Notwithstanding the favorable attention garnered by defined contribution plans, they do not optimize the retirement accumulations of plan participants. Participant direction of investments, a characteristic of most 401(k) plans, raises real concerns, which are not sufficiently addressed by the fiduciary standards established by ERISA. Addressing these problems necessarily leads one to question how public policy should allocate the risks presented by the transformation to defined contribution plans.

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The Shift to Defined Contribution Plans

ERISA recognizes two broad categories of pension plans: defined benefit plans and defined contribution plans. In a traditional defined benefit pension plan, an employer pays retired employees a cash pension benefit, the amount of which is based on a predetermined formula. The benefit is funded by annual employer contributions to a trust, and a trustee or other fiduciary appointed by the employer decides how to invest the contributions to grow the trust.

In a defined contribution plan, the employer, and sometimes the employee, make periodic contributions to a pension trust, which are allocated to individual accounts maintained in the name of each plan participant. In over 80% of 401(k) plans, participants decide how contributions will be invested (Bureau of Labor Statistics 1998:139, table 165 [1995]). A retired employee's pension benefit is simply the value of the employee's individual account at retirement. Thus, in contrast to a defined benefit plan, the defined contribution plan benefit is not formulaically determined but rather is determined by contributions and investment gains and losses on those contributions.

Historically defined benefit plans were the norm. However, as a result of factors such as the greater cost to employers and increased regulation of defined benefit plans, the trend has been away from defined benefit plans and toward defined contribution plans. In the last 20 years or so, employers have established almost $700 billion of 401(k) and profit-sharing plans (Schultz 1996), and today, participant-directed 401(k) plans cover approximately 25 million employees, making such plans the fastest-growing component of private pension plans (Jefferson 2000).

Defined contribution plans are not merely supplemental plans providing tax deferral for affluent employees. For increasing numbers of employees, a 401(k) plan is the only meaningful source of retirement income. In 1993, 88% of private employers with single-employer pension plans sponsored only defined contribution plans, in contrast to 68% in 1984 (GAO 1996). Moreover, many employers who continue to maintain defined benefit plans after adopting a defined contribution plan freeze the benefit under the defined benefit plan, making the defined contribution plan the primary source of retirement benefit (PWBA Advisory Council 1997).

The shift in plan type is not merely a matter of semantics. Significant differences between defined benefit and defined contribution plans mean an employer's plan design choice has long-term effects on plan participants. Perhaps the most important difference relates to the allocation of investment risk. Defined contribution plans place investment risk upon the

participant, whereas the employer bears the risk in defined benefit plans. In the former, strong investment return means a higher account balance and larger pensions at retirement, whereas a poor investment return yields smaller retirement nest eggs. In the latter, regardless of how trust fund investments fare, the participant receives the same benefit. As the next section discusses, shifting investment risk from employers to employees is particularly noteworthy because defined contribution plans substitute investment decisions made by plan participants, who may not be sophisticated or knowledgeable investors, for decisions made by professional asset managers.

Concern Raised by the Shift to Defined Contribution Pension Plan Model

ERISA was drafted with the traditional defined benefit pension plan in mind. It was the plan design predominant when the statute was passed, and it was abuses of that type of plan that Congress intended to address. Indeed, participant-directed 401(k) plans did not exist prior to the enactment of amendments to the Internal Revenue Code in 1978. Although Congress has tinkered with ERISA over the years, it has not significantly modified the statute to address the change in the pension universe. As a result, ERISA is wholly inadequate to ensure that defined-contribution-plan participants retire with meaningful and sufficient retirement benefits.

Problems with Participant Direction of Investments

Defined contribution plans shift the risk of loss from employer to plan participant at the same time that investment decisions in such plans are made by unsophisticated employees rather than professional asset managers, as they are in defined benefit plans. Notwithstanding increased media attention to the stock market and the proliferation of Web sites offering investment strategies, ordinary workers lack the knowledge to invest wisely. Several studies have found that plan participants have a marked tendency to invest too conservatively to ensure sufficient benefits at retirement, disproportionately investing in fixed-income alternatives (Employee Benefits Research Institute 1996; Goodfellow and Scheiber 1997; Bajtelsmit and VanDerhei 1997). Where participants do invest more actively, they do so unwisely, responding to downturns by selling low or responding too late to market signals (O'Connell 1996).

This behavior illustrates the absence of participant knowledge and ability to invest wisely. Studies examining the knowledge and decision making of plan participants "consistently indicate that, although some plan participants are highly knowledgeable and make retirement savings decisions that are likely to lead to the accumulation of adequate retirement savings, many

participants suffer from financial 'illiteracy'" (Medill 2000). The studies reveal both a lack of knowledge and understanding of financial concepts and common financial instruments and an inadequate general knowledge of issues relating to retirement planning and savings.

The problem of participant direction is magnified by the plethora of investment choices available to plan participants. It was once the case that 401(k) plans offered a choice of four or five investment options, representing different categories of investment vehicles. In an effort to avoid challenges to their choice of investment options, many employers have moved to plan structures that provide participants with hundreds of investment options, for example, by having their plan managed by entities such as Fidelity or Dreyfus, with the result that all of that family of funds are available as investment choices, and participants can switch their account balances from fund to fund on a daily basis. The result is confusion and information overload.

Another problem is created by the option to invest in employer securities. More than two thirds of large public companies offer employer securities as one of their 401(k) plan investment options (Richardson 1995), and when they do, participants tend to invest their plan accounts disproportionately in that option. In large companies that offer employer securities as an investment option in 401(k) plans, frequently 30% to 40% of plan assets are invested in that option, and in a number of large plans, 90% or more of the assets are invested in employer securities (Kahn 1997). Perhaps more distressing, low-wage workers—those least likely to have alternative sources of retirement income—are much more likely to have 80% or more of their plan assets invested in company stock than their higher-paid co-workers (Goodfellow and Scheiber 1997). As I have explored elsewhere (Stabile 1998), the reasons for such overinvestment include direct or indirect employer pressure, matching contributions structured to promote or require investment in employer securities, and employee loyalty to the employer. Overinvestment in employer securities puts all of one's eggs (present job security and future retirement security) in a single basket, which no investment adviser would recommend.

Failure of ERISA to Adequately Address Problems with Participant Direction

Inability of fiduciary standards to provide meaningful protection. In response to the abuses and mismanagement of pension funds that existed prior to its enactment, ERISA imposes fiduciary duties on managers of pension plan assets. These include duties to act prudently, to diversify plan assets, and to act solely in the interests of plan participants.

Although the list of fiduciary duties sounds impressive, in reality the statutory standards mean little in the context of defined contribution plans. The reason is section 404(c) of ERISA, which provides that participants who exercise control over their plan account assets are not deemed to be fiduciaries by reason of such exercise and, more important, that no person who is otherwise a fiduciary to a plan is liable for any loss resulting from a participant's exercise of control. A participant exercises control over the assets of her defined contribution plan account when she receives adequate information concerning investments; has the opportunity to make independent investment decisions, including the ability to give investment instructions with appropriate frequency; and has access to a broad range of diversified investment alternatives. A plan that satisfies these requirements is essentially exempt from ERISA's fiduciary standards. Since the participant is not a fiduciary, she is under no obligation to diversify her portfolio or to invest in a prudent manner. More significant, compliance with 404(c) effectively shields an employer from liability for individual account losses suffered by plan participants.

There are several possible reasons for not applying the fiduciary standards of 404(a) to participant-directed plans. One is a belief that the standards are less applicable in the case of participant direction than in the case of employer-managed plans, which is obviously not the case. If anything, diversification and prudent investing are more important in defined contribution plans than in defined benefit plans since the consequences of investment decisions fall directly on the participant.

A second possible reason is the notion that if a participant does not follow the fiduciary standards and has insufficient retirement assets, the participant is simply out of luck. However, unless we are prepared to leave those who retire with insufficient retirement assets to their own devices, it matters how participants invest their funds. The reality is that the government will be forced to fill the void created by poor investment decisions.

Lack of meaningful limits on acquisition of employer securities. ERISA imposes no limits on the acquisition of employer securities by participant-directed defined contribution plans. ERISA does limit the acquisition of employer securities by defined benefit plans to up to 10% of their assets. Additionally, ERISA was amended in 1997 to impose a similar 10% limit on employer security acquisitions by *employer-directed* defined contribution plans. However, since most 401(k) plans are structured to permit employees to direct the investment of their plan account balances, the newer restriction only affects a small number of pension plans.

The lack of meaningful limits on the acquisition of employer securities by defined contribution plans in which participants make the investment

decisions increases the risk that employees will retire with insufficient assets in their plan accounts. Nothing in ERISA protects against excessive investment in employer securities since the effect of section 404(c) of ERISA, discussed already, is to render the fiduciary standards of prudence and diversification inapplicable to these investment decisions.

Failure of participant education. The question arises whether participant education can serve as an alternative to meaningful fiduciary protections. Can we sufficiently educate defined-contribution-plan participants so that ERISA's fiduciary standards are not needed for participants to make investment decisions that will ensure account balances sufficient to provide meaningful and adequate retirement benefits?

Employers do attempt to educate their plan participants, and the Department of Labor has made it easier for them to do so by providing guidance to employers as to how they can offer investment-related educational information to their employees without being considered to be giving investment advice within the meaning of ERISA, thus removing employers' fears that educating participants would create potential fiduciary liability. However, empirical evidence suggests that education has not been effective, with studies finding that participants continue to invest too conservatively despite investment education programs (Employee Benefits Research Institute 1996). There are several possible explanations for that failure.

First, employees are not an easy group to educate. For the most part, employees want only to be told how to invest their retirement accounts and lack the desire to invest time in understanding the particulars of investing or their overall financial portfolio (Brenner 1996). Employees want employers to tell them how to invest, not to show them how to make investment decisions. As a result, despite the fact that employers increasingly provide employees with investment education, employees continue to invest unwisely.

Second, education is particularly unlikely to affect decisions to invest in employer stock. Because those decisions are frequently based on emotional and psychological factors, such as loyalty to the employer, they are not likely to be affected by general investment information and asset allocation models. For that reason, even employees who are generally sophisticated and who appreciate the dangers of nondiversification overinvest in employer securities.

Improving the Odds of Ensuring Meaningful Retirement Income

The massive shift to defined contribution plans, unaccompanied by meaningful amendment of ERISA to deal with the unique problems posed by such plans, is a dangerous one. That danger forces us to reconsider how we can best ensure meaningful benefits for today's workers. Is there an

alternative to the massive move to defined contribution plans in which participants direct the investment of their own accounts? Many employers think so and have responded by converting their defined benefit plans into cash balance arrangements, hybrid pension vehicles that exhibit both defined benefit and defined contribution characteristics. Nineteen percent of all Fortune 1000 firms now sponsor cash balance plans, and such plans cover about 2.1 million employees (GAO 2000). However, despite their increasing popularity, the process of converting defined benefit plans into cash balance ones raises a whole set of concerns, ranging from potential age discrimination to insufficient communications to plan participants, making it questionable whether such plans offer an optimal solution to the concerns I raise.

I propose consideration of a different alternative. The major source of concern with defined contribution plans is participant direction of investments, combined with the inability of ERISA's fiduciary standards to meaningfully address participant direction. I propose that the source of the problem be addressed directly. By that I mean that Congress should consider amending ERISA to do away with participant direction in 401(k) plans. Doing away with participant direction of investments has the result of subjecting defined contribution investment decisions both to the prudence and diversification standards imposed on fiduciaries by section 404(a) of ERISA and to the limits ERISA currently imposes on acquisitions of employer securities by defined benefit plans and employer-directed defined contribution plans. It also replaces uninformed participant investment decisions with professional asset management, as exists in defined benefit plans. It thus directly addresses the reasons that defined contribution plans create such a risk of insufficient retirement savings.

There is no question that there would be some opposition to my proposal, as a majority of plan participants express a preference for making plan investment decisions (Employee Benefits Research Institute 1994). However, fear of opposition may be overstated. Surveys demonstrate that about one third of plan participants would prefer to have their employers make their investment decisions (Employee Benefits Research Institute 1994; Yakoboski 1995:20). Additionally, only about one quarter of plan participants believe that they are qualified to make their own investment decisions (Yakoboski 1995:20), suggesting that it may be possible to persuade participants that exchanging individual choice for higher investment returns is a good trade-off.

This proposal consciously replaces a model of individual responsibility with a paternalistic one. The problem with the individual responsibility model is that the individual is not the only one who bears the costs of her

bad investment decisions. If the average worker cannot make decisions that will ensure financial security throughout retirement, the government will be forced to fill the void. The size of that void is potentially enormous, as both the number of elderly and their life expectancy rise. Since we would not and should not take the position that plan participants have the sole obligation to ensure that their account balances are sufficient at retirement to meet their expenses, there is a justification for paternalism here, just as there is with other paternalistic laws designed to reduce societal costs.

Conclusion

I recognize that participant direction of investments is seen by many as a basic feature of 401(k) plans and that many participants like the control such plans give them over their future standard of living. However, the risks created by participant direction are enormous, and we will all have to bear the brunt of unwise investment decisions. That means it is not sensible to leave investment decisions entirely to personal decision making or to give employees the freedom to retire with insufficient assets. It is for that reason that I offer for consideration the idea of dispensing with participant direction. Doing so provides the flexibility and mobility of defined contribution plans with the professional asset management afforded by defined benefit plans.

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X. GENDER AND WORKPLACE INEQUALITY

A New Look at the Gender Earnings Gap for College Graduates

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Abstract

In this paper we analyze the female–male gap in starting-salary offers for new college graduates using data from the annual surveys of the National Association of Colleges and Employers. We find that as much as 90% of the overall aggregate gender gap in starting-salary offers may be attributable to the differences in college majors selected. However, we still find evidence of differential treatment of men and women, as revealed by differences in starting-salary offers for individual majors.

Introduction

It is well known that the overall female–male earnings gap in the United States has fallen in the past two decades. After remaining roughly constant at about 0.60 from the 1950s to the early 1980s, the ratio of average annual female earnings to that of males stands at about 0.68 as of 1998, according to the Census Bureau's P-60 series on mean annual earnings for full-time, year-round workers (U.S. Department of Commerce 1995–1998). The ratio of median usual weekly earnings of full-time wage and salary workers for women relative to that of men is somewhat higher at 0.76 as of 1998 (Bowler 1999:16).

Somewhat less attention has been directed to the gender earnings gap for college graduates, especially the difference between female and male earnings shortly after graduation. According to the P-60 data, over the second

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half of the 1990s, the female–male annual earnings ratio for young (18–24 years of age) college graduates with a bachelor's degree has generally averaged about 0.90. However, because the reported earnings averages are for persons in the 18–24 age range, they reflect both starting salaries on graduation and possible gender differences in earnings growth for several years after graduation.

In this paper we analyze the female–male gap in starting-salary offers for new college graduates using a data set that (to the best of our knowledge) has not previously been used by economists in the analysis of gender pay differentials. We seek to determine the extent to which differences in the overall gender gap in starting salaries of new college graduates can be explained by differences between men and women in the majors they have selected. The data we use are from the annual surveys of the National Association of Colleges and Employers (NACE), which since 1968 has surveyed beginning salary offers for a large sample of male and female college graduates. An important advantage of the NACE data is that salary offers are broken down by detailed major fields of study (currently 79 majors).

In the next section, we briefly review the prior studies that have attempted to determine how much of the gender earnings gap can be attributed to male–female differences in college majors. We then use data from the NACE surveys to construct an annual time series of the ratio of female–male average starting-salary offers from 1969 to 1999. Using simulation, we then calculate what these salary ratios would have been if women had the same distribution of majors and offers as men. One advantage of working with a data set on *starting* salaries for new college graduates is that we can remove the possible confounding effects of gender differences in experience, promotions, job changes, and other factors on the gender earnings gap. The difficulty in controlling for such factors has been in part responsible for the disagreement among researchers as to just how much of the gender earnings gap is attributable to discrimination.

Previous Studies

Over the past several decades, there has been a marked shift in the college major decisions of women. Women have been moving away from majors in which they were disproportionately concentrated (such as education and the liberal arts) and into majors in which they have been underrepresented (such as business and engineering). However, only a few studies have attempted to estimate how much of the gender wage gap among college graduates is due to these differences. We review briefly what they have found.

Using a 1993 National Science Foundation sample of individuals who reported in the 1990 census that they had a college degree, Hecker (1998)

performed simulations to see what the median earnings for female graduates would be if they had the same fields-of-study, age, and degree-level distributions as male graduates. He found that about one third of the female–male earnings gap for all college graduates can be attributed to choice of major (Hecker 1998:69).

Brown and Corcoran (1997:433) used data from the Survey of Income and Program Participation (SIPP) and the National Longitudinal Study (NLS) of the High School Class of 1972 to estimate the effects of college majors on the wages of adults. They found that after controlling for demographic and work-experience differences, differences in college majors account for just under half of the gender earnings gap that they observed.

Eide (1994) used the NLS High School Class of 1972 and the High School and Beyond surveys to see how much of the rise in the ratio of female to male college graduates' hourly wages over the 1979–1986 period can be explained by the convergence of majors. He found that gender differences in the distributions of majors account for about 27% of the wage gap for each cohort he examined.

Using data from the NLS High School Class of 1972 and the High School and Beyond senior cohort, Loury (1997) estimated the extent to which selected characteristics of college education were responsible for the fall in the gender earnings gap among full-time workers in the 1980s. She found that only a small part of the decline in the gender earnings gap for young college-educated workers over this period was due to changes in the distribution of majors among college-educated women.

Two earlier studies that also used NLS data are worthy of mention. Daymont and Andrisani (1984) found that differences in college major accounted for between 28% and 43% of the earnings gap between female and male college graduates in 1978. Angle and Wissmann (1981:32), however, found that only about 10% of the gender difference in hourly earnings over the 1968–1975 period could be explained by chosen major.

Finally, two studies analyzed the question using data from a single institution. Gerhart (1990) examined a single, large, private-sector firm over the period 1976–1986 and found that college major accounted for 43% of the differences in starting salaries between men and women. And Graham, Hotchkiss, and Gerhart (2000) compared starting salaries for a sample of 951 bachelor's degree recipients from a single "prestigious" university in the years 1985–1988. They found that 36% of the pay gap (the average female–male starting-salary ratio was 0.91) was due to employers' paying lower starting salaries to women possessing the same qualifications (such as major) and working for the same firms as men.

It is clear from these studies that the choice of major has had some effect on the gender earnings gap for college graduates. But that seems to be the only conclusion that the studies have in common. Depending on the study, choice of major can explain anywhere from about 10% to more than 40% of the earnings gap. Of course, differences in the approaches taken, the years studied, and the control variables used are responsible for some of the variation in the findings. A problem with most of the studies, however, is the very high degree of aggregation in the definition of major (e.g., science, engineering, humanities), no doubt a consequence of the small sample sizes. Lumping majors together in such broad categories can mask salary differences and may result in researchers' miscalculating the true effects of major on the gender earnings gap. Furthermore, most of the prior research studied salaries for college graduates with several years of work experience. As a result, the confounding effects of experience and other factors may further bias estimates of the true effects of college major on earnings.

The NACE Survey

Since 1960 the National Association of Colleges and Employers (NACE) has undertaken an annual survey of beginning salary offers made to new graduates by employers in business, industry, government, and the nonprofit sector (NACE 1967–1999). The survey is based on information provided by about 350 career planning and placement offices of colleges and universities across the United States. The institutions participating in the survey are broadly representative of all colleges and universities with respect to size, region, and public–private mix. Average salary-offer information in the NACE salary survey is reported separately for women and men in each of nearly 80 different majors and in more than 80 different "functional areas," or types of first jobs. The number of salary offers reported varies over the years (see table 1), but the total for 1999 was 29,777—much larger than in most other studies.

There are some limitations of the NACE data for our purposes. First of all, the NACE survey period is truncated; information is collected for each graduating class only through August 31 of the "recruiting year." This means that salary offers in those majors where job offers are plentiful are overrepresented in the NACE survey results. Also, gender differences in the average number of offers *within* majors might also cause the distribution of the number of offers to not reflect the actual gender distribution of majors within the NACE data. The evidence on this issue is unclear, however. Graham, Hotchkiss, and Gerhart (2000:16) report that the men and women in their sample received virtually the same number of job offers (2.85 and 2.86,

respectively), whereas Joy (2000:474) states that "women are more likely than men to report that [their first job] is their only job offer."

The Gender Salary-Offer Gap: What the NACE Data Show

In table 1 (column 2) we present our calculations of the overall ratios of average female–male beginning salary offers (for all majors combined), along with the number of reported offers (column 4), using NACE data for each year since 1969. With their values fluctuating around 0.90 from 1976 on, the overall female–male salary ratios in table 1 are comparable to those based on P-60 data (at least for the mid- to late 1990s) and also to those of the Graham, Hotchkiss, and Gerhart (2000) and Gerhart (1990) studies (which were based on data from one university and one firm, respectively). These two studies, it should be recalled, also analyzed average *starting* salaries of new college graduates. Interestingly, the gender salary-offer ratios in table 1 show remarkable long-term stability, varying from 0.90 in most years by no more than a percentage point or two. It is also clear that the period of the early 1970s was one of a substantial narrowing of the gap: from 1969 to 1976, the female–male starting-salary ratio rose by about 13 percentage points.

How much of the gender starting-salary gap in the NACE data can be explained by gender differences in majors and offers? We make use of a simulation technique similar to that used by Treiman and Hartmann (1981) and estimate what the overall female–male starting-pay ratios would have been if women had the same distribution of majors and number of offers by major as men. In other words, we apply female average salary offers by major to the male distribution of the number of offers by major and recalculate the overall gender salary ratios for each year. The resulting simulated gender salary ratios are reported in column 3 of table 1. What is remarkable is that the simulated gender pay ratio rises to about 0.99 in most years (and for several years in the late 1970s actually reaches unity). In other words, about 90% of the roughly 10 percentage-point overall gender salary gap present in the NACE salary data seems to be explained by gender differences in majors and number of offers. This finding contrasts sharply with previous studies that found that college major could explain somewhere between 10% to 40% of the earnings gap. Again, though, most of these prior studies did not look at *starting* salaries after graduation, and most also used extremely broad major groupings. Some might be tempted to infer from table 1 that the magnitude of *wage* discrimination against women immediately upon college graduation is nonexistent or small. As we later argue, this conclusion is not necessarily justified.

Table 2 presents yet another look at gender differences in starting salaries from a different perspective using the NACE data. In column 2 we

TABLE 1
Actual and Simulated Female–Male Ratios of Starting-Salary Offers, 1969–1999

(1) Year	(2) Female–male salary ratio	(3) Simulated salary ratio[a]	(4) Number of reported offers
1999	0.893	0.992	29,777
1998	0.880	0.987	27,625
1997	0.897	0.996	21,634
1996	0.897	0.989	21,280
1995	0.896	0.989	18,319
1994	0.909	0.990	15,862
1993	0.907	0.998	18,926
1992	0.902	0.993	19,654
1991	0.895	0.992	24,279
1990	0.907	0.994	33,844
1989	0.912	0.994	39,018
1988	0.922	0.993	32,708
1987	0.911	0.991	24,990
1986	0.904	0.994	32,965
1985	0.904	0.996	44,479
1984	0.896	0.991	42,393
1983	0.897	0.993	33,604
1982	0.895	0.996	51,290
1981	0.902	0.996	62,835
1980	0.902	0.997	62,887
1979	0.904	1.003	61,792
1978	0.891	1.002	52,670
1977	0.895	1.006	38,697
1976	0.893	1.006	27,525
1975	0.862	1.003	24,451
1974	0.861	0.990	32,306
1973	0.839	—	24,226
1972	0.799	—	15,757
1971	0.775	—	13,907
1970	0.772	—	18,545
1969	0.762	—	39,451

Source: National Association of Colleges and Employers (1969–1999).
[a] Prior to 1974, female salaries were not reported by major.

have calculated the (unweighted) mean difference in average annual starting-salary offers across the various majors. For example, in the typical major field in 1999, male graduates were offered starting salaries averaging $1,122 higher than salaries offered to female graduates. As can be seen for each year over the period 1974–1999, average male starting salaries by major exceeded average female starting salaries by major. Although male salaries are not higher than those of females for all majors, column 3 shows

that this is the case about 60% to 70% of the time. Furthermore, this percentage holds fairly steady over most of the 1974–1999 period.

TABLE 2
Gender Differences in Starting Salaries across Majors

(1) Year	(2) Avg. gender difference in salary offers across majors	(3) Majors with avg. male offer > avg. female offer (%)	(4) Number of majors
1999	$1,122	65.3	75
1998	1,099	68.8	77
1997	827	64.9	74
1996	1,084	67.5	77
1995	1,010	68.1	72
1994	724	63.9	72
1993	818	61.8	68
1992	1,238	65.7	70
1991	1,215	70.6	68
1990	1,068	67.6	68
1989	1,003	70.1	67
1988	796	73.8	42
1987	305	57.7	26
1986	327	64.0	25
1985	856	64.0	25
1984	494	64.0	25
1983	460	66.7	24
1982	557	56.0	25
1981	497	66.7	24
1980	556	75.0	24
1979	373	66.7	24
1978	344	60.9	23
1977	141	61.9	21
1976	83	52.4	21
1975	272	65.0	20
1974	248	65.0	20

Source: Computed from National Association of Colleges and Employers (1974–1999).

A closer examination of gender differences in salary offers by specific majors (not shown in the table) reveals some interesting patterns. For example, NACE reported average salary offers for 19 different engineering major fields in 1999 (mechanical, civil, industrial, etc.). In 16 of these major fields, average starting-salary offers for women exceeded those of men. However, in three other broad major categories (business, with 10 different majors reported; humanities and social sciences, with 11 different majors; and science, with 12 different majors), average salary offers for

men almost always exceeded those for women (in 28 of 33 majors). Moreover, this pattern persists over virtually the entire period from 1974 to 1999. In more than half of the engineering major fields, average starting-salary offers for women exceed those for men. But in the business, humanities and social sciences, and science major groupings, average salary offers for women only rarely exceed those for men (about 15% of the time). This finding contrasts sharply with what Joy (2000) found for 1993 graduates.

But why are there differences in starting-salary offers to men and women in the same major? Because our data do not allow us to address this question in any detail, we can only offer several hypotheses from the literature. For example, women may be more apt to work for smaller firms that tend to pay less (Graham, Hotchkiss, and Gerhart 2000:15). Or perhaps women are not as willing as men to negotiate, thus failing to obtain the best possible starting salary (Gerhart 1990:430). Women may also face more (self-imposed?) constraints in their job search—for example, placing a higher premium on location than men do—which might translate into a lower starting salary. The fact that women and men have different tastes and job preferences—even though these seem to be slowly converging—may mean that men and women value different features about jobs. Majors may also be imperfect signals of the types of skills that employers value highly.

On the other hand, the starting-salary-offer gap may also reflect discrimination on the part of employers. Gerhart (1990:424) points out that the hiring process is more apt to be influenced by group stereotyping and discrimination because less information is available about new hires than about current workers. If discrimination is indeed the cause, then accepting a lower starting salary might be a rational strategy for women to gain access to a firm (Gerhart 1990:430). Thus, it may be that employers' views about women as employees and female employees' strategies, given these views, lead to differential starting salaries for men and women.

Conclusions

The NACE data provide us with an interesting new look at the gender salary gap for college graduates. We have found that a very high proportion of the overall salary gap—much higher than found in previous studies—may be attributable to gender differences in the selection of college major. Nevertheless, there is still strong evidence of differential treatment of men and women in starting salaries, as the information on gender differences for some majors reveals.

In any case, we should stress that our findings thus far are preliminary, and there is still much more that we hope to do. For example, the NACE

surveys also report starting-salary offers by functional areas, and as of 1999, about 80 such job categories are listed. It will be interesting to see the degree to which gender differences in starting salaries exist across these categories.

Acknowledgment

The authors wish to thank the National Association of Colleges and Employers for permission to use the NACE salary surveys. Any errors remain the sole responsibility of the authors.

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Gender, Sex, and Salaries in Academe: Is Productivity Enough? Academic Income Returns on Sexist, Racist, and System-Defender Ideologies

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Abstract

Persistence of the gendered wage gap suggests that nonperformance factors may matter to pay. This paper explores whether ideologies, particularly gender-related ideologies, influence the wage. Using original data collected in 1998 from a national sample of faculty, we find significant academic income returns on holding ideologies that may be categorized as racist, sexist, and ideologies of system defense, that is, belief in the goodness of inequality and hierarchical ordering as a value in and of itself. Among these faculty respondents, income returns on these ideologies are highest when held by women. At the same time, returns on actual job-related performance measures are enjoyed to a greater extent by respondents who are men.

Gains by women and people of color remain sparse in the year 2000. Those seeking to move beyond increasingly elusive barriers to understand why this is so and to gain direction for redress are beginning to shift from thinking about "sex differences" to gender ideology, which suggests powerful mechanisms by which dominance is reproduced (Foster 1999). One such mechanism is the subject of this paper: patterns of ideological beliefs held by faculty members on college campuses and universities in the United States today. Because of faculty's role in the transmission of knowledge, beliefs arguably matter more in this group for ideological reproduction than in groups with a role less central to teaching; the degree to which gender-based

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beliefs receive support may then tell us something about the slow pace of change toward greater equality.

Data from a 1998 national survey of sociology and business academics showed significant returns to academics of both sexes who hold ideological views that may be categorized as sexist, ideological views that may be categorized as racist, or ideological views that justify and endow the capitalist market model of inequality with goodness, beauty, and truth: dominants' views, held by system defenders. While individual-level productivity matters to income as well, tangibly rewarding these particular sets of beliefs may logically encourage their communication in the academic environment.

Background

Each step of research documenting sex and gender wage differentials has faced objections about why that effect is not really true and that after all, markets (including labor markets) really do clear: pay is driven by performance. Early work on sex discrimination that evaluated differences by the "sex effect" identified both wage and promotion penalties, as well as job segregation consequences, to being a woman (Blau 1984; Bergmann 1986; Reskin and Hartmann 1986; Gordon and Strober 1975). This work faced assertions that lower wages earned by women no doubt reflected some nonmeasurable additional information uniquely associated with that sex, such as the supposition that women performed less well, had less energy at work, or merely preferred low-wage, tedious, dead-end, no-benefit work (Becker 1957, 1985; Smith and Ward 1984).

Later gender research found some differences between men and women in job attribute preferences, but more similarities, and in particular found that women do not prefer boring, low-wage, dead-end, no-benefit work (Konrad, Ritchie, Lieb, and Corrigal 2000) and do perform equivalently on the job, although they are nonetheless paid significantly less (Spitz 1991).

However, gains by women and people of color remain embarrassingly small by any standard. Full-time, year-round working women earn 70 cents to every man's dollar today (U.S. Census Bureau 2000b), up from 62 cents in 1975, and even high-visibility leadership positions do not show much attainment. An incoming U.S. Senate that is 13% female holds the largest women's representation ever.

Current Dominance Beliefs

In the face of continued demonstrations of statistically significant differences in treatment of and outcomes for women and people of color, most people are persuaded today that discrimination, if it ever occurred, is a thing of the past (Bergmann 1996). This may be true in academe as well,

where some assume that the MIT study recognizing discrimination in faculty treatment (MIT 1999) is either invalid or unique, that an overwhelmingly white male tenured faculty is the result of a system of merit where people create their own good or bad outcomes through decisions and effort (Mirowski and Willigan 1996), that when all have an equal chance, differences in outcomes stem from differences in individual input alone (Herrnstein and Murray 1994).

Classic economic theory models this type of market exchange, where each product is sold for its true value, including the product of labor (Hicks 1935). Reasonable levels of competition ensure that no actor can engage in inefficient preferences, such as employers who might otherwise indulge their taste for discrimination (Becker 1975).

By contrast, the movement of feminist research beyond sex into gender recognizes the systemic and structural barriers, impediments, and mechanisms that channel outcomes into tradition maintenance through the perpetuation of gendered social structures (Gutek 1993); hierarchical ordering is seen as fundamentally patriarchal and gender driven (Nelson 1996). Gender structures differ from simple sex identity but are as ubiquitous: "Patriarchal relations operate throughout society, including production. Everywhere they are in interaction with economic class relations and relations of racial domination" (Cockburn 1991:7).

While it is undeniable that groups who dominate the development of a theory, field, or system will place in positions of prestige questions and understandings congruent with their acculturation and standpoint (Ferber and Nelson 1993), whether the perpetuation of those systems is enacted by that same group or not is an empirical question. It is not clear, a priori, that sex as genitals and ideology as beliefs necessarily always match: demographic identity and opinions or belief structures are separate, although related, constructs (Rhodebeck 1996). Brandt (1999), for example, argues that entry into culture means speaking men's language, that is, the masculinization of women. Just as stereotypes justify the societal arrangements by which disadvantaged groups have low status, entering into a culture where those stereotypes are accepted may require adherence to those values and beliefs. If patriarchal beliefs are widely advanced by women, this may explain at least part of why the small but tangible inroads made by women have not more rapidly facilitated other women's gains.

To explore this thesis, we sort out three major elements, in addition to simple sex, of this integrated system favoring dominance and inequality: sexism, the set of values and beliefs that favor inequality and that place women behind men; racism, the set of values and beliefs that favor inequality and that place persons of color behind those of Western European

descent; and market capitalism, the set of values and beliefs that favor inequality in general and that place those bringing labor and more modest capital endowments to the market behind those bringing larger premarket wins. While these three dominance elements are likely to overlap, they may be distinguished in their particulars as well.

Those supporting the first two of these elements, sexism and racism, are currently engaging in an ideological and legislative backlash, engaging in specific actions to limit others' attainment and acting from a felt sense of decline in importance, influence, and power (Faludi 1991). Such supporters deny that discrimination exists and paint affirmative action remediation programs as market distortions that give unfair advantage to less-qualified women and people of color (Herrnstein and Murray 1994). Those supporting the latter element, capitalist inequality, suppressed dissent through a repressive backlash in the 1950s and today enjoy global wins that facilitate much broader capital-inequality domination worldwide.

The college and university academic structure in the United States is central to the perpetuation of such an interrelated system of domination and inequality. In 1940 some 5% of the population in the United States aged 25 or older held a college degree; by 1970, that number had risen to 12%, and it stands at some 25% of the U.S. population over 25 today (U.S. Census Bureau 2000a). Because this portion of the population disproportionately extends itself in positions of influence, commerce, politics, and power (Lukes 1974; Mills 1959), the education and training that college, professional, and university students receive offers one important avenue for those vested in the current order of things to perpetuate this dominance state, as well as an avenue for its opposition. If there were such a perpetuation mechanism, it should be visible among those entrusted to teach in that arena.

Hypothesis 1: Academic income is positively influenced by individually held sexist beliefs, all else (including productivity) held equal.

Hypothesis 2: Academic income is positively influenced by individually held racist beliefs.

Hypothesis 3: Academic income is positively influenced by system-defense ideology.

Such beliefs should be visible among women academics as well as men. Since, in general, discriminatory practices have excluded women from political and other leadership positions (England 1993), those women desiring the larger rewards of honor, power, and money associated with activities traditionally regarded as male may find a screen of intellectual conformity that is more stringent than the screen for sex. The finding that women judges are

harsher in their sentencing than are men judges (Steffensmeier and Hebert 1999) suggests such a pattern, where it is more important for women to prove their value by adhering to dominant ideology than it is for men.

Finally, individual productivity and performance, while cited as the drivers of reward in economic theory, corporate manuals, and popular culture, is a mechanism that has been found to work mainly, and sometimes only, for men: in at least some work settings, women's performance is not a significant predictor of reward (Spitz 1991).

Hypothesis 4: Ideology matters more to income for academic women than men.

Hypothesis 5: Performance matters more to income for academic men than women.

Sample and Data

A questionnaire was mailed in the spring of 1998 to 840 sociology professors listed in the American Sociological Association's membership list and 643 professors listed in the Academy of Management's strategy division, a stratified random sample selected from the two larger lists. A stamped return envelope was included, and a follow-up letter with a survey was sent again six weeks later. Some 355 sociology replies and 210 management replies translated into a total of 282 usable cases; we selected only those who completed all parts of the rather lengthy survey and those with positive current academic income in the United States. The extremely small number of people of color in this sample unfortunately prohibited inclusion of that factor in this analysis.

Productivity was measured as number of publications and as the amount of outside research funding the respondent gained in the last five years; controls include years of experience, degree, working in a research institution, and sex.

Results

Means (see table 1) of $51,840 for income and 10.64 for publication of articles suggest that this sample is reasonably representative of college and university professors in the United States today. The sample, 59% male, held on average 12 years of experience, had a Ph.D., and brought in between no and $175,000 in external funding. Women earned on average $41,280 to men's $58,960, a ratio of 0.70, matching the last Current Population Survey results. Women published about half as much as did men and brought in half the external funding. Academic women also seemed to be somewhat less sexist, less racist, and less extreme in their system-defender

TABLE 1
Academic Income Returns on Sexist, Racist, and System-Defender Ideologies

	Means	
	Male faculty	Female faculty
Sexism index[a]	7.03	5.06
Affirmative action advances less-qualified women over men.	2.18	1.46
Perhaps there used to be sex discrimination, but this is not the case today.	1.73	1.20
Evaluations here are biased by sex so that men are advantaged. (reverse coded)	3.11	2.42
Racism index[a]	6.85	5.26
Affirmative action advances less-qualified African Americans over whites.	2.23	1.57
Perhaps there used to be race discrimination, but this is not the case today.	1.55	1.18
Evaluations here are biased by race so that white people are advantaged. (reverse coded)	3.05	2.56
System-defender index[a]	8.47	7.33
In general, I think inequality is a good idea.	1.71	1.45
Inequality is due to lack of effort on the part of unsuccessful people.	2.09	1.53
Unequal outcomes are due to differences in individual ability, talent, or qualification.	2.26	1.61
Everybody gets a fair chance in the United States today.	1.83	1.37
Inequality is usually due to unequal access to education. (reverse coded)	2.24	2.13
Academic income ($, thousands)	58.96	41.28
Publications		
Journal articles	13.13	7.04
Book chapters	1.25	1.00
Books	.86	.48
External funding obtained in the last 5 years ($, thousands)	202.57	92.72
Years of experience as faculty	14.58	7.78
Degree (Ph.D. = 3, master's = 2, bachelor's = 1)	2.88	2.66
Institution's primary focus (teaching = 1 to research = 4)	2.56	2.82

[a] Indices are sums, with variables coded 1 = strongly disagree to 4 = strongly agree.

views: table 1 shows the specific survey questions from which these three indices were constructed.

Correlations (not shown) indicate that while being male is significantly related to income, so are holding sexist beliefs, racist beliefs, and the system-defender ideology; the latter three are related to being male as well as to each other. Accordingly, the three ideologies were estimated separately.

TABLE 2
Academic Income Returns on Sexist, Racist, and System-Defender Ideologies

	Male faculty			Female faculty		
	(1)	(2)	(3)	(4)	(5)	(6)
Sexism index	.15**			.18***		
Racism index		.16**			.19***	
System-defender index			.19**			.22***
Publications						
Articles	.16**	.17**	.15**	.32***	.32***	.37***
Book chapters	.04	.03	.04	–.05	–.03	–.06
Books	–.04	–.03	–.02	.13*	.12*	.08
Funding, last 5 years	.26***	.25***	.27***	–.06	–.08	–.05
Degree	.31***	.31***	.31***	.45***	.46***	.41***
Years experience	.19***	.19***	.18***	.12	.10	.11
Research institution	.13**	.13**	.11*	–.01	–.01	–.02
F statistic	13.71***	13.88***	14.58***	19.48***	19.64***	20.81***
R square	.40	.40	.41	.61	.61	.63

Ordinary least-squares regression beta weights, dependent variable: academic income
* $p < .05$, one-tailed in expected direction
** $p < .05$, two-tailed
*** $p < .01$, two-tailed

Ordinary least-squares regression results shown separately for male and female academics (table 2, showing relative beta weights) corroborate these relationships, with both male and female faculty showing substantive and positive returns on holding sexist, racist, and system-defender views.

These results offer support for hypotheses 1, 2, and 3. Women were rewarded for these three sets of ideological views but only marginally more than were men, offering ambivalent support for hypothesis 4.

Finally, the publication of articles was rewarded more heavily in the case of academic women than in the case of academic men. However, getting external funding operated in the opposite manner: academic men received significant rewards on funding, but there were no significant returns on funding for academic women. This result offers mixed signals for hypothesis 5. Women received no rewards for years of experience or for working in a research institution, factors rewarded for men.

A comparison of the *R* squares for the male and female runs indicates stronger explanatory power overall from these variables in predicting women's academic income than men's academic income. Ideology, performance, and controls explain over 60% of the variability in women's academic income but only 40% of academic income for men, again suggesting that ideology may matter more to women.

Interpretation and Conclusion

Rewards on sexist and racist ideologies and system-defender beliefs matter. Women and men who can convince themselves that there is no discrimination by sex or by race and that everyone in the United States now gets an equal chance stand to earn many more thousand dollars per year than women and men who recognize wage and treatment difference data. That women hold less sexist views might be expected but that racist and system-defender views are also so held suggests that a more broadly based egalitarian view falls along sex lines as well.

These cross-sectional data cannot differentiate between women and men who held those beliefs prior to joining the academy and those who saw payoffs to adopting those beliefs later on. In either case, however, participating in an academic environment with that set of nontrivial rewards seems likely to influence students' ideologies, too.

This research does not have a happy ending. Earlier assertions by system defenders that anyone can get ahead who exerts effort, is smart, is productive, and places themselves in the labor queue, implied a plan of action for those women and minorities who wished to join power-, honor-, and money-laden jobs: get the degree, work hard, accomplish much, and you too will be rewarded. The finding that such elements are collectively worth only little more than holding racist, sexist, and system-defender ideologies means that such activities will pay off fully only if you not only behave like the dominants but share their ideologies too. Actually, it will not pay off fully then, either, since according to these results, one need not only get the degree; work hard; accomplish much; and hold sexist, racist, and system defender views, one need also become a man. To answer the question the title of this paper asks: no, productivity is not enough.

It is not surprising, given these reinforcements, that women as well as men hold these beliefs; rather, the surprise is that there are so many female and male academics who do not. While some critical thinkers choose other ways to make a living and contribute their skills and thoughts to the world, at least some of those women, and men, who reject sexist, racist, and system-defender ideologies are willing to remain underpaid in academe to contribute the other point of view. The upside is that the tenacity of those who recognize problems of inequality in its various forms ensures that not all students will, by default, turn into committed ideologues thinking, and thus presumably acting, against stated goals of equality and merit reward.

Acknowledgments

An earlier version of this paper was presented at the Industrial Relations Research Association in New Orleans, Louisiana, on January 7, 2001.

We would like to thank Marianne Ferber, Heidi Hartmann, and members of the audience for helpful comments.

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XI. DO LIVING WAGE LAWS BENEFIT WORKERS?

The "Social Movement" Dynamics of Living Wage Campaigns

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Abstract

Most analyses of living wage ordinances concern their economic consequences. This paper instead looks at the public campaigns that have been conducted to win passage of these ordinances. It analyzes the social composition of most living wage campaigns, the nature of alliances between organized labor and community partners, whether social movements emerge and to what degree, and whether new social movement organizations (SMOs) are created. Both limitations and possibilities for genuine social movement creation are uncovered. If "social movement unionism" is needed for organized labor's revival, the living wage issues may be one key to the turnaround of the labor movement's fortunes.

Living wage ordinances, which require certain employers to pay all employees at or above the government-defined poverty level for a family of a specified size (usually 3 or 4 people), have now been passed in over 50 localities in the United States. Required wage levels range from about $7 per hour up to $11 per hour; some ordinances require that health insurance or an additional hourly wage be added. Some ordinances cover only employees of service contractors, with the city or local public entity passing the ordinance, others also include companies receiving public subsidies, a few cover the employees of the public entity, and occasionally workers at

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the local airport are also covered. All living wage ordinances aim to see that public money is not used to create or subsidize "working poverty," sub-poverty-level income despite full-time, year-round work. It is argued that this is bad public policy.

Most analyses of living wage ordinances deal with their economic consequences: costs and benefits and their distribution, effectiveness in alleviating poverty, possible unintended consequences, overall impact on a local economy, and so on. But it is equally interesting to look at the public campaigns that have been conducted to press for passage of these ordinances. Who is involved in the coalitions pressing for enactment? Have the campaigns led to enduring alliances between organized labor and community and religious groups interested in combating inequality and poverty? Have genuine social movements developed where the living wage issue has played a major part? Finally, have new organizations of the type that social movement theorists call *social movement organizations* (SMOs) emerged from living wage campaigns? This paper briefly addresses questions of this nature.

Who Is Involved in Living Wage Campaigns?

A few living wage ordinances have been passed with virtually no significant social actors pushing for passage. A sympathetic city or county councilperson or commissioner may simply introduce such legislation and convince enough fellow commissioners or councilors to vote in favor. But this is relatively rare, and generally in cases where no serious coalition was built to pressure for passage, enforcement of the resulting ordinance is weak or nonexistent. A good example is the first Portland, Oregon, ordinance, which was basically ignored because it was passed in the absence of aroused public pressure (Reynolds 1999:76).

However, the vast majority of living wage ordinances pass only because coalitions form to push for their introduction and passage. Major players in these coalitions vary, but a central role usually falls to low-income community organizing groups such as the Association of Community Organizations for Reform Now (ACORN), church-based community organizing groups (such as the Industrial Areas Foundation–affiliated BUILD in Baltimore), organized labor (central labor councils or individual unions), civil rights organizations, youth and student groups, new political formations like the New Party, or assorted prominent individuals in the political or local community.

The coalitions range all the way from broad to narrow, short-range and ad hoc to long-range and strategic, poorly grounded to solidly grounded in particular progressive and working class communities, and so forth. Whether these coalitions either are, coalesce with, or aid in the creation of genuine social movements is the question of interest in this essay.

Are Enduring Alliances Created through Living Wage Campaigns?

The living wage issue has arisen only in the past few years, and hence it is too early to judge whether many of the numerous living wage coalitions will endure for longer periods of time. However, a preliminary assessment can be made. It appears that the majority of formal living wage coalitions do not endure for long after passage of an ordinance. This is not surprising; having achieved their main goal, the coalitions disband. But the *alliances* behind these coalitions are more important: do they continue, either in other formations or in a series of joint activities that cement a working relationship among the coalition partners?

It is clear that some of the coalitions have been based on partners intending a more long-term strategic alliance. ACORN, for example, desires working partnerships with organized labor as a strategic objective, and it has found the living wage issue to be useful for this purpose in some locales. Likewise, the New Party wants to develop ties with labor unions and has partially fulfilled this goal through its involvement in some living wage campaigns. Unions have a very mixed record regarding alliances with other community and popular social groupings. The new leadership of the AFL-CIO encourages unions to develop coalitions with others, but the long post–World War II history of relative union isolation from popular movements has been hard for most unions to break. For decades, U.S. unions utilized almost exclusively "business union" economic methods and "go-it-alone-through-inside-power-broker" political methods.

That previous history has led some to be skeptical of the possibility that the U.S. labor movement could ever build genuine coalitions with other social forces to create social movements. Heckscher and Palmer (1993), for example, argue that present-day U.S. unions are capable of functioning in only two ways. They can act as established "insider" institutions, narrowly focused on collective bargaining and bilateral power relations with employers (the familiar "business union" model, or the "servicing" model of unionism). Or they can act as dominant partners in coalitions with a narrow focus on "labor support" rather than on broad civil rights or social justice issues. But they are incapable of acting as *equal partners* with others in *multilateral coalitions* working for broad social goals (Heckscher and Palmer 1993:297–99).

Since most living wage campaigns require a broad-based coalition without dominance from a specific sector, the living wage phenomenon provides an interesting test case for the Heckscher–Palmer thesis. But the test case does not give unequivocal results. There is some evidence for their

thesis: the vast majority of the 600 central labor councils (CLCs) in the United States are not involved in living wage activities. Community activists fighting for living wage ordinances in communities without support from their CLCs were generally unwilling to be quoted publicly about local CLC weaknesses when interviewed by researcher Stephanie Luce (forthcoming). But it was clear that political conservatism, lack of a broad enough vision to encompass goals beyond narrow immediate institutional self-interest, and the like characterized a number of CLCs unable or unwilling to involve themselves in living wage campaigns.

Further evidence favoring the Heckscher–Palmer thesis comes from difficulties between organized labor and coalition partners when they do get involved. Luce (forthcoming) found that organized labor tended to want to run living wage campaigns as top-down lobbying efforts, relying on inside access to politicians rather than through genuine outreach or real organizing. Likewise, unions tended to have a short time horizon, not realizing that living wage campaigns are more like long-term community organizing than short-term union election campaigns (Luce, forthcoming). And in examining the living wage campaign in Miami-Dade County in Florida, I found some major differences in the way the organized labor and nonlabor partners in the coalition framed the living wage issue (Nissen 2000:44–46).

But counterevidence is also available. Organized labor is playing an ever more prominent role in living wage campaigns, together with community partners. Despite tensions between union and community partners, the living wage issue has proved itself to be quite well adapted to bringing together organized labor and community groups working for social and economic justice. It is hard to come up with another issue in the past 20 years that has so effectively welded together U.S. unionists with community partners in common struggle. By no means has the overall labor movement wholeheartedly jumped into living wage campaigns, but enough sectors have to make it a very significant part of the broad living wage effort throughout the country. Together with the labor-based Jobs with Justice group, the living wage phenomenon is one area where the greatest progress has been made toward achieving the new AFL-CIO leadership's goal to turn the labor movement into a broad popular social force for justice, not simply a narrow special interest group. And significantly, those in the labor movement pushing efforts like living wage campaigns are no longer routinely marginalized or ignored. While the evidence is not definitive, living wage campaigns supply some of the strongest grounds for believing that organized labor may yet shake off its narrow focus of the 1950s through 1980s and join multilateral coalitions for economic and social justice.

Has the Living Wage Issue Helped Create Genuine Social Movements?

Social movement theorists frequently analyze movements in terms of a three-factor analysis:

> (1) the structure of political opportunities and constraints confronting the movement; (2) the forms of organization (informal as well as formal) available to insurgents; and (3) the collective processes of interpretation, attribution, and social construction that mediate between opportunity and action. (McAdam, McCarthy, and Zald 1996:2)

A shorthand way to refer to these three factors is to call them (1) the political opportunity structure, (2) resource mobilization structures and capacities, and (3) framing processes.

Space constraints do not allow for a full reading of living wage campaigns from this three-factor perspective (see Nissen 2000 for a fuller reading). But even a brief summary reveals the political opportunity structure to be quite favorable for movement formation. Politically, sustained economic growth, growing polarization of wealth, and stagnant or even declining wages for those at the bottom half of the economic spectrum in the past decades are juxtaposed with a political system that is simultaneously formally democratic and inordinately influenced by moneyed special interests. This combination of formal openness and therefore vulnerability to citizen intervention with blatantly regressive policies favoring rich benefactors of the politicians encourages *both* citizen activism *and* oppositional "social movement" tactics if public cynicism about the political system being "bought and paid for" can be overcome.

Likewise, the framing processes of the living wage campaigns have worked well for movement building. The framing processes of a living wage campaign tend toward successful passage of the ordinance if proponents have highly congruent understandings, and projections, of the underlying issues in terms that make mandated living wage floors a matter of broad community benefit and elementary fairness. The living wage argument that public funds should not create "working poverty" (full-time yearly work but subsistence below the poverty level) is broadly resonant with many sectors of society. Even opponents with well-paid lobbyists will have a hard time stopping measures that are understood in this way. Generally, living wage movements have been successful in public framing of issues; witness the popularity of proposed ordinances and their high rate of passage.

The resource mobilization capacities and structures of living wage campaigns have varied enormously. But those coalitions with a significant "buy-in" from organizations with an actual social base (unions, low-wage community organizing groups, churches or church-based groups, etc.) are capable of considerable mobilization of resources (especially people, but also the minimum needs of money). In other cases, this is the weakest link in a coalition's effort to create a genuine social movement.

Despite the favorable circumstances for movement creation, there are some clear limitations on living wage social movement potential. By far the largest is that this issue has not grown out of spontaneous activity or demands by *the workers themselves* covered by living wage ordinances. A large number, possibly a majority, of living wage campaigns are undertaken and conducted with no involvement at all by covered workers winning the raises. In most others, very slight involvement is the extent of worker participation.

In what could be called "organic" social movements, an oppressed segment of the population rises up to address their oppression. Good 20th-century examples are the industrial union movement in the 1930s or the African-American civil rights movement of the 1960s. The women's movement, the gay rights movement, and numerous others could be added. In this sense, living wage campaigns are not part of an organic social movement. Rather, they grow from attempts to create social movement–like activities by concerned activists in the labor movement and various community groupings working in an environment without a spontaneous social movement upsurge.

This does not mean that living wage campaigns have no social movement characteristics, or that none of them are part of a genuine social movement upsurge. Neither is true. But it does indicate that many of the campaigns will not blossom into real or sustained social movements fighting for the economic welfare and rights of low-wage workers. Many will simply die down after passage (or defeat) of an ordinance. Even in these cases, however, they may contribute over a longer period to the creation of a genuine social movement fighting for workers' rights because the contacts and working relationships that are developed aid future endeavors that do become fuller social movements. And in some cases (a few of which are highlighted in the next section) living wage campaigns have either grown into or greatly aided the creation of genuine social movements of a larger scope.

Have New Social Movement Organizations Arisen out of Living Wage Campaigns?

One indication of how much living wage campaigns have progressed in the direction of social movement creation is whether new organizations of

the type social movement theorists call social movement organizations (SMOs) have appeared. A few of the most advanced living wage campaigns have done just that. Those locations where an SMO either emerged from a living wage campaign or existed before the campaign but used it as an early campaign to build itself are also the places where a genuine social movement could be said to exist.

One example is the group called Solidarity (also called the Solidarity Sponsoring Committee) in Baltimore (Fine 1997:33–35; Reynolds 1999: 76–78). Solidarity is an organization of 500 to 700 low-income workers in Baltimore. It presses for a number of public policies to raise the floor under low-income workers and acts as something of a hybrid between a union and a community organizing project (although it is closer to the latter). Solidarity was a direct outgrowth of the Baltimore living wage campaign and was created by the church-based group BUILD (Baltimoreans United in Leadership Development) and the American Federation of State, County, and Municipal Employees (AFSCME) union. It represents a pioneering attempt to create what Janice Fine (1997) has called "community unionism."

Another hotbed of movement activism strongly impelled by a successful living wage campaign is the city of Los Angeles. The Los Angeles Alliance for a New Economy (LAANE) is a direct outgrowth of the living wage fight there. Together with others involved in the living wage struggle, it has become a major social and political force in the Los Angeles area. LAANE has used the ordinance as leverage to obtain employer neutrality in union organizing campaigns for city contractors and airport employers (Moberg 2000). The Los Angeles campaign also created a new religious-based organization in support of workers' rights, Clergy and Laity United for Economic Justice (CLUE). Unquestionably, a low-income workers' movement that is grounded simultaneously in the labor movement and the community is growing rapidly in the Los Angeles area, and the living wage campaign played a very large role in the creation of this movement.

New organizations have also emerged elsewhere. In Santa Monica, the group Santa Monicans for Responsible Tourism (SMART) works closely with the Hotel Employees union for an innovative living wage ordinance covering an entire beachfront area of the city. And in Oakland, California, the new group East Bay Alliance for a Sustainable Economy (EBASE) is likewise working with the local Hotel Employees union. EBASE is a direct outgrowth of the living wage campaign in that city (Moberg 2000).

In some instances new social movement organizations preceded the living wage movement, but living wage campaigns were early efforts of the organization. An example is the Campaign for a Sustainable Milwaukee (CSM), which won one of the earlier living wage campaigns in that city.

CSM has moved on to other issues involving minority communities, light rail, union organizing rights, and the like, but the living wage was one early basis for coalescing the group. A similar organization created by the central labor council in San Jose, California, won an ordinance creating one of the highest living wage levels in the country.

These examples should not obscure the fact that most living wage campaigns do not progress to the creation of new SMOs. But the new SMOs that have developed are numerous enough, and sufficiently impressive enough, to show that the living wage concept is excellently suited to play a central role in creating a social movement where other circumstances are ripe for such a movement to emerge.

Conclusion

The living wage concept is not a "magic bullet" that will create social movements for low-income worker rights and living standards where none existed before. But it can help the U.S. labor movement build alliances with others in the community for progressive causes. This is because the living wage issue is so naturally congruent with the interests of such a broad cross section of progressive community forces that it is a natural catalyst for uniting them with unions in a struggle for the common good. It is perhaps the best issue around today for the creation of such a social movement. Some have called for the U.S. labor movement to turn toward social movement unionism (Mantsios 1998; Tillman and Cummings 1999; Nissen, forthcoming), claiming that this is necessary for organized labor's revival. If they are correct, the living wage issue may be one key to the turnaround in the labor movement's fortunes.

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DISCUSSION

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David Neumark and Scott Adams

The paper by David Neumark and Scott Adams is significant because as the authors note, there have been no prior peer-reviewed studies of the effects of living wage ordinances. This paper represents a significant attempt by a respected labor economist and his more junior collaborator to fill that void. The authors undertake to assess the impact of living wage ordinances on the wages and employment of workers who live within the jurisdictions that have adopted such ordinances. They clearly appreciate the difficulties of doing this based on the Current Population Survey (CPS) data they analyze. For one thing, they do not know whether a particular CPS respondent is covered by a living wage ordinance. Lacking this, they make a creative effort to classify workers as "potentially covered" and examine wage effects at the bottom of the wage distribution where workers' wages are likely to be constrained by living wage ordinances. They find both higher wages and lower employment rates for "covered" workers in cities that have adopted living wage ordinances compared with cities that have not. They conclude that "it is more likely than not" that living wage ordinances reduce employment of those with low skills, offsetting the beneficial increases in wages for some of the low-wage workers.

It is also worth bearing in mind that Neumark and Adams do not analyze data on the same individuals before and after the enactment of living wage ordinances. This means that some increase in the average wage would be expected if the lowest-paid workers were displaced from their jobs, even if no workers actually had their wages increased by the living wage ordinance. I would encourage the authors to continue their research with the CPS-ORG data, taking advantage of its sample design to obtain wage observations on the same individuals at 12-month intervals. This would allow them to determine which workers receive wage increases and which ones are displaced.

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Bruce Nissen

Bruce Nissen concludes that living wage campaigns supply strong grounds to believe that organized labor may yet abandon narrow, immediate institutional self-interest and join broad multilateral coalitions for social justice.

I could not disagree more. What the living wage movement demonstrates is that trade unions are willing to fund coalitions that act in the name of social and economic justice only if they serve the unions' narrowly defined institutional interest. The strongest evidence for this proposition is that living wage ordinances are an ineffective policy instrument for aiding the poor. At best, they are inferior to other uses of public money to aid the poor. At worst, they actually harm poor families by reducing work opportunities and income for them. Most labor economists would endorse skill training or wage subsidies over minimum wages or living wages as a means to raise the incomes of poor families. Training and wage subsidies, unlike general wage mandates, can be effectively targeted to the populations in need. Moreover, investments in training and tax credit subsidies, unlike wage mandates, do not raise the cost of employing low-skilled labor and thus do not encourage employers to substitute capital and higher-skilled labor for low-skilled labor.

Trade unions, however, have reason to prefer living wage ordinances to training or wage subsidies. Of the three policy options (training, subsidies, and wage mandates), only wage mandates promote the union objectives of raising the cost of nonunion labor and discouraging privatization of public-sector functions. The unions' desire to discourage privatization does much to explain the focus of most living wage ordinances on private contractors. Such ordinances do not help and may in fact harm low-skilled workers who are not covered by the ordinance. This is because low-skilled labor displaced by the ordinance may then compete and drive down wages in the uncovered sector. However, such contractor-based ordinances promote the unions' narrow interest by raising contractors' labor costs and thus making privatization more expensive.

Robert Pollin, Mark Brenner, and Stephanie Luce

The final paper by Robert Pollin, Mark Brenner, and Stephanie Luce suggests that the "Hicks-Marshall law of derived demand" can be used to assess the extent to which living wage ordinances, such as the proposed New Orleans minimum wage, lead to job losses, job displacement, or firm relocations. They conclude that the affected businesses are not likely to significantly reduce jobs or to relocate in response to the local minimum wage. This is contrary to what would be expected from the conventional

theory of derived demand.[1] Indeed, it contradicts the warning that Pollin and Luce sounded in their book on the living wage movement (1998:185), where they stated that the Social Security and Medicare tax was discouraging businesses from hiring workers through raising labor costs. If a 7% federal tax on payrolls would have this effect, by the Pollin–Luce reasoning, living wage ordinances that increase labor cost by as much as 100% or more would be expected to have a much greater adverse effect.

It is worth noting that in a recent survey of leading labor economists, the median respondent indicated a belief that for the United States, the total wage elasticity of labor demand was 0.5 and the output-constant elasticity was 0.3 (Fuchs, Krueger, and Poterba 1998:1392). The average values were even higher, at 0.63 and 0.42, respectively. This suggests a significant degree of substitutability between labor and capital. For low-wage workers, the output-constant labor demand elasticity is likely to be higher because of the possibility of substitution between higher-skilled labor and low-skilled labor.

Although the authors announce their intention to develop their analysis based on neoclassical theory, they quickly depart from its conventional focus. They consider several possible alternative responses by businesses to the proposed wage hikes, including layoffs, relocations, price increases, productivity increases, and redistribution of income within the firm.

They view price increases as an alternative to reductions in employment. This is misleading. In fact, price increases cause reductions in employment through reductions in product demand and output. This is the reason that the total unconditional demand elasticity exceeds the output-constant demand elasticity.

Moreover, they appear mistakenly to believe that if the living wage–induced costs are small relative to total business operating costs, any labor demand response (including relocations) to a minimum wage hike must also be small. However, this follows only for output reductions that may follow from higher wage costs. Obviously, if low-wage labor cost is a small fraction of total costs, a minimum wage will have a correspondingly small impact on prices, at least in the short run, and thus (for a given price elasticity of demand)[2] on output. However, it does not follow that the output-constant substitution effect between low-skill labor and capital and higher-skill labor (or in the case of relocations, labor not subject to the wage law) will be small. This pure substitution effect arises from the firm's substitution capabilities at the margin and the firm's cost-minimizing behavior. It is independent of the ratio of low-wage labor costs to total operating costs. Firms with low profit margins, such as restaurants, can be expected to be aggressive cost minimizers.[3]

The authors' assertion that turnover cost savings and productivity increases would occur and serve as a buffer against reductions in employment demand is also problematic.

First, their estimate of turnover cost savings may be overstated because the alternative wages available to low-skilled workers may also rise since the proposed minimum wage hikes would affect all firms in New Orleans. Thus, there may not be much incentive for workers to remain with their employer any longer than they would have in the absence of the wage increase. However, more basically, while such cost savings may reduce the price increases required by the minimum wage hike, they still would not affect (output-constant) substitution of capital and higher-skilled labor for the workers affected by the wage hikes.

Moreover, if productivity increases result from workers' providing more effort, then businesses would require fewer labor hours, necessitating reductions in employment demand. On the other hand, if productivity increases were to result from firms' hiring better workers, this can only result in displacement of workers with limited skills. Indeed, the authors suggest that the employment of high school dropouts could fall by as much as one third (from 46% to 30.2%)! Such displacement effects are disturbing since, as the authors document, only 40% of New Orleans families in poverty have any workers and many of them work only part-time or part-year. The problem faced by the poor, in New Orleans and elsewhere, is a pressing need for better skills and greater employment prospects. Such families are hurt, not helped, by wage mandates that cause employment displacement.

Finally, the authors' suggestion that the wage hikes might be paid for by either capital or higher-skilled labor accepting temporarily lower relative shares of revenue seems rooted in little more than the authors' vain hope. It is certainly contrary to the predictions of the neoclassical model, as confirmed, for example, by the Neumark and Adams analysis, which predicts that wage mandates cause businesses to substitute in favor of capital and higher-skilled labor at the expense of workers with the lowest skills. It is also inconsistent with the low or negative rates of productivity increase that industries employing low-wage workers typically experience.[4]

Endnotes

[1] Most treatments of derived demand state the unconditional labor demand elasticity as the sum of a pure (output constant) substitution effect and an output effect computed as labor's share of total costs times the elasticity of demand for the product. See Hamermesh (1993).

[2] Respected economists have estimated the elasticity of labor demand for eating and drinking establishments at 1.4. See Houthakker and Taylor (1970).

[3] A more theoretically correct approach would have been to estimate the part of the total demand elasticity attributable to cost and price increases for each of the industries they consider by multiplying the low-wage labor share of total cost by the product demand elasticity. For example, if the labor cost share for low-wage workers in the restaurant industry was 30% (it may be higher) and we use the Houthakker–Taylor estimated demand elasticity of 1.4, the output reduction part of the total demand elasticity would be 0.42. If we add to this a conservative estimate (say 0.3) of the output-constant elasticity of labor demand, we would get a total demand elasticity estimate of about 0.7. This implies that a minimum wage that raises wages by 20% would result in a decline of employment for workers at the minimum wage by at least 14%. This is significant and yet is quite consistent with what might seem to be a relatively small ratio of potential living wage cost increases to total operating costs for the restaurant industry (2%).

[4] For example, according to BLS data, from 1990 to 1998, output per hour for eating and drinking establishments actually declined by 2.8%, while it increased for all nonfarm business establishments by 15.5%.

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XII. WORKER RIGHTS OF FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

Collective Bargaining as a Fundamental Human Right

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Abstract

This paper delves into the relationship between collective bargaining and human rights from two perspectives: a religious one and a secular one. Though the roots and base values differ, the two approaches agree that collective bargaining is indeed a human right. The religious view draws its conclusions from biblical teachings about human dignity and economic justice. The secular approach is based on an international consensus and arguments about the inherent nature of humans. We suggest that the violation of this right under current American law and practice may require radical remedies.

Just last year, the United States, which prides itself as a bastion of human liberties and rights, was found by Human Rights Watch to be guilty of violations of fundamental human rights (see <http:www.hrw.org/reports/2000/uslabor/>): worker rights of freedom of association and collective bargaining. Americans seem to be inclined to view collective bargaining as simply a matter of workers asserting their economic interests in opposition to those of owners of capital—just one more interest group trying to gain advantage at the expense

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of another interest group. The argument of this paper is that this view of collective bargaining is incorrect and that from both religious and secular perspectives, collective bargaining is indeed a fundamental human right. In consequence, it has a value that trumps considerations of convenience, efficiency, and cost (Werhane 1985).

A Religious Perspective on Collective Bargaining as a Human Right

The religious perspective advocated here is that of a liberal Protestant Christian. We believe that the position suggested here would be representative of the views of most mainstream Protestant denominations.

A Protestant Christian View

A discussion of a Christian perspective on human rights and collective bargaining logically begins with two biblical teachings. The first comes from the book of *Genesis.* There it is recorded that God made humankind in his own image (1:27). God breathed the breath of life into Adam, that is, mankind (2:7). The point is that all human beings are valued. All have something of the dignity of the Creator and are themselves cocreators along with God.

Ironically, Genesis goes on to speak of the fall of Adam away from his Creator. Adam develops a flaw. He sins. Among the meanings carried by the terms *sin* and *fall,* a central one is this: man breaks community with God and in so doing ruptures communion within the human family. Civil strife and conflict break out in various patterns. Humans are creative and participate in the ongoing creation of the world. That is their dignity. Yet at the same time they are always engaged in strife against each other.

Secondly, the Bible, after the first chapters of Genesis, is an account of how God attempts to reconcile humanity to himself and establish community among humankind. The sharpest conflict in human society is in the arena of economics. Economics is the foundation for the creation of community, but it is in that arena where human sin (the misuse of power for self-advantage) is most crassly expressed. Therefore, it is the arena in which God most clearly declares his demand for justice and dignity. Society based on economic class, where the rich oppress the poor and take advantage of the weak, is contrary to the will of God. An economy must be organized and operated so that there is justice for the poor and weak. Justice is to be established in each sector of the economic system.

1. Wages: Employees have a right to receive a fair wage; employers have a responsibility to pay a fair wage on time.

2. Private property: Land is a communal ownership from God to be distributed and utilized for the communal benefit.
3. Legal protection: Laws and judgments must not be prejudicial against the poor.
4. Money lending: Interest on loans must be fair and not result in the "enslavement" of people.
5. Public attitude: An attitude of community and equality under God is prior to any personal enrichment. (See Leviticus 25; Isaiah 5, 58, 61; Jeremiah 22; Amos 4, 5, 6; Micah 2, 6; James 2, 5; Acts 4:32–37, 2:43–47.)

In summary, the biblical teachings that guide us in a discussion of human rights and collective bargaining are these: (1) human beings are first and foremost social, communal beings; (2) humans are cocreators with God and thus are endowed with dignity; (3) at the same time, they are predisposed to sin, that is, use of their power to the disadvantage of others; (4) there is the constant call from God to repent, to makes things right, and to live in community as one body; and (5) the preceding four characteristics of humans are seen most dramatically in economic organizations and their practices.

From these foundations it is easy to deduce that collective bargaining should be an inherent right in today's economic system. It is an instrument calling upon the creative dignity of both employer and employee, and it is a procedure through which economic power of employer and corporation is, to some degree, constrained and a modicum of justice created. Therefore, insofar as collective bargaining seeks justice and human dignity, it certainly can be seen as a human right.

A Capitalist View

Biblical teaching clearly supports collective bargaining as a human right, but as a matter of historic fact, we live in an economic system that is quite contrary to the values and goals of biblical teaching. According to R. H. Tawney (1926), from the 16th century on, capitalism has been challenging the worldview of Christianity. Gradually capitalism has prevailed. The Western world has mostly been converted to the values of capitalism. Chief among the value changes are these: (1) the accumulation of wealth has become the major goal of life; (2) "free enterprise" and "free market" replace the concepts of communal responsibility; (3) the individual is elevated to be the primary unit of human value; and (4) religion (in the traditional sense) is allocated to a peripheral, personal sector of life, isolated from economics.

From this perspective, *justice* and *human rights* take on much different meanings. The analogue of family or community is lost. Instead, the analogue is the jungle, where each individual is in contention with every other individual. Using the so-called free market as a front and a justification, individuals (both human and corporate) concentrate their economic power, even as poverty and a class of "disposable people" are created at the bottom of the global economic ladder. *Justice* is redefined to refer to individual (both human and corporate) claims and demands. *Human rights* is converted to mean the right of the individual to accumulate as much wealth and property as he or she can muster. Collective bargaining, of course, becomes a very dubious affair. It is seen as an interference with the individual or corporate right to run a business without interference. Since the analogue of family or community is absent, collective action of any kind is looked upon with suspicion. Collective bargaining is not seen as a human right. It is more likely to be seen as an interference with the personal rights of employers. Collective bargaining would be justified only if it contributed to corporate profits.

The Conflict between Christianity and Capitalism

Our argument boils down to this. Collective bargaining as a human right depends upon our *a priori* commitments. In the biblical perspective, collective bargaining is a human right that originates from the demand to install human dignity and do justice. It is not based on a doctrine of individual rights. To achieve economic justice, there must be an exercise of creative participation by all those who contribute to economic production. Collective bargaining can be seen as such an exercise, and therefore it is fair to call it a human right. Capitalism, on the other hand, has no base upon which it can accept collective bargaining as a human right. Under capitalism, collective bargaining is acceptable only on grounds of utilitarian benefit to the corporate individual. Collective bargaining is a human right only in the context of a society that seeks justice for workers, for the poor and the disposable.

These issues have been considered by other religions and other Christian denominations. Both Roman Catholic (Byers 1994) and Jewish (Perry 1993) religious thought would seem to lead to essentially the same conclusions as those set forth here.

A Secular Perspective on Collective Bargaining as a Human Right

Human rights is a necessary concept for the protection of human dignity in the work organization. Collective bargaining is such a right because in its absence, American employers have the power to inflict punishments upon employees and terminate the relationship at the employer's whim

and because in its absence, economic justice is often unobtainable. That there is a real danger of arbitrary and oppressive action in the workplace is confirmed both by the worldwide universality of the need for protecting workers from abuse by employers (through protective labor legislation) and by recognizing the "proneness to abuse" of power that is a part of being human (George Washington, quoted in Wheeler 1997).

The ILO and Other International Bodies

The International Labour Organization (ILO) is the preeminent authority on international labor standards. In the preamble to its constitution, adopted in 1919, it took note of the need for "recognition of the principle of freedom of association" among workers. In its 1944 Declaration of Philadelphia, it declared that "freedom of . . . association" was a fundamental principle upon which the ILO is based, and it included among the programs that it should achieve "the effective recognition of the right of collective bargaining" (Betten 1993).

In 1948 the ILO adopted Convention No. 87 on Freedom of Association and Protection of the Right to Organize. This convention established the right of all workers to form and join organizations of their own choosing and set out guarantees for worker organizations to function independently of government control. This was followed in 1949 by Convention No. 98 on the Right to Organize and Collective Bargaining, in 1978 by Convention No. 151 on the Right of Public Employees to Organize, and in 1981 by Convention No. 154 on the Promotion of Collective Bargaining.

For some time the ILO has considered freedom of association and collective bargaining rights to be among the "fundamental rights" that are at the heart of the ILO's purposes. At its June 1998 conference, the ILO adopted without a dissenting vote (although with 43 abstentions) a fundamental rights declaration. This declaration states that there are certain fundamental rights, including freedom of association and collective bargaining, to which all ILO members subscribe, whether or not they have adopted the conventions on these particular subjects.

The United Nations Universal Declaration of Human Rights and UN Covenants recognize the rights of peaceable assembly and association, including the right to join unions. A number of regional international documents also declare this (Betten 1993; de la Cruz, Potobsky, and Swepston 1996; Leader 1992; Leary 1996).

Evolutionary Employment Relations

What one of us has termed *evolutionary employment relations* (Wheeler 1997) is an approach that starts out with a concept of human nature and

deduces from it certain insights about employment relations phenomena. It holds that the abuse of power and denial of human dignity of subordinates by high-ranking members of an organization are made likely by human inclinations to establish hierarchies and assert social dominance (Wheeler 1997). To ensure human dignity, it is necessary that there be mechanisms for employees to resist the pressures of dominance. As inherently social creatures, to fully express their humanity, persons must be able to act collectively with their fellows. Therefore, the right to collective action as well as individual action deserves protection. That we are social creatures as a part of our very being would seem to be rather obvious and has long been recognized. In his *Politics,* Aristotle said: "A social instinct is implanted in all men by nature. . . ." From a modern evolutionary perspective, the moral philosopher Mary Midgley (1978:95) has argued that "man is a social species" and that it is absurd to view humans as a solitary, totally egoistic species. Indeed, as she suggests, such a nonsocial species would be either solitary or extinct. Desmond Morris (1969:25) argues, "If we did not carry in us the basic biological urge to co-operate with our fellow men, we would never have survived as a species." According to Konrad Lorenz (1966:238), "If it were not for a rich endowment of social instincts, man could never have risen above the animal world."

The inherently and fundamentally social nature of humanity is important because of what it implies about the requirements of human dignity and freedom. As Samuel Yerkes said about our closest animal relatives, "One chimpanzee is no chimpanzee" (Midgley 1978:69), so it might be said that one human is no human. "Society is a condition of man's living at all, let alone living naturally . . . " (Midgley 1978:69).

To be able to act only in isolation from our fellows denies a crucial element of our humanity. It is essential to human dignity to be able to act collectively with those with whom we share common interests. Collective action, in addition to its own intrinsic value, is a powerful way to protect human dignity in other respects as well, for example, freedom of individuals from arbitrary treatment. This should, therefore, be a fundamental human right. Experience shows that in a work organization, the most effective form of collective action for these purposes is collective bargaining, broadly defined.

Conclusions

We conclude that there are both religious and secular grounds for viewing collective bargaining as a fundamental human right. Interestingly, the arguments drawn from our religious perspective and from evolutionary employment relations theory are quite similar. Crucially, both reject the romantic

notions that humans have no nasty inclinations and are entirely rational. They both view human nature as a complex, conflicted phenomenon.

The question then becomes whether Human Rights Watch is correct in finding that the United States has failed to guarantee this right. Although a major aim of the National Labor Relations Act (NLRA), adopted in 1935, was to "encourage the practice and procedure of collective bargaining," fewer than 10% of private-sector employees (under 14% when one includes public employees) are currently covered by collective bargaining agreements. It is widely acknowledged that the NLRA has failed to deliver the goods in providing an environment conducive to the formation of a collective bargaining system. So, although guaranteed by law, the right is not guaranteed in fact.

What is to be done? Of course, we can tinker with the law to make it more likely that workers will vote for a union under our existing legal structure. A more radical proposal is made by Roy Adams (forthcoming). Adams argues that the right of collective bargaining is a right separate and apart from freedom of association and that it is a mistake to view the former as merely deriving from the latter. Certainly, American constitutional jurisprudence draws rights pertaining to unionization from freedom of association, and it does seem that it is this characteristic of American judicial reasoning that has led courts to hold that the right to unionize does not include the right to bargain collectively [see *Indiana Teachers Ass'n v. School Board*, 918 F. Supp. 266 (D.C. S.D. Ind. 1996)]. Adams advocates adopting a mandatory system of representation that would make effective the right of employees to be represented and bargained for by powerful representatives who are identified with their interests, as is done in Western Europe through works councils and the extension of collective bargaining agreements. It may well be that as a practical matter demonstrated by experience, this is the only way to ensure that this fundamental human right can be granted to American workers.

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DISCUSSION

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There is no question that freedom of association is a fundamental human right. From a U.S. context, the three papers look at this question of whether collective bargaining has the same human rights standing. That is, in different ways, the three papers look at whether in the same absolute, categorical sense collective bargaining is alone a fundamental human right like freedom of association or whether it is a right that flows from exercise of the right of freedom of association.

Hoyt Wheeler and George Ogle argue that collective bargaining is a fundamental human right from both a religious and secular perspective. It is hard to disagree with this analysis. It is an academic point, however. Under existing legal principles and policy in the United States, to be considered a human right, collective bargaining must be considered to be customary international law, considered to be a general principle in major legal systems, or incorporated in multilateral treaties or declarations. The interesting question is whether the right is as broad as Roy Adams's proposal that collective bargaining is a separate and distinct right independent of freedom of association.

Ellen Dannin's paper looks at the collective bargaining right more narrowly in the context of implementation of the last offer at impasse. The study looks at 228 NLRB cases over a 14-year period. However, with nearly 4,000 new collective bargaining agreements concluded each year, it seems to me that the problem described is overdrawn.

Jacques Rojot's paper highlights the difference in collective bargaining models in developed and developing systems, using the United States as the reference model and highlighting that the collective bargaining guarantee is actually weaker under other legal systems. In discussing developing countries, he points out that they adopt different strategies for economic development.

This economic development point brings into sharp relief Roy Adams's separate collective bargaining right theory. Both the 1949 ILO Convention No. 98, concerning the right to organize and collective bargaining, and the

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1998 ILO Declaration of Fundamental Principles and Rights at Work join freedom of association and collective bargaining at the hip, giving greater primacy to the right of freedom of association. Collective bargaining follows the freedom-of-association right and is limited to its effective recognition rather than as a declared right. For example, the 1998 ILO declaration specifies as a fundamental principle "freedom of association and the effective recognition of the right of the collective bargaining."

Although Roy Adams's argument has merit, I am very doubtful that an international consensus could be achieved on this in a global economy because developing countries would view such an absolute right as impinging on their comparative advantage. To achieve the status of an international human right, an international consensus is necessary. Developing countries constitute 70% of the voting power in international multilateral fora. The comparative advantage issue is an important issue to developing countries and is not a red herring. Just 250 years ago, the income per head difference between Europe and Southeast Asia was 2 to 1. Today, according to Harvard professor David Landes, the difference is 450 to 1. Based on my experience as the overall employer spokesman for the 1998 ILO declaration, where we spent half of our time on comparative advantage and protectionist issues, collective bargaining is one area where developing countries see broadening the guarantee as simply a protectionist ploy by developed countries.

DISCUSSION

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I want to commend each author for presenting thoughtful and provocative papers. Hoyt Wheeler and George Ogle have made an important contribution by returning attention after far too long a time to the religious dimension of the concept of human rights. For many, the idea that every human being is sacred cannot be detached from a belief in God and a belief that human beings are made in the image of God, or at least from a worldview that is religious in a deeply metaphysical sense.

I am reminded, however, of what a Catholic bishop said to me some years ago: "The Catholic Church has all the right language concerning human rights and social justice but too often not the right actions." Just as with religion, human rights talk without action is hypocrisy. Organized religion's focus on charity as opposed to the exercise of rights and on peace and conciliation rather than power and conflict also raise questions about its commitment to enforcing human rights on this earth. The institutionalization of religion, moreover, could mean for many organized religions that the costs of a commitment to social justice and human rights are insurmountable impediments.

The big point made in the Wheeler–Ogle paper, in my opinion, is that the freedom of association (and collective bargaining) is a human right because a person cannot be fully human if he or she is dependent on the kindness, good will, generosity, or despotism of others or on the allegedly impersonal forces of the market. As they point out, a full human life requires community, and participation in the economic, political, and social life of that community enables people to have an influence on the decisions that affect their lives. To be ignored is not to matter, and, if human rights mean anything, it is that every person matters.

Jacques Rojot's paper attempts to define collective bargaining and in the process emphasizes that collective bargaining takes many forms around the world and will not necessarily take the form so well recognized in the United States. He raises serious questions about the place of minority unions and what cannot (or should not) be bargained away. He rightfully

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expresses concern about those people not covered by collectively bargained contracts (the unorganized, unemployed, aged, and so on) as well as the view in some quarters that union organization and collective bargaining to raise wages is a Western protectionist device. He also carefully considers the influence of conceptions of "national interest," which too often means that a nation will have collective bargaining only when it can afford it—another way of saying that the human rights of its people will be protected and promoted whenever it does not impede economic development—and, of course, that time will never come.

Finally, Ellen Dannin and her co-authors (Terry Wagar and Gangaram Singh) draw attention to a long-overlooked aspect of U.S. labor law: the unilateral implementation of employer final offers after an impasse in bargaining has been reached. I agree with the authors that if collective bargaining is a human right, and it is, then nothing in law should permit resistance to its implementation.

The research for this paper also raises some additional issues that I encourage the authors to pursue. It is difficult to understand the nature and cause of an impasse without information concerning such things as how the bargaining process was conducted, the nature and extent of the offers and counteroffers, the nature of the demands, and the movement or lack of movement during negotiations. Since the authors found that most bargaining impasses occurred over "control issues," it would be useful to know whether it mattered what the specific "control issues" were. Given that the National Labor Relations Board has found employers guilty of an illegal implementation on impasse in 87% of the cases used by the authors, it seems that the central problem here is one of finding an effective remedy. Lastly, I encourage the authors to consider possible alternatives to the impasse doctrine and the likely consequences of those alternatives.

XIII. EMPLOYMENT AS A HUMAN RIGHT

How to Implement True, Full Employment

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Abstract

I briefly describe a program that would generate true, full employment, price stability, and currency stability. I show that this program can be adopted in any nation that issues its own currency. The presentation consists of three sections. First, I briefly examine a pilot program at the University of Missouri–Kansas City. This provides the basis for the analysis in the second section of the functioning of a national monetary system. Finally, I show how this knowledge can be used to construct a public service program that guarantees true, full employment with price and currency stability.

The Buckaroo Program

In the United States, there is a growing movement on college campuses to increase student involvement in their communities, particularly through what is known as "service learning," in which students participate in community service activities organized by local community groups. It should become obvious that a modern monetary economy that adopts the full-employment program described here will operate much like the University of Missouri–Kansas City (UMKC) community service hours program.

We have chosen to design our program as a "monetary" system, creating paper notes, "buckaroos" (after the UMKC mascot, a kangaroo), with the inscription "This note represents one hour of community service by a UMKC student" and denominated as "one roo hour." Each student is required to pay 25 buckaroos (B25) to the UMKC "treasury" each semester. Approved community service providers (state and local government offices, university

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offices, public school districts, and not-for-profit agencies) submit bids for student service hours to the treasury, which awards special drawing rights (SDRs) to the providers so long as basic health, safety, and liability standards are met. The providers then draw on their SDRs as needed to pay students B1 per hour worked. This is equivalent to "spending" by the UMKC treasury. Students then pay their "taxes" with buckaroos, retiring treasury liabilities.

Several implications are immediately obvious. First, the UMKC treasury cannot collect any buckaroo taxes until it has spent some buckaroos. Second, the treasury cannot collect more buckaroos in payment of taxes than it has previously spent. This means that the best the treasury can hope for is a "balanced budget." Actually, it is almost certain that the treasury will run a deficit, as some buckaroos are "lost in the wash" or hoarded for future years. While it is possible that the treasury could run a surplus in future years, this would be limited by the quantity of previously hoarded buckaroos that could be used to pay taxes. Third, and most important, it should be obvious that the treasury faces no "financial constraints" on its ability to spend buckaroos. Indeed, the quantity of buckaroos provided is "market demand determined" by the students who desire to work to obtain buckaroos and by the providers who need student labor. Furthermore, it should be obvious that the treasury's spending doesn't depend on its tax receipts. To drive the point home, we can assume that the treasury always burns every buckaroo received in payment of taxes. In other words, the treasury does not impose taxes in order to ensure that buckaroos flow into its coffers but rather to ensure that student labor flows into community service. More generally, the treasury's budget balance or imbalance doesn't provide any useful information to UMKC regarding the program's success or failure. A treasury deficit, surplus, or balance provides useless accounting data.

Note that each student has to obtain a sufficient number of buckaroos to meet her tax liability. Obviously, an individual might choose to earn, say, B35 in one semester, holding B10 as a hoard after paying the B25 tax for that semester. The hoards, of course, are by definition equal to the treasury's deficit. UMKC has decided to encourage "thrift" by selling interest-earning buckaroo "bonds," purchased by students with excess buckaroo hoards. This is usually described as government "borrowing," thought to be necessitated by government deficits. Note, however, that the treasury does not need to borrow its own buckaroos in order to deficit-spend—no matter how high the deficit, the treasury can always issue new buckaroos. Indeed, the treasury can only "borrow" buckaroos that it has already spent, in fact, that it has "deficit-spent." Finally, note that the treasury can pay any interest rate it wishes because it does not need to borrow from students. For this

reason, treasury bonds should be seen as an "interest rate maintenance account" designed to keep the base rate at the treasury's target interest rate. Without such an account, the "natural base interest rate" is zero for buckaroo hoards created through deficit spending. Note that no matter how much the treasury spends, the base rate will never rise above zero unless the treasury offers positive interest rates; in other words, treasury deficits do not place any pressure on interest rates.

What determines the value of buckaroos? From the perspective of the student, the "cost" of a buckaroo is the hour of labor that must be provided; from the perspective of the community service provider, a buckaroo buys an hour of student labor. So, on average, the buckaroo is worth an hour of labor—more specifically, an hour of average student labor. Note that we can determine the value of the buckaroo without reference to the quantity of buckaroos issued by the treasury. Whether the treasury spends 100 thousand buckaroos a year or a million, the value is determined by what students must do to obtain them.

The treasury's deficit each semester is equal to the "extra" demand for buckaroos coming from students; indeed, it is the extra demand that determines the size of the treasury's deficit. We might call this the "net saving" of buckaroos, and it is equal—by definition—to the treasury's deficit over the same period. What if the treasury decided that it did not want to run deficits and so proposed to limit the total number of buckaroos spent in order to balance the budget? In this case, it is almost certain that some students would be unable to meet their tax liability. Unlucky, procrastinating students would find it impossible to find a community service job and thus would find themselves "unemployed" and would be forced to borrow, beg, or steal buckaroos to meet their tax liabilities. Of course, any objective analysis would find the source of the unemployment in the treasury's policy, and not in the characteristics of the unemployed. Unemployment at the aggregate level is caused by insufficient treasury spending.

Some of this analysis applies directly to our economic system as it actually operates, while some of it would apply to the operation of our system if our system were to adopt a full-employment program. Let us examine the operation of a modern money system.

Modern Monetary Systems

In all modern economies, money is a creature of the state. The state *defines* money as that which it accepts at public pay offices (mainly in payment of taxes). Taxes create a demand for money, and government spending provides the supply, just as our buckaroo tax creates a demand for buckaroos, while spending by the treasury provides the supply. The government

does not "need" the public's money in order to spend; rather, the public needs the government's money in order to pay taxes. This means that the government can buy whatever is for sale in terms of its money merely by providing it.

Because the public will normally wish to hold some extra money, the government will normally have to spend more than it taxes; in other words, the normal requirement is for a government deficit, just as the UMKC treasury always runs a deficit. Government deficits do not require "borrowing" by the government (bond sales); rather, the government provides bonds to allow the public to hold interest-bearing alternatives to non-interest-bearing government money. Further, markets cannot dictate to government the interest rate it must pay on its debt; rather, the government determines the interest rate it will pay as an alternative to non-interest-earning government money. This stands conventional analysis on its head: *fiscal* policy is the primary determinant of the quantity of money issued, while *monetary* policy primarily has to do with maintaining positive interest rates through bond sales—at the interest rate the government chooses.

In summary, governments issue money to buy what they need, they tax to generate a demand for that money, and then they accept the same money in payment of the tax. If a deficit results, that just lets the population hoard some of the money. If the government wants to, it can let the population trade the money for interest-earning bonds, but the government never needs to borrow its own money from the public.

This does not mean that the deficit cannot be too big, that is, inflationary; it can also be too small, that is, deflationary. When the deficit is too small, unemployment results (just as it results at UMKC when the treasury's spending of buckaroos is too small). The fear, of course, is that government deficits might generate inflation before full employment can be reached. In the next section, I describe a proposal that can achieve full employment while actually enhancing price stability.

Public Service Employment and Full Employment with Price and Currency Stability

Very generally, the idea behind our proposal is that the national government provides funding for a program that guarantees a job offer for anyone who is ready, willing, and able to work. We call this the public service employment program, or PSE. What is the PSE program? What do we want to get out of it?

1. The PSE program should offer a job to anyone who is ready, willing, and able to work, regardless of race or gender, regardless of education, regardless of work experience, regardless of immigration status, regardless

of the performance of the economy. Just listing those conditions makes it clear why private firms cannot possibly offer an infinitely elastic demand for labor. The government must play a role. At a minimum, the national government must provide the wages and benefits for the program, although this does not actually mean that the PSE program must be a government-run program.

2. We want PSE to hire off the bottom. It is an employment safety net. We do not want it to compete with the private sector or even with non-PSE employment in the public sector. It is not a program that operates by "priming the pump," that is, by raising aggregate demand. Trying to get to full employment simply by priming the pump with military spending could generate inflation. That is because military Keynesianism hires off the top. But by definition, PSE hires off the bottom; it is a buffer-stock policy, and like any buffer-stock program, it must stabilize the price of the buffer stock—in this case, wages at the bottom.
3. We want full employment, but with loose labor markets. This is virtually guaranteed if PSE hires off the bottom. With PSE, labor markets are loose because there is always a pool of labor available to be hired out of PSE and into private firms. Right now, loose labor markets can be maintained only by keeping people out of work—the old "reserve army of the unemployed" approach.
4. We want the PSE compensation package to provide a decent standard of living even as it helps to maintain wage and price stability. We have suggested that the wage ought to be set at $6.25 per hour in the United States to start. A package of benefits could include health care, child-care, sick leave, vacations, and contributions to Social Security so that years spent in PSE would count toward retirement.
5. We want PSE experience to prepare workers for post-PSE work—whether in the private sector or in government. Thus, PSE workers should learn useful work habits and skills. Training and retraining will be an important component of every PSE job.
6. Finally, we want PSE workers to do something useful. For the United States, we have proposed that they focus on provision of public services; however, a developing nation may have much greater need for public infrastructure—for roads, public utilities, health services, education. PSE workers should do something useful, but they should not do things that are already being done, and they especially should not compete with the private sector.

These six features pretty well determine what a PSE program ought to look like. This still leaves a lot of issues to be examined. Who should

administer the program? Who should do the hiring and supervision of workers? Who should decide exactly what workers do? There are different models consistent with this general framework, and different nations might take different approaches. Elsewhere (Wray 1998, 1999), I have discussed the outlines of a program designed specifically for the United States. Very briefly, I suggest that given political realities in the United States, it is best to decentralize the program as much as possible. State and local governments, school districts, and nonprofit organizations would be allowed to hire as many PSE workers as they could supervise. The federal government would provide the basic wage and benefit package, while the hiring agencies would provide supervision and capital required by workers (some federal subsidy of these expenses might be allowed). All created jobs would be expected to increase the employability of the PSE workers (by providing training, experience, work records); PSE employers would compete for PSE workers, helping to achieve this goal. No PSE employer would be allowed to use PSE workers to substitute for existing employees (representatives of labor should sit on all administrative boards that make hiring decisions). Payments by the federal government would be made directly to PSE workers (using, for example, Social Security numbers) to reduce potential for fraud.

Note that some countries might choose a much higher level of centralization. In other words, program decentralization is dictated purely by pragmatic and political considerations. The only essential feature is that funding must come from the national government, that is, from the issuer of the currency.

Before concluding, let us quickly address some general questions. First, many people wonder about the cost—can we afford full employment? To answer this, we must distinguish between *real* costs and *financial* expenditures. Unemployment has a *real* cost—the output that is lost when some of the labor force is involuntarily unemployed, the burdens placed on workers who must produce output to be consumed by the unemployed, the suffering of the unemployed, and social ills generated by unemployment and poverty. From this perspective, providing jobs for the unemployed will reduce *real* costs and generate net *real* benefits for society. Indeed, it is best to argue that society cannot afford unemployment rather than to suppose that it cannot afford employment!

On the other hand, most people are probably concerned with the *financial* cost of full employment or, more specifically, with the impact on the government's budget. How will the government pay for the program? It will write checks, just as it does for any other program (see Wray 1998). This is why it is so important to understand how the modern money system

works. Any nation that issues its own currency can financially afford to hire the unemployed. A deficit will result only if the population desires to save in the form of government-issued money. In other words, just as in UMKC's buckaroo program, the size of the deficit will be "market demand" determined by the population's desired net saving.

Economists usually fear that providing jobs to people who want to work will cause inflation. Thus, it is necessary to explain how our proposed program will actually contribute to wage stability, promoting price stability. The key is that our program is designed to operate like a buffer-stock program, in which the buffer-stock commodity is sold when there is upward pressure on its price or bought when there are deflationary pressures. Our proposal is to use labor as the buffer-stock commodity, and as is the case with any buffer-stock commodity, the program will stabilize the commodity's price. The government's spending on the program is based on a fixed-price/floating-quantity model and hence cannot contribute to inflation.

Note that the government's spending on the full-employment program will fluctuate countercyclically. When the private sector reduces spending, it lays off workers, who then flow into the buffer-stock pool and work in the full-employment program. This automatically increases total government spending but not prices because the wage paid is fixed. As the quantity of workers hired at the fixed wage rises, this results in a budget deficit. On the other hand, when the private sector expands, it pulls workers out of the buffer-stock pool, shrinking government spending and thus reducing deficits. This is a powerful automatic stabilizer that operates to ensure that the government's spending is at just the right level to maintain full employment without generating inflation.

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DISCUSSION

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In commenting on this panel, I am reminded of the remark by George Bush, Senior: "I want to be sure that everyone who has a job, wants a job."

Only two papers from this panel reached me in advance; the Harvey paper and the Wray paper. So I will comment on those.

Let me start with the Harvey paper. Almost all rights, no matter how fundamental they may seem, are subject to interpretation. Freedom of speech does not mean crying fire in a crowded theater when there is no fire, or even the right to slander, or even the right to advertise falsely. Now, one can say that deleting the right to cry fire is based on utilitarian grounds; that is, people might be hurt in the resulting panic. Or one can say that the rights of those in the theater outweigh in some sense the right of someone who wants to cry fire. It is not clear to me that in the end it makes much difference.

Members of Congress who refused to accept a Full Employment Act in 1946 and instead voted for a watered-down Employment Act probably would not agree that they were voting on utilitarian grounds. The median conservative congressional voter would probably have said that ensuring full employment would entail too much government intervention. Some rationale based on individual freedom—a right—might well have been what would have been cited. At the time, Keynesian economists who were pushing the Full Employment Act would have talked on utilitarian grounds, pointing to the waste represented by shortfalls from full employment. So opponents of the legislation were talking rights over practical results. Now, Harvey tells us, the sides have reversed. But the outcome is the same, suggesting that beliefs of neoclassical economists are not the key to outcomes.

A right to full employment, despite the language of the Beveridge report, is subject to interpretation, probably more interpretation than free speech. In 1999, 68.4 million people on average were not in the labor force as it is officially defined. Of those, 63.8 million said they didn't want a job, about 93%. So presumably, we shouldn't worry about them. Or should we? In fact, some of those 63.8 million might be enticed into the labor market if just the right job with attractive pay came along. But even if we put them

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aside, there are the remaining 4.6 million who said they wanted a job but did not meet the official criteria for being counted as unemployed. Of those, 2.7 million did not search for work in the previous 12 months—almost 6 out of 10. Do we worry about them? If we don't, we are down to 1.8 million who are not officially unemployed but who did search in the prior 12 months. Of these, 644,000 said that although they wanted a job, they were not available for work at the time of the survey. Do we worry about them? Presumably, they want a job eventually, but not now. Of those who were available, 273,000 said they were not currently looking, but it was because they were discouraged since they believed no work was available for them. So presumably we should worry about them. But should we worry about the other 927,000 who said that they were not currently looking for work due to family responsibilities, school, training, ill health, disability, or a variety of miscellaneous reasons? They are saying that they would like a job and at some point looked for one but really couldn't accept work now. Of course, if just the right job came along now that fit with school hours or otherwise overcame some personal barrier, they could accept it. So do we worry about them?

The official unemployment rate was 4.2% in 1999, much lower than thought to be sustainable only a few years before. Of the 5.9 million officially unemployed, 783,000 had voluntarily left their jobs. Do we worry about them? Do we worry about the 848,000 on temporary layoff (meaning they expected to be recalled)? For those who were counted as unemployed, the median interrupted spell was 6.4 weeks (so completed spells are longer). Is that too long, given the Beveridge criteria cited in the Harvey paper? And what do we do about the 2.2 million people who wanted full-time jobs but did have part-time jobs? Do we worry about them as much as we worry about those totally unemployed? For that matter, do we worry less about the 1.2 million people who were unemployed but wanted only part-time work than about those who wanted full-time work?

How do we factor in the adequate income criteria? Do we say that the unemployed who want only part-time work should nonetheless earn a full-time wage? And, in any case, what is an adequate wage? Do we consider the wage in relation only to the individual? Or do we consider family or household income in total? If the wage earned at a job is inadequate, do we provide an income subsidy directly to the worker? Or to the employer? Or do we simply set a minimum wage, presumably much higher than the current federal minimum? In the third quarter of 2000, the wage at the first quartile for full-time workers was $377 per week, that is, about $19,600 per year. Is that adequate? The median was $575 per week, that is, $29,900 per year. Is that adequate?

Now note that I have not put forward any particular model for evaluating the various questions I have posed. But posing them does suggest something like the following: the more the current outcomes seem inadequate, the more I will have to intervene to make the correction. Neoclassical economics, to be sure, suggest certain results of particular interventions. But those who worry about Big Government encroaching on individuals might shy away from interventions, even if they could be done without creating perverse effects. Or they would frame it in terms of "rights versus responsibilities." If you want to know why the United States has been more shy of interventions to smooth out income inequalities or to reduce unemployment than some other countries, I suggest that the answer lies more in the area of individualism than neoclassical economic analysis. The United States likes neoclassical analysis, and exports it abroad through various channels, precisely because it supports the deeper notion of individualism. Individualism is the cause; neoclassical analysis is the effect.

The Wray proposal, which basically is a public jobs safety net with a low wage, is obviously not in keeping with the Harvey proposal because its income is "inadequate" and because it is based on a utilitarian notion, that is, that unemployment is wasteful. Therefore, curing it should not be costly.

I have to confess that its monetary side reminds me of schemes like Social Credit from the 1930s, or even free silver from the 1890s. Last year I published a book—*Pensions, Politics, and the Elderly*—which dealt with the Ham and Eggs movement in California. Under that plan, which California voters nearly passed in 1938, everyone over age 50 would have gotten "$30 every Thursday," which would have been financed by a new state currency. If you want to know more about Ham and Eggs and similar schemes, buy the book, but be sure to use genuine U.S. dollars.

In short, I don't think you need monetary schemes to do what Wray wants. The paper he sent is sketchy, but his plan appears to be a commodity money scheme in which the "commodity" whose price is to be fixed is low-skilled labor rather than, say, gold. The government stands by to purchase unskilled labor at a low price ($6.25 per hour) by issuing money. The more labor it buys (because the private sector is shedding workers), the more money it issues. As in the gold standard, the government has to stand ready to exchange labor for units of money or units of money for labor in unlimited quantities. If it does so, the nominal price of the commodity (unskilled labor in this case) is fixed. But note that no other price is fixed.

According to Wray, 8 million people would be getting $6.25 per hour under his proposal. If they were paid for 2,000 hours a year, that would be $12,500 each, or an outlay of $100 billion per year (so I have trouble understanding where his estimate of $25 billion to $50 billion comes from—and

my calculation doesn't include his social insurance and benefits that would be added to the wage under his plan). Could the United States "afford" this? With a $10 trillion GDP, it obviously could. Do you need a new monetary scheme to have the government spend $100 billion? Since we spend over four times that amount on national defense alone, without a new monetary system, we obviously don't need a new monetary system to spend money on a public service employment system. Would the scheme stabilize prices of anything except unskilled labor? You have only to look at the gold standard that fixed the nominal price of gold but not anything else. Under the gold standard, there were major periods of inflation and deflation.

Would the proposed monetary system provide real economic stability? In a way, the system would be something like Milton Friedman's proposal for a fixed rule of money creation. In this case, there isn't a rule exactly; more of a formula that says that more money is created when more unskilled workers become available. So the system has some countercyclical aspects. However, whether it would be the "right" formula at any point in time is questionable. Business cycles can arise from external disturbances, over- or underinvestment in inventories, bubbles of irrational exuberance and bursting bubbles, and so on. The amount of monetary creation needed to deal with these occurrences varies over time. Just as I would not recommend a return to the old gold standard, which locked the Federal Reserve into perverse monetary policy in the early 1930s, so I would not recommend a new labor standard.

Finally, have economists come up with clever ideas that don't require major monetary innovations but could help smooth out the business cycle? Yes, particularly in the 1980s, there was much discussion in the economic literature about encouraging profit sharing as a way of providing a micro incentive for macro stability. I have in mind Martin Weitzman's much discussed "share economy" proposal. Interest in it died down because the 1990s saw low inflation and low unemployment. But that could change if the economy indeed slides into recession, as some now predict.

DISCUSSION

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Randall Wray (1997, 2000, this volume) has recently argued that government can secure permanent noninflationary full employment by acting as employer of last resort (ELR). According to Wray, government should always have "a job offer for anyone who is ready, willing, and able to work" at a socially established basic wage (Wray, this volume). The basic wage should include not only a wage component but also a benefits component in the form of health insurance and contributions to Social Security. This proposed scheme resonates with arguments put forward by Harvey that employment is a human right, and the ELR proposal can be thought of as making this right effective.

The ELR scheme would have government establish a horizontal supply of jobs at a socially established basic wage. In doing so, proponents claim that it will take care of both the price (low wages) and quantity (unemployment) problems that have historically afflicted decentralized labor markets. The existence of perfectly elastic supply of jobs deals with the problem of insufficient jobs, while the problem of inadequate low wages is dealt with through the basic wage, which sets a floor to economywide wages. The logic is that any private employer seeking to pay less would be unable to find workers, as they would prefer ELR jobs.

The ELR proposal has its roots in a fusion of Keynesian and neochartalist monetary thought. The Keynesian piece reflects the belief that modern capitalist economies periodically produce unemployment owing to lack of demand, but rather than dealing with the problem by pumping up demand, ELR deals with the problem by offering public-sector jobs. This supply of jobs is paid for with money-financed deficits, which, it is claimed, would be noninflationary because money injected would leach back out in the form of tax payments. This latter claim is the neochartalist piece of the proposal.

The neochartalist position has close links to the legal restrictions theory of money (Wallace 1983), which maintains that state-issued fiat money has value because it is the only means of paying tax obligations. However, the

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neochartalists excavate the fiscal implications of this legal restrictions argument and end up reversing the claim that taxes are needed to finance government spending. Instead, "taxes are required not to finance government spending, but rather to maintain demand for government fiat money" (Wray 1998:75). It is this reasoning that leads proponents of ELR to believe that deficit financing of ELR jobs will be noninflationary. The creation of ELR jobs creates income, as does spending of this income, and this in turn generates tax obligations that drain money from the system.

Lastly, this neochartalist deficit-spending feature interacts with the Keynesian logic of demand-determined private-sector employment to produce a powerful, automatic stabilizing mechanism. When private-sector demand is low and unemployment is high, ELR employment rises. This automatically increases government deficit spending, resulting in an injection into the private-sector economy that raises output and employment. The rise in private-sector employment in turn draws workers off the rolls of the ELR program, resulting in an automatic reduction of government spending and a closing of the deficit.

Some Reflections

Questions about the proposed ELR scheme can be divided into four categories: microeconomic administrative questions, macroeconomic inflation questions, political-economy financing questions, and open-economy trade-deficit and exchange-rate questions.

Microeconomic administrative questions. The first major issue confronting an ELR program concerns the need to establish and efficiently administer a program that can provide productive jobs. That jobs be productive is a critical necessity: absent this, public support for the program will inevitably disappear even if the program provides overall macroeconomic benefits. Existing nonprofit institutions could undoubtedly be usefully engaged in making ELR jobs productive, but scaling them up from existing levels would itself be a significant challenge.

A second microeconomic challenge, which afflicts all forms of workfare programs, is how to provide productive public-sector jobs without undermining existing public-sector pay arrangements. Thus, it is not difficult to see how opponents of public-sector unions could substitute ELR employment for unionized public-sector jobs. In effect, an ELR program risks opening a new "public-sector" front in the war against unions, and this would aggravate many of the existing problems regarding distribution of income and voice at work.

Macroeconomic inflation questions. The most controversial claim of the ELR proposal is that it can be deficit financed in a noninflationary way.

The claim that it is noninflationary rests on the argument that ELR supplies jobs at a labor market floor wage rather than demanding workers and bidding up the wage.

There are two concerns here. The first is that to have meaning, the socially established basic wage must be a real wage. In this event, there is a danger that if set at too high a level, it could draw workers out of the private sector, thereby bidding up the private-sector wage and driving down private-sector output supply, which in turn would drive up prices. This private-sector price–wage response would ultimately draw workers back into the private sector and is therefore self-equilibrating. However, it does illustrate a potential and ever-present inflationary pitfall connected with the issue of how to set the basic wage.

The second and more serious problem concerns the macroeconomic structure of the economy. Proponents of ELR appear to be working with a single-sector Keynesian macro model with an inverse L-shaped supply curve. In this model, there is no inflation as long as activity is on the bottom portion of the L. As private-sector demand expands and workers are drawn into the private sector, ELR employment declines, and these new private jobs raise output and reduce price pressures. But what if the economy is really a multisector economy? In 2000, the U.S. national unemployment rate was 4%, but a map showing unemployment rates by county shows wide variation. Some counties had unemployment rates of 2%, but others had rates in excess of 9%. This is important because though ELR jobs will be created in high-unemployment areas, the demand generated by spending of wages will spread into other areas, potentially creating inflationary pressures in those areas. Thus, spending of wages in the most depressed regions of West Virginia involves purchases of goods made elsewhere, and the money so spent then remains in circulation in those other areas.

This leads to another concern. The neochartalist logic behind the financing of an ELR program implicitly assumes that money spent comes back to government in the form of tax receipts. After all, taxes are required to ensure demand for fiat money. But here too there is a problem since the simplest of Keynesian income–expenditure models shows that a dollar of government spending must always increase the deficit—though the increase is less than a full dollar owing to the recouping effect of taxation.[1] This means that as long as government money finances the payment of ELR jobs, it will be injecting new money balances into the economy, potentially contributing to the buildup of inflationary pressures. However it should also be noted that balancing this, if there is steady productivity growth, this injection of new money might perform the useful function of supporting demand growth that absorbs the new output and prevents price deflation.

Political-economy financing questions. Wray seeks to illustrate how an ELR program would work by reference to the experimental "buckaroo" program run by the University of Missouri–Kansas City. This program obliges students to do community service to earn buckaroos (university-issued money) that they then pay to the university to meet their obligation regarding performance of a given number of community service hours. This program certainly illustrates the neochartalist dimension of money, but it also illustrates why there may be political-economy financing constraints on an ELR program. In effect, the public may be unwilling to pay the taxes necessary to support an ELR program.

In the case of the buckaroo program, this objection does not hold because students are compelled to conform to the university's requirements. But in the real world, people may object to paying taxes to finance ELR jobs. People have to earn income to pay taxes, and earning income means bearing private costs. In the United States, this political-economy financing constraint appears to kick in when the tax share rises above 20% of GDP.

The existence of a financing constraint also intersects with the microeconomic administrative concerns raised earlier. If ELR jobs are viewed as not producing value, the public will turn against them, and the financing constraint will bite with further force. ELR workers use their income to purchase and consume output produced in the private sector. The production of this output entails private resources and effort so that in effect resources and effort are being transferred to ELR workers in return for money to pay taxes to finance ELR jobs. People will be much more willing to do this if they believe ELR jobs are producing output of real value and are not just make-work arrangements to deal with the problem of unemployment.

Open-economy trade-deficit and exchange-rate questions. The final set of questions concerns the exchange rate implications of ELR. Part of the income earned by ELR workers will inevitably be spent on imports, and so too will part of the induced domestic income generated by ELR workers consuming domestic output. This risks the emergence of trade deficits and exchange-rate depreciation. For a small, open economy, exchange-rate depreciation can produce imported price inflation that can then trigger a domestic wage–price spiral. In effect, the foreign account is another open-economy channel through which a money-financed ELR program could prove inflationary. Such considerations suggest that the real test of the theoretical claim that ELR can provide noninflationary full employment is whether countries like South Africa, Brazil, or Mexico could implement such a program. Independent of their microeconomic administrative capacities to do so, it is likely that these countries would all find serious

macroeconomic constraints at play, which suggests that the claims of ELR proponents may be overstated.

Conclusion

Proponents of ELR have made a real contribution to the current policy debate by arguing that true full employment is within reach of policy makers. The strongest piece of their reasoning is the automatic stabilizing feature of ELR programs. Unemployment is automatically dealt with by having a perfectly elastic supply of ELR jobs so that unemployed workers create employment by accepting ELR vacancies. In doing so, they also set in motion government spending that raises private-sector demand. This expands private-sector employment, which serves to automatically draw workers off the ELR rolls, thereby reducing government spending. Balanced against this are the problems of ensuring that ELR work is productive in its own right, the possibility that taxpayers may be unwilling to finance the cost of ELR jobs, and the macroeconomic inflation implications of deficit financing.

The traditional policy tools of a minimum wage, expansionary fiscal policy, and easy monetary policy can realize most of the goals of ELR. If set right, the minimum wage can ensure a minimally appropriate standard of living for all, and it can be bolstered by programs such as the earned income tax credit. Easy monetary policy and expansionary fiscal policy can ensure levels of aggregate demand that produce full employment. Public investment programs that conform to procedures established by the Davis–Bacon Act ensure that public capital is produced without undermining unions, and it is also produced efficiently as profit-maximizing firms contract to build it. The advantage of these arrangements is that for the most part, they leave decisions about what to purchase and how to produce it in the hands of private-sector agents. For many activities, this is the most efficient course. The disadvantage is that they lack the automaticity inherent in the ELR program in that they rely on decision responses by policy makers to changing economic conditions. The challenge is how to build more automaticity, akin to the ELR program, into them.

Endnote

[1] This is easily seen in the following model:

$$Y = c_0 + c_1(1 - t)Y + G,\ c_0 > 0,\ 0 < c_1 < 1 \quad (1)$$

$$T = tY,\ 0 < t < 1 \quad (2)$$

$$D = T - G \quad (3)$$

where Y = national income, t = flat tax rate, G = government spending, and D = government deficit. In this case, the impact of a \$1 increase in G on D is

$$dD/dG = t/[1 - c(1 - t)] - 1 < 0$$

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XIV. HUMAN RESOURCES AND BUSINESS PERFORMANCE

Low-Involvement Work Practices and Business Performance

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During the last decade, numerous studies have appeared that provide quantitative estimates of the effects of human resource management practices on business performance (see, as examples, Mitchell, Lewin, and Lawler 1990; Arthur 1992; Huselid 1995; MacDuffie 1995; Huselid, Jackson, and Schuler 1997; Ichniowski, Shaw, and Prennushi 1997; Lee and Johnson 1998; Batt 1999; Applebaum, Bailey, Berg, and Kalleberg 2000). Taken as a whole, this exciting stream of research appears to support the conclusion that so-called high-involvement or high-performance work systems are, in statistical parlance, significantly positively associated with various measures of team, plant/establishment, business unit, and overall company performance.[1]

For the fields of human resources (HR) and industrial relations (IR), these studies and the generalized conclusion to which they lead are of signal importance. Regarding HR, recent high-involvement work systems research lends credence to the claim (voiced by some scholars and practitioners) that human resources can be strategically managed to achieve competitive advantage, perhaps even sustainable competitive advantage, to the business enterprise (Pfeffer 1998). This research also gives credence to the claim that modern human resource management differs significantly from traditional personnel management, both analytically and in practice (Ulrich 1997). Regarding IR, recent high-involvement work systems research shows that it is possible to go well beyond narrowly focused union wage impact studies, which have long been at the center of IR research, to analyze rigorously the

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effects of other "labor" practices on business performance. Further, the findings and conclusions drawn from high-involvement work systems research strongly support the view that a shift (some say transformation) from unions to management as the dominant force (or actor) in the employment relationship has recently taken place (Dunlop 1998; Kochan, Katz, and McKersie 1986).

But this is not all. By specifying and quantitatively estimating the effects of high-involvement work systems on business performance, today's researchers have gone well beyond earlier generations of organizational-behavior scholars, many of whom believed but were unable to demonstrate rigorously that participatively oriented "people management" practices could benefit both employers and employees. Consequently, one may reasonably conclude that recent high-involvement work systems research has rather quickly come to occupy a dominant place in the fields of HR, IR, and organizational behavior.

Yet there is reason to question this dominance and, more fundamentally, the conceptual and empirical foundations of contemporary high-involvement work systems studies. In this regard, I do not have in mind the lack of a uniform, widely agreed upon definition of high-involvement work systems; the heavy reliance on cross-sectional studies (and paucity of longitudinal studies); or the oversampling of manufacturing businesses (and undersampling of service businesses) in high-involvement work systems research. These and related concerns about contemporary high-involvement work systems research have been ably identified and elaborated by Godard and Delaney (2000). Rather, I have in mind what I regard as two major exclusions from high-involvement work systems research. First, and to the best of my knowledge, *none* of this research takes account of—controls for—the effects of marketing, finance, operations, or other areas of business practice in estimating the effects of high-involvement work systems on business performance.[2] Second, as both its name and its extant research designs indicate, high-involvement work systems research appears to focus exclusively on high-involvement work practices and to exclude from consideration what may best be termed low-involvement work practices.[3] It is the second of these exclusions from high-involvement work systems research, that is, low-involvement work systems and practices, that serves as the central focus of this paper.

Low-Involvement (and High-Involvement) Work Practices

While the adoption and diffusion of high-involvement work systems among business enterprises in the United States and abroad have been widely attested to and increasingly studied, there also has been substantial

growth and diffusion of low-involvement work systems and practices among business enterprises—including some of the same enterprises that utilize high-involvement work practices for certain portions of their workforces. By low-involvement work practices, I am *not* referring to traditional, or high-control, work systems based on the principles of scientific management, which typically constitute the point of departure or baseline comparison for high-involvement work systems researchers.[4] Instead, I am referring to such practices as part-time employment, temporary employment, contract employment, vendored employment, and outsourcing.[5] Another way to think about the distinction between high-involvement and low-involvement work systems is to distinguish core employees from peripheral employees. Following this dichotomy, core employees are most likely to be covered by (or subjected to) high-involvement work systems and practices, while peripheral employees are most likely to be covered by (or subjected to) low-involvement work systems and practices (Sherer 2000; Lewin and Mitchell 1995). In any case, and analogous to recent high-involvement work systems research, the key question to be addressed here is "Do low-involvement work systems have significant effects on business performance?"

Conceptually, low-involvement work systems characterized by part-time employment, temporary employment, contract employment, vendored employment, outsourced work and employment, or some combination thereof can be posited to improve business performance by resulting in lower labor or payroll costs rather than higher productivity, improved product or service quality, or enhanced revenue (or revenue growth). High-involvement work systems, by contrast, are typically considered likely to improve business performance by resulting in higher productivity, improved product or service quality, enhanced revenue or revenue growth, or some combination thereof rather than lower labor or payroll costs. In research that uses overall company or component-business-unit-level financial performance measures—for example, return on capital, market value, and net revenue per employee—as dependent variables, the different paths to improved business performance between low-involvement and high-involvement work systems matter little, if at all, because such measures reflect the combined influences of cost-reducing and productivity-, quality-, and revenue-enhancing work system initiatives and practices. In research that uses work-unit or workplace-level operating performance measures—for example, labor costs, productivity, and product or service quality—as dependent variables, the different paths to improved business performance between low-involvement and high-involvement work systems are likely to matter quite a lot.

Further, in a conceptual vein, concentrating attention on low-involvement work systems and their effects on business performance does not

require the exclusion of high-involvement work systems from consideration. To the contrary, the question of whether and to what extent low-involvement *and* high-involvement work systems separately and together affect business performance appears to be a key question in contemporary HR management research and practice, all the more so given that many businesses, including those that are well known for their high-involvement work practices, apparently employ both low-involvement and high-involvement work practices (Pfeffer 1994).[6]

This paper presents preliminary findings from ongoing research into the effects of low-involvement work systems on the economic performance of samples of (1) U.S.-based business enterprises, (2) business units of multiunit U.S.-based business enterprises, (3) California-based manufacturing plants or establishments (hereafter called plants), and (4) sales and service field offices of a U.S.-based national insurance company. The data used in this study cover the 1995–1998 period and were obtained from secondary sources, field research, and especially surveys of executives and managers concerning their organizations' uses of low- (and high-) involvement work practices, economic performance, and other (control) variables. The rationale for this multilevel, quasi-triangulation approach is that with the paucity of research into the effects of low-involvement work systems on business performance, there is little or no theoretical or empirical justification for choosing one type of design over another. Further, as is well known, a triangulation-based research design allows us to determine whether the findings from the separate components of the design converge or diverge. Main findings from each of the four substudies composing this research are presented in summary fashion in the following sections.

Low-Involvement Work Systems and Business Enterprise Performance

To examine the effects of low-involvement work systems on the (consolidated) performance of (U.S.) business enterprises, a sample of such enterprises was selected from Standard and Poor's COMPUSTAT:I file.[7] This source was used to construct economic performance measures for each business enterprise. A randomized 10% sample of COMPUSTAT business enterprises was selected, and a survey questionnaire was sent to the head human resource officer, chief operating officer, chief administrative officer, or president of each enterprise in mid-1999. Two survey mailings, a telephone follow-up, and an e-mail follow-up were employed for each sampled enterprise, yielding an overall (fully usable) response rate of 55% (i.e., 289/525). Descriptive statistics for this sample of enterprises indicated that between 1995 and 1998, they increased their use of part-time, temporary,

contract, vendored, and outsourced employment by about three percentage points (from roughly 10% to 13%).

To estimate the effects of low-involvement work systems on financial performance among this sample of enterprises, three economic performance measures—namely, (adjusted) rate of return on capital employed (ROCE), (adjusted) market value (MKTVAL), and mean (gross) revenue per employee (REVPEM)—were first regressed on an index of low-involvement work practices (LIWP)[8] and a vector of control variables for the year 1998. Then, the change in each of the three performance measures was regressed on the change in the low-involvement work practices index and changes in the control variables over the 1995–1998 period. To conserve space, these regression estimates are not presented here.

The 1998 cross-sectional results show a significant positive regression coefficient on the LIWP index in each of the business performance equations, with the result being strongest in the case of revenue per employee. The longitudinal results also show a significant positive coefficient on the change in the LIWP index in each of the economic performance equations; the longitudinal results are stronger than the cross-sectional results. Next, the cross-sectional and longitudinal economic performance equations were reestimated but this time including a high-involvement work practices (HIWP) index together with the LIWP index and the control variables. The results of testing these six equations are presented in table 1.

Both the cross-sectional and longitudinal estimates show significant positive regression coefficients on the LIWP index in the economic performance equations (columns 1–6 of table 1). The regression coefficients on the HIWP index are positive but insignificant in all three cross-sectional estimates (columns 1–3); however, they are positive and significant in all three longitudinal estimates (columns 4–6). These findings suggest that at a particular point in time as well as over time, the use of part-time, temporary, vendored, contract, and outsourced employment is associated with improved economic performance among the business enterprises included in this study. That high-involvement work practices are more likely to manifest positive effects on business performance in the intermediate or long run than in the short run is not surprising in light of prior research findings (e.g., Eaton and Voos 1994). What is surprising, perhaps, is that these longer-run positive effects of businesses' use of employee participation plans, variable pay plans, targeted selection methods, performance management programs, formal training programs, and other related work practices included in the HIWP index do not vitiate the longer-run positive effects of low-involvement work practices on economic performance among the business enterprises included in this study.[9]

TABLE 1
OLS Regression Coefficients on Business Enterprise Economic Performance

	Dependent variable					
		1998			1995–1998	
Independent variable	ROCE (1)	MKTVAL (2)	REVPEM (3)	ROCE (4)	MKTVAL (5)	REVPEM (6)
Constant	1.19*	0.64*	1.35*	1.09*	0.54*	1.26*
	(0.57)	(0.28)	(0.62)	(0.51)	(0.23)	(0.60)
LIWP	0.46*	0.44*	0.52**	0.51**	0.47*	0.56**
	(0.20)	(0.19)	(0.20)	(0.21)	(0.22)	(0.23)
Size	0.25*	0.20*	0.16	0.24*	0.22*	0.17
	(0.11)	(0.09)	(0.10)	(0.11)	(0.10)	(0.11)
Cap/Lab	–0.57**	–0.50*	–0.28	–0.68**	–0.54*	–0.31
	(–0.23)	(–0.22)	(–0.15)	(–0.27)	(–0.23)	(–0.18)
Union	–0.21	–0.22	–0.13	–0.23	–0.26	–0.16
	(–0.12)	(–0.13)	(–0.08)	(–0.14)	(–0.17)	(–0.10)
RevGrowth	0.41	0.58*	0.69**	0.44	0.64*	0.76**
	(0.24)	(0.27)	(0.28)	(0.25)	(0.30)	(0.31)
Concentration	–0.55**	–0.45*	–0.43*	–0.58**	–0.49*	–0.48*
	(–0.22)	(–0.21)	(–0.20)	(–0.23)	(–0.22)	(–0.21)
S, G, & A	–0.19	–0.21	–0.32*	–0.21	–0.24	–0.34*
	(–0.11)	(–0.12)	(–0.14)	(–0.12)	(–0.15)	(–0.15)
Risk	–0.37*	–0.31	–0.24	–0.40*	–0.33	–0.29
	(–0.16)	(–0.17)	(–0.14)	(–0.18)	(–0.19)	(–0.15)
HIWP	0.34	0.32	0.41	0.39*	0.37*	0.47*
	(0.20)	(0.18)	(0.23)	(0.19)	(0.20)	(0.22)
R^2	0.24*	0.21*	0.20*	0.26*	0.24*	0.22*
N	289	289	289	254	254	254

Standard errors are in parentheses.
* Significant at p .05
** Significant at p .01

Low-Involvement Work Systems and Business Unit Performance

Because business enterprises are often composed of several (and, in some cases, many) separate or individual businesses, the overall enterprise may not be the most appropriate level for analyzing the effects of low-involvement (or high-involvement) work systems on economic performance. Further, because an overall enterprise-level set of financial statements represents a consolidation of the operating results of component business units or entities, the measures of economic performance drawn from such consolidated statements are not suitable for assessing the effects of low-involvement (or high-involvement) work systems on component businesses' economic performance. Therefore, the next empirical step in this

research was to analyze the effects of low-involvement work systems on business unit (as distinct from business enterprise) economic performance.[10]

For this purpose, a sample of business units was drawn from Standard and Poor's COMPUSTAT:II file. In this instance, the randomized sample represented 5% of all businesses included in this data source. As before, this source was used to construct economic performance measures for the sampled business units. Because most of these business units did not issue their own stock, however, the economic performance measures used in this portion of the research were limited to the (adjusted) rate of return on capital employed (ROCE) and the mean (gross) revenue per employee (REVPEM). Also, as before, a survey questionnaire was sent in mid-1999 to the head human resources officer, chief operating officer, chief administrative officer, or president of each business unit to elicit data on low-involvement work practices and other relevant variables. Two survey mailings, a telephone follow-up, and an e-mail follow-up were used for each sampled business unit, yielding a (fully usable) response rate of 58% (i.e., 313/540). Descriptive statistics for this sample of business units indicated that between 1995 and 1998, they increased their use of part-time, temporary, contract, vendored, and outsourced employment by about four percentage points (from 10% to 14%).

To estimate the effects of low-involvement work practices on economic performance among this sample of business units, the two performance measures were first regressed on the LIWP index and a vector of control variables for the single year 1998. Then the change in each economic performance measure was regressed on the change in the LIWP index and changes in the control variables over the 1995–1998 period. To conserve space, these regression estimates are not presented here.

The 1998 cross-sectional results show a significant positive regression coefficient on the LIWP index in both economic performance equations, with the result being strongest in the case of revenue per employee. The longitudinal results also show significant positive coefficients on the change in the LIWP index in the two economic performance equations, and these results are stronger than the cross-sectional results. Next, the cross-sectional and longitudinal economic performance equations were reestimated with the HIWP index included with the LIWP index and the control variables. The results of testing these four equations are presented in table 2.

Both the cross-sectional and longitudinal estimates show significant positive regression coefficients on the LIWP index in the economic performance equations (columns 1–4 of table 2). In addition, the coefficients on the HIWP index are positive and significant in one of the two cross-sectional estimates (column 2, revenue per employee) and in both longitudinal estimates (columns 3 and 4). These findings therefore suggest that at a

TABLE 2
OLS Regression Coefficients on Business Unit Economic Performance

	Dependent variable			
	1998		1995–1998	
Independent variable	ROCE (1)	REVPEM (2)	ROCE (3)	REVPEM (4)
Constant	1.29*	1.43*	1.16*	1.36*
	(0.59)	(0.67)	(0.54)	(0.63)
LIWP	0.44*	0.49**	0.48**	0.52**
	(0.19)	(0.20)	(0.19)	(0.20)
Size	0.26*	0.17	0.28*	0.19
	(0.12)	(0.11)	(0.13)	(0.13)
Cap/Lab	–0.61**	–0.31	–0.69**	–0.34
	(–0.25)	(–0.17)	(–0.28)	(–0.19)
Union	–0.27*	–0.17	–0.28*	–0.14
	(–0.13)	(–0.10)	(–0.13)	(–0.08)
RevGrowth	0.37	0.64**	0.39	0.71**
	(0.21)	(0.26)	(0.21)	(0.27)
Concentration	–0.51**	–0.40*	–0.56**	–0.45*
	(–0.20)	(–0.18)	(–0.22)	(–0.20)
S, G, & A	–0.20	–0.36*	–0.23	–0.37*
	(–0.12)	(–0.15)	(–0.13)	(–0.17)
HIWP	0.41*	0.45*	0.44*	0.49*
	(0.18)	(0.20)	(0.19)	(0.23)
R^2	0.25*	0.22*	0.26*	0.24*
N	289	289	254	254

Standard errors are in parentheses.
* Significant at p .05
** Significant at p .01

particular time as well as over time, the use of part-time, temporary, contract, vendored, and outsourced employment is associated with improved business unit economic performance. And, as before, the positive effects of low-involvement work practices on the economic performance of business units are not vitiated when the high-involvement work practices of these same business units are considered and such high-involvement work practices have additional, independent positive effects on the economic performance of the business units included in this study.

Low-Involvement Work Systems and Plant Performance

While low-involvement work systems may affect the financial performance of business enterprises and units of those enterprises, studies of

high-involvement work systems suggest that the effects of low-involvement work systems are likely to be most direct and largest on workplace-level rather than enterprise-level or business-unit-level performance (Ichniowski, Kochan, Levine, Olson, and Strauss 1996). To analyze the effects of low-involvement work systems on workplace-level operating performance in this study, a sample of manufacturing plants in California was selected from a statewide directory provided by the California Employment Development Department (EDD). Approximately 22,300 plants or establishments were included in the EDD's 1999 directory, and an industry employment-weighted, randomized 5% sample of these plants was selected for the administration of a survey questionnaire. The survey was mailed to the head human resource officer, general manager, plant manager, or chief operating officer of each plant in mid-1999. Two survey mailings, a telephone follow-up, and an e-mail follow-up were used for each sampled plant, yielding an overall (fully usable) response rate of 41% (i.e., 457/1,115). Descriptive statistics for this sample of manufacturing plants indicated that between 1995 and 1998, they increased their use of part-time, temporary, contract, vendored, and outsourced employment by about 3.5 percentage points (from 10% to 13.5%).

To estimate the effects of low-involvement work systems on operating performance among this sample of plants, total labor cost as a proportion of total operating cost (LABOR COST), productivity (PROD), and product quality (PROD QUAL) were first regressed on the LIWP index and a vector of control variables for the year 1998. Then the change in each operating performance measure was regressed on the change in the LIWP index and changes in the control variables between 1995 and 1998. Both the 1998 cross-sectional and 1995–1998 longitudinal results (not presented here) show significant negative regression coefficients on the LIWP index in the LABOR COST equations and insignificant negative coefficients on this index in the PROD and PROD QUAL equations. Thus, it appears that at a particular point in time and over time, the use of low-involvement work practices is significantly associated with lower labor costs but not with productivity or product quality among the manufacturing plants included in this study.

Next, the cross-sectional and longitudinal plant operating performance equations were reestimated with the inclusion of the HIWP index. The results of testing these six equations are presented in table 3. Once again, both the cross-sectional (columns 1–3) and the longitudinal (columns 4–6) estimates show negative regression coefficients on the LIWP index in all six equations and, also as before, significantly so in the LABOR COST equations (columns 1 and 4) but not in the PROD and PROD QUAL

equations (columns 2–3 and 5–6). The regression coefficients on the HIWP index are positive in all six equations, significantly so in the two LABOR COST equations (columns 1 and 4), the two PROD QUAL equations (columns 3 and 6), and the longitudinal PROD equation (column 5).

TABLE 3
OLS Regression Coefficients on Manufacturing Plant Operating Performance

	Dependent variable					
	1998			1995–1998		
Independent variable	LABOR COST (1)	PROD (2)	PROD QUAL (3)	LABOR COST (4)	PROD (5)	PROD QUAL (6)
Constant	2.19*	2.34*	2.48*	2.23*	2.41*	2.59*
	(1.07)	(1.12)	(1.21)	(1.07)	(1.15)	(1.24)
LIWP	–0.63*	–0.26	–0.32	0.74**	–0.30	–0.35
	(0.28)	(0.15)	(0.17)	(0.30)	(–0.16)	(–0.18)
Size	0.30	0.24	–0.43*	0.38*	0.27	–0.41*
	(0.16)	(0.13)	(–0.19)	(0.18)	(0.14)	(–0.18)
Cap/Lab	–0.33*	0.37*	0.24	–0.36*	0.39*	0.27
	(–0.16)	(0.17)	(0.14)	(–0.17)	(0.18)	(0.15)
Union	0.38*	0.14	0.12	0.44*	0.17	0.15
	(0.18)	(0.08)	(0.07)	(0.20)	(0.09)	(0.18)
Years	0.27	–0.40*	0.18	0.30	–0.49*	0.19
	(0.15)	(–0.18)	(0.10)	(0.16)	(–0.23)	(0.11)
HIWP	0.48*	0.31	0.49*	0.52*	0.43*	0.55*
	(0.22)	(0.16)	(0.22)	(0.23)	(0.19)	(0.24)
R^2	0.29*	0.31*	0.24*	0.30*	0.33*	0.26*
N	457	457	457	384	384	384

Standard errors are in parentheses.
* Significant at p .05
** Significant at p .01

Taken together, these findings suggest that the use of part-time, temporary, contract, vendored, and outsourced employment is associated with improved manufacturing plant performance, specifically in terms of a lower ratio of labor cost to total operating cost, and that this effect is not offset by the degradation of either productivity or product quality. By contrast, high-involvement work practices are associated with improved product quality and, to a lesser extent, productivity, but also with a higher ratio of labor cost to total operating costs. Finally, the effects of low-involvement and high-involvement work practices on manufacturing plant performance appear to be independent of each other, at least among the sample of plants included in this study.[11]

Low-Involvement Work Practices and Service Performance

In the final phase of this study, an attempt was made to determine the effects of low-involvement work practices on performance in a service context. For this purpose, access was obtained to a California-based national insurance company that sells life, homeowner, automobile, and certain other types of insurance policies directly to individual customers throughout the United States. The company also provides a variety of services to customers, especially the investigation, settlement, and payment of claims made by customers under the various insurance plans and coverages. To sell insurance and provide insurance-related services to its customers, this company is organized into numerous field offices, and a subset of these offices served as the unit of analysis for this phase of the study.

To begin, the company's operating and human resource management practices were reviewed with the chief operating officer and chief human resource officer. Then a complete list of the company's field offices was obtained, and a letter requesting participation in the study was sent in early 1999 to the manager of each office. Positive responses were received from 65% of these managers (i.e., 289/445). A survey questionnaire designed to elicit data on these field offices' use of low-involvement work practices and other relevant variables was then prepared and mailed in mid-1999 to each of these managers. Note that data on these field offices' use of high-involvement work practices could not be obtained for this study, so the following analysis is limited to estimating the effects of low-involvement work practices on operating performance.[12] Two survey mailings, a telephone follow-up, and an e-mail follow-up yielded an overall (fully usable) response rate of 56% (i.e., 249/445). Descriptive statistics for this sample of field offices indicated that between 1995 and 1998, they increased their use of part-time, temporary, contract, and outsourced employment by about 5.5 percentage points (from 13.5% to 19%).

Operating performance among these field offices is measured by four variables: labor costs, or the ratio of payroll cost to sales revenue; revenue growth, or the percentage increase (or decrease) of sales revenue during the year; quality of service, or the mean customer rating of the quality of service provided by field office personnel at a point in time during the year on a scale of 1 = low to 5 = high; and customer satisfaction, or the mean rating of field office's customers' satisfaction at a point in time during the year, also on a scale of 1 = low to 5 = high. Both the quality of service and customer satisfaction data for field offices were made available to the researcher by the company, which began in 1994 to systematically collect such data annually from rotating samples of customers.

To estimate the effects of low-involvement work systems on operating performance among the sample of field offices of this insurance company, labor cost, revenue growth, quality of service, and customer satisfaction were first regressed on the LIWP index and a vector of control variables for the year 1998. Then the change in each operating performance measure was regressed on the change in the LIWP index and changes in the control variables between 1995 and 1998. These procedures yielded the eight sets of regression estimates presented in table 4.

Both the 1998 cross-sectional and the 1995–1998 longitudinal results show significant negative regression coefficients on the LIWP index in the labor cost equations (columns 1 and 5), insignificant negative coefficients on the LIWP index in the revenue growth (columns 2 and 6) and quality of service (columns 3 and 7) equations, and insignificant positive coefficients on the LIWP index in the customer satisfaction equations (columns 4 and 8). Note, too, that the significant negative association between LIWP and labor cost is stronger in the longitudinal (column 5) than in the cross-sectional estimate (column 1). It appears, therefore, that at a point in time as well as over time, the use of part-time, temporary, contract, and outsourced employment is associated with improved operating performance among the field offices of the insurance company that participated in this study. In particular, performance improvement takes the form of (relatively) lower payroll cost for a given level of sales revenue, and this improvement is not offset or degraded by lower revenue growth, (perceived) quality of service, or (perceived) customer satisfaction.

Conclusions

High-involvement work systems have recently been shown to be significantly associated with improved business performance. However, high-involvement work systems research has ignored the influence of low-involvement work systems on business performance. The findings from this research suggest that low-involvement work practices in the form of part-time employment, temporary employment, contract employment, vendored employment, and outsourcing have significant positive effects on the rate of return on capital employed, market value, and revenue per employee of business enterprises and on the rate of return on capital employed and revenue per employee of business units. Further, such practices have significant negative effects on the ratio of total labor cost to total operating cost in manufacturing plants and on the ratio of payroll costs to sales revenue in insurance company field offices. While these findings were quite consistent in a variety of cross-sectional estimates, they were also quite consistently stronger in the longitudinal than in the cross-sectional analyses.

TABLE 4

OLS Regression Coefficients on Insurance Company Field Office Operating Performance

	Dependent variable							
	1998				1995–1998			
Independent variable	Labor cost (1)	Revenue growth (2)	Quality of service (3)	Customer satisfaction (4)	Labor cost (5)	Revenue growth (6)	Quality of service (7)	Customer satisfaction (8)
Constant	1.84*	1.62*	1.59*	1.73*	1.90*	1.76*	1.68*	1.81*
	(0.85)	(0.78)	(0.73)	(0.82)	(0.88)	(0.83)	(0.79)	(0.87)
LIWP	–0.54*	–0.25	–0.21	0.18	–0.63**	–0.29	–0.27	0.23
	(0.24)	(–0.14)	(–0.12)	(0.10)	(0.26)	(–0.16)	(–0.15)	(0.13)
Size	0.41*	0.38*	–0.24	–0.16	0.46**	0.40*	–0.28	–0.22
	(0.18)	(0.17)	(–0.13)	(–0.10)	(0.19)	(0.18)	(–0.15)	(–0.13)
Employ	–0.23	0.44*	–0.18	–0.19	–0.28	0.52**	–0.24	–0.25
	(–0.14)	(0.19)	(–0.10)	(–0.11)	(–0.15)	(0.21)	(–0.13)	(–0.14)
Years	–0.29	0.33	0.43*	0.31	–0.32	0.35	0.48*	0.36
	(–0.15)	(0.17)	(0.20)	(0.16)	(–0.17)	(0.19)	(0.22)	(0.19)
R^2	0.22*	0.26*	0.23*	0.21*	0.24*	0.28*	0.26*	0.24*
N	249	249	249	249	217	217	217	217

Standard errors are in parentheses.

* Significant at p .05

** Significant at p .01

Also of note are certain statistically insignificant workplace-level findings of this research. Specifically, these "insignificant" findings were interpreted to mean that the lower ratio of total labor cost to operating cost in manufacturing plants and the lower ratio of total payroll cost to total sales revenue in insurance field offices associated with low-involvement work practices were not offset by lower levels of productivity or product quality in the former or by lower levels of revenue growth, quality of service, and customer satisfaction in the latter.

Finally, the findings from this research suggest that the effects of low-involvement work practices on business performance change little, if at all, when high-involvement work practices are taken into account. Stated more positively, *both* low-involvement work practices and high-involvement work practices can have positive effects on business performance. This is because in addition to the positive effects of low-involvement work practices on business performance reported here, high-involvement work practices were also shown to have significant positive effects on the financial performance of business enterprises and business units and on productivity and product quality in manufacturing plants. Thus, it appears that low-involvement and high-involvement work practices are complements, rather than substitutes, and may therefore be used in tandem to enhance business performance.

Endnotes

[1] The specific practices typically featured under high-involvement work systems include one or more mechanisms for employee participation in decision making, attitude surveying, formal job analysis, training, performance management and information-sharing programs, variable pay arrangements, targeted selection and internal promotion practices, and employment dispute resolution procedures (see Delaney, Lewin, and Ichniowski 1989; Mitchell, Lewin, and Lawler 1990; Morishima 1991, 1992; Huselid 1995; Ichniowski, Kochan, Levine, Olson, and Strauss 1996; Ichniowski, Shaw, and Prennushi 1997).

[2] Sets of scholars in these fields have recently found significant effects of marketing, finance, operations, and other practices on business performance. Similar to HR and IR researchers, they also do not control for the effects of other areas of practice on business performance. For a review of this research, see Lewin (2000).

[3] See, however, Sherer (2000). Pfeffer (1994) discusses one type of low-involvement work practice, namely, outsourcing (which he dubs "the externalization of employment"), but he does not estimate the effects of outsourcing on business performance.

[4] The term "high-control" work system was apparently coined by Walton (1985), who contrasted this system with its polar alternative, namely, a "high-commitment" work system. In extant high-involvement work systems research, which often features one or more indexes of such involvement, a purely high-control work system yields a score at or close to zero, whereas a purely high-commitment work system yields a score at or near

the top of the index (see Mitchell, Lewin, and Lawler 1990; Huselid 1995; Ichniowski, Shaw, and Prennushi 1997). From this perspective, workers employed in a high-control system have no or low involvement in decision making or other aspects of work. This is, however, a different concept or construct of low-involvement work systems than is forwarded in this paper.

[5] About 18% of the U.S. private-sector workforce is estimated to be employed part-time (King 2000), with perhaps another (net) 4% to 5% employed on a temporary basis (Melchionno 1999). Estimates of contract employment, defined here as the employment of persons for a fixed rather than an unspecified time period, vary widely from about 2% to as much as 31% of the U.S. workforce (Hipple 1998; Lewin 1994). Estimates of vendored employment—employees who have been moved from employment with their original companies to employment with vendors (suppliers) to these companies—are relatively meager, but such employment may represent 2% to 3% of the U.S. private-sector workforce (Clinton 1997). Estimates of outsourced employment—defined here as the equivalent of jobs previously performed internally by a company's employees that are now performed by different employees of another, typically more specialized, company under a contract or agreement with the first company—vary widely but may constitute 5% to 6% of U.S. private-sector employment (Melchionno 1999).

[6] Similarly, many businesses that make use of high-involvement work practices have also engaged in workforce downsizing and rightsizing (Lewin and Mitchell 1995; Pfeffer 1994).

[7] The term *business enterprise* is used here to refer to a single entity for which a set of consolidated financial statements are generated (even if that enterprise consists of several component companies). The term *financial performance* is used here to refer to one or more measures of the performance of a business enterprise (and not of its component companies, plants or establishments, or offices or locations).

[8] This index, which is used in each of the four substudies reported in this paper, was constructed in much the same way as researchers have constructed high-involvement work practices indexes. In particular, survey questions (items) were constructed to yield data on respondent organizations' current and past use of part-time, temporary, contract, vendored, and outsourced employment by the extent of usage for each of seven occupational/workforce groups. The index ranges from 0 (low) to 50 (high). Contact the author for further details on the construction and validation of this index.

[9] In separate regression analyses (not shown here), the likelihood of low-involvement employees as a whole being covered by high-involvement work practices in this sample of business enterprises was estimated to be .04 (p = .55); part-time employees, .05 (p .53); temporary employees, .03 (p .57); contract employees, .06 (p .51); and vendored employees, .02 (p .59). Contact the author for additional details about similar estimates for the business units and manufacturing plants included in this study.

[10] The term *business unit* refers to the component businesses or companies of a diversified business enterprise. Where a business enterprise has only one component business, the business enterprise and business unit are identical, as are the financial performance data for each. Among this sample of 313 business units, only 19, or 6%, were identical to their respective business enterprises.

[11] Note that other researchers (e.g., Katz, Kochan, and Gobeille 1983; Katz, Kochan, and Weber 1985) have treated labor cost as a dependent variable in studying the effects

of one or another high-involvement work practice on plant-level performance. Because the ratio of total labor cost to total operating cost can be considered a variable influencing productivity and product quality, however, a separate two-stage, least-squares regression analysis was performed, in which the effects of low-involvement work practices, high-involvement work practices, and control variables on the ratio of total labor cost to total operating cost in this sample of plants were first estimated, and then these estimates (together with low-involvement work practices, high-involvement work practices, and control variables) were entered into cross-sectional and longitudinal productivity and product quality regression equations. The results showed that low-involvement work practices are significantly negatively associated with the ratio of total labor cost to total operating cost, high-involvement work practices are significantly positively associated with the labor-to-operating-cost ratio, the labor-to-operating-cost ratio is not significantly associated with either productivity or product quality, and low-involvement work practices and high-involvement work practices continue to be significantly negatively and positively associated, respectively, with productivity and product quality in this sample of plants.

[12] In the insurance company that participated in this study, compensation, training, performance assessment, and certain other human resource management practices are centrally formulated and mandated upon field offices, in contrast to the flexibility and autonomy that these same offices are permitted to exercise with respect to the employment of part-time, temporary, and contract employees and the use of outsourcing. Stated differently, there is no variance among these field offices with respect to the use of certain human resource management practices and therefore no basis on which to construct and apply an index of high-involvement work practices to them. A separate study being conducted by the author compares the uses of low-involvement and high-involvement work practices and their effects on business performance among five major insurance companies.

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XV. WHO BENEFITS FROM WORK REORGANIZATION? EVIDENCE FROM FOUR INDUSTRIES

Team Models of Work Organization and Outcomes for Low-Skilled Workers in American Hospitals

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Abstract

This paper examines outcomes for low-skilled workers working in teams compared with those not working in teams in four American hospitals. Based on data from 277 telephone interviews with low-skilled workers from two Cleveland and two Atlanta-area hospitals, the authors find that 86% of these workers overall report working in teams. Further, workers in teams report higher levels of satisfaction with personal growth opportunities on the job, higher levels of job satisfaction, and intention to remain on the job longer than their counterparts who report not working as part of a team.

Introduction

The American hospital industry is in the midst of broad-scale restructuring. In addition to mergers, closures, and reconfiguration of service delivery, hospitals are also experimenting with alternative models of patient

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care, with attendant changes in occupational definitions, job boundaries, and demands for skill. According to a recent report by the Institutes of Medicine (1996), some of the most profound changes in hospitals involve the redesign of traditionally low-skilled jobs, such as nursing assistants, transporters, housekeeping staff, and food service workers. These jobs are undergoing dramatic redefinition, as hospitals seek to both reduce costs and increase flexibility. Moreover, hospitals are currently confronted with extraordinarily tight labor markets, highlighting the need for effective recruitment and retention strategies.

While there has been some research on how RNs and other health care professionals are affected by new work practices in hospitals (Preuss 1998), little research has been conducted on how change is affecting employees in these low-skill, low-wage occupations. In an effort to cut costs and increase productivity, hospitals are pursuing several strategies with respect to these traditionally low-skill occupations. These include contracting work to outside firms, cross-training workers to perform multiple functions, or simply reducing wages and benefits. In addition, some hospitals are experimenting with new work practices centered around patient-focused care, yet it is unclear how these new work practices are involving low-skill workers or how the work experiences of low-skill workers differ across different types of work practices.

The purpose of this paper is to present some preliminary findings on the experiences of employees in low-skill, low-wage occupations in the hospital industry and their perceptions of the changes that are affecting them during this period of dramatic change in the American hospital industry.

Background

Confronted with greater competition and pressures to reduce costs and improve efficiency, hospital managers are reorganizing work and restructuring jobs. Some hospitals are subcontracting low-wage jobs, such as janitorial, housekeeping, and food services, to outside suppliers. This strategy is designed to reduce labor costs by procuring these services from lower-cost providers. With this strategy, former hospital employees may subsequently be employed by the subcontractor—often at lower wages and with fewer or no benefits. Or they may simply be laid off as the company brings in new employees from the subcontracting firm. Another strategy pursued by hospitals is to reduce labor costs by increasing the workload of employees. Hospitals might lay off a group of employees or let the number of employees decline through attrition, leaving the remaining workers to do the same amount of work.

In contrast to these cost-cutting strategies, some hospitals are pursuing a patient-focused care model that decentralizes functions to the department

level and creates work teams consisting of low-paid, low-skilled workers who support nursing professionals. Increased teamwork is expected to lower costs and increase efficiency by devolving many low-skill tasks, often done in the past by nurses, to auxiliary workers such as transporters, nursing assistants, food service workers, and housekeeping staff. As registered nurses become an increasingly scarce resource due to downsizing (brought about by their comparative high cost) and a labor shortage, tasks normally done by RNs, but that require little skill, are increasingly being devolved to lower-skill workers.

Complicating the choices hospitals are making are the extraordinarily low unemployment rates found throughout the United States. Recruitment and retention are huge challenges faced by hospitals for workers in these low-skill, low-wage occupations. We are also interested in exploring strategies hospitals are pursuing in trying to overcome these challenges.

We expect the move to team forms of work organization may help hospitals in two ways. Not only may such new models of work organization increase hospital efficiencies and lower costs but such models may also prove more rewarding to these low-skilled workers. Under team forms of work organization, low-skilled workers take on additional new responsibilities. The additional responsibilities may add to the intrinsic interest of these jobs, making them more enjoyable to workers, thus encouraging longer tenure. Also, the added responsibilities may be rewarded with higher levels of pay that also increase the attractiveness of these jobs, making incumbents less likely to turn over.

In this paper we take a first look at some basic findings. We first look to see what proportion of workers in these low-skill, low-wage occupations report working as part of a team. We then examine three employee outcomes: satisfaction with personal growth opportunities, satisfaction with the job itself, and the length of time the employee intends to stay in the job (an outcome of obvious interest to the hospitals as well). We compare these outcomes for workers in teams and not in teams and for workers in the four occupational groups of interest here: transporters, housekeepers, food service workers, and nursing assistants.

Study Description

The data presented here are drawn from the telephone survey responses of 277 workers employed in low-skill occupations (transporters, food service workers, housekeeping staff, and nursing assistants) in four hospitals. Two hospitals are located in Cleveland and two are located in the greater Atlanta region. Three of the four hospitals have just over a 200-bed capacity, while the fourth, although its capacity is comparable, is currently operating only 140 beds. All four hospitals are medium-sized community hospitals. None is

affiliated with a medical school or offer highly technical tertiary care. All four are also affiliated more or less closely with a hospital system and have comparable levels of HMO penetration (approximately 30%). Thus, they appear highly representative of a large proportion of American hospitals.

Researchers visited each hospital to interview management personnel about the changes in the hospital, with particular reference to the impact on the occupations of transporter, food service worker, housekeeper, and nursing assistant. Hospital administration provided the research team with a list of the relevant employees, and the survey research firm with which we had contracted conducted telephone interviews with approximately 80 randomly selected employees at each hospital. Employees were contacted at home in the evening, and those who chose to participated in a 25- to 30-minute interview. The response rate was 71%—with most nonresponse attributable to the lack of a working telephone, the telephone number no longer being valid, or the person not being available after several attempts to reach him or her. Those simply declining to participate accounted for fewer than 15% of those contacted.

Variables

Whether or not the person works in a team was measured by a single item asking whether he or she works as part of a team, yes or no. Satisfaction with personal growth opportunities and satisfaction with the job were both measured on a four-point scale ranging from 1 = very satisfied to 4 = very dissatisfied. Thus, lower numbers represent higher levels of satisfaction. Length of time intending to stay on the job was also measured on a four-point scale with 1 = less than six months, 2 = six months, 3 = one year, and 4 = more than one year.

Findings

We begin by examining the degree to which teams are used in this sample of workers. Team forms of work organization are generally associated with high-performance models, also often incorporating higher levels of skill and pay. Are such models being used in these low-wage, low-skill jobs?

The data indicate an overwhelming use of teams in this sample. Across the four categories of employees studied here, we found that 86% overall report working as part of a team, ranging from a low of 80% of housekeeping staff to a high of 93% of all nursing assistants. Food service workers and transporters report levels in the middle of this range; 90% and 91%, respectively, report that they work as part of a team.

These levels of teamwork are remarkably high but appear consistent with a number of factors that managers reported to us in our hospital site

visits. Managers reported different reasons for the use of teams across occupational groups, several of which are ultimately driven by changes in the external labor market.

Transporters are increasingly being paired up to work together during their shifts to increase their utilization during the day. As paradoxical as this may sound, managers report that as nurses become in ever-shorter supply and increasingly busy on the floors, they often cannot be spared to assist transporters in lifting and moving patients from bed to gurney or back again. Thus, a two-person team of transporters is able to accomplish this immediately and then report back to dispatch, ready to go to the next job. Managers report having more efficient outcomes and fewer injured transporters as a result of this staffing change.

Managers report significant amounts of cross-training among food service employees. Kitchen crews and cafeteria crews are often cross-trained to facilitate workers' filling in for one another when members of the team are absent or when positions become vacant and cannot be immediately filled (which happens frequently). Additionally, managers find that multiskilling this employee group provides a way to increase pay, thus helping in the struggle for retention. Finally, multiskilling within the team also provides employees with some notion of development and some promotional opportunities, again helping to reduce turnover.

By law, nursing assistants must work under the supervision of a registered nurse. Because of this, team forms of nursing are common in many hospitals, as registered nurses, licensed practical nurses, and nursing assistants together care for a set of patients on a given shift.

Housekeepers report the lowest incidence of teams, consistent with managers' reports. For the most part, housekeepers on day shifts work alone, assigned individually to a unit. However, if demands are unexpectedly high, housekeepers are always able to call for backup. The central housekeeping staff members who are on call may be considered by the housekeeper to be part of the team. Higher levels of teamwork are likely reported by those housekeeping workers who are in charge of floor care, as management routinely assigns these workers in crews.

Given the relative frequency with which management has turned to the use of teams for these groups of low-paid, low-skilled hospital employees, we address whether such models of work organization have any notable impact on outcomes. We examine three specific outcomes: satisfaction with personal growth opportunities, job satisfaction, and intent to leave.

Table 1 compares satisfaction with personal growth opportunities, satisfaction with the job, and the length of time the individual intends to stay on the job, reported by employees who are members of a team with those

reported by employees not working as part of a team. In all instances, employees reporting they work as part of a team cite higher—sometimes double and triple—levels of satisfaction and lower levels of dissatisfaction than do their nonteam counterparts. Moreover, workers reporting they work as part of a team report lower levels of intention to leave in the next six months and higher levels of intent to stay one year or longer than do workers who are not part of a team.

TABLE 1
Employee Outcomes and Team Forms of Work Organization

Degree of satisfaction with personal growth opportunities (%)					
Team member?	Very satisfied	Satisfied	Dissatisfied	Very dissatisfied	Total
Yes	32.1	53.8	11.1	3.0	100
No	20.5	46.2	17.9	15.4	100

Degree of satisfaction with job (%)					
Team member?	Very satisfied	Satisfied	Dissatisfied	Very dissatisfied	Total
Yes	38.3	52.3	7.2	2.1	100
No	30.8	43.6	23.1	2.6	100

Length of intent to stay on the job (%)					
Team member?	Less than 6 months	6 months	1 year	More than 1 year	Total
Yes	4.8	10.1	10.1	75.0	100
No	8.3	20.8	8.3	62.5	100

The data in table 1 are but a first, rough indication of the underlying phenomenon. An additional step to further investigate the effect of team forms of work organization on outcomes is to examine the relationships by occupational group. These results are reported in table 2. Across all four employee groups, workers in teams report higher levels of satisfaction with opportunities for personal growth and with their jobs and higher levels of intent to stay than workers not in teams. The largest difference is noted for nursing assistants and for transporters, while the narrowest difference is seen for housekeeping staff. The latter is not surprising, given the lower levels of teamwork reported for this group and the rather tenuous nature of "teamness" for housekeeping staff, especially for the large majority that work on the day shift.

TABLE 2
Mean Employee Outcomes by Form of Work Organization and Occupation

	Satisfaction with personal growth	Satisfaction with job	Intended length of stay
Transporters (n = 76)			
Team	1.76	1.74	3.51
No team	2.11	1.78	2.75
Housekeeping (n = 80)			
Team	1.89	1.73	3.49
No team	2.27	2.00	3.25
Food service (n = 65)			
Team	1.89	1.81	3.58
No team	2.00	1.78	3.38
Nursing assistants (n = 120)			
Team	1.70	1.71	3.68
No team	2.27	1.91	2.78

Conclusion

It appears from this preliminary analysis that team models of work organization are highly prevalent among low-skilled, low-wage hospital employees. This raises a question about the nature of teams and their definition within this context. To understand how these teams operate and whether typical characteristics of teams, such as communication and interdependence, are present requires further investigation. It appears that the three outcomes we observe here differ between those workers who work in teams and those who do not.

However, a number of caveats must be placed on these findings. First, this subsample may not be representative of the American hospital sector. Second, the analysis presented here includes no controls. In particular, wages may play a role in shaping the outcomes observed. Alternatively, training and development or perceived mobility opportunities may also be driving these results. These controls will be examined in the full analysis. Despite these limitations, these results do indicate that varying models of work organization indeed seem to differentially affect the outcomes experienced by low-skilled, low-wage workers in the American hospital sector.

Acknowledgments

The authors are grateful for the generous funding of this research by the Russell Sage Foundation and the Rockefeller Foundation.

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XVI. LABOR MARKETS AND ECONOMICS, AND INTERNATIONAL REFEREED PAPERS

Comparing Public- and Private-Sector Earnings Distributions over Time

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Abstract

This paper examines the importance of differences in wage distributions in comparing public- and private-sector wages. Furthermore, the paper evaluates the reform of the way public-sector workers are paid in the United Kingdom and whether the policy of more comparable wages was effective in the early 1990s. Findings show that differences in the distributions of public- and private-sector wages are important and that the reforms have only partially been successful in making wages more comparable.

Introduction

For both political and economic reasons, pay comparability between the public and private sector stands as an important policy issue. If government workers are paid more than private-sector workers, *ceteris paribus*, then taxes are being wasted. If the opposite is true, governments cannot recruit and retain appropriately skilled and productive workers.

Generally, comparability is measured by estimating an average wage differential, often finding one that is positive, indicating higher public-sector pay. Policies to equalize pay are then suggested to decrease the growth in public-sector wages. However, a major component of wage inequality is in the unequal distributions of public and private wages (the "double imbalance" found in Elliott and Duffus 1996). Policies to eliminate average

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wage differentials will not solve the "problem" of incomparabilities in wage distributions.

Because public-sector pay was perceived as unacceptably high, the British government in the early 1990s fundamentally changed how public-sector wages are determined. They imposed decentralized pay bargaining, contracting out, and individualization of pay to allow the public-sector wage structure to more closely resemble the private sector. An expected consequence was not only reduced public-sector wages but wage distributions that are more comparable.

This paper compares public- and private-sector wage distributions before and after the changes in policy of the British government.

Pay Comparability in the United Kingdom

Institutional Issues

In the United Kingdom, the principle of comparability between public- and private-sector wages had held for over 100 years. As early as 1891, the U.K. Parliament passed "fair wages" resolutions making pay comparability a policy goal. Commitment to these resolutions was extended through the late 1940s, when the nationalization of many industries caused large increases in public-sector employment. Various committees (the Whitley Committees, the National Joint Councils, and the Prestley Commission) were charged with ensuring wage comparability for different groups of public-sector workers. In the 1980s, the focus changed from wage comparability to comparability in the growth rate of average wages. This since has been the overriding principle of pay review bodies that suggest pay increases to the government for such groups as doctors, dentists, the armed forces, and nurses.

During the 1990s, however, the civil service and many local governments in the United Kingdom radically altered the way they paid their workers by decentralizing pay bargaining, contracting out basic services, and more "individualization" of pay, meaning tying pay to individual performance rather than tenure or job classification. A main reason given for this shift in policy was to align the public-sector wage structure more closely to the private sector (Bender and Elliott 1999).

Empirical Studies

Most U.K. studies examine the public–private differential using macroeconomic data, focusing on trends in the average differential.[1] A shortcoming in these studies is the inability to control for differences in productive characteristics across the two sectors. Three published articles (Rees and Shah 1995; Disney and Gosling 1998; Bender and Elliott 1999) have used

British survey data to control for these factors. As found in the wider literature, differences in productive characteristics account for a relatively small portion of the differential, leaving a public-sector earnings premium of 20% to 30%. Furthermore, Elliott and Duffus (1996) found that the distribution of wages between the sectors is very different. They reported evidence of a "double imbalance"; that is, public-sector workers at the lower end of the occupational hierarchy are paid more and workers at the upper end are paid less than their private-sector counterparts. Therefore, measuring comparability in wages should take into account both differences in average wages and differences in the distribution of wages.

Methodology

Using worker-level data, (log) wage regressions were estimated separately for the public and private sectors using standard controls by level of government (see notes to table 1).[2]

To estimate the difference in wage distributions, I used a variant of the mean square error (MSE) statistic, initially developed by Belman and Heywood (1996), who used the MSE to decompose estimates of comparability into differences in average earnings and differences in distributions. They analyzed only the difference in predicted earnings; however, I simulated differences in the entire earnings distributions by using information on the distributions of the wage regression residuals. At least two reasons argue for comparing the entire earnings distribution. First, given the historically low R^2 from cross-sectional regressions on wages, wage predictions explain only around 50% of the variation of wages. Second, since we do not have good variables to control for the wage determination process, one may think that these effects (which are central to this paper) would be captured in the residual terms of the regressions. Therefore, an analysis of the residuals and thus the entire distribution could lead to important insights about wage evolution in the U.K. public sector.

To derive this augmented MSE, first define the total wage differential for each worker as

$$\tilde{\theta}_i = \ln W_i^{pub} - \ln W_i^{pri} = \bar{X}_i \hat{}^{pub} - \bar{X}_i \hat{}^{pri} + {}_i^{pub} - {}_i^{pri}, \qquad (1)$$

where X is a vector of characteristics, ^{j} are vectors of estimated coefficients, and ^{j} are error terms, where j = public and private. The definition of the mean square error in terms of equation (1) is

$$MSE(\tilde{\theta}) = \frac{1}{n} \; {}_i(\tilde{\theta}_i - \theta_i^c). \qquad (2)$$

Comparability implies that public- and private-sector earnings are the same or that $\theta_i^c = 0$. If wages are comparable, the MSE formula can be derived after some algebraic manipulation (available from the author):

$$MSE(\tilde{\theta}) = \frac{1}{n} \sum_i (\tilde{\theta}_i - \bar{\theta})^2 + \bar{\theta}^2 = var(\tilde{\theta}_i) + \bar{\theta}^2, \quad (3)$$

where $\bar{\theta}$ is average predicted earnings. Equation (3) can be expanded into the difference in the predicted earnings ($\theta_i = \theta_i^{pub} - \theta_i^{pri}$) and the unobservables ($\theta_i = {}^{pubi} + {}^{pri}_{i}$), so that the augmented MSE has the form

$$MSE(\tilde{\theta}) = var(\theta_i) + var(\theta_i) + 2cov(\theta_i, \theta_i) + \bar{\theta}^2. \quad (4)$$

Equation (4) decomposes wage comparability into four parts: differences in the distribution of the predicted differential, differences in the distribution of the unobservables, a covariance term, and the predicted average differential. If the distributions are comparable (all workers have the same value of θ and θ), these terms are zero, and a nonzero value for the last term shows that average earnings are not comparable. If there is no difference in average earnings, the last term will be zero, and nonzero values for the other terms show that the distributions are not comparable.

To calculate this statistic, a private-sector residual for public-sector workers needs to be simulated, and vice versa. This presents a problem since these residuals cannot be calculated directly with cross-sectional data. Juhn, Murphy, and Pierce (1991), however, developed a method to proxy the residual by constructing a synthetic distribution of private-sector residuals for public-sector workers, and vice versa. After the regressions are run, all public-sector workers are identified by their percentile location in the distribution of public-sector residuals. A similar identification occurs for private-sector workers. To create a predicted private-sector residual for public-sector workers, the value of each percentile in the private-sector residual distribution is assigned to the corresponding percentile location of the public-sector worker. The process is reversed to create synthetic public-sector residuals for private-sector workers.[3]

Data

The 1991 and 1995 waves of the British Household Panel Survey are used to calculate the MSE. These two years were chosen because they fall on either side of the U.K. civil reform that completely decentralized pay bargaining in 1994. Besides having standard variables capturing human capital, regional, and workplace characteristics, this data set also distinguishes among different levels of government—a variable not found in

other British data sets such as the General Household Survey, the Labour Force Survey, and the Social Change and Economic Life Initiative Survey.

Results

Table 1 contains the results using the MSE decomposition for 1991 and 1995 for the public sector overall and the three different levels of the public sector.[4] Taking the 1991 public–private sector MSE, we see that the majority (78.9%) of the inequality of wages is due to differences in the distribution of predicted wages (column 1). The distribution of unobservables (column 2) plays the next most important role (16.2%). Differences in average earnings (column 4) play a relatively small role (3.2%). By 1995, overall incomparability (column 5) increases by more than 40%. The largest component of the increase is in the difference in the predicted earnings distribution, although both differences in the distribution of unobservables and the average differential increase in relative importance (to 21.1% and 4.0%, respectively). Clearly, the policy of pay realignment has not had the desired effect on the overall public-sector wage distributions.

TABLE 1
1991 and 1995 Mean Square Error Decompositions

	var(θ) (1)	var(θ (2)	2cov(θ,θ (3)	θ (4)	Total (5)
1991 Public sector	0.0195	0.0040	0.0004	0.0008	0.0247
	(78.9)	(16.2)	(1.6)	(3.2)	(100.0)
1995 Public sector	0.0259	0.0074	0.0004	0.0014	0.0351
	(73.8)	(21.1)	(1.1)	(4.0)	(100.0)
1991 Central government	0.1303	0.0141	0.0006	0.1233	0.2683
	(48.6)	(5.3)	(0.2)	(46.0)	(100.0)
1995 Central government	0.1277	0.0216	–0.0004	0.0052	0.1541
	(82.9)	(14.0)	(–0.3)	(3.4)	(100.0)
1991 Local government	0.0223	0.0078	0.0002	0.0020	0.0293
	(76.1)	(16.4)	(0.7)	(6.8)	(100.0)
1995 Local government	0.0274	0.0116	0.00005	0.000001	0.0390
	(70.3)	(29.7)	(0)	(0)	(100.0)
1991 Other public sector	0.0387	0.0071	0.0006	0.0030	0.0494
	(78.3)	(14.40)	(1.2)	(6.1)	(100.0)
1995 Other public sector	0.0525	0.0085	0.0007	0.0097	0.0714
	(73.5)	(11.9)	(1.0)	(13.6)	(100.0)

Notes: Numbers in parentheses are percentages of total incomparability (column 5). "Other public sector" refers to nationalized industries, the National Health Service, and higher education. These variables are included in the wage regressions: a constant; sex; potential experience and its square; 5 educational qualification dummy variables; 10 regional and 5 occupational dummy variables; variables indicating union coverage, full-time status, whether the job is temporary, whether the job has a bonus scheme or is paid under an incremental scale, and whether the worker has a pension in his or her current job; and 3 dummy variables indicating establishment size.

A somewhat different story emerges when we break down the public sector into its three parts. Overall comparability increases substantially for the central government. Much of this is caused by the drastic reduction in the difference in average earnings from 0.1233 to 0.0052, although there is also a slight decrease in the difference in the distribution of predicted earnings. Differences in the unobservables distribution play an increasingly important role, although it is still relatively small (14.0%) in 1995. The reforms have, therefore, caused an increase in comparability, although not on the differences in the distributions.

Local government experienced a slight increase in incomparability from 0.0293 to 0.0390. As in the overall public sector, the majority of the incomparability is in differences in distributions of predicted wages. Differences in the distribution of unobservables play an increasingly large role, accounting for nearly 30% of the 1995 incomparability. Differences in average earnings account for a very small part of incomparability. Results of reforms here have therefore been mixed with more equality in average earnings but less in the distributions.

The last part of the public sector (nationalized industries, health, and higher education) experienced a rather large increase in incomparability (0.0494 to 0.0714). All measures of incomparability increased, although the largest relative increase was in differences in average wages. The reforms seem to have had little influence on this part of the U.K. public sector.

Summary and Conclusions

This paper set out with the goal of examining changes in public- and private-sector relative wages over a time in the United Kingdom, when reforms were enacted to make wages more comparable across sectors. The effect of these policies to realign public- and private-sector wages has been mixed. Overall, there has been a slight increase in the incomparability between public- and private-sector wages. This increase is seen primarily in local government and nationalized industries. Central government and private-sector wages have become more comparable over time, although mainly due to a realignment of average rates of pay rather than convergence in the distributions.

Overall, the U.K. public-sector reforms do not seem to be particularly effective in the short run, although there are a couple of potential reasons for this. First, the time frame (1991–1995) may be too short to capture any long-run effects of the changes in pay determination. Second, along with the reforms, the U.K. government instituted a series of cash limits that restricted the total increases in pay for each agency and in many local governments. These might have affected the ability to make the public-sector wage structure to become like the private sector.

The results presented here suggest several areas of future research. First, more recent data should be employed to see the longer-run effects that the reforms may have had on U.K. public-sector wages. Second, the MSE criterion examines only overall changes in the wage distributions and in average wages. While I use Juhn, Murphy, and Pierce's (1991) method of simulating residuals, using the decomposition methods that they proposed would give a more detailed analysis of changes in the distributions. Similarly, a more disaggregated analysis (e.g., looking at changes at each decile) would give a more accurate picture of how the reforms have affected the relative distributions.

Endnotes

[1] Bender (1998) and Gregory and Borland (1999) updated the literature on the public–private differential.

[2] A potential estimating problem is sample selection, given the worker's choice of sector, leading to biases in the regression estimates. To keep the exposition simple and given the relative complexities of correctly identifying the selection equations, I do not correct for selection in the results presented in this paper. However, results containing selection-corrected regressions are qualitatively close to the ones found in this paper and are available from the author.

[3] There are potentially important theoretical differences between this application of the procedure and Juhn, Murphy, and Pierce's (1991) initial examination. Since those authors were interested in examining changes in earnings over time, they assumed a constant position in the residual distribution, whereas I assume a constant position in the residual distribution when moving from one sector to another. Blau and Kahn (1996a, 1996b) and Kidd and Shannon (1996) employ this same assumption, except in the contexts of international and gender wage differentials. The assumption in each of these studies is that a worker's location in the residual distribution is a "characteristic" of the individual, while the value assigned to that place in the residual wage distribution, the "price," comes from the comparison group (Kidd and Shannon 1996:733; Blau and Kahn 1996a:808). Therefore, the assumption is no different from the one used in the standard Oaxaca decomposition.

[4] Descriptive statistics and results from the regressions are available from the author. The MSE criterion also includes the covariance between θ and θ (table 1, column 3). However, the contribution of this is very small to the overall MSE (between –2.8% and –1.7%), so no comment is made about this term.

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Pluralist in Theory, Unitarist in Practice: Industrial Relations Management in Irish Greenfield Sites

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Abstract

Developments in greenfield sites have figured as a significant dimension of the debate on change in enterprise-level industrial relations over the past two decades. This paper focuses on recent empirical evidence on management approaches to industrial relations in greenfield companies in Ireland. It places particular emphasis on the impact of industrial relations on the location of greenfield site facilities, patterns of trade union recognition and avoidance, pay determination, and the role of employer associations. The paper finds that despite a national system of "bargained consensus" and the integration of trade unions into corporatist decision-making structures on economic and social issues, most recent greenfield site facilities are nonunion. It is argued that this evidence points to extensive management opposition to conventional pluralist industrial relations, despite the existence of a state system that has consistently promoted a consensus approach over the past two decades. This apparent paradox is explained by reference to the transformation in the structure and performance of the Irish economy in parallel with related social changes since the early 1980s.

Introduction

A significant dimension of the debate on change in enterprise-level industrial relations over the past two decades has been the impact of developments in greenfield sites (Guest and Hoque 1994). We can point to two particular issues in this regard. First, we have the contention in the more mainstream industrial relations literature that employers have assumed a proactive role in instigating changes in enterprise-level industrial relations and, specifically, that managerial decisions to establish at greenfield sites

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have profoundly and negatively affected levels of unionization. Second, we have the contribution of the more general human resource (HR) literature, which argues that the diffusion of high-performance work systems largely emanates from the new high-tech companies of the 1980s, especially those which located at greenfield sites in attempts to establish a fundamentally different type of organizational structure and culture (see, for example, Osterman 2000; Walton 1982). This paper considers recent evidence on management approaches to industrial relations in greenfield companies in the Republic of Ireland. It focuses particularly on reviewing empirical data on the impact of industrial relations on the location of greenfield site facilities, patterns of trade union recognition and avoidance, pay determination, and the role of employer associations.

Two major reasons can be advanced for why we should focus on Ireland as an appropriate context in which to explore industrial relations in greenfield sites, namely, the scale of greenfield site establishment in Ireland and the comparatively unique characteristics of Ireland's industrial relations system.

Ireland is a late-developing economy, with most industrial activity occurring since the 1960s. Even over this short period of development, the Irish economy has had a checkered history. Locked in deep recession and facing effective economic bankruptcy by the mid-1980s, the Irish economy has now recovered to such an extent that it is widely heralded as a model of effective economic management. In evaluating the reasons for Ireland's impressive economic performance, one key area of focus has been the significance of direct foreign investment (DFI). To date, Ireland has been extremely successful in this regard, most obviously in attracting DFI from the United States but also from the United Kingdom and Germany. Currently, almost a quarter of all available U.S. manufacturing investments in Europe and some 14% of all DFI projects into Europe locate in Ireland ("Green Is Good" 1997). In 1995 Ireland was the ninth most important global location for U.S. direct investment (sixth most important in Europe, third in 1994). As a consequence, multinational corporations (MNCs) represent a very large proportion of the Irish economy. The country now has almost 1,200 MNCs employing approximately one third of the industrial workforce.

Ireland's industrial relations environment is significantly different from that of the United States or United Kingdom, from where much of the extant literature emanates (Von Prondzynski 1998). The most obvious manifestations of such differences include the widespread legitimacy of trade unions in Irish society and the country's comparatively high levels of trade union density. A related characteristic of Ireland's industrial relations system is the absence of a strong anti-union ideology among any of the major political parties. However, by far the most distinctive feature of Irish industrial

relations over the past two decades has been the dominance of a variation of "bargained corporatism." In Ireland, this is reflected in high levels of centralization of decision making on pay and other aspects of economic and social policy as achieved through negotiation and exchange among the government, employers, and trade unions. Since 1986 Ireland has had four centrally negotiated agreements dealing not only with pay but with a range of economic and social policy issues such as welfare provision, employment creation, and tax reform. The combination of these factors suggests a national system strongly grounded in pluralist traditions and supportive of a prominent role for trade unions and collective bargaining in regard to both national-level and enterprise-level industrial relations.

Research Focus and Methodology

The empirical findings draw on two related studies. In first looking at the significance of industrial relations considerations on the decision of greenfield site facility location, we draw on primary research undertaken in the United States. This provides qualitative evidence on the key factors influencing the location decision of inward-investing MNCs, using data collected from interviews with senior executives in the corporate headquarters of 10 large blue-chip U.S. firms with very significant subsidiary operations in Ireland. The sections on industrial relations practice draw on interviews with managerial respondents in 76 firms that established at greenfield sites in the period 1987–1997.

Findings

Industrial Relations and the Location of Greenfield Site Facilities

A number of commentators have identified the nature of industrial relations (incorporating the degree of labor regulation) as a factor likely to inhibit direct investment by MNCs in specific countries (Dunning 1993). This factor is particularly pronounced in relation to U.S.-owned MNCs, where we find evidence of considerable antipathy to industrial relations practices and labor regulations that are perceived as interfering with the mechanics of the labor market and restricting management's freedom to manage (Dunning 1993). For example, Cooke (1997) found a strong negative correlation between the extent of labor regulation and levels of direct foreign investment, while Cooke and Noble (1998) identified levels of labor regulation as one of the significant factors affecting the location of U.S. MNCs abroad.

Our findings indicate that senior managerial respondents who had overseen the location of significant greenfield site facilities in Ireland

expressed generally high levels of satisfaction with industrial relations and labor regulation in Ireland. Indeed, the great majority of respondents felt that Ireland had comparatively lower levels of industrial relations and employment regulation as compared to other European locations that they had considered. In evaluating the principal factors affecting the location of U.S. greenfield site facilities in Ireland, our findings point to the critical significance of Ireland's low corporate tax regime. However, we also find that labor supply and labor quality (education) also significantly positively affect the location decision of greenfield facilities. Indeed, it seems that it is the combination of these and certain other factors (location in the EU, English as first language) that were the primary drivers of the decision of respondent firms to locate in Ireland. The extent of labor regulation tends to be used as a filter mechanism in the primary evaluation of possible locations. The main aspects of labor regulation raised by respondents were the volume of labor legislation and the issue of trade union recognition.

Trade Union Recognition

Levels of trade union density and the extent of trade union recognition represent key indicators both of preferred management approaches to industrial relations and of the broad characteristics of a country's industrial relations system. We have noted earlier that Ireland has traditionally been characterized by reasonably high levels of trade union density and recognition.

Given the dominance of both U.S. and high-technology firms in our study, one would anticipate a high incidence of nonunion firms. This was indeed the case, with over two thirds of firms not recognizing trade unions. Our evidence points to a significant growth in nonunion approaches among large greenfield sites in Ireland. In particular, it indicates a progressive and accelerating trend of union avoidance in Irish greenfield sites since the mid-1980s. Paradoxically, this has occurred during an era when trade union influence at the national level was at an all-time high. If we look at the longitudinal pattern of union recognition in greenfield sites, we find that nonunion approaches started to take off only in the early 1980s and became more commonplace by the end of the decade, when studies found that more than half the sites did not recognize trade unions (Gunnigle 1995). During this period, the incidence of nonunionism was largely confined to U.S.-owned high-tech firms (mostly electronics, software, and internationally traded services). However, the data from firms that established at greenfield sites since the early 1990s point to an overwhelming trend of union avoidance in greenfield site companies, both among U.S.-owned and other foreign-owned firms. In a period when direct foreign investment in

Ireland is at an all-time high, it is patently clear that these new companies are predominantly opting for nonunion status.

Pay Determination

In Ireland, collective bargaining has traditionally been the primary means of determining pay increases. Since 1986 the main focus of pay bargaining has been at the national level. At the enterprise level, we find evidence of increased utilization of performance-related pay (PRP) systems (Brewster and Hegewisch 1994). However, this same evidence finds that the application of PRP is largely confined to managerial and professional categories. This is quite a conventional picture: managers and certain other white-collar and professional categories have traditionally received individual pay packages, reflecting their predominantly nonunion status and their greater capacity to affect organizational performance (Gunnigle et al. 1998). It might therefore be argued that a reasonable indicator of employer attempts to individualize industrial relations is the extent to which companies utilize individual PRP systems for nonmanagerial or white-collar grades. Of particular significance in this regard is the diffusion of PRP systems based primarily on formal appraisals of individual performance. This significance is based on the premise that performance appraisal represents an essentially individualist management technique, which may be used to either replace collective bargaining or mitigate its impact on pay determination at the enterprise level.

In examining reward practices, therefore, the incidence of PRP based on formal performance appraisals for *all* employee grades is posited as a significant indicator of employer preference for more individualist (as opposed to collectivist) approaches to industrial relations management. In the current study, 39 firms (51%) used PRP for all employee grades, all of which were nonunion. Ownership emerges as a key factor affecting the likelihood of PRP being used for all employees, with U.S.-owned firms accounting for over 80% of such cases. Only a minority of Irish- and other European-owned firms used PRP for all employee grades. The link between nonunionism and individualizing management–employee relations is reinforced in the use of performance appraisal to aid PRP decisions. All but one of the 39 firms that used performance appraisal to aid PRP decisions were nonunion.

The Role of Employer Associations

Employer associations represent an established feature of the "collectivist" industrial relations model. In Ireland, they have formed an integral part of the industrial relations framework since the early 1900s and have

generally underpinned the pluralist-adversarial model. The role of employer associations thus provides another useful barometer of collectivism in industrial relations in greenfield sites and, set alongside the role of trade unions, is a useful criterion by which to evaluate the extent to which the traditional pluralist-adversarial model endures in greenfield sites.

In the current study, 49 of the 76 greenfield firms studied (65%) were members of employer associations. However, when we looked at the pattern of utilization of employer association services, we found that less than one third (29%) of firms use these associations directly in establishment-level industrial relations. The more general pattern was for greenfield firms to use employer associations in a consultancy mode, primarily as a source of information and advice across a range of HR and industrial relations issues and additionally for networking purposes.

Over the period of the study, we found a significant reduction in the extent of direct involvement of employer associations in industrial relations issues within more recently established greenfield site facilities. We argue that this finding indicates a change in the role of collectivism in enterprise-level industrial relations.

Conclusions

In our introduction we proffered two key reasons for our focus on Ireland as an interesting context in which to explore industrial relations in greenfield sites, namely, the scale of greenfield site establishment in Ireland and the country's pluralist-adversarial traditions. There is now little doubt that industrial relations in the developed world has undergone dramatic change over the past two decades. The nub of such change stems from a diminution of the role of collective bargaining and trade unions and a growth in nonunion approaches. This trend has been particularly marked in the United States. However, Europe has also witnessed significant change: Sparrow and Hiltrop (1994:135) argued that during the 1980s, Western Europe witnessed "a perceptible decline in the legitimacy and representativeness of trade unions." In Ireland, however, trade unions and collective bargaining have continued to play a prominent role in national and enterprise-level industrial relations. The most widely touted explanation relates to the Irish sociopolitical environment, which, it is argued, remains conducive to a strong collectivist orientation in industrial relations (Roche and Turner 1994). The contrasting approaches of Irish and U.K. government policy were particularly marked during the 1980s. Rather than adopting a policy of "market liberalism" combined with a forthright onslaught on trade unions, successive Irish governments have sought to progressively integrate trade unions into corporatist decision making on economic and

social issues and in this way have accorded a high degree of social legitimacy to the union movement. The result is that Irish trade unions have played a pivotal role in shaping economic and social policy in Ireland during a period when trade unions in other European countries struggled to maintain their influence and legitimacy. Against this background of national trade union influence and neocorporatist industrial relation arrangements, one might have expected the maintenance of pluralist industrial relations traditions at the enterprise level.

However, notwithstanding this apparently supportive context, our findings suggest that trade unions and collective bargaining are facing virtual exclusion in Ireland's new growth industries. The data presented earlier point to dramatic growth in union avoidance in greenfield firms. While one might seek to explain this trend by pointing to the relative immaturity of greenfield companies, it is important to note that preproduction union recognition agreements have traditionally characterized greenfield start-ups in Ireland. This is no longer the case: greenfield firms are increasingly and consciously opting for nonunion status rather than preproduction union recognition agreements. The evidence further points to extensive management opposition to conventional pluralist industrial relations, despite the existence of a state system that has consistently promoted a consensus approach over the past two decades. How can we reconcile these contrasting positions? In the case of greenfield sites, it would appear that the key explanatory factors relate to age and sectoral characteristics. The greenfield site research in Ireland has focused on firms established over the period from the mid-1980s to the late 1990s. This has been a period of considerable turbulence and change, both in global terms and for the Irish economy. We have seen earlier how Ireland faced effective economic bankruptcy in the mid-1980s but has since become transformed into one of the world's fastest-growing economies. A significant aspect of this transformation can be traced to the Irish government's policy of prioritizing economic recovery, especially through a focus on developing an attractive climate for inward investment. In particular, we can point to the success of inward-investing greenfield firms that located in Ireland over the past two decades, particularly in the sectors of electronics, software, pharmaceuticals, and internationally traded services. Economic success is also linked to significant restructuring among longer-established organizations to reduce operating costs and improve performance, quality, and service. For many greenfield firms in particular, the adoption of nonunion strategies is perceived as an important means of achieving required levels of flexibility and productivity. The combination of these factors meant that the enterprise-level role for trade unions came under increasing challenge. Although trade unions

continued to enjoy widespread political support and became increasingly central to corporatist-style national agreements, the exigencies of increased market competition at the firm level, increased inward investment that was significantly union averse, and a changing socioeconomic workforce profile meant that trade unions encountered growing employer opposition and more recalcitrant employees. For U.S. greenfield firms in particular, this created an environment where nonunion status and more individualized employment arrangements could be established and sustained. Thus, despite a national industrial relations system that appears overtly pluralist in nature, we find that a confluence of economic pressures, social change, and political exigencies in the Ireland of the late 1980s and early 1990s created a context in which unitarist values could be translated into practice in greenfield sites to an extent that was not possible in previous decades.

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Import Penetration and Union Membership in a Small, Open Economy: New Zealand in the 1990s

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Abstract

Since the shift in its government's policy toward a more open economy beginning in the late 1970s, New Zealand's product markets—in particular, those in manufacturing—have experienced a surge in import competition. This study considers the impact of international trade on levels of unionization and union organizing success in New Zealand's manufacturing sector subsequent to removal of statutory supports for trade unions in that country in 1991. Regression analysis generally confirms the hypothesis that reduced trade barriers and, specifically, increased import penetration into New Zealand's manufacturing markets have had a negative impact on trade union membership in this sector of the country's economy.

Introduction

Since 1991, organized labor in New Zealand has faced an environment in which institutional protections for trade unions have been eliminated and international trade has increased significantly. Within New Zealand manufacturing, the largest shifts in union membership have occurred in the wood products, paper, and paper products sector and the nonseasonal foods sector, as described in table 1. Unlike chemicals, the only manufacturing sector not to experience a drop in union density over this period, all of these industries were highly unionized prior to enactment of the Employment Contracts Act (ECA) in May 1991. Currently, fewer than half of New Zealand's manufacturing workers are union members.

Prior to enactment of the ECA, the most important—some would argue the only—factor explaining union membership and density in New Zealand was the institutional support unions received from public policy, specifically, laws first introduced in 1936 making union membership compulsory. The

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TABLE 1

Trade Union Membership and International Trade in New Zealand Manufacturing by Industry Segment, 1992–1998

	Union membership			Import penetration[a]	
Industry	1992	1998	Change, 1992–98	Mean, 1992–98	Annual change, 1992–98
Chemicals	7,376	7,813	+5.9%	44.9%	+0.3%
Fabricated metal products[b]	67,152	29,763	–55.7%	29.4%	–0.5%
Metal products	22,384	8,450	–62.2%	37.6%	–3.7%
Nonmetallic minerals	1,729	1,125	–34.9%	20.1%	–2.0%
Nonseasonal foods	13,199	6,725	–49.0%	39.5%	+4.8%
Paper & paper products	18,544	9,634	–48.0%	44.0%	+3.4%
Seasonal food	27,942	20,341	–27.2%	49.4%	+2.8%
Textile	14,879	6,185	–58.4%	35.6%	+4.6%
Wood products	12,446	6,115	–50.9%	32.1%	+3.8%

[a] Calculated as the value of imports in the industry subcategory divided by the sum of total industry shipments plus imports for the period 1992 through 1998.
[b] Includes Machinery, Electrical and Transport Equipment Manufacturing.

Sources: Victoria University of Wellington Industrial Relations Centre Union Membership Surveys, 1992–99; Statistics New Zealand, *Household Labour Force Survey*, March 1992–98; and Statistics New Zealand, *Exports & Imports* data series, June 1992–98.

ECA, while ostensibly intended to foster freedom of contract and freedom of association, essentially denied trade unions in New Zealand exclusive rights to bargaining representation both across market sectors and within firms. One legacy of the former system, though, was that once that system was dismantled, New Zealand's trade unions were unprepared to formulate new strategies for recruiting members.

The dramatic shift in employment policy introduced under the ECA was seen by New Zealand's National Party government and its supporters to go hand in hand with the country's shift toward a more open trade policy, which began in the late 1970s. The 1979 budget established specific timetables for reducing import protection for industries considered highly sensitive to trade liberalization. Further reforms were initiated in 1981 through introduction of a system of tendering for import licenses. Four years later, the government announced that tariffs on goods not produced in New Zealand would be reduced to zero (Duncan et al. 1992). By 1993, import license controls were entirely eliminated. As a consequence of

these changes in New Zealand's trade policy, the relative share of domestic shipments accounted for by imports increased across most of the country's manufacturing sector throughout the era of the ECA, as shown in the last column of table 1.

Support for the traditional industrial relations system waned as the system of economic protection was dismantled and competitive pressures gathered momentum throughout the country's economy. What is notable about much of the reform of New Zealand's international trade policy is the explicit acceptance by both Labour and National governments that the long-term benefits of trade liberalization would outweigh the very real short-term adjustment costs (Hazledine 1993). However, while Labour continued to promote the benefits of the long-standing arbitration system, which had previously operated as the labor market corollary to policies of economic protection, National pushed toward labor market deregulation.

Theoretical and Empirical Foundations

Theoretical models of international trade offer insights into the linkage between trade and industrial relations. The Heckscher-Ohlin (H-O) theorem, for instance, predicts that as a consequence of trade, factor prices—including labor costs—are more competitive (Heckscher 1949; Ohlin 1933). More specifically, goods produced in foreign markets present a competitive threat to high union wages and more costly employee benefits. This clearly affects the ability of trade unions to take wages out of competition and explains why trade unions in capital-abundant countries typically support trade protectionism. That is, through protectionist trade policies, unions are able to limit foreign competition and, in turn, sustain premium wages and benefits for their members (Bennett and DiLorenzo 1984; Feinberg and Hirsch 1989).

The empirical model we employ in this analysis is based on that first suggested by Ashenfelter and Pencavel (1969) and later developed by Bain and Elsheikh (1976). These authors associated changes in union membership with macroeconomic factors. According to this view, trade union growth and decline are generally linked to product market trends, reflected primarily in consumer prices, wages, and employment. In addition to these factors, our empirical model also controls for the effect of changes in union density and technology on changes in union membership. Of course, our primary interest is in the impact of trade liberalization and international trade on union membership growth and decline, for which we account by including in our model measures of changes in both import penetration and export intensity.

With regard to the relationship between the relative growth or decline of exports and union membership, lower trade barriers in export markets for domestically produced goods may lead to an increase in demand for those products. Because the market for exporting firms' goods extends beyond the limit of domestic borders, these firms may be able to pay substantially higher wages than their non-exporting counterparts (Bernard, Jensen, and Lawrence 1995), although this depends on whether domestic production increases commensurate with any expansion of exports. Relative demand changes associated with increased exports are also strongly associated with increases in the relative demand for skilled labor in manufacturing (Bernard and Jensen 1997). Being of generally higher quality, therefore, union labor may benefit from an expansion of exports more so than lower-quality nonunion labor. This, in turn, can increase the relative benefits accruing from unionization and makes unions more attractive to potential members.

We control for the impact of technological change in our model by specifying the ratio of total capital depreciation (capital investment) to the sum of total salaries and wages plus operating expenses (total costs). With regard to the expected impact of this industry-level measure on changes in union membership at this same level of aggregation, new production technologies create production systems characterized, at least in part, by leaner, less labor-intensive workforces. Therefore, an increase in the extent of capital intensity—that is, the creation of new technologies—should reduce the number of jobs available in the labor market. This likely has a negative impact on the number of union members—and of nonunion workers—employed in the industry.

Our model also includes a measure to account for the impact that increases or decreases in the industry wage rate may have on workers' proclivity to join unions. Increases in the average industry wage rate are likely to be associated with less—or perhaps a negative—change in union membership. That is, if both union and nonunion wages are increasing, notwithstanding the presence of trade unions in the industry, this will likely offer nonunion workers a disincentive to join unions and, perhaps, offer union members an incentive to resign from their unions. Of course, this negative effect will be mitigated to the extent that unions have a presence in the industry and have affected a relatively greater increase for those covered than for those not covered by union contracts.[1] Given this possibility, we also control for union saturation of the labor market—measured in the previous year—in our analysis.[2]

It is unclear whether either the annual change in the average real wage or the extent of unionization existing in the industry will have a positive or

a negative impact on the annual change in industry union membership. With regard to the latter relationship, it is assumed that as union density increases, there are fewer and fewer prospective new members to organize. As a consequence, at high levels of union density, the labor market—or rather, the market for prospective union organizing—is thought to be saturated. However, where union density is relatively low, unions likely have previously faced difficulty organizing members and are likely to face similar difficulties in the future.[3] Hence, it is not clear what sign should be expected on the coefficient for the relationship between union density or saturation and changes in union membership.

The potential to recruit new members and, therefore, changes in the level of union membership are also likely to be affected by increases or decreases in the overall level of employment in the industry. Specifically, as the level of employment increases (decreases), it should be expected that the potential for unions to recruit new members also increases (decreases). Moreover, where full-time equivalent (FTE) employment is in decline, some of those who lose their jobs are likely to be union members. On the other hand, some employees in the industry who are not union members may be more inclined to join a union if they perceive union membership as offering greater job security. This effect, however, will likely occur only where union jobs have been shown in the past to be more secure (Layard et al. 1991). Nevertheless, to the extent that nonunion workers still in the industry decide to join unions, the negative effect of an overall decline in industry employment on changes in union membership will be offset.

Empirical Results

Regression results presented in table 2 show the impact of shifts in international trade on changes in union membership in New Zealand manufacturing between 1992 and 1998. In column 1 of table 2, we present OLS regression results using a measure of short-term (i.e., one-year) price inflation; in column 2, we present results using a measure of long-term (i.e., two-year) price inflation. Otherwise, all other measures including in these two regressions are the same. Nonetheless, results reported in both columns 1 and 2 of table 2 are quite comparable.

Because of the pooled nature of our data, it is reasonable to expect different error variances for the different industry cross sections in our regression models. This will result in heteroskedasticity and inconsistent standard errors. We therefore estimate our model using ordinary least squares (OLS) with panel-corrected standard errors (PCSE). This approach has been shown to be superior to generalized least squares techniques for estimating relationships in panel data sets, in which the number of groups exceeds the

TABLE 2

Variable Definitions, Data Description, and OLS-PCSE Regression Results

Industry-level variables	Weighted mean[g] (standard deviation)	Estimated weighted coefficient[a] (*t* statistic) (1)	(2)
Annual % in union membership[o]	–8.51 (12.77)	Dependent variable	
Constant	—	1.30 (0.28)	2.98 (0.47)
Annual % in import penetration[b]	1.64 (5.76)	–0.68 (–2.40)	–0.71 (–2.46)
Annual % in export intensity[c]	0.90 (10.32)	–0.02 (–0.15)	–0.02 (–0.20)
Annual % in union saturation[f]	8.37 (12.79)	–0.48 (–4.37)	–0.47 (–4.32)
Annual % in capital intensity[d]	1.06 (8.07)	0.56 (2.52)	0.57 (2.50)
Annual % in average real wage[m]	0.40 (1.41)	–0.52 (–0.83)	–0.24 (–0.42)
Annual % in FTE employment[e]	0.70 (4.53)	–0.25 (–0.66)	–0.41 (–1.04)
Annual % in NZ CPI[n]		–2.56 (–1.23)	—
2-year % in NZ CPI[n]		—	–1.65 (–1.15)
Number of observations	N = 54 (industry groups = 9; years = 6)		
Specification and diagnostic tests (probabilities, where applicable, in parentheses):			
R^2		0.51 (0.00)	0.52 (0.00)
Pooled Durbin-Watson statistic from OLS regression[h]		2.04	2.01
Ramsey RESET F statistic from OLS regression[i]		0.86 (0.47)	0.95 (0.42)
Cook-Weisberg ^{2} statistic from OLS regression[j]		1.89 (0.17)	1.82 (0.18)

Technical notes:

[a] Estimated with panel-corrected standard errors.

[b] Value of imports[k] divided by the value of the sum of the shipments[l] plus imports.[l]

[c] Value of exports[k] divided by total value of shipments.[l]

[d] Ratio of total depreciation[l] to the sum of total salaries and wages[l] plus operating expenses.[l]

[e] Total full-time employees[m] plus half the total part-time employees[m] (excludes self-employed).

[f] Measured as the inverse of the share of union members[o] in total FTE employees in the previous year.[m]

[g] Observations are weighted by full-time equivalent (FTE) industry employment averaged over the period 1992–98.

[h] Tests for first-order serial correlation of the error terms.

[i] Ramsey's Lagrange multiplier test for regression specification error. (H_0: Model has no omitted variables.)

[j] Cook and Weisberg's test for heteroskedasticity using fitted values of the dependent variable (H_0: constant variance).

Sources (annual figures are for year ending in specified month):

[k] Statistics New Zealand, *Annual Exports and Imports* data series, June 1992–98

[l] Statistics New Zealand, *Quarterly Manufacturing Survey*, March 1992–98

[m] Statistics New Zealand, Quarterly Employment Survey, February 1992–98

[n] Statistics New Zealand, *Consumers Price Index—All Groups* (CPI), March 1991–98

[o] Victoria University of Wellington Industrial Relations Centre, Union Membership Surveys, March 1992–98

number of time periods (Beck and Katz 1995). In spite of this, the Cook-Weisberg test results reported in columns 1 and 2 of table 2 do not suggest the presence of heteroskedasticity. In addition, other regression diagnostics on the residuals obtained from these OLS estimations show little evidence of autocorrelated errors—as revealed by the Durbin-Watson test statistics—or overall specification error—as suggested by the Ramsey RESET test statistics.

This analysis points to the conclusion that New Zealand's recent experience of shifts in union membership generally fits the pattern suggested by the theory set forth in this paper. With the exception of changes in union saturation and capital intensity, coefficient estimates for variables included in our regression model as statistical controls are not statistically significant. Nevertheless, our previous discussion suggests that the relationships between many of these factors—that is, changes in export intensity, in the average industry wage, and in employment—and changes in union membership are theoretically ambiguous. Thus, it is not necessarily surprising that these factors appear to have no clear impact on our dependent variable, the annual change in manufacturing union membership between 1992 and 1998.

Coefficient estimates for both the annual change in union saturation of the labor market and the annual change in capital intensity—that is, technology—are positive and statistically significant. While our hypothesis regarding the direction of influence of the latter measure is ambiguous, our finding for the former measure is unexpected. Nevertheless, given space constraints and the fact that both of these variables are included in these regressions primarily as statistical controls, we offer no further discussion of these estimates, leaving it to the reader to formulate his or her own conclusions regarding these measures and their effects on union membership trends.

In general, our analysis of the relationship between international trade and union membership tends to confirm our hypothesis that reduced trade barriers and, in particular, increased import penetration into New Zealand's manufacturing markets have had a negative impact on trade union membership in that country. Estimates from these regressions suggest, *ceteris paribus*, a 1-point increase (decrease) in the percentage change in import penetration yields, on average, between a 0.68 and 0.71 point decrease (increase) in the percentage change in union membership in a manufacturing market segment. This is significant, not merely in a statistical sense, but also in light of the fact that import penetration into all of New Zealand manufacturing increased each year between 1992 and 1998 by an average of 1.5 percentage points, that is, 9 percentage points over this six-year period. With regard to the effect of import growth, we estimate that

this factor alone accounted for a decline in manufacturing union membership in New Zealand of around 6.5 percentage points in this timeframe, notwithstanding the impact of the ECA or any other factors.

Conclusion

This paper focuses on the relationship between international trade and unionization in New Zealand manufacturing. Evidence considered here suggests that globalization of the New Zealand economy has had an important and significant impact on union organizing efforts, in particular, in the heavily trade-impacted manufacturing sector. One conclusion drawn from our analysis of the impact of changes in the relative share of imports in the economy on the recent trend in union membership in that country is that the reduction of trade barriers and the entry of international competitors into domestic product markets have reduced trade unions' ability to maintain and recruit members in New Zealand. In other words, notwithstanding any effects directly attributable to the Employment Contracts Act of 1991, expansion of international trade has contributed significantly to the decline in union membership in New Zealand during the era of the ECA.

Acknowledgment

This research was funded by New Zealand's Public Good Science Fund, administered by the Foundation for Research, Science and Technology (FRST Contract: VIC 803).

Endnotes

[1] To this end, Carruth and Disney (1988) report a negative coefficient for the impact of real wage growth on changes in union membership, suggesting that workers view union membership as a means of ensuring against further erosion of the real value of their earnings.

[2] Since December 1991, researchers at the Industrial Relations Centre at Victoria University of Wellington have undertaken annual surveys of trade union membership. These include questions about the industrial distribution of membership. From these survey results, we derive a measure of union density. The measure employed in our regression analysis is calculated as the inverse of union density. This variation, which has been adopted by others studying union membership trends, provides a measure of union saturation of the labor market. This specification suggests that the larger the share of workers in an industry who are unionized, the more difficult it is for unions to organize the remaining share of the workforce. Following the work of Moore and Newman (1975), this has come to be known as the "saturationists" argument.

[3] Previous research points to a negative relationship between membership and density, suggesting that the cost of organizing new members increases with union density and that this cost outweighs any economies of scale derived from higher union density (Ashenfelter and Pencavel 1969; Carruth and Disney 1988). Also, because union density

and union membership are highly correlated, to avoid estimation of a spurious correlation between this measure and the dependent variable, union saturation is lagged one period (Bain and Elsheikh 1976).

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The Effects of Public Policy on Pension Coverage in Canada

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Abstract

Based on data from a nationally representative sample of private-sector workers in Canada in 1994, this study finds pension standards legislation to have positive and negative effects on the probability of pension coverage. While jurisdictions with a longer history of regulation are found to have a lower probability of pension coverage, those with broader eligibility rules and earlier vesting requirements are found to have higher probabilities of pension coverage. Future research needs to examine more closely the mechanisms leading to these outcomes.

Introduction

Only a handful of studies have attempted to examine the impact of the regulatory burden imposed by public policy on the growth of the employer-sponsored pension plan system in North America. To date, all of the research has focused on the U.S. experience, with particular emphasis on the adoption of the Employee Retirement Income Security Act (ERISA) of 1974 or the growth in its regulatory burden over time. Capitalizing on provincial jurisdiction over employment issues in Canada, this study offers additional perspective on the effects of public policy on private pensions. Specifically, we examine the impact of provincially regulated pension standards legislation on the probability of pension coverage across a nationally representative sample of private-sector workers employed in Canada in 1994.

Studying the impact of public policy on pension coverage in Canada is informative for a variety of reasons. First, it permits a novel and more recent view of private pension coverage in Canada, something not done since Swidinsky and Kupferschmidt (1991) examined pension coverage using the 1986 Labour Market Activity Survey. Second, because of variations in provincial responses to the need for pension standards, this study is able to examine in more specific detail the impact of different policy choices, such

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as earlier or later vesting requirements, on pension coverage. This can provide feedback to policy makers about the success or failure of particular standards on pension coverage. Finally, examining pension coverage provides a more precise method for examining the outcomes of the interaction of the demand and supply for private pensions in the labor market. In the policy context, this is important because reforms that reduce employer supply may possibly increase employee demand, so it is important to know which of these two effects will predominate.

Literature Review

Early U.S. studies on the impact of pension regulation on the private pension system examined employer contributions (Alpert 1987; Long and Scott 1982) or plan registrations and terminations (Ledolter and Power 1984) using time-series analysis. Typically, these studies operationalized the policy impact of ERISA by including a dummy variable set equal to zero and one for the pre- and post-ERISA periods, respectively. Long and Scott (1982) and Alpert (1987) found that ERISA had an insignificant effect on employer expenditures. Given the expected offsetting effects of pension supply and demand in regulatory initiatives, these findings are perhaps not surprising. Ledolter and Power (1984), however, found ERISA to have significantly reduced plan registrations and increased plan terminations, but their results do not provide a strong test against plausible alternative explanations.

More recent studies examine the regulatory impact of ERISA in the context of shifting preferences away from defined benefit and toward defined contribution plans (Ippolito 1995; Kruse 1995). These studies examined changes in plan type and plan membership levels over the 1980s after controlling for average regulatory costs of the plan in question. Both studies concluded that rising regulatory costs are more onerous in smaller plans, but overall, such costs play a relatively minor role in the decline of defined benefit plans in the United States. Both of these studies, however, focused on the employer supply decision, leaving the broader question of the impact on pension coverage unresolved. Also, the regulatory cost variable used was imputed based on broad plan-size, plan-type, and industry categorizations so that the actual cost experience of each plan is not known. Imputation of this nature can have significant levels of measurement error, as shown by recent evidence that the economies of scale in large pension plans can be eroded by other plan characteristics, such as the number of retirees in the plan (Ghilarducci and Terry 1999). Finally, administrative costs, like an ERISA dummy variable, do not provide information about the effects of substantive changes in the legal framework on the market for private pensions.

Research Methodology

The 1994 Survey of Labour and Income Dynamics (SLID) is the data source used in our analysis. The SLID is a nationally representative sample of all persons living in Canada, excluding people living in the three territories, residents of institutions, people on reserves, and full-time members of the Canadian armed forces. Our sample is restricted to men and women between the ages of 16 and 69 with positive earnings who worked in the private sector in 1994. The restriction to those with positive earnings in the private sector reflects the fact that employment is generally a precondition to pension plan coverage, and our analysis focuses on the impact of private-sector pension standards law. Observations with missing data were deleted.

The dependent variable, pension coverage (PENCOV), is defined as a dummy variable equal to 1 if the person is covered by a pension plan at work (excluding the Canada or Quebec Pension Plan [C/QPP], deferred profit-sharing plans, or personal savings plans for retirement) or zero otherwise. Unfortunately, the SLID does not distinguish between defined benefit and defined contribution coverage. This problem, however, is mitigated somewhat by the fact that approximately 90% of all pension plan members in Canada in 1994 belonged to defined benefit plans (Statistics Canada 1997).

As mentioned previously, the expected direction of the effect of pension standards legislation on pension coverage is an empirical question because greater (and more costly) regulation may at once reduce the employer's willingness to offer a pension but increase employee demand as well. The effects of public policy are captured by three sets of variables that reflect the number of years that provincial regulation has been in place, minimum eligibility requirements, and the maximum number of years until pension benefits are vested. The first of these variables is of interest, given practitioner concerns that the increasing regulatory burden on the private system has contributed to its erosion over time. Eligibility and vesting rules are of interest because these standards were loosened during the pension reform movement of the late 1980s and early 1990s due to concerns that there be wider opportunities to participate in the private pension system and to ensure greater pension take-up rates by plan participants (Hall 1996).

Each Canadian province introduced pension standards legislation at different points in history. The number of years of regulation (YRSREG) ranges from 30 years in Ontario, which was the first province to adopt legislation in 1965, to zero in Prince Edward Island, where the regulatory framework had not yet been proclaimed into law by the end of 1994. This variable may be positively or negatively related to the probability of pension coverage, depending on whether pension regulation over time has had a stronger effect on employer supply or employee demand.

Eligibility rules refer to the minimum service and earnings requirements that must be met by full- and part-time employees before they are entitled, as a matter of right, to participate in an occupational pension plan. Most provinces set out a maximum of two years of service in the organization before a full- or part-time employee has the right to join a pension plan (ELIG2). While an earnings requirement is uniformly imposed by all of these jurisdictions in the case of part-time employees, such a requirement is not always required for full-time employees. Quebec and Manitoba provide workers with stronger entitlements, with Quebec requiring only one year of service for both full- and part-time employees (ELIG1). While Manitoba has a two-year service rule as mentioned earlier, it uses a lower earnings threshold than other provinces and, with some exceptions, compels plan membership (ELIG225). Unlike other provinces, legislation in Newfoundland made no provision for membership eligibility in 1994 (ELIGNR). Eligibility rules may increase or decrease the probability of pension coverage. A positive effect can be expected if such rules increase the opportunity to participate. A negative effect may be expected, however, to the extent such rules force the employer to provide benefits that it would not otherwise provide to certain classes of employees, such as those working part-time.

Vesting refers to the right of terminated employees to receive a benefit, refund, or both of their employer's contributions. During the pension reform movement, the most permissive provinces reduced their vesting standards to 2 years, while others shifted to 5 years, and one province remained at 10 years. By reducing the risk of forfeiting a pension, less onerous vesting requirements should increase or decrease the probability of pension plan coverage, depending on whether the employee demand or employer supply effect dominates.

Various worker and firm characteristics are also included to control for other determinants of pension coverage. In particular, we controlled for age, sex, marital status, education, earnings, union status, full-time status, industry, and firm size. Controls are not provided for province of employment because there is a high degree of collinearity between these and the policy variables, which perhaps is not surprising, given that the policy variables are assigned to respondents based on province of employment. Provincial differences, however, should be well controlled by the worker and firm variables included in our model.

Findings

Table 1 shows the empirical results of a logistic regression (appropriate for dichotomous dependent variables) of PENCOV on the public policy variables, after controlling for the other determinants of this outcome.

Since the logit coefficients themselves do not directly give the change in probability of pension coverage, such changes are calculated and evaluated at the mean probability of being covered by a pension plan at work (i.e., the mean of the dependent variable).

TABLE 1

Logistic Regression of Pension Coverage in Canada, 1994 (N = 14,728)

	Logit mean	Wald coefficient	Change statistic	$p <$	Probability
PENCOV	0.30				
YRSREG	21.81	–0.013***	13.11	0.0003	–0.003
[ELIG2]					
ELIGNR	0.047	0.4525**	4.60	0.032	0.103
ELIG225	0.067	0.3072***	7.98	0.005	0.068
ELIG1	0.182	0.0451	0.39	0.530	0.010
VESTING	3.26	–0.115***	16.28	0.001	–0.024
Model ^{2}			7,996.937*		

Note: Other variables included in the equation are age (five categories), female, marital status, education (four categories), earnings, union status, full-time status, industry (seven categories), and firm size (three categories).

* $p < .10$; ** $p < .05$; *** $p < .01$

The results show that the policy variables are statistically significant and quantitatively important in predicting pension coverage. For example, every 10 years of regulation (YRSREG) reduces the probability of pension coverage by 3 percentage points, supporting practitioner claims that the increasing regulatory burden of the system has contributed to the system's decline over time. Given an average of 20 years of regulation across Canada, this result suggests that in the absence of private-sector regulation, coverage would have been about 6 percentage points higher than the mean value of 30%.

Not all regulation, however, works to the detriment of the system. Every year that vesting is reduced (VESTING), for instance, raises the probability of pension coverage by 2.4%, suggesting the domination of the employee demand effect over the firm supply effect for this policy variable. This suggests that the reduction from 10 to 2 years' vesting across many jurisdictions during the reform period forestalled a decline in private-sector coverage by approximately 19 percentage points.

Eligibility rules do not have a uniform effect on pension coverage. Relative to the omitted reference category, employees in provinces with less restrictive requirements (or elements of compulsion in the requirement to participate) were 6.8 percentage points more likely to be covered by a pension plan (ELIG225). The absence of an eligibility requirement, however,

did not reduce coverage, as evidenced by the positive ELIGNR coefficient. Future research needs to more closely examine these differences.

Discussion and Conclusions

Based on data from a nationally representative sample of private-sector Canadian workers in 1994, this study finds broader eligibility and earlier vesting requirements to increase the probability of pension coverage, and a longer history of provincial regulation to have the opposite effect. These results must be interpreted cautiously, as we are able to explain differences in pension coverage across individuals and jurisdictions at only one point in time. Also, we do not examine the effects on pension coverage of a fuller, more complete set of regulatory variables.

The reasons underlying the effects of public policy on pension coverage must be studied further. Employees may value pensions differently from employers or pay for pension reform through compensating adjustments to other forms of compensation or through adjustments to other plan provisions, such as the benefit formula. Future research that examines the impact of public policy on defined benefit and defined contribution coverage can help disentangle these effects. For example, broader eligibility and earlier vesting may be valued by employees but impose little additional cost on employers if most of the cost of funding benefits is incurred only after many years of tenure, as in the case of plans offering a final-earnings pension benefit. Unfortunately, no individual level microdata file available in Canada measures defined benefit and defined contribution coverage so future researchers will need to employ more creative approaches, such as merging SLID data aggregated at the industry–provincial level with other data sources, such as Statistics Canada's *Pension Plans in Canada* database. Future research should also include a fuller treatment of other factors affecting pension coverage, particularly the role of registered retirement savings plans (RRSPs), which have grown considerably over the past two decades. Again, novel research methods will need to be used because of the absence of RRSP contribution information in the SLID data set.

Acknowledgment

This analysis is based on Statistics Canada's *Survey of Labour and Income Dynamics Public Use Microdata,* 1994, which contains anonymized data collected in the Survey of Labour and Income Dynamics. All computations on these microdata were prepared by the authors. The responsibility for the use and interpretation of these data is entirely that of the authors. This project was made possible through funding by the Government of Canada.

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DISCUSSION

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All the papers presented at this session are international in scope (each one also covers a major aspect of its respective nation in one way or another) and have some public policy implication but are divided by their focus on either labor economics or more traditional industrial relations.

Keith Bender examines public- and private-sector wage distributions and the changes wrought by the British government's attempt to alter wage determination in public employment. In the early 1990s, faced with public-sector wages that were significantly higher than in the private sector, the government decentralized pay bargaining, contracted out, and individualized pay. Using the British Household Panel Survey data from 1991 and 1994, in a more refined manner, Bender attempts to assess what, if any, effects pay reform has incurred.

His conclusion: the British government's attempt to realign public- and private-sector wages has been mixed at best. Overall, there has been a slight increase in incompatibility in both local government and nationalized industries. These conclusions, and any policy prescriptions, need to be qualified owing to the short time frame used to see the "before and after" effects. Moreover, he notes, cash limits restricted total pay increases at the agency level and in local government. More recent and more refined data should make policy conclusions more meaningful in the future.

In conducting future examinations of this policy change, Bender might explore the role of institutional factors, that is, union response through collective bargaining, in either enabling or limiting the effectiveness of the British government's desire to change pay practices to save money. Perhaps beyond the scope of the economist's modeling capacity, exploring the dynamics of politics and bargaining responses would be an interesting complement to econometric modeling.

Tony Fang and Andrew Luchak's study of the effects of public policy on pension coverage in Canada follows in the labor economics vein. Using a representative sample of private-sector workers in Canada in 1994, the authors find that pension standards legislation had mixed effects on the

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probability of pension coverage. They find that the increased regulatory burden lowered the probability of pension coverage—a supply reaction—while the broader eligibility and earlier vesting regulation led to an increase in pension coverage—a demand effect.

The data is available at the provincial level, which varies by the province in question. This variation provides the authors the luxury that many social scientists often do not have. This data, however, does not permit them to examine the underlying reasons for the differences found across provinces. For that, a more qualitative approach—interviews, perhaps—is necessary. Similar to Bender's paper, policy prescriptions should be withheld until better data become available. One area in which the data need to be improved is in distinguishing between defined benefit and defined contribution plans. Both authors, however, should be commended for digging the ditch to the mother lode a little deeper.

Patrick Gunnigle and colleagues focus on management approaches to IR practices at greenfield sites. Specifically, they look at four factors: (1) the impact of IR considerations on the location of new facilities, (2) trade union recognition, (3) pay determination and the use of performance-based pay, and (4) the relationship and role of employer associations.

Despite the existence of a strong pluralist IR system at the national level, greenfield IR systems tend toward a unitarist model. In Ireland's new growth industries, its unions face virtual extinction. Managers interviewed for this study stressed low corporation taxes, limited labor regulations, and the high quality of labor supply as reasons for locating in Ireland. The authors found that since the mid-1980s, there has been a movement toward union avoidance in these high-technology firms that opened. American firms set the tone for union avoidance during the early 1980s that has since been copied by other foreign companies. The authors found a high usage rate of pay-for-performance plans, although these plans have been confined to managerial and professional employees. This individualized approach to pay is consistent with the nonunion enterprise-level IR systems developing in these greenfields. Finally, the authors found that the majority of firms belong to employer associations, but the firms use their membership privileges more for consultancy purposes and less for plant-level industrial relations assistance.

The question to explore for future research is What, if anything, can Irish unions do at the national level to prevent the spread of this nonunion ideology in and from greenfields to existing companies? At present, there appear to be two very distinct IR systems at work: a pluralist one at the national level and a unitarist one at the enterprise level. Additional research might also explore how Irish unions can change public policy to

create disincentives for foreign investors to behave the way they do. The trick is to do it without killing direct foreign investment.

In a similar vein, globalization and trade also have had a deleterious effect in New Zealand in the 1990s. Stephen Blumenfeld and colleagues measure the impact of international trade on union density rates since the removal of statutory supports for unions in 1991. This dramatic shift in public policy was another step in the movement toward laissez faire economics that began with a more open trade policy during the late 1970s. Regression analyses show that reduced trade barriers had measurable negative effects on union density rates in manufacturing. This finding, significant as it is, comes as no surprise.

These cases from Ireland and New Zealand highlight the importance of global trade policies for unions, not just in these countries, but for all unions involved in world trade. Faced with a global political economy that favors open trade, unions around the world must figure out ways to stem the slide in union density and organize new members. The findings from these two papers, in conjunction with the U.S. experience, require unions to respond through global union alliances, especially political action, to ensure that world trade does not harm unions and their members.

DISCUSSION

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Bender

This paper is a limited attempt to evaluate a British public policy effort to gain efficiency in public-sector wage distribution by causing it to mirror presumably efficient private-sector wage setting. The author concludes that this policy has had limited effect. One possible cause for this result is the "equity" issue (wage solidarity or wage schedule compression) present in British society in particular and in large organizations generally. Schedule compression reduces dissatisfaction on the part of those workers at the bottom of the wage hierarchy and is intended to reduce workplace conflict generally. Such wage compression arguably is not efficient but can be found everywhere, especially in large organizations. The author did not control for this factor, so we cannot tell whether the policy effect has been less than remarkable because of this effect. This factor may be compounded by the traditional preference for stability, which risk-averse public-sector employees historically have traded for wages. It also does not control for benefits differences, which may have an effect as well.

This research would benefit by addressing the question of what explains wage differences in the first place. Whether public- or private-sector, or large or small, certain enterprises and organizations often pay higher wages than might be expected and lower wages for high-skilled jobs than might be expected. Which kinds of organizations—which kinds of services, for example—might provide wage patterns more like the public-sector ones? For example, the health care industry, whether public or private, has wage patterns that might not reflect skill so much as gender discrimination. The same may be said for education and child care, two industries with high levels of female employment. These factors need controls.

The important question not answered, therefore, is why this policy apparently failed. The apparent failure may be due to underlying differences in wage patterns for which the author has not controlled, or it may be because the theory is wrong. More research, especially qualitative work,

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may be needed to resolve this issue before public policy conclusions can be reached.

Gunnigle et al.

This very fascinating and provocative story suggests a phenomenon that runs counter to the prevailing wisdom. The trend, apparently successful in the Irish case, has been to centralize industrial relations rather than to decentralize them. Rather than attempting to put wages in competition, as in New Zealand, for example, the Irish government apparently decided to favor a more corporatist regime. This suggests at the very least that there may be no single solution to the problem of jump-starting a stagnant economy.

The author finds that industrial relations policy actually made a very modest impact on the choice by foreign investors of whether to build factories and other enterprises in Ireland. The most important factor, these authors find, is the low corporate tax rate provided by Ireland. Indeed, this choice to keep tax rates low may be an effective trade for government to make, as the overall result has been to increase investment while allowing wages to rise. It suggests an avenue for further research into the effects of tax policy, rather than industrial relations policy, on investment decisions.

Gunnigle and colleagues state that there is a low level of labor regulation in Ireland. Taking a more global view of the concept of regulation, we might argue that a centralized and corporatist labor regime is quite regulated. While they probably mean regulation of individual rights, rather than collective rights, it would be useful to expand on this concept.

For industrial relations, this research raises a provocative question. If union density has decreased, but the reliance on tripartite corporatist peak-level contracts increased, what provides the power basis? The authors talk about the broad national political consensus in support of unions, and perhaps these shared values provide the foundation for labor's influence, but over time any diminution of union density may interact with the intruding values of American and other foreign investors to create a threat to Ireland's apparently successful approach to industrial relations.

Blumenfeld et al.

This paper seeks to determine the effect of import penetration and export intensity on union density. The authors study the period during which neoliberal policies dominated the New Zealand industrial relations system. However, the authors do not really address the effects of changes in the industrial relations system on the outcomes of interest. The world economy has been affected by broad increases in international trade, along

with several international trade agreements during this period. They need to compare import penetration and export intensity with the patterns in other industrialized nations, for example, to understand how much of the effect is due to the new industrial relations regime and how much of it is due to broad trends.

The authors construct an econometric model that seeks to predict union density by import penetration, export intensity, and other factors. One of these factors is "union saturation," and it is not clear whether they might have simultaneity bias as the result of having union measures on each side of the equation.

Finally, the model produces a surprisingly high 51% R^2, with only three significant variables and many insignificant ones. Either omitted variable bias or simultaneity bias might produce unusually high standard errors, affecting the reliability of this prediction. We should be cautious, therefore, about policy interpretations we might make as a result. In addition, the import penetration and export intensity variables appear to offset each other, making the conclusions more problematic.

Fang and Luchak

This paper seeks to explain an apparent shift from defined benefit to defined contribution plans in Canada. It relies on previous literature, which suggests that regulatory burden may explain the decline in defined benefit plans. The measured decline, however, is quite small and may not be regulatory burden at all but rather something else, such as the preferences of employers or employees for some other, unmeasured reason. For example, employment mobility has increased over the period studied and may account for the declining preference for defined benefit plans. Qualitative research is suggested in such a situation, and some interviews may be warranted to try to uncover and test alternative explanations.

In addition to the small amount of change (between 2.4% and 3%), these effects have opposite signs, almost completely offsetting each other. Finally, the time trend used in the model may measure changes in the economy rather than the history of regulation. Further research is needed to disentangle these effects.

XVII. PRISON LABOR: ECONOMICS AND HUMAN RIGHTS

Industrial Relations and Inmate Labor

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There is an intense debate over whether or not inmates in federal, state, and local prisons and jails should be allowed to produce more goods and services for sale on open markets. This is an important issue because of the growing number of federal and state inmates—about two million, almost 500,000 of whom are released each year—and the potential impact of inmate labor force participation (ILFP) on inmates and their families, the victims of crime, free (non-inmate) workers, and the overall economy. The issue became particularly important during the 1990s as a result of low unemployment, growing wage inequality, escalating prison populations, and skyrocketing incarceration costs. There is, moreover, mounting evidence that the U.S. criminal justice and correction systems are not very efficient; do too little to rehabilitate offenders, prevent crime, and compensate or comfort victims; and also are biased heavily against minorities and the poor. The system apparently has interrelated, self-perpetuating components that make it difficult to change. It also seems that the American system is very different from its counterparts in other countries, which imprison lower percentages of their populations and are much less likely to incarcerate people for minor offenses (Currie 1999).

Under present arrangements, inmates and their families suffer because they are locked into self-perpetuating and intergenerational cycles of poverty and crime. According to one assessment, "There are seven million children with a parent in jail or prison or recently released on probation or parole" (Butterfield 1999). Having a parent behind bars, according to this report, puts children in much greater risk of a life of delinquency and

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crime. Indeed, this link is so strong that half of all juveniles in custody have a parent or close relative who has been in jail or prison. And 40% of the 1.8 million adult inmates have a parent or sibling behind bars (Butterfield 1999).

Expanding paid employment, proponents argue, would provide marketable skills for inmates and income for them and their families, reduce recidivism, and thus do much to break these self-generating and intergenerational cycles of poverty. We therefore should use ILFP to develop policies that will not only compensate inmates, their families, and victims but also help transform the criminal justice and correction systems and make them more effectively meet the needs of various stakeholders and society. We do not know enough now to support sound policies, but this paper is based on the belief, outlined later, that industrial relations professionals can make important contributions to public understanding and the development of policies to reform these seriously flawed institutions.

Economic and Labor Market Impacts

The short answer to the question of whether bans on ILFP are good or bad for the economy is that inmate labor has very little impact on GDP because prison industry output ($1.6 billion in 1997) is a very small fraction of the GDP (over $8 trillion). Moreover, the total prison labor force (611,000 in 1997)[1] is small relative to the civilian labor force of 136 million.

Critics of ILFP are concerned less about the absolute numbers of inmate workers than about the trends and the impacts on particular industries, places, and groups. The number of federal prison inmates increased from 66,000 in 1990 to 113,000 in 1997; the number of state inmates increased from 708,000 to 1,132,000 during those years ("Prisoners in 1997" 1998). In 2000, there were about 145,000 federal inmates and about 1,800,000 state and local prisoners. There have been similar increases in the size of the inmate workforce, though noninstitutional work opportunities have not kept pace with rising inmate populations, so industrial workforces constitute a smaller percentage of prison populations than they did 10 years ago. At the federal level, where a larger proportion of inmates are employed, 33% of inmates worked in prison industries in 1988, but only 18% were employed in these industries in 1996 (Hearings of the House Subcommittee on Crime, September 18, 1996).

In addition to the trends, critics of ILFP are concerned that prisoners will be exploited and that low-paid inmates will undercut free labor wages and working conditions. If they are paid at all, inmate workers generally earn less than $1 per hour. The range in the five-step federal industrial pay scale is from $0.23 to $1.15 per hour.[2]

ILFP probably would have the greatest impact on the lower end of the low-wage labor market (defined as those who earn less than a poverty-level wage for full-time, year-round work). The release of almost 500,000 relatively unskilled inmates, many of whom have serious physical and mental health problems, into this market each year could have serious negative impacts.[3]

Inmate Labor Policies

During and after the Great Depression, the federal government curtailed the use of inmate labor in competition with free workers. In 1940, after restrictive laws in 1929 and 1935, Congress made it a federal crime to transport and sell prison-made goods in interstate commerce. Thereafter, federal and state policies generally limited the sale of prison output to state or federal agencies. These laws greatly restricted the industrial employment of inmates.

At the federal level, prison labor is organized by Federal Prison Industries, Inc. (FPI—often referred to by its trade name, UNICOR), a nonprofit corporation created in 1934. FPI produces products to be sold exclusively to federal agencies, which must give preference to UNICOR products.

The 1979 Prison Industry Enhancement (PIE) Act allows certified private companies to sell prison-made goods in interstate commerce. To be certified, a company must pay prevailing wages, demonstrate that inmates will not displace free workers, consult with unions, and make deductions from inmates' compensation (not to exceed 80% of gross wages) for room and board, taxes, family support, and contributions to victim compensation funds.

The 1994 crime bill largely deregulated prison industry and freed inmate labor from most federal restrictions, thus opening the sale of prison products to any private market. However, according to one prison labor expert, PIE's growth is restricted by the prevailing wage requirement, which does not permit companies to compensate for the additional costs of doing business in prisons (e.g., additional security costs; Hearings of the House Subcommittee on Crime, September 18, 1996, p. 17).

Arguments for and against Removing the Restrictions on Inmate Labor

PIE and FPI supporters argue that these programs' safeguards prevent them from undercutting free labor wages and working conditions or from unfairly competing with private-sector companies (see Grieser 1989). Critics, on the other hand, argue that UNICOR routinely violates PIE's prevailing wage and business protection requirements, rendering those safeguards largely ineffective (see Hearings of the House Subcommittee on Crime,

September 18, 1996, and Senate Committee on Labor and Human Resources, October 28, 1993). Business representatives argue, in addition, that FPI's mandatory sourcing requirement gives UNICOR an unfair competitive advantage.

The AFL-CIO has protested inmate working conditions as well as the threat expanded ILFP would pose to free workers. Indeed, opposition to prison industries is deeply rooted in union history because before the 1930s, convicts were used to depress wages and defeat union organizing (R. Marshall 1967). Consistent with Samuel Gompers's declaration that organized labor wanted "more constant work and less crime, more justice and less revenge," national and state AFL-CIO affiliates encourage "the training of prisoners both to help in their rehabilitation and to reduce recidivism after their release. But, always with this caveat: Prison labor never should be used to compete with free labor nor to replace it" (AFL-CIO Public Employee Department 1997:1).

Of course, neither companies nor unions take a uniform approach to the expansion of prison industries. While most unions oppose the sale of prison-made goods in open markets, unionized prison guards favor work by prison inmates because of its demonstrated effectiveness in improving prison safety, behavior, and morale. Overcrowded prisons where inmates have nothing but idleness and boredom to occupy their time create dangerous and explosive situations for guards and inmates alike.

Other critics allege that during the 1980s and 1990s a combination of "get tough on criminals" policies and the expansion of industrial employment led to the exploitation of inmates, who are powerless to protect themselves except through litigation, which is expensive, time-consuming, and uncertain. "Get tough" policies have contributed greatly to a prison population explosion, sharply increasing prison costs (a commonly cited figure is $20,000 to $25,000 annual cost per prisoner) and thus exerting great pressure to expand ILFP as a way to offset part of the added cost. These developments also enable corrections institutions to charge prisoners for court costs, the compensation of victims, room and board, and medical care. These charges put great pressure on inmates to work but also limit their net compensation. The AFL-CIO contends that the pressures to work limit the education and training needed for rehabilitation.

Industrial work by prisoners is voluntary, but inmates allege that a refusal to work often leads to abuse by prison officials. These conditions cause some, especially the AFL-CIO, to believe that the United States is vulnerable to the charge that our prison labor policies are in violation of ILO Convention 105 on forced labor (see Burton-Rose, Pens, and Wright 1998; Parenti 1995, 1996a, 1996b).

Perhaps the best evidence on the relationship between prison industries work and recidivism is from the Federal Bureau of Prisons' Post-Release Employment Project (PREP), a seven-year research and evaluation study published in 1991 and updated in 1996. This study found that relative to releasees with similar backgrounds who were not involved in prison industries, FPI inmates demonstrated better adjustment in prison, were less likely to recidivate, had higher earnings, and were more likely to be employed. The 1996 update tracked the same inmates for up to 12 years after release "and concluded that FPI inmates had a 20% greater chance of obtaining employment, earning higher salaries upon release . . . and remaining crime free" (letter from Steve Schwab, assistant director, Federal Bureau of Prisons, to J. Michael Quinlan, May 12, 1997).

Policies for Reform

Subjecting prison industries to the discipline of competitive markets and labor standards (including greater voice for inmate workers) might greatly improve the efficiency of prison industry and the value of the training inmates receive, especially if those industries adopt high-value-added strategies instead of low-wage strategies. Market discipline might do much to change the prison culture, which many experts believe does more to train inmates to be criminals than to rehabilitate them. There can be little doubt that removing mandatory sourcing requirements and state-granted monopolies and subjecting prison industries to competition would cause them to become less complacent and more efficient. Of course, as public institutions, there always will be elements of subsidies and unusual costs, which could be balanced.

Removing or offsetting unjustified competitive advantages and disadvantages between free market and prison industries also might facilitate expansion of the industrial employment of inmates by reducing opposition to ILFP expansion. Many, including the Clinton administration's National Performance Review, recommend eliminating the mandatory sourcing requirement for FPI. By contrast, FPI officials argue that eliminating mandatory sourcing would destroy prison industries, which, they argue, must have this requirement in order to attract private partners and offset the economic disadvantages that they suffer because of prison security conditions and the low quality of prison labor.

However, prison industries conceivably could compensate for these disadvantages by deductions from inmates' earnings, as is done now, and by using public revenues for education, training, and other services to inmates. Human capital investments might, in effect, be subsidies to prison industry as well as investments in the rehabilitation of inmates and attractions for higher-performance companies.

Competition also might be improved by requiring prison industries to observe the same labor standards—including the right to unionize—as their private-sector competitors. The application of prevailing and minimum wage requirements to prison industry could require these industries to compete by becoming more efficient rather than through lower labor standards. Some argue that prison industries cannot compete if they have to pay prevailing wages (from which prison officials could make deductions), but there is evidence from the PIE program that at least some private companies can compete while paying prevailing wages, though how much PIE companies evade this requirement is not clear.

Another area that should be explored is much better processes to reintegrate releasees into society, including the application of antidiscrimination policies and concepts to ex-offenders and the restoration of their voting rights. Antidiscrimination policies, like other labor standards, are justified as needed to cause labor market decisions to be based on productivity and merit instead of race, sex, age, or other factors. This is a complex, controversial, and important subject, which requires careful study and debate, but we could draw from a wealth of experience with antidiscrimination policies in other areas (R. Marshall 1974, 1991).

The unionization of inmates might have several advantages. For one thing, an effective alternative dispute resolution process could improve management by giving prisoners a voice in their terms and conditions of employment and could reduce the cost of inmate litigation, which some consider mainly trivial and very expensive for the states.[4] Unions also could become stronger advocates for inmates within the prisons and perhaps accelerate prison reform. Unions also could strengthen the enforcement of existing laws, supplementing the limited enforcement resources available to federal agencies.

Unions could, in addition, help with the rehabilitation process by providing skill development, especially through apprenticeship training, which would improve inmates' earnings while in prison and after their release. Prototype programs have been created in Iowa and other places. Training in registered apprentice programs provides geographic and occupational mobility, as well as higher wages and the efficient acquisition of skills.

A system that permitted private industry to bid for the right to operate prison industries could increase efficiency and provide more paid jobs for inmates. Special attention might be given to targeting industries with labor shortages. An independent board representing all stakeholders could accept bids from a variety of organizations, including those that already operate prison industries. Along with the usual business qualifications, bid specifications could include labor standards, security requirements, and

other matters to facilitate inmate rehabilitation. For example, because education and training are so important to rehabilitation, special preference might be given to companies that provide effective training and postrelease placement and support services for inmates.

More balanced competition is necessary but not sufficient to make significant improvements in prisons and to develop opportunities for inmates and their families. Rewards for the acquisition of work skills and knowledge as well as work performance could be a valuable component of a more effective rehabilitation system. Although there are unlikely to be enough industrial jobs for all inmates, an expanded work program could facilitate better classification and separation of workers (in terms of their probability for successful rehabilitation) from those who need closer supervision. Grouping inmates might create better peer pressure for successful work careers rather than for criminal activities and might provide more positive rewards generally.

A careful analysis of recidivism in Texas and elsewhere demonstrates that "since recidivism is caused by a complex constellation of factors it is unlikely that any single factor intervention strategy would be successful" (S. Marshall 1992:i). While employment is necessary for the successful reintegration of ex-offenders, it is not sufficient; other factors include counseling, education and training, drug treatment, and postrelease support and placement services. Drug treatment is particularly important since 50% to 85% of inmates have been incarcerated primarily because of alcohol or drug abuse and a "study of the federal drug treatment programs found that those receiving treatment in prison were 73% less likely to be rearrested six months after release" (Schnurer and Lyons 2000). It therefore makes more sense to sentence nonviolent offenders to drug treatment as an alternative to prison, as a 2000 California initiative proposes to do. And since an estimated three fourths of inmates are considered to be functionally illiterate (National Governors' Association n.d.), education is a much better way to occupy inmates' time than the make-work and idleness that is characteristic of many prisons (Flanagan and Maguire 1993). Labor standards for prison industries, including institutional work performed by inmates, could therefore ensure a proper balance among work, education, and rehabilitative counseling.

Conclusions

While I believe that reforming the inmate labor and criminal justice systems should receive high national priority, I do not believe that we have adequate information to support these specific policy initiatives. I therefore recommend experimentation and knowledge development to support

interventions to improve these seriously flawed systems. As noted, I also believe that industrial relations specialists bring valuable tools and insights to this process of knowledge development.

1. They are accustomed to the kind of interdisciplinary and comparative adaptive learning required to deal with this complex subject.
2. They have developed rigorous evaluation tools needed to combat much of the sloganeering that has created real problems for the criminal justice system.
3. They understand the importance of basing interventions on strong empirical evidence. It would, however, be hard to find an area where there is more divergence between current practice and knowledge of what does and does not work.
4. They understand that institutions, systems, and subsystems tend to be self-perpetuating. They also have some insight into what is required to transform obsolete and dysfunctional systems into high-performance organizations that can more effectively meet the legitimate needs of all stakeholders (e.g., see R. Marshall and Tucker 1992). They also understand the value of incentives, positive reward systems, and well-trained and adequately compensated personnel—none of which characterizes the current U.S. criminal justice and corrections systems. Indeed, few of the rewards in these systems appear to be positive in the sense of rewarding desirable outcomes. Most are negative and are based on punishment and revenge. Many are perverse in the sense that they induce undesirable outcomes: examples include mandatory sentencing, which makes it hard for courts to fit the punishment to the crime and reduces the incentives for good behavior by inmates; the elimination of parole and probation for less serious offenses, which increases prison overcrowding and induces many inmates to become more serious criminals; the elimination or reductions of the most effective interventions (drug treatment, education, training) in favor of prison building and incarceration; and plea bargains, which allow professional criminals with better lawyers to receive light sentences by "fingering" less involved associates.
5. They also understand the importance of participatory rule making and alternative dispute settlement processes for improving organizational behavior and minimizing conflict. Corrections institutions, by contrast, permit very little effective participation in rule making by inmates or corrections staff. Indeed, a major problem for the American criminal justice system is the difficulty that inmates, especially those who are poor or minorities, have in gaining effective representation.

For all of these reasons, it is in the interests of the nation and our disciplines for industrial relations professionals to devote more resources and attention to this important subject.

Endnotes

[1] Of these, 498,000 were involved in support work in their institutions, 75,000 were assigned to traditional prison industries producing goods and services mainly for state and federal agencies, and only 2,429 were employed in state and local prisons by private firms producing goods and services for open markets (Miller, Shillon, and Petersik 1998).

[2] In 1991, prison workers in nonindustrial activities earned between $0.12 and $0.40 per hour; most (55%) earn $0.12, while 5% earn $0.40 (Gibson 1993:18).

[3] Inmates are generally more disadvantaged than low-wage workers. Federal and state inmates are more likely to be minorities (in 1996, 49.6% of releasees were African American, 13.2% Hispanic, and 1.1% other; the comparable percentages for men in the low-wage workforce were 15.9%, 21.6%, and 4.2%, respectively) and male (90.5% vs. 41.9% for low-wage workers) and have much lower levels of education (58.7% of releasees had less than a high school education, 33.6% had high school or GED, 6.2% some college or vocational education, and 0.9% college or more; the comparable percentages for low-wage men were 30.1%, 38.3%, 22.6%, and 9.4%, respectively; Bernstein and Houston 2000:6). And inmates are much more likely to have serious substance abuse, mental health, and physical health problems.

[4] See statement by Senator Harry Reid (1993:2, 4). According to Senator Reid, 40% of civil litigation in Nevada federal courts is by prisoners.

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Costs, Benefits, and Distributional Consequences of Inmate Labor

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Abstract

We estimate that permitting inmate labor would likely increase national output but by less than 0.2% of gross domestic product. The largest social benefits from inmate labor are likely to come about from decreased recidivism, although the effect of inmate labor on subsequent crime and recidivism rates has not been adequately studied. The potential inmate workforce is low skilled. We estimate that permitting inmate labor could reduce wages of high school dropouts in the private workforce by 5%. To improve the economic contribution of inmate labor, we propose that private firms be allowed to bid for inmate labor and that inmate workers be subject to all relevant labor legislation, including the right to collective representation. Alternative strategies for reducing recidivism and integrating offenders into mainstream society upon release, such as education and training, should also be considered, perhaps in conjunction with inmate labor.

This paper addresses three main questions regarding inmate labor force participation. First, we assess the likely impact on national output. Second, we outline the principal issues to be considered in a broader analysis of the costs and benefits. Third, we discuss some steps that could enhance the contribution of inmate labor to society.

Are Bans on Inmate Labor Force Participation "Good" or "Bad" for the U.S. Economy?

Our answer to this question, subject to qualifications discussed later, is that a ban on prison labor is probably "bad" for the economy in the narrow sense that it slightly reduces the total output of goods and services in the domestic economy as officially measured by figures for the gross domestic product (GDP). As the following calculation suggests, however, the potential effect of permitting prison labor on GDP is likely to be quite small. To

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derive an upper-bound estimate of the effect of encouraging prison labor on GDP, suppose that all inmates work full-time, year-round (i.e., 2,000 hours per year) and produce output per hour equivalent to the minimum wage ($5.15). Under these assumptions, inmate labor would produce $19 billion of output. In 1998, total GDP was $8.5 trillion in the United States, so the potential addition of inmate labor to GDP is only 0.2% of total U.S. GDP.[1] This figure is less than the typical magnitude of "statistical discrepancy" in the National Income Accounts; it is barely noticeable.

We should stress that our calculation probably provides a substantial overestimate for several reasons. First, labor force participation of inmates is likely to be well under 100%, even if employment of inmates is encouraged, since relatively few inmates work when they are not incarcerated. Second, the average inmate may produce less output per hour than the minimum wage, especially once possible additional security costs or prison modifications are taken into account.[2] Third, prison industries already produce goods worth about $1.6 billion so time used to produce this output should be deducted from total potential available hours.[3] Finally, inmates already perform a great deal of uncompensated general work assignments in and around prisons (e.g., cleaning the facilities and preparing food) that are not included in GDP so this time would also have to be deducted from potential available hours.[4]

Even if prison industries contribute a small amount to total output, they are not necessarily "good" for the economy. For example, in a traditional government-operated industry, if extra security and supervision costs are required to create an environment that permits work beyond the costs of maintaining an environment in which inmates are not working, then these extra security costs might exceed the value of the output from the industry. In this case, where the industry is not profitable for the government, it should be shut down, even though some output was being produced and total GDP raised. Moreover, if prison labor is not voluntary, then economic output can increase despite a decrease in welfare.

Do the Economic and Social Benefits of Inmate Labor Exceed Their Costs to Society?

An exclusive focus on GDP is not very informative. If the social costs outweigh the benefits, then the government should ban inmate labor. Conversely, as long as the social benefits are greater than the costs, then the government should encourage inmate labor. We believe it is critical to focus on social costs and benefits and not on GDP because many of the most economically significant aspects of inmate labor are not captured by the dollar value of the goods produced by inmates.

What do we mean by social benefits and costs? The answer is that policy makers need to estimate as well as possible the dollar value of the various consequences of allowing inmate labor. Some of these values are easily observed, such as the wages that private firms are willing to pay workers. Other values are less easily observed but verifiable in principle, such as the net change in the cost of security to the prison for inmates who are working in comparison to those who are not working. Still others must be estimated. Most important, if permitting prisoners to engage in prison labor reduces the subsequent recidivism rate of participants by even a small amount, it could have a great social impact in terms of reducing the pain and suffering of those who are spared being the victim of future crimes. It is quite possible that permitting prison labor could reduce subsequent crimes and recidivism because released prisoners who have work experience could fare better in the noninstitutional economy. Despite the difficulty of precisely quantifying these effects, it would be a mistake to ignore these not-directly-verifiable values (i.e., to implicitly assume that they are zero), so many studies have tried to obtain rough estimates of these values.

We specifically refer to "social" benefits and costs because some consequences of inmate labor may affect society at large even though they do not directly affect the inmate laborers or the employer. These benefits may be realized at the time the labor takes place or in the future. If the experience of inmate labor decreases criminal activity *after* release, then there would be future benefits from the reduction of pain and suffering associated with crime, and these benefits should be discounted to present values for purposes of a cost–benefit analysis.

The information required to make an economic calculation of the benefits of prison labor is less stringent if the government allows private employers to bid for the services of inmate laborers. In this instance, the private employers would reveal information about their expected profitability from producing with inmate labor. Even when the employer is a private firm, the government still needs to assess whether there are important social benefits and costs beyond those taken into account by the employer that suggest whether the production should be subsidized or taxed because of the government's interest in other consequences of the employment of inmate labor. It is also important that any changes in security costs that would result from prison labor be factored into such a decision.

We emphasize two types of social consequences from inmate labor. First, partial equilibrium consequences can be thought of as due to one small enterprise that would not have been undertaken if inmate labor were not available. Second, general equilibrium consequences may occur if there were many enterprises using inmate labor, cumulatively large enough to affect the product and labor markets in which they compete.

We suspect that the most important partial equilibrium social benefits are crime reduction, earnings by inmate laborers, and possible security cost reductions, which are discussed next.

Possible reduction in the number of crimes committed by offenders after release. Research suggests that offenders commit 12 to 15 crimes per year after release—which obviously imposes large economic costs on society (e.g., see Levitt 1996). There is some evidence that participation in inmate labor provides skills and experience that help former prisoners to forgo crime. For example, the recidivism rate appears to be 3% to 8% lower for former inmate laborers than for those with similar characteristics who were not inmate laborers.[5] The economic value of this crime reduction could be quite substantial. For example, if just 5% of released prisoners were induced to commit no crimes after being released, rather than an average level of crime (say, costing $35,000 in the first year after release and gradually declining to zero after 15 years), the net present value that could be saved over the 15-year period would be about $11,000 *per released inmate*.[6] Moreover, if 5% of released prisoners avoided a two-year prison term after participating in inmate labor, the present value of future incarceration costs would be reduced by about $2,800 *per released inmate*.[7]

It may also be true, however, that the 3% to 8% estimate does not represent a causal effect of inmate labor on recidivism. Instead, those who choose to participate in inmate labor could possibly have a lower propensity to engage in criminal activity even if they had not worked. Further study of the effect of inmate labor on recidivism should be a high priority. If there were a waiting list of inmates who wanted to work, then a random lottery for participation would both be equitable and facilitate study of the issue since the group not chosen in the lottery would be a natural control group. Alternatively, the opportunity for inmate labor could be made available at some prisons, and researchers could compare the experiences of these inmates to those at otherwise similar prisons.

Wages paid to inmate labor. Benefits accrue to inmates, who have savings to draw upon after release, and to their dependents in the form of support payments. Transfers can also be made to victim compensation programs and to the government through taxes and payments for room and board. In the past two decades, prison industry enhancement programs have been operating in which $84 million were paid in wages, of which 8% were contributed to victims programs, 6% to family support deductions, 12% to withheld taxes, and 22% to room and board (Correctional Industries Association 1998). There may also be an increase in employment and earnings in the legitimate labor market after release that would have many of the same benefits, as suggested by research on offenders released from

federal prisons.[8] As noted earlier, further study to determine the causal effect of inmate work programs on later outcomes is a high priority for future research.

Possible reduced security provision by prisons for inmate laborers. Employing firms may have to provide special security when inmates are working. Another aspect of the security issue, however, is that the operating costs of corrections facilities could be lower when firms are occupying six to eight hours per day of inmates' time. Furthermore, even when inmates are not at work, their morale and behavior may improve so that the costs of security are reduced, as suggested by research in New York (Maguire 1996).[9] The quantitative magnitude of cost savings from this reduced need for security have yet to be assessed.

In partial equilibrium, we do not believe there are important social costs. The real question for the viability of small prison enterprises in a partial equilibrium analysis is whether enough private firms will choose to employ inmate labor at prevailing wages. The combination of paying prevailing wages for low skills with extra security costs in the workplace may not be attractive to employers relative to alternatives. The social benefits from reduced future crime and redistribution of inmate wages suggest that there could be underprovision of inmate employment and that society could be better off if the government provides a subsidy to employment.[10]

We believe that the most important general equilibrium social benefit in the long run involves the efficiency of production. Benefits accrue to consumers in the form of lower prices and to employing firms that have a larger supply of less-skilled labor willing to work at low wages. As pointed out earlier, however, this effect of permitting prison labor on the overall economy is likely to be quite small.

It is also our opinion that there are important potential social and distributional costs from encouraging prison labor due to an outward labor-supply shift of (mainly) unskilled inmate workers that will have consequences for less-skilled civilian workers. The first two columns of table 1 compare the education distribution of the jail and prison inmates to the general population in 1991. Inmates are 2.4 times more likely to lack a high school diploma or GED than are those in the noninstitutional U.S. population (U.S. Department of Justice 1994). We used the education distribution of inmates in 1991 to infer the education levels of the 1.72 million men in jail or prison in 1998 (U.S. Department of Justice 1999) and in the third column report the ratio of the number of inmates at each education level relative to the number of men in the civilian labor force in the same education category (U.S. Department of Labor 1999:174). These figures provide an indication of the potential magnitude of the labor-supply shift due to

prison labor by education class. Clearly, because so many inmates have a low level of education, the supply shift due to permitting prison labor will be greatest for the least-skilled noninstitutional workers.

TABLE 1
Education Distribution of Inmates and the General Population

	Inmates	General population	Inmates as a proportion of the civilian male labor force, 1998
Less than high school graduate	.47	.21	.105
GED or high school graduate	.38	.36	.033
At least some college	.16	.43	.008

We estimate that if inmates join the labor force, the number of high school dropouts in the labor force will expand by 10.5%. In the long run, this increase in supply will probably have a greater effect on wages for less-educated workers in the noninstitutional workforce than on their employment (except, of course, for those who voluntarily choose to withdraw from the workforce because of the decline in wages). If the labor demand elasticity for this group of workers is –0.5, then wages could fall by as much as 5% for workers with less than a high school degree if all prisoners join the workforce.[11] This is likely an upper bound for several reasons: (1) the relevant labor market also includes women; (2) inmates probably have less skill than noninstitutional workers with the same level of education; (3) only a proportion of prison inmates will work, and hardly any of those would work while in jail; (4) some fraction of civilian workers may choose to withdraw from the labor force rather than take a job that pays 5% less; (5) the minimum wage provides a floor below which wages cannot fall in many companies. Despite these caveats, this back-of-the-envelope calculation provides a rough estimate of the potential impact of prison labor on the less-skilled noninstitutional labor force. Moreover, if civilian workers who withdraw from the formal labor market because of deteriorating wages are pushed into a life of crime, the social costs could be substantial.

Overall, however, despite the large increase in incarceration in the United States, inmates still would be a small fraction of the labor force even if many of them were working. While the proportion of the population in prison or jail has doubled since 1985, the number of adult men in prison or jail equaled 2.3% of the number in the male labor force (U.S. Department of Justice 1998). For workers with some college, that ratio is under 1%. It is estimated that the 1998 overall employment-to-population

rate would have been 70.6%, compared with the Bureau of Labor Statistics' estimate of 70.9% for the noninstitutional population, had all incarcerated individuals been added to the noninstitutional population in the hypothetical situation that 35% of inmates were employed.[12]

In assessing the economic value of the social costs and benefits, the government also must consider the distributional consequences. In this case, the less-skilled labor adversely affected by the presence of inmate labor may also as a group be the recipient of some of the social benefits. The reason for this is that they are the same group that is most likely to benefit from any reduction in criminal victimization that would arise if participation in inmate labor programs lowers criminal activity after release. Some members of this group will also benefit from the family support payments made by inmate laborers. A concrete recommendation about the government's decision should be based on the magnitude of these costs and benefits and a social welfare function that weights the welfare of the various distributional groups. It would also be important to investigate the relative cost effectiveness of alternatives such as education and training for prisoners, which could in principle provide some of the same benefits without the adverse distributional consequences for other less-skilled workers who would compete with inmate laborers. Any serious recommendation requires much further research on these issues.

What Steps Are Essential to Improve the Economic Contribution of the Incarcerated Labor Force?

As we noted earlier, we see no theoretical rationale for the government to be the employer of inmate labor. We suspect that the contribution of inmate labor to economic output would be greater if they were employed by the private sector. Shifting to an open system of private-sector employers could also have the benefit of placing all prospective employers on a level playing field, without preferences for particular employers or for the purchase of prison-made goods. *In concert with privatization, we suggest that inmate workers be covered by all relevant labor legislation that applies to private-sector firms, including the right to form a union, fair labor standards, and workplace safety regulations.*

Because inmate laborers do not have the option to "vote with their feet," or shop around for alternative, better-paying jobs, the potential for inmate labor to be exploited is great. In this situation, unionization may also provide important benefits and protections. To maximize their economic contribution, inmate labor needs a negotiating agent aligned with its interests, and a union-like organization could serve as that agent. This organization could take responsibility for handling outreach to employers and could

specialize in handling additional security arrangements for inmate labor that would be unfamiliar and costly for each private-sector employer to undertake. A union-like organization may also be more effective in convincing inmates to participate in educational programs that would raise their wages since inmates may (accurately) perceive that this advice is coming from a party that has their interest in mind.

One final point is that since the economic contribution of inmate labor is likely to be a very small addition to GDP and since the main economic effect of inmate labor would follow from a possible reduction in recidivism rates, the government should consider whether there are more efficient and effective means than inmate labor to reduce future recidivism rates. For this reason, we reiterate that other strategies for reducing recidivism rates and integrating inmates into mainstream society after release should also be considered and studied. Some of these strategies may complement inmate labor—such as requiring employers to provide specific on-the-job skills training—and others may be a substitute for inmate labor because they take time that diverts inmates away from work—such as requiring general classroom courses in basic reading or the control of aggression. Identifying ways to integrate inmates into mainstream, law-abiding society upon release should be a priority from an economic as well as a social perspective.

Endnotes

[1] 1998 GDP is reported by the U.S. Department of Commerce (n.d.). Miller et al. (1998) make essentially the same point concerning a relatively small increase in output due to prison.

[2] Inmates worked for wages that averaged 78 cents per hour in prison industries in 1997 so the minimum wage may overstate the average productivity of inmates. This figure is derived from the ratio of total inmate wages paid in 1997 (Miller et al. 1998:figure 12) to total inmate labor hours (Correctional Industries Association 1998:108).

[3] Gross sales are reported in Correctional Industries Association (1998).

[4] A more accurate measure of GDP would include the value of the service performed by inmates engaged in general work assignments. In principle, general work assignments in prison are services that would require performance by at least some non-inmate workers if there were a ban on general work by inmates. It appears to us that a ban on general work by inmates combined with performance of exactly the same activities by non-inmate labor that received wages would increase measured GDP, but this is a flaw in the measurement of GDP because the output of economic activity is unchanged regardless of who performs the work.

[5] A study of the federal PREP program (for work experience, vocational, and apprenticeship training) found that participants had a recidivism rate of 6.6%, in comparison to 10.1% for a group with similar demographics and criminal history (and 20% overall for all prison inmates). See Saylor and Gaes (1997).

[6] The dollar value estimate of $35,000 per year is conservative in that it is somewhat lower than the $43,100 estimate from Levitt (1996) of the average dollar value of the cost of crimes excluding murder committed by released inmates. This illustrative calculation assumes straight-line depreciation in the dollar value of crime over 15 years and a discount rate of 4%.

[7] For this calculation, the annual cost of incarceration is assumed to be $30,000. See Levitt (1996) for citations of estimates ranging from $23,500 to $35,000. Five percent of prisoners are assumed to be released for one year and then in prison for two years, with a 4% discount rate.

[8] Saylor and Gaes (1997) found that PREP program participants had an employment rate of 72% one year after release, while nonparticipating inmates with similar background characteristics had an employment rate of 63%.

[9] The study compared inmates above the 80th percentile in their number of institutional infractions prior to participating in inmate labor to a sample of inmates with a similar number of infractions during that time period. In a follow-up, the group that participated in inmate labor had incurred 3.3 infractions while working, and those who did not work incurred 5.0 infractions. While the results for this high-infraction subgroup were statistically significant, there were no significant changes for those with a lower number of infractions prior to the inmate labor experience.

[10] One type of subsidy that may be feasible here is a simple wage subsidy. In general, the wage subsidy is thought to be an unattractive policy instrument because it can be easily extorted by an employer who reports fraudulently low hours and a high wage since information on hours is usually difficult to verify. In the case of inmate labor, there is direct accounting for the time the inmate spends with the employer so this usual issue can be resolved.

[11] An elasticity of -0.5 for total labor demand was the median estimate in a survey of 65 labor economists. See Fuchs et al. (1998).

[12] This analysis is based on Katz and Krueger (1999). The original analysis considered what would have happened to employment if inmates had been released. Here we consider the implications of including inmate laborers in the labor force statistics. We focus on men because about 90% of those in prison or jail are men. Administrative earnings data collected by the California Employment Development Department show that 35% of individuals who served one- to two-year sentences in California for federal crimes were employed prior to being arrested. This figure is similar to the employment rate of those convicted but not sentenced to prison time two years after their case was filed. Consequently, we assume that 35% of those in prison or jail would be working if given the opportunity. See Kling (1999). For U.S. employment and population figures, see the Bureau of Labor Statistics' Web site at <www.bls.gov>.

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Prison Labor and International Human Rights

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International law on this subject is not highly developed, nor has a great deal of attention been spent on it, with some precise exceptions. Nevertheless, the basic rules concerning prison labor are relatively clear and precise.

Even though most attention recently has focused on privatized prison labor, the present note discusses the rules applying to all prison labor, both for public and private benefit. Essentially, most of those discussing the issue do not care much about the situation of prisoners breaking rocks for punishment, and the rights of prisoners are uninteresting for most activists unless they are in competition with free labor, working for private enterprises.

What Happens in Practice?

With a few exceptions, prisoners work in almost every country. Until recently the major concern of ILO supervision was political prisoners being made to work—but now that is changing to focus on the consequences of privatized prison labor.

In an increasing number of countries there is privatized prison labor, in one form or another. In a limited number of countries, there are actually private companies running prisons as a commercial undertaking, and in a much larger number of others, prisoners do work for private entities in various ways. More substantial information on these questions will shortly be available from the ILO. In its November–December 2000 session, the ILO's primary supervisory body (the Committee of Experts on the Application of Conventions and Recommendations) carried out a detailed review of the application of ILO standards with regard to privatized prison labor, and in the next year or so we hope to publish information on the practice of privatized prison labor around the world.[1] Anyone who is interested can already obtain a great deal of information on this subject from the ILO's supervisory comments under the Forced Labour Convention, 1930 (No. 29), and there is presently a "representation" under article 24 of the ILO

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constitution pending against New Zealand on compliance with ILO standards in this regard, which should be decided in March 2001.

There are both nonbinding and binding international standards on this question.

Guidelines: Standard Minimum Rules for the Treatment of Prisoners

The first Standard Minimum Rules for the Treatment of Prisoners were published by the League of Nations in 1930 (League of Nations 1930), and they were updated in 1957.[2] While they are not binding, they do provide guidance, in particular addressing the work of sentenced prisoners in a section that is highly relevant to the interpretation of existing standards.

This section of the rules recognizes that compulsory labor is a normal part of the prison experience, stating that "all prisoners shall be required to work, subject to their physical and mental fitness." They also represent an attempt to nudge the conditions under which prisoners work toward the conditions under which private employees work, with a stated preference for prisoners' being allowed to choose the type of work they wish to perform.[3]

The rules pay particular attention to the rehabilitation and vocational aspects of prison labor, providing that "organization and methods of work in the institutions shall resemble as closely as possible those of similar work outside the institutions, so as to prepare prisoners for the conditions of normal occupational life." The interests of the prisoners and other vocational training are not to be subordinated to making a financial profit from an industry in the institution.[4] They also provide for vocational training to be furnished for prisoners.

In less absolute terms than the way ILO Convention No. 29 has been interpreted on the same point (see later), the Standard Minimum Rules state that "preferably institutional industries and farms should be operated directly by the administration and not by private contractors." This is, of course, in direct contrast to the more recent developments in the United States and elsewhere toward increased privatized prison labor.

As does Convention No. 29, the rules provide for public supervision of prisoners' work: "where prisoners are employed in work not controlled by the administration, they shall always be under the supervision of the institution's personnel."

The question of remuneration and other conditions of work is a difficult one. The rules take the approach that "[u]nless the work is for other departments of the government the full normal wages for such work shall be paid to the administration by the persons to whom the labour is supplied." The rules provide for "a system of equitable remuneration of work

of prisoners" under which prisoners are allowed to spend at least part of their earnings and to send a part to their family, while another part is set aside by the administration as a savings bond for the prisoner upon release. Rules applicable to "free workmen" should guide the application of safety and health regulations, employment injury benefits, and, less strictly, hours of work and rest.[5]

A more recent effort to elaborate on the Standard Minimum Rules consists of *Making Standards Work,* an international handbook on good prison practice, endorsed by the 1995 UN Crime Congress. The handbook emphasizes the difficulty of providing all prisoners with full employment in prison, the usefulness of linking work to training, and the importance of giving the prisoner a choice of work and the choice of whether or not to work for private companies. The handbook states in application of Rule 73:

> It is clear that there should be a clear contract concerning prisoners' work. The prison administration remains under an obligation to ensure that the terms of the contract are absolutely explicit and that the prisoner exercises free choice as to whether or not to undertake this work.

To ensure that work conditions in prison are on a par with those in the community, the handbook suggests that "it would be desirable to extend to prisons the remit of local officials charged with inspecting work conditions in the community, as increasingly occurs in some countries." In addressing the insufficiency of prisoners' wages, the handbook suggests that alternative measures of support to families and upon release be considered.

Binding International Standards

While these guidelines are useful, they are not binding on any country. There are, however, several international conventions that have a bearing on the question.[6]

We must start with the fact that forced and compulsory labor is prohibited under international law. The Slavery Convention adopted by the League of Nations in 1926 was followed closely by the ILO's Forced Labour Convention of 1930 (No. 29), which was adopted explicitly to develop the labor-related aspects of the Slavery Convention. Of course, the international regulation of forced labor and slavery was the first international human rights subject, going back to the antislavery campaign of the mid- and late-19th century.

Apart from the forced labor aspect of the problem, general human rights protections do apply to prisoners, though there is only one reference in international texts to prison labor, apart from ILO standards.

The International Covenant on Civil and Political Rights reiterates the prohibition on slavery and the slave trade, as well as servitude and forced or compulsory labor. The covenant excludes prison labor, including "hard labour in virtue of a sentence to . . . punishment by a competent court," from its definition of forced or compulsory labor. The covenant also prohibits torture and cruel, inhuman, or degrading treatment or punishment. Persons deprived of their liberty are to be treated with humanity and with respect for the inherent dignity of the human person; the essential aim of the treatment of prisoners is to be "reformation and social rehabilitation." This concept is not developed in the supervisory work of the United Nations Human Rights Committee, created to supervise the implementation of the covenant.

The essential international source is therefore the ILO's two conventions on forced and compulsory labor, which of course have a great deal of supervisory work underpinning their interpretation.

Since the late 1920s, there have been consistent ideas in ILO standards about the human rights rules that should apply to prison labor. The Forced Labour Convention, 1930 (No. 29), prohibits forced or compulsory labor but excludes several kinds of actions from the definition of this concept, including

> any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations. [Article 2, paragraph 2(c)]

The Abolition of Forced Labour Convention, 1957 (No. 105), was adopted in the aftermath of World War II, in light of the policies of Nazi Germany and of the Soviet Union, to restrict further the use of compulsory labor by defining conduct that could not be punished by forced or compulsory labor, even if the person concerned was convicted in a court of law. These included labor

> (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
> (b) as a method of mobilising and using labour for purposes of economic development;
> (c) as a means of labour discipline;
> (d) as a punishment for having participated in strikes;
> (e) as a means of racial, social, national or religious discrimination. (Article 1, paragraph 1)

Most countries in the world have ratified these standards.[7] The two major exceptions, both for reasons more or less closely connected with prison labor, are China and the United States.

It follows from the definition in Article 2 of Convention No. 29 and from Convention No. 105 that

- compulsory labor is an accepted and normal consequence of going to prison;
- this is an accepted exception to the general prohibition on forced and compulsory labor;
- but this exception is subject to restrictions, essentially under ILO Conventions Nos. 29 and 105;
- the exception does not apply to detainees, so only persons who have been convicted in a court of law can be compelled to work in prison (except minor work to maintain the cell, etc.);
- the work carried out must at all times be subject to the supervision of a public authority; and
- prisoners may not be "hired to or placed at the disposal of private individuals, companies or associations," which means that if prison labor is envisaged for private entities it may be only with the agreement or consent of the prisoner.

These consequences all arise as inevitable conclusions of the text of the two conventions and not simply as matters of interpretation. They have nevertheless been developed through the ILO's supervisory work, most notably in the General Survey of 1979 and the Committee of Experts' comments on the application of the conventions over the years, reviewed in its general report of its 1998 and 2000 sessions.[8] Convention No. 29 does not include textually the kinds of preferences concerning work contracts, labor inspection, and government-controlled work that are stated in the Standard Minimum Rules, but the ILO supervisory bodies have had to consider some of the consequences of prison work and have arrived at many of the same conclusions. For instance, the Committee of Experts has endorsed the rehabilitation of prisoners through work release programs before the end of a sentence as a good idea if prisoners do work.

The standards themselves are therefore minimal, but an extensive discussion has arisen concerning them, especially concerning privatized prison labor.

One question has been of primary importance: *consent.* Convention No. 29's requirement that prisoners may not be hired to or placed at the disposal of private individuals or companies leads to the conclusion that if

prisoners are to work for the private sector, they may do so only if they agree to do so—and, of course, if the other conditions are respected.

Privatized Prison Labor

The area of privatized prison labor is a kind of exception to the exception. As seen, it is an aspiration of the Standard Minimum Rules that work be done under the supervision of public authorities and that industries be operated by the state itself.

But this is not what is happening in a certain number of countries.

In the last few years, there has been some questioning of the Committee of Experts' insistence that Convention No. 29 contains standards directly relevant to the increasing privatization of prison labor. In its November–December 2000 session, the committee returned to the questions that had been raised, referring in particular to points made in discussing the application of the convention in the ILO Conference Committee on the Application of Standards in 1999 and 2000.

What the Committee of Experts did in this session was respond to the criticisms raised in the last two sessions of the conference and in governments' reports. The report it adopted is not yet a final answer and does not cover all the points that have been raised, but it does fill out the picture. Among other things, the committee had asked all ratifying countries—and that is almost every country—to explain what their standards and practice are on privatized prison labor in its various forms. This information has not yet been received in full, but we hope to be able to publish a survey of it next year.

Following is a preview of the views expressed by the Committee of Experts in December 2000, which will be published in mid-March and then discussed by the conference in June 2001.

The Questions Raised

Certain members of the ILO Conference Committee on the Application of Standards had questioned the relevance of Convention No. 29 to the use of prison labor by private companies, on several grounds. In particular, the idea had been expressed that the privatization of prison labor was a new practice and that a convention adopted in 1930 could not be taken to provide adequate standards for a phenomenon that had arisen only in recent years. In addition, the restrictions imposed by the convention were taken by some to be contrary to the economic and social interests being addressed through privatization of prison labor. Some members of the conference committee, and some governments in their regular reports, expressed the view that at the time of the elaboration of the convention, the obligation for prisoners to work was considered as part of the punishment imposed,

while at present work by prisoners is seen as an important element in the process of rehabilitation. The employer members had stated that development and training provided the best long-term results when tied to "real work situations," that prison labor made sense only when it involved productive work in a market context, and that in their view such productive work could be performed only with the assistance of private firms.

Others, however, considered that there was a risk that this might result in situations of exploitation under the cover of the rehabilitative function of prison labor. The worker members had stated that in a growing number of countries, private companies could exploit prison labor by legally employing prisoners at wages far below the minimum wage. Convention No. 29, they stated, is a fundamental convention that applies to all. Its importance tended to increase as systems of private prisons were developing. It was thus inappropriate to maintain that this convention is obsolete and of relevance only in the context of the 1930s.

There are many circumstances in which prison labor may be connected with private entities, including the following cases:

(a) Prisoners may work with a private entity as part of an education or training scheme to obtain qualifications.

(b) Prisoners may work in workshops within the prison to produce goods that are sold to private entities in the open market. This sale may be achieved directly by the prisoners or through the agency of another private entity, which may be the same entity that runs the prison. This may or may not be part of a prerelease scheme.

(c) Prisoners may work outside prison for a private entity as part of a prerelease scheme.

(d) Prisoners may provide labor within prisons that contributes to the running of prisons run by private entities.

Combinations and variations of these arrangements can also be made between public authorities and private entities and can include prison labor. They may involve triangular relationships among public authorities, private entities, and prisoner, as have previously been referred to by the committee,[9] joint ventures, or a series of other arrangements.

Meaning of "Hiring to or Placing at the Disposal Of"

One of the views expressed by those questioning the present-day relevance of Convention No. 29 was that a prisoner could be considered to be hired to or placed at the disposal of a private company only in cases where the prisoner was employed by the private company, which might be either the prison operator or a third party, or where the prisoner was placed in a

position of servitude in relation to the private company but not where the performance of work was "merely one of the conditions of imprisonment imposed by the State." An employer member stated that contractual arrangements were not comparable to what would normally be regarded as a hiring arrangement in cases where it was not the private company that was paying the public authority as providers of the prisoners' services since the roles had been reversed. Also, prisoners should not be considered to be placed at the disposal of private companies where the companies do not have absolute discretion over the type of work that they could request the prisoner to do but are limited by the rules set by the public authority.

In this case, the committee reiterated its previous conclusion that this did not hold water. Whether a prisoner was "hired to or placed at the disposal of" private employers was not affected by the form of the contract. Whether the prisoner is employed by the private company or is simply assigned as a condition of imprisonment to work for the company does not affect this question.

Present-Day Relevance of the Convention

The committee noted that the Standard Minimum Rules for the Treatment of Prisoners, the draft of which was adopted by the International Prison Commission (the "Berne Commission") in 1929, was transmitted by a resolution of December 30, 1930, of the Eleventh Assembly of the League of Nations for examination and report to the International Labour Office, which replied by a memorandum in 1931 "on such of the problems of prison administration as are within its competence, i.e. those relating to prison labour."[10] This memorandum throws some light on the conceptual and factual frame of reference regarding prison labor prevailing at the time the ILO adopted the Forced Labour Convention.

Rehabilitation: A Recent Concept?

Some said that while at present work by prisoners is seen as an important element in the process of rehabilitation, at the time of the elaboration of the convention, the obligation for prisoners to work was considered as part of the punishment. However, the committee noted in its 2000 comments that in the ILO memorandum of 1931, the office recalled that the principle of retaliation had long been abandoned by the time of the adoption of the convention, when the process called "rehabilitation" was "precisely the aim of modern penal systems." It is also apparent from the Standard Minimum Rules for the Treatment of Prisoners drawn up under the auspices of the League of Nations in 1929[11] that this was the prevailing view at the time of the elaboration of the Forced Labour Convention.

The Privatization of Prison Labor: A New Phenomenon?

The view had been expressed in the recent discussions in the conference committee that the privatization of prison labor was a new practice and that the convention, adopted in 1930, could not be taken to set standards for a phenomenon that had arisen only recently.

This view was contradicted by the Committee of Experts in an extensive examination of the work done by the ILO at the time of adoption of Convention No. 29, particularly in the memorandum of 1931. Without going into detail here, it can be noted that in 1931 the office surveyed the evolution of the various systems of prison labor and concluded that some forms of each of them were still prevalent and constituted extensive use of privatized prison labor in 1930. It concluded that the conference had had these systems very precisely in mind when it adopted Convention No. 29 and that the privatization of prison labor is not a new phenomenon but is a rather old one, which was known and described in some detail at the time of the adoption of the convention.

Requirements of Article 2, Paragraph 2(c) of Convention No. 29

The starting point of any analysis of the situation of prisoners performing labor during their term of imprisonment in the context of the Forced Labour Convention, 1930 (No. 29) must begin with article 1, paragraph 1, which requires each member to "suppress the use of forced or compulsory labour in all its forms."

Article 2, paragraph 1 then defines "forced or compulsory labour" as meaning "all service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."

In respect of article 2, paragraph 1, it has previously been noted by the Committee of Experts in its general survey conducted in 1979[12] that the "penalty" referred to need not be in the form of penal sanctions but might take the form also of the loss of rights or privileges.[13]

The benefits of exempting prison labor under the convention were in the interests of society in general. This interest may be direct when the labor of prisoners is deployed on public activities such as the construction and maintenance of prisons, roads, public parks, and other public works.[14] In addition there were indirect societal benefits as well as personal benefits to prisoners themselves, as described in the ILO memorandum in the following terms:

> The best method of maintaining a prisoner's working capacity is to employ him on useful work. The idea that work for prisoners is in all circumstances an evil is a survival from the days when the

> object of the sentence was to extirpate the criminal from society. Not until it is understood that work is a beneficial distraction for the prisoner will the right to work be recognized. The recognition of this right is an urgent social necessity.[15]

The particular circumstances of the exemption specified that it was on the proviso that

> the said work or service is carried out under the supervision and control of a public authority and that the person is not hired to or placed at the disposal of private individuals, companies or associations.

It is the interpretation of these words in the context of the convention that requires guidance and clarification, in particular where private entities are involved with the exaction of prisoner labor as organizers, supervisors, or beneficiaries of the product.

Freely Given Consent

A primary concern is whether prisoners can ever be in a situation in which it could be said that their labor is truly voluntary because of their captive circumstances. The 1931 ILO memorandum recognized that voluntary prison labor was possible. The Committee of Experts also acknowledged in the 1979 general survey that prison labor may not always be compulsory:

> The Convention does not of course prevent work from being made available to such prisoners at their own request, to be performed on a purely voluntary basis.[16]

If in privately run prisons the prisoners are given a genuine option to either perform or not perform work with no penalty or loss of rights or privileges if they refuse, then there is no need to consider the exemption. Ensuring this voluntariness, however, is not easy to achieve, as the option to perform work must be a true option and not one in which the alternative to the provision of work is a detriment, for example, remaining in confined cells, having no alternative to relieve boredom, or being disadvantaged in any early release program because of failure to undertake work.

With regard to the last example, the committee has previously considered the case where the law makes prison labor voluntary but also provides that employment activities are taken into account in assessing a convict's good behavior, which is a criterion for reduction of sentence. The committee requested that the government concerned indicate the measures taken to ensure that the prisoner's consent cannot be vitiated by the fact that a favorable assessment implies assiduousness at work. The committee observed that

in private prisons there are two interrelated forms of constraint: first, the private enterprise operating a prison includes prison labor in its profit calculations, and second, the private enterprise is not only a user of prison labor but also exercises, in law or in practice, an important part of the authority that belongs to the prison administration. Furthermore, prison labor is captive labor in the full sense of the term, namely, it has no access in law and in practice to employment other than under the conditions set unilaterally by the prison administration. The committee therefore concluded that in the absence of an employment contract and outside the scope of the labor law, it seems difficult or even impossible, particularly in the prison context, to reconstitute the conditions of a free working relationship.[17]

If the system under which private prisons are run offers prisoners true options so that they can consent to perform work or reject it without penalty as described; if there are assurances that there is no penalty as described for refusal to work at all levels, such as by the public authority, the private entity, or any parole board and also within the prison itself; and if the prisoners formally consent to the performance of labor, then one vital aspect of the indicia of voluntariness would be satisfied.

In assessing whether prison labor in a privatized prison is voluntary, a number of indicia may be considered. They include the formal consent of the prisoner and its terms in the circumstances referred to earlier. However, the most reliable and overt indicator of voluntariness can be gleaned from the circumstances and conditions under which the labor is performed and whether those conditions approximate a free employment relationship.

Conditions Approximating a Free Employment Relationship

The Committee of Experts has always emphasized the close connection between "conditions approximating a free employment relationship" and the requirement of consent found in Article 2(2)(c) of the convention.[18] The committee recalled in its 2000 general report the statements made by the employer members in the general discussion in the conference committee in 1998[19] that development and training provide the best long-term results when tied to "real work situations," that prison labor makes sense only when it involves productive labor in a market context, and that in such cases normal labor law would apply.

The difficult question that arises is how closely conditions are required to approximate a free labor relationship. If "normal" labor law were to apply, this might imply that *all* conditions of work, including wages, social security, safety and health, and labor inspection comparable to those prevailing on the free labor market would be required. This leaves aside those principles that the ILO considers to be fundamental to all workers: protection from

discrimination and child labor as well as freedom of association and collective bargaining. In practice, prisoners have usually been excluded from all the attributes of normal labor protections that operate in the free labor market, whether working exclusively for the public authority or engaged in productive work with private entities in one of the various schemes now in force around the world.

Exclusions from attributes of free employment are sometimes said to be justified on the basis that the productivity of prison labor is lower or that because prison laborers do not in fact receive wages and benefits like other workers, they carry out work at much lower cost, which would otherwise not be economically feasible. It cannot be simply taken for granted, however, that the productivity of a captive labor force is always significantly lower than that of free labor or even so low as to justify conditions of work, wages, and other protections at a far lower level than those available to free workers, such that they could be considered to be exploitative.

In considering how closely the conditions should resemble a free labor relationship, it needs to be remembered that in the free labor market, wages may, in the words of articles 8 and 10 of the ILO's Protection of Wages Convention, 1949 (No. 95), be subject to deductions and "be attached or assigned" under conditions and within limits prescribed by national laws or regulations; in conformity with article 10, paragraph 2, of that convention, they are in many countries "protected against attachment or assignment to the extent deemed necessary for the maintenance of the worker and his family." For prisoners employed by private enterprises or who are assigned to work for them, this implies that their wages also may "be attached or assigned" so as to satisfy compensation claims of victims as well as alimony or other obligations of the prisoners, both of which would be illusory if exploitative wage rates prevailed. Deductions may also be made from prisoners' remuneration for the board and lodging provided or their remuneration lowered to take account of these expenses.

In summary on this aspect, the committee reaffirmed in 2000 its earlier conclusion that conditions approximating a free labor relationship are the most reliable indicator of the voluntariness of labor. Such conditions would not have to emulate all of the conditions that are applicable to a free market, but in the areas of wages, social security, safety and health, and labor inspection, the circumstances in which the prison labor is performed should not be so disproportionately lower than the free market that it could be characterized as exploitative. These factors need to be weighed together with the circumstances under which formal consent has been given in order to ascertain whether the convention is being respected when private entities are involved with prison labor.

In concluding its examination of this question, the Committee of Experts noted that there is a trend in some countries toward increased use of privatized prison labor, often based on a perceived need for the governments to generate income to cover the costs of a growing prison population or in a sincere attempt to provide skills for the purposes of rehabilitation or even to provide sources of income for prisoners from which prisoners' family expenses or restitution for victims can be drawn. As outlined earlier, the general context in which this is taking place may not be exactly the same as that in the late 1920s when Convention No. 29 was drafted, but it does share many of the characteristics of that time. It cannot be said the drafters did not take account of well-developed systems of privatized prison labor when drawing up that instrument.

It is fully possible for countries to apply Convention No. 29 when designing or implementing a system of privatized labor, but they must do so on the understanding that such involvement carries with it additional requirements and the need for a thorough analysis. There is the need to protect a captive workforce that is increasingly working in direct competition with a free labor market and the need to avoid unfair competition with free workers. Clearly, the fact that prisoners have been convicted of crimes does not mean that they should not have rights otherwise available to citizens, even less so when they are employed in productive work for private employers. Issues of voluntariness, including consent and conditions that approximate free labor, will continue to be matters that require careful consideration by states in attempting to reconcile the different imperatives in their own particular contexts. It will also be a concern for this committee in examining how the convention is being applied in such situations.

Freedom from the imposition of forced or compulsory labor, as provided for in Convention No. 29, is a fundamental principle of the ILO. It is a standard which, if compromised, would weaken or negate other core conventions of the organization. While the questions raised in applying this principle to prison labor, and in particular to privatized prison labor, are tricky, they can be resolved. However, there is no doubt in the mind of the author of this paper that a reexamination of the question in a standard-setting exercise would be preferable to trying to deduce the applicability of conventions by a long process of analysis.

Endnotes

[1] Report of the Committee of Experts, Report III (Part IA), International Labour Conference, 87th Session, 2001. This document was to be published around March 15, 2001, and will be available through the ILO's Web site at http://www.ilo.org shortly thereafter.

[2] Approved by the Economic and Social Council by its resolutions 663C (XXIV) of July 31, 1957, and 2076 (LXII) of May 13, 1977: UN Doc. E/5988 (1977).

[3] Rule 71(1). Contrast the requirement of ILO Convention No. 105 that prisoners convicted of political offenses should not be required to work as part of their punishment.

[4] Rule 72(2).

[5] Rules 74 and 75.

[6] Only universal conventions are being considered here, and regional standards are not noted even though some of them do have relevant provisions. In particular, the definition of and limitations on forced and compulsory labor tend to be consistent with the provisions of universal standards described here.

[7] As of January 31, 2001, Convention No. 29 has been ratified by 155 countries, and Convention No. 105 by 151 countries.

[8] The ILO has a detailed and comprehensive supervisory system, which is not described here. See in particular the ILO's Web site under "ILOLEX" for a detailed explanation or Bartolomei, von Potobsky, and Swepston (1995).

[9] See, for example, International Labour Conference (ILC), 86th Session, 1998 Report III (Part 1A), General Report, paragraph 118; ILC, 83rd Session, 1996, Report III (Part IA), observation concerning France, pp. 81–82.

[10] The essential parts of the memorandum were published under the title "Prison Labour" (1932).

[11] See, in particular, rule 4.

[12] ILC, 65th Session, 1979, Report III (Part 4B), general survey of the reports relating to the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105), paragraph 21.

[13] ILC, 14th Session, Geneva, 1930, *Record of Proceedings,* p. 691.

[14] ILC, 14th Session, Geneva, 1930, *Record of Proceedings,* p. 324.

[15] ILC, 14th Session, Geneva, 1930, *Record of Proceedings,* p. 503.

[16] ILO, General Survey of 1979 on the Abolition of Forced Labour, paragraph 90.

[17] ILC, 83rd Session, 1996, Report III (Part 4A), pp. 80–82.

[18] ILC, 86th Session, Geneva, 1998, Report III (Part 1A), General Report, paragraph 125.

[19] ILC, 86th Session, Geneva, 1998, General Report (Part 1), paragraphs 93 and 98.

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XVIII. DISTINGUISHED PANEL: WORKERS' RIGHTS IN THE UNITED STATES

DISCUSSION

JAMES A. GROSS
Cornell University

The basic foundation of labor law and labor policy is moral choice. The concept of human rights has not been an important influence in making United States' labor law or labor policy. Workers here are considered to have only those rights set forth in statutes or collective bargaining agreements, and those rights are subject to shifting political and economic power.

Because workers' rights as human rights is a new concept in this country, new issues are raised (and new perspectives on old issues are generated) that need to be addressed. For example, there needs to be a better understanding of what is meant by human rights and the values and conceptions of justice underlying not only human rights but also other standards used for policy choices, such as cost–benefit analysis, freedom of contract, and other "free market" doctrines. The rediscovery of the influence of religion on conceptions of rights and justice and issues of power, conflict, and protest could produce useful and provocative results in this "values area." Recognition (and understanding) of these underlying value premises is at least as important as our empirical knowledge of the world.

There is also a need to address more thoroughly the concept of economic rights that require positive action by the state and to determine which of those economic rights are human rights. Such research and discussion are absolutely necessary in this country, given its narrow conception of rights historically limited to the "negative" and individual right of freedom from being coerced by the state—a conception of rights most consistent with "free market" economics and values. It is not only the state that

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has the power to violate people's rights; employers often have an even greater and more direct control over and effect on people's lives, and there is always the allegedly "impersonal" power of the market.

We also need to take an inward look at our labor laws and policies using international human rights principles as standards for judgment. What would be the implications, for example, of treating the freedom of association as a human right at U.S. workplaces? Among other things, it would reorder the current priority of rights in which the constitutional right of employer "free speech" (and even employer property rights) trumps what in this country is considered only a statutory right of freedom of association. This obligatory reordering of rights, where the human right of freedom of association trumps employer speech and property rights, would require new perspectives on how to resolve the conflict of these rights and new labor policies.

It would also be a powerful indictment of the U.S. government, which has not promoted or protected freedom of association at workplaces. It would make it clear, moreover, that the government is not absolved of its responsibility to intervene when private power is used to deny a human right.

It is time to get our own house in order and to stop pretending that human rights violations occur only elsewhere. Despite a universally professed dedication to justice, history provides proof enough that human life is cheap and readily sacrificed, diminished, or wasted in support of some economic, political, military, or even religious interest. Human rights talk without action is hypocrisy. Protestations about the alleged perfection of our labor laws and practice and about some mythical delicate balance of employer and employee rights in this country are false and hypocritical. An honest reexamination and reassessment of U.S. labor and employment law using human rights standards would be a long overdue beginning toward the promotion and protection of workers' rights.

The concept of human rights is not a union thing or a liberal thing. It is a moral principle. The choice of a human rights standard or any of the other value standards currently prevalent in this country will determine what kind of people we are and what kind of society we want to have.

DISCUSSION

KEN ROTH
Human Rights Watch

It's an honor to join the IRRA as this leading national and international organization of industrial relations scholars and practitioners takes up the theme of human rights in employment. Two years ago, Human Rights Watch launched a major research project that resulted in our recent 200-page report titled "Unfair Advantage: Workers Freedom of Association in the United States under International Human Rights Standards."

We were concerned about consistent, credible reports that American workers face enormous obstacles, and often outright violations, in exercising rights to organize, to bargain collectively, and to strike. We also shared the concern about workers' rights in the global economy. Globalization has delivered undeniable wealth and opportunity to many people, but there is widespread unease about some of its negative aspects. The current system to regulate global commerce leaves little or no room for human rights and other social values.

Workers' rights to organize and bargain collectively are enshrined in international human rights instruments of the United Nations, the International Labor Organization, and other global and regional covenants. But enforcement systems are lacking. We thought it best to enter this arena with a thorough examination of workers' freedom of association in the United States, hoping we can promote more effective enforcement of workers' rights at home to set an example internationally.

We ranged far and wide over the country and over the economy. Our case studies include apple workers and computer programmers in Washington state, hotel workers in California, shipyard workers in Louisiana, steel workers in Colorado, nursing home workers in Florida, factory workers in Michigan and Illinois and Maryland, farmworkers and hog-processing workers in North Carolina, sweatshop workers in New York, and more.

Our findings are disturbing, to say the least. Loophole-ridden laws, paralyzing delays, and feeble enforcement have created a culture of impunity in many areas of U.S. labor law and practice. Legal obstacles tilt the playing field so steeply against workers' freedom of association that the United States is in violation of international human rights standards for workers.

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Employers can resist union organizing by dragging out legal proceedings for years. Toothless remedies are often seen as a routine cost of doing business, not a deterrent against violations. More than 20,000 workers each year suffer reprisals for union activity—and these are only the official figures.

Workers fired for organizing and bargaining often wait years for their cases to be decided by labor boards and courts, while employers pay no price for deliberate delays and frivolous appeals.

One-sided rules for union organizing unfairly favor employers over workers, allowing such tactics as "captive-audience meetings" where managers can "predict" workplace closures if workers vote for union representation, as long as they don't "threaten."

Millions of workers, including farmworkers, domestic household workers, low-level supervisors, independent contractors who are really dependent on a single employer, and others, are deliberately excluded from labor law coverage for organizing and bargaining rights—they can be fired with impunity for trying to form a union.

Immigrant workers face widespread threats and discrimination if they seek to form unions. The right to strike is undermined by employers' power to permanently replace workers who exercise it. Harsh rules against "secondary boycotts" frustrate worker solidarity efforts.

Our report contains several recommendations to address these violations and obstacles. First, the United States should ratify ILO conventions on worker organizing and collective bargaining. Then we must strengthen U.S. laws protecting these rights. For example, labor law reform should provide rapid reinstatement and full back pay for workers fired for organizing and faster elections and expedited appeals to resolve unfair labor practices more quickly.

We need to end the exclusion of farmworkers, household domestic workers, and others currently not covered by federal labor laws meant to protect organizing and bargaining rights. We need new protection for immigrant workers who become involved in organizing efforts. We need a change in the striker replacement law.

The United States cannot effectively press other countries to improve labor standards while it violates international human rights standards. We must lead by example. I hope that organizations like the IRRA and Human Rights Watch can work together now and in the future to accomplish this goal.

DISCUSSION

EDWARD E. POTTER
International Labor Organization

When discussing the state of worker rights in the United States, we inevitably are addressing the question of human rights at work. And that discussion usually ends up being a subjective discussion based on an individual's notion of what a human right is or particular views on labor law. Frequently, an individual's claim that one right or another is a human right is buttressed by an attribution to a particular United Nations or International Labor Organization (ILO) human rights treaty. Rarely, however, is this claim based on the treaty itself, its negotiating history, the observations of relevant supervisory bodies, or whether the treaty itself is widely ratified and *applied* throughout the world.

In the early 1980s, I wrote a small booklet on what ratification of ILO Conventions 87 and 98 concerning freedom of association, the right to organize, and collective bargaining would mean for U.S. law and practice, assuming they were ratified on an unqualified basis.[1] Unqualified ratification of one or both treaties would change the meaning of worker rights in the U.S. substantially. For example, the conventions would broaden the right to strike but would also give representation rights to minority unions. They would revoke or modify substantial portions of the Landrum-Griffin Act but would remove limits on disaffiliations of local unions from international unions.

Under the American Law Institute's Restatement on Foreign Relations Law of the United States at Section 701, there are three bases under which worker rights/human rights have implications for U.S. law: (1) it is a ratified human rights treaty, (2) it is a matter of customary international law, or (3) it involves general principles of law common to the major legal systems of the world. To be considered customary international law, it must involve severe and gross violations of a human right that is common in all legal systems. They include torture and arbitrary detention, slave trade, and systematic racial discrimination. These are not matters of legal detail but involve egregious and persistent patterns of conduct. Too often in this country debates over human rights at work revolve around technical legal issues on which there is very limited ability to create an international consensus.

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Our legal system has been extremely reluctant to incorporate these three bases for worker rights into U.S. law. In contrast to most other countries, under the U.S. Constitution, ratified treaties are the "supreme law of the land," superseding prior inconsistent federal and state statutes. Since the 1950s, it has been the consistent policy of the State Department and the Senate for the United States not to ratify treaties that differ from domestic law, to do so with non-self-executing declarations or reservations where there are differences, or to enact legislation curing those differences before depositing the instrument of ratification.

Courts have been similarly reluctant. Courts usually resolve questions of customary human rights policy on the basis that existing domestic law required such a result. As yet, courts have not addressed the question of human rights in the context of general principles common to the major legal systems.

In 1998, led by the U.S. government, business, and labor, the 175 members of the ILO adopted, without dissenting vote, the Declaration of Fundamental Principles and Rights at Work. The declaration commits all ILO members to "respect, to promote and to realize . . . the principles concerning fundamental rights" that are the subject of eight ILO human rights conventions.[2] Under the declaration, the 175 ILO member nations promise to seek to achieve the goals and objectives, but not the legal requirements, of the fundamental ILO conventions. As such, it is not a new international labor standard but rather an embodiment of the fundamental principles of ILO membership:

- Freedom of association and the effective recognition of the right of collective bargaining
- The elimination of all forms of forced or compulsory labor
- The effective abolition of child labor
- The elimination of discrimination in respect to employment and occupation

The declaration has follow-up procedures to hold ILO members accountable for their commitment to seek to achieve the goals and objectives of the fundamental ILO conventions. Under annual review and global report procedures, the follow-up constitutes a political track in the ILO to address egregious or "worst-case" violations of fundamental worker rights.

Because the legal basis for the substance of the declaration is drawn from the ILO constitution, the declaration represents a solemn commitment by virtue of ILO membership and requires no additional action by the member nation. As a consequence, by virtue of U.S. membership in

the ILO, U.S. worker rights policy on a formal and agreed basis will be measured by whether it meets the goals and objectives of the fundamental worker rights treaties. Although it will take years to define and identify the persistent patterns of egregious conduct contemplated by the declaration, there will be, for the first time, worker rights principles that apply to all nations in the global economy equally without reservation or need to take affirmative action to adopt or ratify. With over half of the world's population living on less than two dollars a day, worker rights in this country and the rest of world will be assessed on a level playing field.

Endnotes

[1] Edward E. Potter, *Freedom of Association, the Right to Organize and Collective Bargaining: The Impact on U.S. Law and Practice of Ratification of ILO Conventions No. 87 and No. 98* (1984). The study was a comparative study of federal and state law and jurisprudence with the language and negotiating history of the conventions and the observations and recommendations of the ILO's Committee of Experts and Committee on Freedom of Association.

[2] These are the eight fundamental conventions:

- Convention No. 29 concerning forced labor (1930)
- Convention No. 87 concerning freedom of association and the protection of the right to organize (1948)
- Convention No. 98 concerning the right to organize and collective bargaining (1949)
- Convention No. 100 concerning equal remuneration (1951)
- Convention No. 105 concerning abolition of forced labor (1957)
- Convention No. 111 concerning discrimination in employment and occupation (1958)
- Convention No. 138 concerning minimum age (1973)
- Convention No. 182 concerning worst forms of child labor (1999).

Although adopted after completion of the declaration, Convention No. 182 was immediately added to the fundamental conventions encompassed by the declaration by the ILO Governing Body.

XIX. POSTER SESSION

Recruitment, Selection, and Promotion of Racial Minority and Aboriginal Police Officers in Selected Canadian Police Services

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PARBUDYAL SINGH
University of New Haven

CAROL AGOCS
University of Western Ontario

The demographic composition of the Canadian Police Services in major cities across Canada does not reflect the diversity of the communities they serve, especially with respect to the representation of racial minorities and aboriginal peoples. This lack of representation may be a factor that is hindering the effectiveness of police work in major urban centers in Canada.

In this paper, through the use of both quantitative and qualitative research methodologies, the authors identify and assess the various staffing and promotional policies and practices in 13 police services across Canada.

Results suggest that there has been some progress in the representation of racial minorities and aboriginals over the 15-year period of this study. However, there is still room for considerable improvement in the policies, practices, and culture of police services if they are to become more representative of the diversity of the communities they serve.

ILO Standards and Australian Laws Prohibiting Unfair Dismissal

ANNA CHAPMAN
University of Melbourne

Convention 158 of the International Labor Organization (ILO) provides that termination of employment must not occur unless there is a "valid reason" for the dismissal. Australian employees have had protection from unfair dismissal since the 1970s. In general, the legal test for unfair dismissal has been whether the termination was, in all the circumstances, "harsh, unjust or unreasonable."

This paper traces the relationship between the standards contained in ILO Convention 158 and the field of unfair dismissal law in Australia. The paper focuses upon federal developments in Australia.

Human Resource Management and Small Business: Areas of Concern as a Small Business Grows

JACK L. HOWARD
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Human resource management is a very important issue for businesses of all types and sizes. With the recent growth of small businesses in the private sector, it has become increasingly important to understand how small businesses use their human resources. Yet very little research has been conducted to examine how small businesses grow. The present study is a qualitative analysis of the issues that small-business owners face as reported during confidential interviews. As such, the present paper attempts to begin to provide an understanding as to how human resource management can be integrated as a small business grows.

The Impact of Research Productivity on Early Retirement of University Professors

SEONGSU KIM
Seoul National University

Using samples of several hundred faculty at the University of California, the author examines whether declining research productivity was related to

early retirement in "limited window" programs. Research productivity was measured by the number of papers published per year for 3 years and 15 years before the announcement of early retirement programs. The ratio of the 3-year publication measure to the 15-year publication measure ("decay" ratio) was also used to measure the extent of decline in research output. Results suggest that the 15-year publication measure was not a significant predictor of early retirement. However, the 3-year publication measure and the decay ratio were negatively and significantly related to early retirement. This suggests that professors whose productivity was declining were more likely to retire early. Implications, future research directions, and limitations are discussed.

A Five-Year Analysis of Current Human Resource Management Publications

JENNY M. HOOBLER AND NANCY BROWN JOHNSON
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Examining recent publications on human resource management topics within the top four management journals, we isolated major research emphases and, perhaps more important, what is missing from current scholarship. Findings from this 1994–1998 cross section of articles indicate a continued trend toward the organizational level of analysis; a predominance of manuscripts confined to the areas of selection, compensation, individual or organizational performance, and performance evaluation and a noticeable absence of articles dedicated to the empirical testing of existing literature. We conclude with an appeal to HR researchers to question assumptions and arrest new topics and methods of inquiry.

Cooperation as a New Mode of Regulating and Planning Occupational and Technical Training: Quebec's Sectoral Committees

DIANE-GABRIELLE TREMBLAY
Télé-université

PIERRE DORAY AND CAROL LANDRY
Université du Québec

During the last few years, Quebec has undergone various changes in the field of occupational and technical training. Reviews of occupational

and technical training programs have been undertaken in order to adapt to new labor market needs. Changes have been made to a number of educational and manpower policies. These changes have led to the establishment of new institutional frameworks. An example of this is the adoption of a sectoral initiatives policy that provides the mandate and organizational structure for sectoral committees. The creation of these committees reflects the government's desire to develop new methods for planning occupational and technical training based on dual cooperation: between employers and unions in various sectors, who are ex officio members of the committees, and between the representatives of the work environment and representatives of planning authorities within the Quebec department of education. By setting up these committees, the government is seeking to develop partnership between employers and unions at the sectoral level (industry). Like American and Canadian industrial relations, union–management relations in Quebec are chiefly based on discussions at the establishment or firm level. Thus, the creation of sectoral structures to bring together employer and union representatives to discuss and regulate occupational training in a sector of economic activity can be seen as an innovative approach.

Our paper examines sectoral councils, which represent a new institution for planning and regulating occupational training. In part 1, we briefly review the traditional mode of regulating occupational training and present factors that in our view, indicate that there may be a new form of regulation. In part 2, we first describe the conceptual framework for the study of union–management cooperation and collaboration between the fields of education and work. In part 3, we present a number of facts regarding the structure and operation of the committees (their mandate, organizational modalities, etc.). Part 4 is devoted to the committees' initiatives. The paper concludes by raising several questions about what we view as a new mode of regulation, among other things, exploring the respective roles of the state and actors within the committees and their impact on the supply of training.

Acknowledgments

We are grateful to Emploi-Québec for its sponsorship of this research study and the Social Sciences and Humanities Research Council of Canada for its financial support. The SSHRC funding is allocated over several years, thus allowing the research to continue until 2001.

Organizational Justice and Grievance Research: An Agenda for Future Studies on Workplace Justice

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University of Washington

This paper looks at research in the areas of organizational justice and the grievance process. The authors make the point that with rare exceptions, these two bodies of research have emerged independently of one another and have not integrated findings from one body of research to the other. The authors then illustrate nine shortcomings and lay out a future agenda that is likely to improve our research and insights about this critical process in the workplace.

Acknowledgments

The authors wish to thank David Lewin (UCLA), Tom Lee, and Tom Jones (both at the University of Washington) for their constructive comments on an earlier version of this paper.

A Conceptualization of Social Responsibility for Labor Unions

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Ashland University

VANESSA HILL
Winthrop University

Research Problem

Social responsibility is a concept or construct that may be applied in many different contexts. Recently, attention has been directed toward business organizations and the constituencies with which they are engaged. One such constituency is organized labor. Labor unions were developed to give workers the opportunity to exercise voice without exiting their place of employment. They have, however, at various times disenfranchised their members, employers, other workers, consumers, and the public at large. This raises the question of what social behavior can or should be expected of unions. Our objective is to conceptualize social responsibility as it applies to organized labor in the United States.

Approach

To address this objective, we draw heavily upon Carroll's (1979) CSR to categorize dimensions of corporate social responsibility, stakeholder theory to describe the social environment, and agent morality and social contract approaches (Quinn and Jones 1995) to reconcile objectives with activities. In each case we are careful to draw distinctions between the use of such concepts in the business versus labor context.

Stakeholders are those who have legitimate interests in the procedural and substantive aspects of union activity because they may actually or potentially experience harms or benefits due to union action or inaction (Donaldson and Preston 1995). These groups merit labor consideration for their own sake rather than because of their ability to enhance the position of labor or its other stakeholders. Stakeholder theory is helpful in conceptualizing social responsibility for labor unions, as labor unions must attend to their different constituencies as well as reconcile the disparate objectives of those constituent groups. After identifying these groups, we look to the principles that allow labor to simultaneously attend to the interests of its legitimate stakeholders.

As noted by Donaldson and Preston (1995), there is no apparent connection between stakeholder management and other performance outcomes. There is little reason to believe there will be a direct connection with labor unions. Analytically, Hoxie's (1921) classic union taxonomy is used to make the connection with the many faces of unionism in the United States and to demonstrate how the various approaches emanate from giving priority to different stakeholder groups. In view of the economic, legal, ethical, and discretionary (Carrol 1979) dimensions of union social responsibility, agent morality and social contract approaches are used to reconcile conflicting instrumental and moral considerations.

Contribution

CSR and stakeholder theory are widely used to address the behavior of businesses but may also be applicable in analyzing the behavior of other key actors in the business environment. Thus, this is an attempt to extend thinking about corporate social responsibility into another key area by developing a conceptualization of social responsibility for organized labor.

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Effects of Employee Suggestions and Union Support on Plant Performance under Gain Sharing

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Virginia Polytechnic Institute and State University

DONG-ONE KIM
Korea University

We use longitudinal data from two unionized manufacturing plants with gain-sharing programs to test hypotheses concerning the effect of employee suggestions on plant performance over time and whether differences in the level of union support for gain sharing affect the content of suggestions over time. Preliminary results from ARIMA time-series regression analysis provide some support for the hypothesis that the increases in the level of implemented suggestions are significantly related to lower labor costs in both of the plants. We also found that the relative number of first- and second-order learning suggestions submitted over time differed in the two plants as predicted based on differences in union support for the gain-sharing plan in the two cases.

Union Elections in the Airlines

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University of Kentucky

In this paper we argue that in terms of union density and union organizing, airline unions have been relatively successful. We then examine reasons for this comparative achievement. Potential reasons include employment growth in the industry, strength of the Railway Labor Act, decentralized and specialized organizing structures, and the frequency with which there are multiunion elections.

The Effect of Union Membership on Job Satisfaction in Korea

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IN-GANG NA
Korea Energy Economics Institute

Union members are assumed to be more satisfied than nonunion members. The empirical results, however, have shown consistently that union members are less satisfied. Along with that result, the intent to leave and actual turnover rate are lower for union members. Are these results applicable to union members in Korea? This paper analyzed the union effect on job satisfaction and intent to leave for Korean workers. Union membership does not increase the job satisfaction level but does reduce the intent to leave in Korea. This result is possibly interpreted as supporting a voice mechanism model of union roles.

Acknowledgment

This paper was supported partly by a Korea Research Foundation grant (KRF-1999).

Work as Home and Community: Culture of a Women-Led Company

MONICA BIELSKI
Rutgers University

This is a qualitative case study of an alternative, women-led company, White Lotus Futons. The research focuses on the workplace culture and how women affect and influence this culture. This research traces the changes in the company's ideology and organizational practice. It then examines the impact of the company's ideology and the dominance of women in leadership on the environment and workplace culture of the organization and its employees. White Lotus was found to provide its young employees with a homelike work atmosphere and a community-based network of co-workers, an environment frequently associated with highly feminized workplaces.

The Effects of Linking and Communal Forms of Social Capital on Individual Outcomes

FRITS K. PIL, CARRIE LEANA, AND MELVIN SMITH
University of Pittsburgh

In this study we examined individual outcomes associated with linking and communal forms of social capital. Linking social capital took the form of spanning structural holes among otherwise disconnected others. Communal social capital was reflected in the levels of trustworthiness and information sharing exhibited by individuals. Using relational data, we found that both forms of capital could be advantageous to the individual and that linking social capital also imposed a potential cost. Individuals who exhibited higher levels of linking social capital received more cash awards and had more structural power and perceived influence among their peers. Individuals who exhibited higher levels of communal social capital received higher performance ratings from their supervisors and had more power and influence as well. Individuals who were strong in linking social capital also reported more job stress. The results are discussed in terms of their implications for previous and future research on social capital.

The Union Wage Effect in Korea

HAEJIN KIM
Rutgers University

The studies of union wage effect in Korea have shown it to be low, nonexistent, or sometimes negative. This is confirmed in this study using the 1997 Occupational Wage Survey data from the Ministry of Labour, Korea. From the sample of 18,138 workers, the union wage effect was estimated as – 6.2%. This study further tries to explain possible reasons. The dual labor market factors (sex composition, proportion of workers in big establishments, reported labor shortage rate, average wage, and ratio of benefit cost to total labor cost) and the threat effect factors (unionization rate and the proportion of workers in unions affiliated with the more democratic federation among total unionized workers in each industry) were introduced as possible explanatory factors across 23 two-digit manufacturing industries. The results show that the union wage premium is negatively related to some of the secondary labor market characteristics and is positively related to the threat effect.

Transforming Public-Sector Collective Bargaining

MARGIE L. MCINERNEY
Marshall University

In 1995, President Clinton directed all federal agencies to establish partnership councils in an attempt to lessen labor–management disputes. This study followed the development of the partnership council at a local Veteran's Administration medical center and the subsequent changes that occurred. One such change was the elimination of bargaining over local issues to amend the national agreement. Management and union negotiate supplemental "memorandums of agreement" to address specific issues whenever they occur. This innovation has been used to successfully negotiate several bargaining issues: job descriptions, dress codes, and ADR.

Current Trends in Labor Mediation: Perspectives of Federal Mediators

PATRICE M. MARESCHAL
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In recent years, the labor relations environment has been buffeted by a variety of external forces, including increasing competition, declining union strength, technological changes, the changing role of government, changing workforce demographics, and the proliferation of alternative dispute resolution programs. This research examines the impact these forces have had on the practice of labor mediation. The focus is on mediators with the Federal Mediation and Conciliation Service (FMCS). The analyses are based on semistructured interviews that the author conducted with several mediators at the FMCS. The lessons derived from these mediators' experiences are relevant to policy makers and practitioners alike.

Labor–Management Cooperation: Codification, Implementation, and Effectiveness

PATRICK P. MCHUGH AND SEONG J. YIM
George Washington University

MATTHEW M. BODAH
University of Rhode Island

While there is considerable interest regarding labor–management cooperation, there has not been a considerable amount of research examining

the institutionalization of cooperative practices. In this study, the authors examine the content of 249 collective bargaining agreements in the auto, steel, paper, telecommunication, grocery, and health services industries. In addition, surveys were administered to the signatories of these agreements, focusing on the implementation of codified cooperative initiatives. The authors found differences across industries in the codification of cooperative contract language (e.g., prevalent in steel and somewhat rare in the grocery industry). The survey results show that approximately 25% of codified cooperative programs are not implemented in practice. While both labor and management respondents concur that codification is important for implementation, they also agreed that the issue of management rights is an important barrier to the codification of cooperative initiatives.

Work Motivation Theory in the Age of Industrial Relations Reform

BRENDA C. SUN
London School of Economics

Although motivation is subject to environmental influences, existing work motivation theory has concentrated on perceived opportunity and its potential payoffs. I argue that perceived threat is an equally important factor in motivation. Predicated upon a reform philosophy–driven analytical framework of opportunity and threat, this paper investigates the impact of China's industrial relations reform on the motivation of its 100 million–strong workforce. Specifically, it involves the workers' motivational response to corresponding enterprise arrangements as a result of the fundamental shift in the nation's income policy from "pay to each according to his needs" to "pay to each according to his labor" and the replacement of lifetime employment with a new "employment by competition" system. Findings from a sample of more than 1,000 steel industry workers suggest that perceived threat has a more substantial (positive) impact on motivation than perceived opportunity for most workers, although it is argued that opportunity and threat facilitate each other in sustaining motivation in the long run. Consistent with the reform strategy of "motivating the workforce by simulated forces of market competition," the results demonstrate that the proposed theoretical model for estimating perceived opportunity *and* threat has sufficient theoretical merit in the prediction of motivation.

Cultural Norms and Comparative Industrial Relations Theory

BOYD BLACK
The Queen's University of Belfast

This paper develops a cultural model to explain institutional variation and change in comparative industrial relations. The paper uses Hofstede's definition of culture and his four dimensions of national cultural norms to test a number of hypotheses concerning the association between our cultural variables and the variety of industrial relations outcomes. It then tests whether the resistance-to-change index developed by Harzing and Hofstede (1996) is associated with change over time, or the lack of it, in industrial relations institutions. The results suggest a strong statistical association between our cultural variables (MAS, PDI, and UAI) and variation in our industrial relations institutions. They also confirm that national culture is strongly associated with the extent of change in industrial relations institutions.

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Human Resource Flexibility Systems, Environmental Change Requiring Employee Adaptation, Productivity, and Voluntary Turnover

SEAN A. WAY
Rutgers University

The purpose of this manuscript is to demonstrate that human resource flexibility systems (HRFS) can create establishment capabilities within a changing environment that enhance competitive advantage and performance. Using a multi-industry sample (n = 2,409) from the National Employer Survey Phase II data set, the author reports that in this study HRFS and its key elements are associated with higher establishment labor productivity and possibly lower voluntary turnover. The interactions between HRFS (its key elements) and environmental change requiring employee adaptation are not associated with higher establishment labor productivity. However, these interactions are negatively associated with establishment

voluntary turnover. These results indicate that HRFS may enhance human resource flexibility, the establishment's ability to adapt, the establishment's competitive advantage, and establishment performance. There is also evidence to suggest that HRFS may have its greatest impact within establishments in which environmental change requires employee adaptation.

Acknowledgments

The author would like to thank Douglas Kruse for his guidance and mentoring, without which this paper would not have been possible. The author is grateful to Mark Huselid, Scott Snell, Saul Rubinstein, and David Lewin for their insightful suggestions and advice regarding this paper.

Employment Mediation: Exploring the Role of Representation at the USPS

KIWHAN KIM, SUSAN RAINES, AND LISA B. BINGHAM
Indiana University

This study examines the role of the representative in mediation. Using the mediation exit survey data from the United States Postal Service's REDRESS™ program ("Resolve Employment Disputes Reach Equitable Solutions Swiftly"), this study examines the relationship among types of representation, mediation outcomes, and party satisfaction. The types of representatives include union representatives, attorneys, fellow employees, and so on. If the presence of a union representative significantly increases employees' satisfaction with the mediation process and rates of settlement, then employers might wish to rethink policies regarding representation in employment dispute resolution.

XX. IRRA ANNUAL REPORTS

IRRA EXECUTIVE BOARD MEETING
Friday, June 23, 2000
Omni-Shoreham Hotel, Washington, D.C.

President Sheldon Friedman called the meeting to order at 7:10 a.m. Present were president elect Maggie Jacobsen, past president Thomas Kochan; and board members Doug Gamble, Richard Hurd, Mark Keough, Cheryl Maranto, Ken McLennan, and Arnold Zack. Also in attendance were Peter Feuille, secretary-treasurer, and Paula Wells, executive director. Absent were board members Bonnie P. Castrey, Janet Conti, Teresa Ghilarducci, Paul Osterman, Lavonne Ritter, Dennis Rocheleau, Beth Shulman, Stephen Sleigh, Daphne Taras, and Paula B. Voos.

Guests included president elect-elect John F. Burton, Jr.; James Auerbach and Eileen Hoffman, co-chairs for the 2000 National Policy Forum; Dale Belman, statistics committee chair; and Greg Woodhead, chair of the finance and membership committee.

The minutes of the January 2000 executive board meeting in Boston were read and approved.

Report of the Program Committee for the National Policy Forum 2000—A report on the National Policy Forum was presented by program co-chairs Jim Auerbach and Eileen Hoffman. Auerbach reported that he has heard strong positive feedback on the content and recommended that the policy forums continue on an annual basis, with a strong focus on creating programs of interest to practitioners, as opposed to academics. Some lessons learned are the importance of the active involvement of a large program committee; the meeting topic should be one that is not going to be covered at other conferences; begin program planning as soon as possible; book a conference site several years in advance; set ambitious fund-raising goals (in 1999 it was $10,000—this year's goal was $20,000 and we attained $33,000); and finally, plan a major event to keep people in the afternoons—a plenary at the end of the conference to bring everyone back together. Hoffman added that the FMCS TAGS program could be helpful if they had more

lead time. It was noted that email and the Internet helped with proposals and contacts with people. Hoffman also noted there was lots of enthusiasm from labor and management practitioners since there are many people with knowledge and practical experience at the conference—the goal of the IRRA to link labor, management, and academe is working here. It was suggested that the forum be more widely marketed and promoted in the future and pointed out that the conference added many new members as a result of the registration. Hoffman finally suggested that we should consider doing the forum every two years instead of every year and that timing will be very important for academics and students. Auerbach and Hoffman thanked former program chair John Burton for setting a high bar in the successful 1999 forum.

New Business—At that point of the meeting, President Friedman skipped to new business to discuss the future of the NPF. President elect Maggie Jacobsen asked for feedback on whether others would like to go back to spring regional conferences, which have been replaced by the NPF. She asked whether or not it would be worthwhile to consider changing locations to facilitate travel and attracting speakers. Kochan provided some history behind the move to Washington, relaying that a committee met to discuss this and decided regional meetings did not work; had declined in quality, attendance and focus; and decided to locate the meeting to Washington to bring practitioners and policy makers together. There have been two excellent meetings, and Kochan recommended that we stay the course and continue to work on improving this meeting—keep it in Washington and work on improving the attendance. He suggested that it had been considered to hold it every other year, but perhaps it was best to continue the momentum. He pointed out it will be especially important to hold it in 2001 because of the new administration and identified 2001 as an opportunity we should take advantage of. Discussion continued on the tremendous amount of work the forum is for Washington colleagues and the need to create more infrastructures locally to help institutionalize it. A few more recommendations were to involve congressional staffers on the program committee, involve sponsors more in the program, and get more press involved. A forum 2001 theme needs to be chosen soon and should be one that will expand the work of the first two meetings. Jacobsen stated she would like to encourage more chapter involvement, perhaps by inviting each chapter to send two members to encourage discussion about what's happening throughout the country. Zack added that it is necessary to identify the topic early and request that chapters speak to particular parts of the topic, perhaps even provide funding for chapter members to attend the meeting. More discussion on different possibilities for topics and involving chapters ensued, including Feuille's suggestion

of a theme focused around productivity, profits, and people—who benefits from workplace innovation? Jacobsen stressed the importance of involving chapters in determining the program. Zack added that there is stability in having a routine spring meeting that is expected and includes regional concerns. Peter Feuille made a motion that IRRA hold a National Policy Forum in 2001 in Washington, D.C. at about the same time of year, with a theme to be determined. The motion was seconded and unanimously passed.

Report of the Group Studying RFPs for Perspectives on Work—The next item of discussion was the future of the association's practitioner-oriented magazine, *Perspectives on Work*. A group has put together an RFP that details what is involved in putting together the magazine and is inviting groups, such as publishers, university presses, agencies, and other interested parties, to make proposals to take over the production and editing of *Perspectives*. The magazine needs new thinking and a broader practitioner-oriented board. The current editors, Thomas Kochan, Hoyt Wheeler, and Susan Cass will work with whomever takes over the responsibilities in 2001 to ensure a reasonable transition. Wells added that the request for proposal document is complete, and she brought some copies with her in case board members would like to take one and pass it on to someone. The RFP requests submission of a proposal or a bid for any portion of the publication. Friedman pointed out it was preferred to have someone else take over most of the work since the national office is involved in so many other publications. Two organizations have requested proposals to date. Friedman requested ideas and suggestions on who to send this to or ideas on who would be good to take over editorial tasks.

Report of the Statistics Committee—Dale Belman, new chair of the statistics committee, was introduced and gave a brief report on the new activation of the committee, which had been inactive the past two years. Belman reported he and other committee members would be representing the IRRA at COPFAS meetings and would be relaying information to the membership. He stated he would be working with the national office staff to create a Web page with links and other information.

Report of the Editor in Chief—Editor in chief Paula B. Voos was not in attendance but asked that Paula Wells report on the recommendation of the editorial committee to approve the 2002 research volume proposal from Paul F. Clark of Penn State University. The proposal is *Collective Bargaining: Current Developments and Future Challenges*. Co-editors with Clark are John T. Delaney of the University of Iowa and Ann C. Frost of the University of Western Ontario. A motion was made, seconded, and unanimously approved to accept the proposal.

Report of the Program Committee for the 53rd Annual Meeting—President Friedman expressed his thanks to the co-chairs of the New Orleans meeting, Tony Freeman and Lance Compa. Friedman discussed the 53rd Annual Meeting program, the theme of which will be "Ensuring Respect for Human Rights in Employment." He pointed out the need to attract and involve more practitioners in annual meetings and reminded board members of previous discussions to plan more practitioner-based sessions in the formal portion of future meetings. Friedman noted that the preconference day would feature four practitioner sessions. A number of joint sessions had been arranged with AEA, NEA, and ASA, and a varied slate of symposiums and workshops were scheduled to interest all IRRA members.

Report on Finance and Membership—Chair Greg Woodhead reported that discussions of the committee centered on developing new student and academic members, as well as organizational members. One-on-one contact had been suggested, and committee members had discussed their willingness to communicate to non-renewing members via letters and personal appeals. The committee recommended that student memberships be lowered to a flat $25 per year (for each of the four years that students qualify for the lower-priced membership) beginning in 2001. The committee also recommended continuing half-price membership fees for first-time members and new ways be developed to encourage those individuals to continue their membership beyond that first year. It was suggested by the committee that a membership "lite" program be tested in one chapter to see the effect. The "lite" membership would be to offer certain publications only and charge a reduced fee. The committee made the following recommendations: (1) dues to stay at the $75 level for 2001; (2) organizational memberships should be restructured: $5,000 for the benefactor level; $1,000–$5000 for the supporter level, and $1,000 for the new annual organizational dues level. Organizational dues at the $250 and $500 levels will remain for small associations and educational institutions that cannot afford the $1,000 level. Board member Arnold Zack further suggested that letters and invoices be sent to life members to solicit additional dues. Woodhead also reported there had not been a plan developed as yet for unitary membership but encouraged chapters to continue to consider requiring and promoting it.

New Business

Report on the FMCS Grant— Sheldon Friedman updated the board on the progress of the FMCS grant proposal, reporting that a labor management committee was formed and there were commitments from NEA and AFT. The formal proposal was to go to Peter Regner later in the summer.

The amount of the grant is to be $125,000. The George Meany Center had agreed to administer the program, which was modeled from the successful Los Angeles program, developed by Linda Tubach and Patti Litwin. The board adopted a motion directing IRRA to complete and submit a timely proposal to FMCS for this project.

Report of the Formation of the Education Committee—Friedman reported that he would be contacting individuals after the NPF to serve on the new committee and to administer new Excellence in Education Awards.

Report on the Alliance—Executive Board Member Arnold Zack reported on the formation of the Alliance. After a brief discussion, he was asked to provide more information to the executive board at the next board meeting.

Adjournment. President Friedman adjourned the meeting at 8:35 a.m.

IRRA EXECUTIVE BOARD MEETING
Thursday, January 4, 2001
Fairmont Hotel, New Orleans, LA

President Sheldon Friedman called the meeting to order on January 4, 2001, at 6:55 p.m.; the meeting was held at the Fairmont Hotel Explorer's Room in New Orleans, LA. Present were president elect Maggie Jacobsen, past president Thomas A. Kochan; and board members Bonnie Castrey, Douglas Gamble, Teresa Ghilarducci, Richard Hurd, Cheryl Maranto, Lavonne Ritter, Steve Sleigh, Daphne Taras, and Arnold Zack. Incoming board members present included Ronald Blackwell, Kate Bronfenbrenner, and Tia Schneider Denenberg. Also in attendance were Janet Conti, NCAC chair; Paula B. Voos, editor in chief; Peter Feuille, secretary-treasurer; Paula Wells, executive director; and Lisa Narug of the national office. Absent were board members Mark Keough, Ken McLennan, Paul Osterman, Dennis Rocheleau, and Beth Shulman. Guests included IRRA president elect-elect John F. Burton, Jr.; Dale Belman, statistics committee chair; Adrienne Eaton, education committee chair; Heather Grob, nominating committee chair; Gregory Woodhead, finance and membership committee chair; and Russell Smith, NAFTA committee chair.

The first order of business was to acknowledge and thank outgoing board members with certificates of appreciation: Bonnie Prouty Castrey, Beth Shulman, and Paul Osterman. Friedman then introduced incoming members for 2001–2004 terms: Ronald Blackwell, Kate Bronfenbrenner,

Richard Denenberg, and Dennis Rocheleau. Tom Kochan requested the floor to present a plaque to president Sheldon Friedman for his many years of service to the IRRA and his leadership as president the past year.

Statistics Committee Report—Before the minutes from the last meeting were read, Friedman recognized Dale Belman, statistics committee chair, to give his committee report, as he could not stay for the meeting. Belman reported that the committee has established a Web page giving links to statistics and relayed the intent to establish a listserve and a session in annual meetings. He gave a progress report stating he was attending the COPAFS meetings on a part-time basis with another member on the committee. He urged everyone to visit the IRRA Web page where reports and links will be posted.

Approval of the Minutes—The minutes of the Washington, D.C. meeting, June 23, 2000 were read. A motion made by Voos to approve the minutes was seconded by Douglas Gamble and unanimously approved.

Nomination Committee Report—Heather Grob, nominating committee chair, reported that the Committee met by conference telephone call on November 29, 2000. The members include past president Thomas A. Kochan, Linda Ewing, James A. Gross, William Hobgood, Jill Kriesky, and Jeffrey Wheeler. Grob presented the committee's selection of candidates for five executive board vacancies for terms beginning in 2002. There was discussion about Canadian representation on the board. It was agreed to accept the slate as presented this year, but future committees are to try to find a way to ensure Canadian representation on the board. Daphne Taras agreed to share some suggestions with next year's nominating committee. The slate as presented was unanimously approved.

NPF 2001 Program Committee Report—Maggie Jacobsen, chair of the NPF program committee relayed the theme of NPF 2001 as *A Roadmap for IRRA in the 21st Century*. She reported that she had asked futurist and author Michael Maccoby to open up the conference as a speaker and referred board members to the write-up in the November 2000 newsletters for a discussion on the topics. She reported there would be something different this year—facilitated table discussions following plenary presentations involving all participants. There were a number of suggestions made including how to involve chapters, narrow down topics, identify specific policy issues that affect people at a local level, and more. Kochan suggested that local chapters identify issues, create a session to report about those issues, and come and give. Ritter talked about facilitated discussions and pointed out the need to work quickly considering the time frame. Castrey pointed to work skills development as a good area to develop practitioner

sessions. Jacobsen thanked board members for their suggestions and invited all to attend an NPF program committee meeting on Sunday to provide further input.

NPF 2002 Program Committee Report—Sheldon Friedman urged board members to attend NPF meetings and to make an effort to get ahead of the curve and look toward planning for 2002. John Burton, Jr. reported that chapters historically had sponsored the spring meeting and that it had not been working particularly well. A new model was developed to have it in Washington every year with national responsibility for program development. He pointed out the difficulty in getting hotels to commit to provide the meeting space for so few overnight hotel rooms. He also pointed out that the 2003 annual meeting would be in Washington, meaning three IRRA national meetings in a row would be in the capital.

Peter Feuille suggested that John Burton, Paula Wells, and Lisa Narug move forward to make arrangements for the program committee, pick dates, and contract the hotel. Kochan reported that Anil Verma would be organizing a June conference in Canada for IILR and suggested that John Burton, Jr. talk to him to make sure dates did not conflict. Arnold Zack suggested combining NPF 2002 with the IILR meeting and run a weeklong training program for the Alliance.

John Burton agreed that the June 2001 board meeting would be a good time to report a theme and dates to the board. Following discussion, a motion was made to keep the NPF as its own meeting in Washington or another suitable location. The motion was seconded and carried.

Editorial Committee Report—Paula Voos reported that the committee heard proposals for several research volumes for 2002 and will ask for further development of such. They recommend eliminating the Student Writing Award because of the lack of quality participation and to continue the Best Dissertation Award. Tom Kochan suggested adding a roundtable at an annual meeting session, giving a one-year membership and letter to the winner.

NAFTA Committee Report—Russell Smith provided background on how the committee was formed. The committee was appointed by Walt Gershenfeld to report to the membership on NAFTA. Smith asked for the board's interest in formalizing the committee and how often it wanted such reports to be made. Friedman pointed out that he thought it was becoming more of an IRRA interest section than a committee. Bronfenbrenner suggested requirements for a committee report be dropped. General agreement to change the NAFTA committee to an IRRA interest section was reached. Smith agreed to act as section convener and move the committee in that direction.

NCAC Committee—Janet Conti reported on five locations interested in forming a chapter. They are Houston, Louisiana, Maine, Pittsburgh, and New Mexico. Fifty chapters meet on a regular basis and ten meet less regularly. Helen Elkiss retired from her work and is leaving the NCAC; the committee will recommend a replacement. The committee of 12 will turn over several other members as a matter of course (terms are three years). Conti reported that the NCAC will revise the *Chapter Officers Handbook* to add new material and update overall. Chapter grants will be available for local chapters that apply to help them fund special meetings or efforts. A total of $2,000 is available.

Education Committee Report—Adrienne Eaton reported on the FMCS grant and noted that a subcommittee had been formed to seek additional money to expand the program. In addition, the committee thought it would be a good idea to collect information on the place of labor relations education in state curriculum standards but that this would probably best be done by chapters. Eaton reported on the success of the first Excellence in Education Awards and said they would continue. She relayed there is a need to move the deadlines up in order to request nominee information earlier and to go specifically to institutions to seek nominations. There is a committee plan to propose having a session in Atlanta, featuring the winners of the 2000 Awards and another that is being shaped by Harry Katz.

Perspectives on Work *RFP Report*—Thomas Kochan reported on responses from the request for proposal issued in 2000 to take over the publishing of *Perspectives*. The committee received two proposals, one from the National Policy Association and the other from the University of Illinois Press. Following discussion of the two proposals, the board agreed to accept the committee's recommendation to accept the proposal from the University of Illinois Press. Included in that proposal, the UIP would take care of the copyediting, production, and distribution of the publication and maintenance of the IRRA membership database. A special editorial advisory board would work with the new editor and assume responsibility for content.

Kochan relayed the committee was talking to one person about the possibility of becoming the new *Perspectives* Editor, adding that the national office would be issuing a call for the editor from the membership.

Finance and Membership Committee—Chair Greg Woodhead reported a $50,000 budget surplus estimated for the year 2000 due to the receipt of grant monies from previous years' activities and tight expense management. Changes in personnel, outsourcing of certain activities such as membership database maintenance, and the drying up of grant funding were

producing a budget for 2001 that has a $14,000, or 2.9%, deficit. This would allow the transition in 2001 of staff time to other developmental activities in developing membership and Web areas.

Woodhead relayed the committee's recommendation to increase dues in 2002: regular individual dues from $75.00 to $85.00, students to stay at a flat $25.00 per year for up to four consecutive years, contributor from $150.00 to $175.00, emeritus to go from $45.00 to $50.00, first-time national member fees at half of regular for the first year only ($42.50) and the national portion of combined new local/first-year national members at $35.00. Tom Kochan made a motion to approve increasing the dues, and Stephen Sleigh seconded it. The motion was unanimously approved.

Additionally, Woodhead reported that the association's accountant, Stan Feller, had requested direction from the board on the restrictions, if any, for monies previously set aside in the McKersie Fund and another endowment fund set up by Ernie Savoie. The monies had been set aside in funds labeled "restricted," but no descriptions regarding their use were ever formally established. It was determined that the intent for use of monies in those two funds was as follows: Savoie endowment fund—to be used to promote membership and participation in the IRRA; McKersie Fund—to be used to increase student membership and participation in association meetings, events, and competitions. Janet Conti moved to approve the use of these funds for these types of activities, and Lavonne Ritter seconded. It was unanimously approved.

Also discussed were low renewal rates with 1999 memberships and efforts needed to increase organizational memberships. Several action items included nonrenewing 1999 members should be personally urged by the board to renew (a list was provided to the board); UCIRHRP directors should be urged to renew their organizational memberships, and invoices and letters should be sent to them; and letters to lifetime members requesting they begin paying dues again should be sent. The budget was presented and discussed. Peter Feuille proposed to adopt the budget as presented; a motion was made, seconded, and unanimously approved.

New Business

Report on Awards—Paula Wells urged everyone to attend the awards luncheon and read a list of the 2000 award recipients, including for Lifetime Achievement, Excellence in Education Awards, Student Writing Award, Best Dissertation Award, Young Practitioner, and Young Scholar Awards.

Report on the Alliance—Arnold Zack described the Alliance as a program created by an umbrella organization to offer standardized training

programs. The Alliance is funded by a $1.1 million DOL grant. Zack has information if board members request.

FMCS Grant Report—Sheldon Friedman reported that the grant was submitted to FMCS and approved in the fall. Program activities had begun with the labor-management committee currently looking for sites to conduct the programs. Friedman pointed out that the George Meany Institute would be administering the grant.

Adjournment—The meeting was adjourned at 10:09 p.m.

IRRA GENERAL MEMBERSHIP MEETING
Saturday, January 7, 2001
Fairmont Hotel, New Orleans, LA

Call to Order and Welcome to New Members—President Sheldon Friedman called the meeting to order on January 7, 2001, at 6:30 p.m. He welcomed new IRRA members, introduced new incoming president Maggie Jacobsen, and invited her to present her reports on the annual meeting for 2002 and National Policy Forum 2001.

Report on Annual Meeting for 2002 and National Policy Forum 2001—Maggie Jacobsen announced the NPF meeting date as June 7–8, 2001 in Washington, D.C. She also relayed the theme of NPF as *A Roadmap for IRRA in the 21st Century*. She reported the meeting would have a more interactive format, including facilitated discussions, and would try to involve more chapters and practitioners.

Statistics Committee Report—The new chair of the committee, Dale Belman, was unable to attend. However, Sheldon Friedman reported that the committee was being revitalized and if there was anyone interested in participating, please contact Belman.

Editorial Committee—Editor in chief Paula Voos reported everyone should have received the new 2000 IRRA research volume on *Nonstandard Work: The Nature and Challenges of Changing Employment Arrangements* and announced the upcoming 2001 volume as *The Future of the Safety Net: Social Insurance and Employee Benefits.*

Chapter Advisory Committee (NCAC)—Janet Conti reported on five locations interested in forming chapters: Houston, Louisiana, Maine, Pittsburgh, and New Mexico. Fifty chapters meet on a regular basis and 10 meet

less regularly. She announced long-time chapter supporter and NCAC member Helen Elkiss retired, and Conti will recommend a replacement. She also reported that because NCAC members serve three-year rotating terms, there will be several other turnovers on the committee of 12 in 2001. Chapter handbooks are being revised and new material is being added and other parts of the volume are being updated. In addition to a hardcopy version, the national office liaison, Lisa Narug is looking into putting it on the Web or a CD. Also new this year is a chapter grant fund of approximately $2,000 to help local chapters fund special meetings or membership efforts. The committee will set the criteria for such grants and look for matching funds. Four IRRA chapters were awarded outstanding chapter awards, as well as an additional merit award for the New York Western chapter. Conti reported several chapters were reporting there are problems in chapters finding management people to participate in their meetings and urged all chapter members to try to get management individuals more involved. The organization needs to have a balance of labor and management, and neutrals/government and academics to be well rounded.

Nomination Committee Report—Although chair Heather Grob could not attend, Sheldon Friedman reiterated the report she made earlier to the board. The IRRA nominating committee met by conference telephone call on November 29, 2000. Members included past president Thomas A. Kochan, Linda Ewing, James A. Gross, William Hobgood, Jill Kriesky, and Jeffrey Wheeler. They selected a slate of candidates to be presented to the membership for election in the summer of 2002. The future officers included John F. Burton, Jr., president for 2002, and Paula B. Voos, president-elect 2002.

Perspectives on Work *Report*—Tom Kochan reported the board had adopted a motion last year to send out requests for proposals from interested editors and publishers to assume a broad range of publishing responsibilities for *Perspectives on Work*. The committee received two proposals and recommended to the board that the proposal from the University of Illinois Press be adopted. Kochan relayed there is a call being issued to the membership for an editor and that there would be an editorial advisory board formed to help the editor.

Finance and Membership Committee—Greg Woodhead reported the budget is in the black, with the projected budgeted surplus of $5,700 now estimated to be $50,000. In 2001 the association is budgeted to operate in the red $14,000 due to changes in personnel and outsourcing. Woodhead reported the grant money provided over the past three years has run out,

and the committee recommended to the board that the agency increase 2002 dues as follows: individual—increase from $75.00 to 85.00; student—maintain at a flat annual fee of $25.00; contributor—increase from $150.00 to $175.00; emeritus—increase from $45.00 to $50.00; and combine new local/new and national first-year memberships at $35.00. Woodhead noted there were only nine organizational members for the year 2000 and relayed the committee's desire to focus on acquiring more organizational members. The committee also agreed to instruct the new CPA auditor that former restricted funds identified as McKersie and Savoie grants were to be used to promote public participation (Savoie) and student participation (McKersie) at association meetings as well as membership.

Administrator's Report—Sheldon Friedman introduced Paula Wells and thanked her for her excellent handling of IRRA in just one year after taking over from Kay Hutchinson. Wells reported that the relocation of the office to Champaign is complete; the IRRA financials are on an electronic platform; business and tax-related reporting and set up have been accomplished; proper permits, notices, bank accounts etc. are secured; and that staff have turned their attention to organizing the spring meeting in Washington and publishing the various agency proceedings, books, and magazines. There has been an attempt to update and upgrade the Website. Several new IRRA listservs were added for the Collective Bargaining and Human Resources Networks and new Web pages were created for various committees, sections, and chapters. During the year, the agency published it's annual research volume, proceedings, *IR/HR Degree Programs*, *Perspectives on Work*, and the *IRRA Newsletter*. Wells relayed that the membership of the organization is slightly down. Of concern is the decline in student, management, and academic members. Efforts are under way to reach out to these and other groups in the next few months with targeted mailings and one-on-one contact from the board. Student memberships have been lowered for 2001 and future years to $25 per year. Financially, the association has enjoyed two very good years due primarily to grant support from the Department of Labor, the Edna Clark Foundation, and the Alfred P. Sloan Foundation. In 1999 and 2000 the association has been stable financially, with surpluses reported in both years. This will help to prepare the agency to focus on developing its membership and Website as a valuable tool for members over the next few years.

FMCS Grant Report—Sheldon Friedman reported in October that the IRRA was awarded an FMCS grant with the George Meany Center. Curriculum devised by Linda Tubach and Patti Litwin in Los Angeles will be taken nationally and presented in targeted schools. Volunteers from IRRA chapters will be needed to serve as mentors in the classrooms.

New Business—Friedman reported the former NAFTA committee has had a name and function change to become the newest IRRA interest section. It is open to all who are interested. Russell Smith is the convener of the new section.

Comments from members in the meeting included a request to include email addresses of presenters in the program, an observation that the global/international aspect of this year's program is good and should be expanded, that this conference's practitioner-oriented workshops and the inclusion of practitioner discussants in sessions were good moves. Member Burt Seidman reported he has been a member since 1948 and had never been to a more smooth-running and organized meeting than this one. He congratulated everyone involved.

Adjournment—As his last official act as 2000 IRRA president, Sheldon Friedman formally passed the gavel to president-elect Maggie Jacobsen, who adjourned the meeting at 7:09 P.M.

STAN FELLER, CPA

Accountant - Tax Consultant
206 ½ W. Springfield - Champaign, Illinois 61820-4654
(217) 351-3192 (fax 351-4135)

INDEPENDENT AUDITOR'S REPORT

I have audited the accompanying financial statements of the Industrial Relations Research Association (a nonprofit organization), State of Illinois, as of and for the year ended December 31, 2000, as listed in the table of contents. These financial statements are the responsibility of the Organization's management. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted the audit in accordance with generally accepted auditing standards. Those standards require that I plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. I believe that my audit provides a reasonable basis for my opinion.

In my opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Industrial Relations Research Association as of December 31, 2000 and the changes in its net assets and its cash flows for the year then ended, in conformity with generally accepted accounting principles.

Stan Feller, CPA
Champaign, Illinois
February 21, 2001

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

STATEMENT OF FINANCIAL POSITION
December 31, 2000

ASSETS	
Current Assets:	
Cash and Certificate of Deposit	$588,205
Accounts Receivable - Net	12,622
Grants Receivable	1,000
Prepaid Expenses	8,432
Inventory	15,430
Total Current Assets	625,689
Property and Equipment	48,611
Less: Accumulated Depreciation	(38,684)
TOTAL ASSETS	$635,616
LIABILITIES AND NET ASSETS	
Current Liabilities:	
Accounts Payable	$ 63,009
Accrued Liabilities	28,272
Dues Collected in Advance	99,701
Subscriptions Collected in Advance	23,962
Deferred Grant Income	94,830
Total Current Liabilities	309,774
Net Assets	
Unrestricted	
Operating	325,842
Total Net Assets	325,842
TOTAL LIABILITIES AND NET ASSETS	$635,616

The accompanying notes are an integral part of these financial statements.

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

STATEMENT OF ACTIVITIES
Year Ended December 31, 2000

	Unrestricted	Temporarily Restricted	Total
Revenue, Gains and Other Support			
Membership Dues	$ 167,438		$ 167,438
Subscriptions	21,928		21,928
Chapter Fees	10,356		10,356
Publications	2,108		2,108
Advertising	2,405		2,405
Mailing List Rental	4,092		4,092
Royalties	2,938		2,938
Meeting Registrations	71,183		71,183
Interest Income	21,422		21,422
Other	1,716		1,716
Contributions			
Sloan Grant		50,428	50,428
Clark Grant		27,295	27,295
DOL Grant		24,000	24,000
Other Grants		5,000	5,000
Restrictions satisfied	106,723	-106,723	0
Total Revenues, Gains and Other Support	$ 412,309	$ 0	$ 412,309
Expenses and losses			
Program services			
General	$ 125,717		$ 125,717
Meetings	81,743		81,743
Publications	121,986		121,986
Supporting Services			
Management and General	29,037		29,037
Membership Development	11,431		11,431
Total Expenses and Losses	369,914		369,914
Change in Net Assets	42,395		42,395
Net Assets at Beginning of Year	283,447		283,447
Net Assets at End of Year	$ 325,842	$	$ 325,842

The accompanying notes are an integral part of these financial statements.

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

STATEMENT OF FUNCTIONAL EXPENSES
For the Year Ended December 31, 2000

		Meetings					Publications				Supporting Services		
	General	Winter Conference	Regional Meetings	Policy Meeting	Winter Bd Meeting	Spring Bd Meeting	Winter Proceedings	Perspectives	Research Volume	Directory & Newsletter	Management & General	Membership Development	Totals
Compensation													
Payroll taxes and fringes	$125,717												$125,717
Depreciation											1,968		1,968
Insurance											1,967		1,967
Donations											135		135
Bank Charges											1,041		1,041
Promotion												5,931	5,931
Equipment lease											127		127
Postage and freight											3,540		3,540
Accounting/auditing											4,265		4,265
Printing, production							13,993	17,531	30,051	7,995			69,570
Postage							5,392	1,842	7,141	2,852			17,227
Other public. costs							2,029	8,925	4,635	2,544			18,133
Contract services								17,056					17,056
Meals		13,798	15	22,292	2,448	558							39,111
Travel		5,925	2,783	3,197	579	1,836							14,320
Other meeting expenses		10,578	23	16,714	933	64							28,312
Education											375		375
Computer & label supplies											2,461		2,461
Office supplies											2,044		2,044
Student and member awards												5,500	5,500
Telephone											2,184		2,184
Chapter expenses											2,155		2,155
Dues											1,460		1,460
Duplicating											2,494		2,494
Other committee expenses											776		776
Miscellaneous											2,045		2,045
	$125,717	$30,301	$2,821	$42,203	$3,960	$2,458	$21,414	$45,354	$41,827	$13,391	$29,037	$11,431	$369,914

The accompanying notes are an integral part of these financial statements.

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

STATEMENT OF CASH FLOWS For the Year Ended December 31, 2000

CASH FLOWS FROM OPERATING ACTIVITIES	
Change in Net Assets	$ 42,395
Adjustments to Reconcile Change in Net Assets to Net Cash From Operating Activities:	
Depreciation	1,968
(Increase) or Decrease in Operating Assets:	
Accounts Receivable	(4,132)
Grants Receivable	65,400
Prepaid Expense	(2,430)
Inventory	14,146
Increase (Decrease) in Operating Liabilities:	
Accounts Payable	32,581
Accrued Liabilities	27,778
Dues Collected in Advance	(19,008)
Subscriptions Collected in Advance	5,491
Deferred Income	(101,723)
Net Cash Provided by Operating Activities	62,466
Payments for Property & Equipment	(3,607)
Net Increase (Decrease) in cash and cash equivalents	58,859
Cash and short term Investments:	
Beginning of year	529,346
End of year	$588,205

The accompanying notes are an integral part of these financial statements.

INDUSTRIAL RELATIONS RESEARCH ASSOCIATION
NOTES TO FINANCIAL STATEMENTS DECEMBER 31, 2000

Note 1—Nature of Activities and Significant Accounting Policies

Nature of Activities

The Industrial Relations Research Association (IRRA) was founded in 1947 to encourage research in all aspects of the field of labor, employment, and the workplace. It is a non-profit scholarly association of academic, labor, business and neutral communities committed to the full discussion and exchange of ideas between and amongst its broad constituencies through meetings, publications, and its various electronic listservs and websites. The IRRA National Office is located in Champaign, Illinois and serves the association by planning conferences and meetings and publishing the various research of its members.

Basis of Accounting

The financial statements of the Association are presented using the accrual basis of accounting.

Contributed Services

During the year ended December 31, 2000, the value of contributed services meeting the requirements for recognition in the financial statements was not material and has not been recorded.

Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Property, Plant and Equipment

Property, plant and equipment are carried at cost. Depreciation is provided using the straight-line method over an estimated five to seven year useful life.

Financial Statement Presentation

The Association has adopted Statement of Financial Accounting Standards (SFAS) No. 117, "Financial Statements of Not-for-Profit Associations." Under SFAS No. 117 the Association is required to report information regarding its financial position and activities according to three classes of net assets: unrestricted net assets, temporarily restricted net assets, and permanently restricted net assets. As permitted by the statement, the Association does not use fund accounting.

Contributions

The Association also adopted SFAS No. 116, "Accounting for Contributions Received and Contributions Made." Contributions received are recorded as unrestricted, temporarily restricted or permanently restricted support depending on the existence or nature of any donor restrictions. Restricted net assets are reclassified to unrestricted net assets upon satisfaction of the time or purpose restrictions.

Income Taxes

The Association is a not-for-profit Association that is exempt from income tax under Section 403(c)(3) of the Internal Revenue Code and classified by the Internal Revenue Service as other than a private foundation. However, net income from the sale of membership mailing lists and newsletter advertising is unrelated business income, and is taxable as such. After deducting costs associated with the income, there was no tax owed for 2000.

Investments

The Association does not have any investments in marketable securities.

Cash and Cash Equivalents

For purposes of the statements of cash flows, the Association considers all highly liquid investments available for current use with an initial maturity of twelve months or less to be cash equivalents.

Inventory

The Association's inventory of directories, research volumes, proceedings and prior newsletters is carried at the lower of cost or market value.

Membership Dues—Advance Subscriptions Collected

Membership dues and subscriptions are assessed on a calendar year basis and are recognized on an accrual basis. Funds received for the 2001 and future years are reported as collected in advance on the statement of financial position.

Functional Allocation of Expenses

The costs of providing the various programs and other activities have been summarized on a functional basis in the statement of activities. Accordingly, certain costs have been allocated among the programs and supporting services benefited.

Note 2—Arrangements with the University of Illinois

The Association moved its offices to the University of Illinois at the end of 1999. Under an arrangement with the University, the employees of the Association are employed by the University. The employees' pension and benefits are part of the University's plans. The University then bills the Association quarterly for the cost of the employees.

Note 3—Edna McConnell Clark Grant #98165

The Edna McConnell Clark Foundation awarded $100,000 to the IRRA on September 24, 1998 to promote the goals of the Association. The Foundation paid the Association $100,000 on September 24, 1998. In 1999, the IRRA organized six regional forums across the United States to facilitate a dialogue on the broad theme, "Rebuilding a Social Contract at Work."

Note 4—Alfred P. Sloan Foundation Grant #98-3-9

On March 17, 1998, the IRRA received notification that it was the recipient of a grant for $239,000 to continue the work of the Sloan Human Resources Network. The IRRA received the grant in three installments starting with $115,000 in April 1998, $82,800 in April 1999 and the final payment of $41,400 in November 2000.

Note 5—Department of Labor Grant #B9491808

On December 18, 1998, the IRRA was awarded a $25,000 grant for "reconstructing the social contract of work." The IRRA has received $24,000 of the grant, and will be paid the additional $1,000. This is shown as a receivable at December 31, 2000.

Note 6—Prior Period Adjustments

The 1999 statements were audited by Stotlar & Stotlar. The prior financial statements showed $68,667 as Permanently Restricted Net Assets. This year they are shown as part of the Unrestricted Net Assets. The prior year's financial statements were also restated. The detail on the changes is on file at IRRA'S offices. The following is a summary of the changes made and their effect on Unrestricted Net Assets of the association.

12/31/99 Net Assets before adjustments	$239,687.56
Increased Accounts Receivable	2,895.66
Decreased Inventory	-18,192.58
Decreased Prepaid printing	-2,805.92
Decreased Prepaid directory costs	-7,380.96
Decreased Prepaid meeting costs	-1,408.27
Decreased accounts payable	24,226.68
Increased Clark grant income	46,544.60
Decreased dues collected in advance	327.50
Increased adv subscriptions	-227.50
Decreased Sloan grant income	-219.92
12/31/99 Net Assets after adjustments	$283,446.85

ALPHABETICAL LIST OF AUTHORS

IRRA Chapters

For contact information on a chapter in your area, visit the IRRA website at www.irra.uiuc.edu.

ALABAMA
- Alabama

ALASKA
- Alaska (Anchorage)

ARIZONA
- Arizona (Phoenix/Tucson)

CALIFORNIA
- Gold Rush (Oakland)
- Inland Empire (Riverside)
- Northern (Sacramento)
- Orange County (Anaheim)
- San Diego
- San Francisco
- Southern (Los Angeles)

COLORADO
- Rocky Mountain

CONNECTICUT
- Connecticut Valley (Hartford)
- Southwestern

DISTRICT OF COLUMBIA
- Washington, DC

FLORIDA
- Central Florida (Tampa/St. Pete)

GEORGIA
- Atlanta

HAWAII
- Hawaii (Honolulu)

IDAHO
- Idaho (Boise)

ILLINOIS
- Central
- Chicago
- LIRA

INDIANA
- Delaware County (Muncie)

IOWA
- Iowa

MARYLAND
- Maryland (Baltimore)

MASSACHUSETTS
- Boston

MICHIGAN
- Detroit
- Mid-Michigan (Lansing)
- Southwestern (Kalamazoo)
- West (Grand Rapids)

MISSOURI
- Gateway (St. Louis)
- Greater Kansas City

NEVADA
- Southern (Las Vegas)

NEW JERSEY
- New Brunswick

NEW YORK
- Central New York (Syracuse)
- Hudson Valley New York
- Long Island
- New York Capitol (Albany)
- New York City
- Western (Buffalo)

OHIO
- Central (Columbus) Greater
- Cincinnati Northeast Ohio
- (Cleveland)

OKLAHOMA
- Greater Oklahoma

OREGON
- Oregon

PENNSYLVANIA
- Central (Harrisburg)
- Northeast (Bethlehem)
- Northwest (Erie)
- Philadelphia
- Western (Pittsburgh)

RHODE ISLAND
- Greater Rhode Island

SOUTH/NORTH CAROLINA
- South Atlantic

TENNESSEE
- TERRA

TEXAS
- Alamo (San Antonio)
- Greater Houston
- North (Dallas)

WASHINGTON
- Inland Empire (Spokane)
- Northwest (Seattle)

WEST VIRGINIA
- West Virginia (Morgantown)

WISCONSIN
- Wisconsin (Milwaukee)

CANADA
- British Columbia (Vancouver)
- Hamilton District (Ontario)

FRANCE
- Paris

IRRA Organizational Memberships

The IRRA provides a unique forum where representatives of all stakeholders in the employment relationship and their views are welcome.

We invite your organization to become a member of our prestigious, vibrant association. The Industrial Relations Research Association (IRRA) is the professional membership association and learned society of persons interested in the field of industrial relations. Formed more than fifty years ago, the IRRA brings together representatives of labor, management, government, academics, advocates, and neutrals to share ideas and learn about new developments, issues, and practices in the field. Members share their knowledge and insights through IRRA publications, meetings, and IRRA ListServs. In addition, the IRRA provides a network of 60 plus chapters where professionals meet locally to discuss issues and share information.

The purpose of the IRRA is to encourage research and to foster discussion of issues affecting today's workplace and workers. To that end, the IRRA publishes an array of information, including research papers and commentary presented at Association meetings; the acclaimed practitioner-oriented magazine, *Perspectives on Work*; a membership directory; quarterly newsletters; and an annual research volume. Recent research volumes include *The Future of the Safety Net: Social Insurance and Employee Benefits*, Sheldon Friedman and David Jacobs, editors; *Nonstandard Work: The Nature and Challenges of Changing Employment Arrangements*, Françoise Carré, Marianne A. Ferber, Lonnie Golden, and Stephen A. Herzenberg, editors; and *Employment Dispute Resolution and Worker Rights*, Adrienne E. Eaton and Jeffrey Keefe, editors. Other member publications and services include online IR/HR degree programs listings, an online member directory, job announcements, calls and announcements, competitions and awards for students and practicing professionals, and much more.

IRRA is a non-profit, 501(c)(3) organization governed by an elected Executive Board comprised of representatives of the various constituencies within the Association.

Organizational memberships are available on an annual or sustaining basis and include individual memberships for organization designees, a wealth of IRRA research and information, and numerous professional opportunities. Organizational members receive all IRRA publications and services. Your support and participation will help the Association continue its vital mission of shaping the workplace of the future. For more information, contact the IRRA National Office, 504 East Armory Ave., Room 121, Champaign, IL 61820.

IRRA Organizational Members 2001

Thanks for a great year!

Sustaining Members (one-time contribution of $5,000 to $10,000)

- Ford Motor Company
- AFL-CIO
- UAW-Ford National Education, Training and Development Center
- National Association of Manufacturers
- The Alliance for Growth and Development
- United Steelworkers of America
- Boeing Quality Through Training Program
- National Education Association

Annual Members – 2001*

- Communication Workers of America
- George Meany Center for Labor Studies
- Labor Education Institute
- Las Vegas Metro Police Department
- Lucent Technologies
- Massachusetts Institute of Technology
- Michigan State University
- New York Nurses Association
- Pennsylvania State University
- Rollins College
- School of Management and Industrial Relations, Rutgers University
- Society for Human Resource Management
- Texas A & M University
- Institute of Labor & Industrial Relations, University of Illinois at Urbana-Champaign
- Higgins Labor Research Center, University of Notre Dame
- Centre for Industrial Relations, University of Toronto
- Industrial Relations Program, Wayne State University

*2001 Annual organizational memberships are available at the following levels:

Annual Benefactor, $5,000 or more — 6 employee members
Annual Supporter, $1,001 to $4,999 — 4 employee members
Annual Organizational, $1,000 — 4 employee members
Annual University, $500-$1,000—2-4 employee members
Annual Small Educational or Non-Profit Institution, $250—2 employee members

Update your Listing Information Today for the IRRA National Membership Directory

Active IRRA members are requested to provide the following information for listing in the *2002 IRRA National Membership Directory*. Directories are issued free to all active members as a part of member benefits. Please copy and complete this form, entering all information exactly as you want it to appear in the directory. The deadline for inclusion in the printed version is February 1, 2002. All listings received after that date will be updated in the online directory at the IRRA website. Access to online directory information is available to members only.

PLEASE PRINT CLEARLY

Name:_____ Phone:

Current Position/Title:

Institution/Employer: _____

Address: _____

_____

City: _____ State or Country: _____ Postal Code: _____

Fax: _____ E-mail: _____

OCCUPATION (Please designate only one occupation—your principal academic or professional occupation):

ACADEMIC DISCIPLINE

- ❒ University Administration
- ❒ Business Administration/Management
- ❒ Economics
- ❒ Human Resources/Personnel
- ❒ Industrial Relations
- ❒ Law
- ❒ Organizational Behavior
- ❒ Labor Education
- ❒ Sociology
- ❒ Other (Specify)

_____

PROFESSIONAL OCCUPATION

- ❒ Arbitration/Mediation
- ❒ Business: Management/Administration
- ❒ Business: Industrial Relations
- ❒ Business: Human Resources/Personnel
- ❒ Consulting
- ❒ Government
- ❒ Legal Practice
- ❒ Union
- ❒ Other (Specify)

_____

EDUCATION AND DEGREE (omit honorary)

Degree	Year Granted	Institution

IRRA SECTION INTERESTS (Designate two):

❒ Collective Bargaining
❒ International
❒ Labor Union/Labor Studies
❒ Dispute Resolution
❒ Labor/Employment Law
❒ Labor Markets
❒ Human Resources
❒ NAFTA and Regional Integration

AREAS OF MAJOR INTEREST (List no more than three of your major fields of specialization in order of importance to you. Indicate "1," "2," and "3" in order of importance.)

__ arbitration
__ collective bargaining
__ employment/training
__ government policy
__ health care
__ human resources/personnel
__ income maintenance
__ industrial psychology
__ industrial sociology
__ international/comparative
__ labor education
__ labor history
__ labor/employment law
__ labor market economics
__ management/education
__ methodology/statistics
__ organizational behavior
__ union organization/administration
__ other (specify):_____

IRRA CHAPTER MEMBER: ❒ No ❒ Yes Name of Chapter(s): _____

CONCURRENT/PAST POSITIONS (up to two, most recent first):

Position: _____ Dates:

Institution/Employer: _____

Position: _____ Dates:

Institution/Employer: _____

Only your name and address will appear in the 2002 National Membership Directory if this questionnaire is not completed and returned.
DEADLINE: February 1, 2001 for the printed version

Return to: IRRA, University of Illinois at Urbana-Champaign
119 Labor and Industrial Relations Building,
504 East Armory Avenue, Champaign, IL 61820
Phone: 217/ 333-0072 Fax: 217/ 265-5130 Email: irra@uiuc.edu

Update your directory listing and membership information online
Visit the IRRA Website at www.irra.uiuc.edu for details!

THE INDUSTRIAL RELATIONS RESEARCH ASSOCIATION

The Industrial Relations Research Association (IRRA) was founded in 1947 by a group who felt that the growing field of industrial relations required an association in which professionally minded people from different organizations could meet. It was intended to enable all who were professional interested in industrial relations to become better acquainted and to keep up to date with the practices and ideas at work in the field. To our knowledge there is no other organization that affords the multiparty exchange of ideas we have experienced over the years—a unique and valuable forum. The word "Research" in our name reflects the conviction of the founders that the encouragement, reporting, and critical discussion of research is essential if our professional field is to advance.

Our membership includes representatives of management, unions, government; practitioners in consulting, arbitration, mediation, and law; and scholars and teachers representing many disciplines in colleges and universities in the United States and Canada, as well as abroad. Libraries and institutions interested in the publications of the Association are also invited to become subscribing members and, enjoy all member benefits, publications and online services. Organizational memberships in the Association are also available.

Membership dues cover publications for the calendar years from January 1 through December 31 and entitle members to the *Proceedings of the Annual Meeting*; an annual research volume; a membership directory every four years; a quarterly newsletter; and periodic issues of the magazine, *Perspectives on Work*. Member discounts to conferences, online access to complete member listings, various listservs, and other IRRA programs and services are also available to active members. Tax-deductible financial contributions to the Association and Organizational memberships to support its educational activities are always welcome.

If you are not already a member, we invite you to join the IRRA by sending your membership application and dues payment. More information regarding membership, meetings, and publications, and services of the IRRA can be found at the Association website or can be addressed to the IRRA office.

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