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ROLL BACK LOW WAGES

Nine Stories of New Labor Organizing in the United States

By Sarah Jaffe

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Low-Wage Workers Revolt

Precarity. If we were to select one word to best describe the most important current trend in the economy of the United States, “precarity” would be a leading candidate.

It is now widely accepted that America’s middle class is shrinking. Recent polls suggest that possibilities for merit-based advancement are at their lowest point ever. A growing number of people work low-wage jobs under precarious circumstances, often without long-term job security, health care, or possibilities for advancement or retirement. Many quite literally find themselves one sick day away from being fired and replaced by another person desperate to feed her or his family. Increasingly, precarity in our working lives, or in those of our neighbors, our friends, or our loved ones, has become the new norm. With inequality on the rise, the U.S. government largely beholden to corporate interests, and austerity the economic recipe du jour, the implications are grim for the future of working people.

While others talk, it is not surprising that people of color and women—still the longest running and most excluded, ignored, undervalued, and forgotten of workers—are at the forefronts of the actual battles against precarity. Challenging labor institutions that had grown complacent in the postwar era, low-wage workers’ movements across the country are devising new strategies and building new vehicles for struggle, making new friends and engaging old allies along the way.

In this study, labor journalist Sarah Jaffe, whose writing has appeared in *The Washington Post*, *The Atlantic*, *The Guardian*, *The Nation*, and *In These Times* and who works as co-host of Dissent magazine’s *Belabored* podcast, examines this series of low-wage workers’ movements that has gained strength in recent years. Including fast food strikes and the fight for a \$15 minimum wage; retail, grocery store, restaurant, and taxi workers; Carwasheros, domestic and home care workers, and those living in the U.S. under guestworker visas; Jaffe explores how these movements overlap and connect. She also analyzes their flaws and setbacks in order to better appreciate and learn how to reproduce their often-unreported victories. While, because of Washington gridlock, it might be a while before these campaigns impact federal legislation, they are already having a notable impact on policy in municipalities across the country: winning minimum wage increases; helping to pass employment-specific regulations and ordinances in cities and states that require businesses to give workers paid sick days; and forming legally recognized collective bargaining units and winning concessions from employers through direct action.

Perhaps more importantly, low-wage workers’ movements are playing a crucial role in revitalizing labor, and indeed much of the left, creating alliances and waging offensive battles at a time when too much of the progressive community has been stuck playing defense. They are doing everything they can to ensure that the defeat of precarity, and not its continuance, will be the most important trend in the U.S economy in the years to come.

Stefanie Ehmsen and Albert Scharenberg
Co-Directors of New York Office, March 2015

Roll Back Low Wages

Nine Stories of New Labor Organizing in the United States

By Sarah Jaffe

It has become an accepted fact in the United States that our once-vaunted “middle class” is shrinking. Incomes are stagnant for the vast majority, while the super-rich keep getting richer. Stable, full-time, well-paid jobs are harder to come by, having largely been replaced by service industry jobs that are more likely to be part-time with few benefits like health insurance, and of course, which pay minimum wage or thereabouts.

The global financial crisis sped up a process that had been underway since the late 1970s. Mid-wage jobs—those with median hourly wages between \$13.84 and \$21.13—made up 60 percent of the job losses during the recession of 2008-2010. They have amounted to only 22 percent of the jobs added during the so-called “recovery.”¹ Instead jobs like retail sales, food preparation, restaurant service, and home health care aides—which generally average pay between \$7.69 and \$10.97 an hour—have filled in the gaps, making up 58 percent of total jobs gained. And of course, unemployment remains high, making it harder for those workers to bargain for better wages. “There’s someone right behind you who wants this job,” is a common refrain, and it’s true: as of August of 2014, there were still two unemployed people for every job opening.²

The minimum wage is \$7.25 an hour, and for tipped workers it’s a paltry \$2.13. Congress last voted to raise the wage in 2007. The previous increase had been ten years before that, in 1997. Adjusted for inflation, the current mini-

mum wage buys workers less than it did when Ronald Reagan took the office of President back in 1981.³

Low wages are only the beginning of the problems faced by workers in this brave new economy. Wage theft—the deliberate underpayment or nonpayment of workers, whether by denying them overtime, making them work off the clock, deducting illegal expenses from their paychecks or just not paying them at all—is rampant in low-wage work, particularly when the workers are undocumented immigrants. Unreliable schedules, often created by a computer that crunches sales data from the previous year and spits out a roster accordingly, leave retail workers scrambling to secure childcare and transportation. Sexual harassment leaves women in the restaurant industry feeling like they’re on the menu.

These are the jobs that exist now. The choice, as workers in fast-food restaurants and retail giant Walmart have told me several times in the past years, is to organize and make those jobs better, or to continue to suffer.

And organizing is exactly what workers have been doing. The past two years have seen an explosion in low-wage workers’ movements, as existing labor unions have come to terms with the fact that these jobs aren’t going away, but rather increasingly are the standard terms of employment in 21st century America. The Service Employees International Union (SEIU) has poured money into organizing fast-food workers, partnering with community organizations

1 National Employment Law Project, www.nelp.org.

2 Bureau of Labor Statistics, www.bls.gov.

3 Department of Labor, www.dol.gov.

in cities across the country to create the “Fight for \$15” and bring attention to the fact that minimum wage workers aren’t just teenagers flipping burgers for pocket change—they’re adults, with bills to pay and in some cases teenagers of their own to support. The United Food and Commercial Workers union (UFCW), after decades of failed attempts at unionizing Walmart stores, has backed OUR Walmart, a non-union workers’ association that has pulled off successful coordinated strikes at the nation’s largest retailer.

Labor at a Turning Point

Unions have also begun to put money into workers’ centers like the Retail Action Project, or into partnerships with local community-based organizations that organize undocumented workers at businesses like independent grocery stores and car washes into officially recognized unions. They have invested, too, into organizing “excluded” workers who do not have the right to collective bargaining under U.S. or state law. They have come up with a legal process for getting collective bargaining rights to home health aides, whose shop floor is their patient’s bedroom or living room and who labor all too often in isolation.

Organizations like the National Domestic Workers Alliance and the Restaurant Opportunities Center have zeroed in on particular workforces and lobbied for bills that would improve the working conditions of the people in those jobs. The National Guestworker Alliance has not

only supported immigrant workers in the U.S. on temporary visas in pulling off strikes, but also helped to shape the (stalled) fight around immigration policy in this country.

While the federal government in Washington appears unlikely to act on issues relevant to low-wage workers anytime soon, these worker movements have been able to shape policy on a city level, famously winning an incremental increase in the minimum wage, in Seattle, to the demanded rate of \$15 an hour. They’ve helped pass employment-specific regulations and ordinances in cities and states that require businesses to give workers paid sick days. They’ve formed legally recognized collective bargaining units and won concessions from employers through direct action.

They have also struggled to consolidate gains and faced legal attacks on the local and even national level, like the Supreme Court’s recent ruling, in *Harris v. Quinn*, that home health care workers were not workers like other public employees. They have faced real questions about accountability, scraped for funding, and been stymied by workers’ all-too-real fears of retaliation.

The American workplace—and the American labor movement—is at a turning point. It is important for the Left to understand what is happening in these myriad movements and how they overlap and connect; as well as to analyze their flaws and setbacks and appreciate and learn how to reproduce their often-unreported victories.

Fighting for \$15: Fast Food Strikes

Without a doubt, the best-known low-wage workers’ movement of the post-financial crisis era is the so-called “Fight for \$15.” Backed

by the Service Employees International Union (SEIU), the one-day strikes, protests, rallies and campaigns by fast food and other ser-

vice workers have changed the conversation around low-wage work, and in some cases even changed policies.

The first fast food strike took place in New York City in November of 2012. Community organization New York Communities for Change, working with SEIU, had spent several months with some 40 organizers reaching out to fast-food workers around the city, discussing their working conditions and bringing them together into organizing meetings. On November 29, they held their first one-day strike. At the time, Saavedra Jantuah, a mother of one working at Burger King on 34th Street in Manhattan, told me, “I’m doing it for him, I’m going on strike so I can bring my family together underneath one household.”

From the beginning, the workers called for a \$15 an hour wage and union recognition, a demand that stuck no matter which city the movement spread to. In Chicago, where strikes first occurred in April of 2013, workers at Whole Foods and retail shops joined the fast-food workers on picket lines; there, as in many other cities, a local community organization partnered with SEIU, doing most of the on-the-ground work with help from SEIU organizers and funding support from the union. Washington, D.C., St. Louis, Detroit, and Seattle followed suit, and in August of 2013, a one-day strike wave went national, with, according to press releases from the fast food campaign, workers in 50 cities walking off the job. Kasseen Silver, who works at a Burger King in Manhattan, told me,

Sometimes I just want to feel like it’s worth it, the pay that I receive for the amount of work and responsibility I take on. I know what I’m worth, I know what kind of service I give the store that I work for, and what I give to customers.

In different cities, the campaign went by different names—in New York, it began as Fast Food Forward, while Chicago’s Fight for \$15 seems to have been the one that stuck. Early on, SEIU

seemed to want to play a background role, though as the strikes have gone on the union’s role has become more prominent. Tensions have occasionally arisen between the union and the organizations it partners with, which is not uncommon when unions control the purse strings. In New York, organizers on the campaign began to organize among themselves for better pay and conditions.

SEIU’s role in the movement has been criticized; while the typical right-wing complaint is that the union is only out to produce more dues-paying members, others on the left have wondered if the Fight for \$15 is just a PR campaign controlled by the union without much input from the workers. Trish Kahle, a Chicago Whole Foods worker and early member of the movement, wrote in response to these criticisms:

SEIU’s commitment and involvement in this campaign have been indispensable in terms of the organizing resources provided, the legal protection and services we otherwise would not have access to, and the direct connection to the broader labor movement and community organizations. For all of SEIU’s past flaws—which are very real and need to be reckoned with—they deserve credit for taking up bold organizing campaigns while too many other unions are on the retreat, or are playing dead while being battered by right-to-work laws and other anti-union campaigns and legislation.⁴

Kahle points out that in between the coordinated one-day strikes—which, PR campaign or no, have certainly captured the attention of the national media—workers have taken action independently in their workplaces and gotten results. In the sweltering summer of 2013, workers at a Chicago Dunkin’ Donuts and at a New York McDonald’s held wildcat strikes when the air conditioning in their stores went out. Signs outside of the Dunkin’ Donuts read, “America runs on Dunkin [...] but the AC doesn’t!” More recently, a delegation of workers at a Los An-

⁴ Trish Kahle, “Beyond Fast Food Strikes,” *Jacobin magazine*, Oct 22, 2013.

geles McDonald's marched on the boss over irregular paychecks and received their checks (and an apology) within an hour.

And on the streets in Ferguson, Missouri, members of the Show Me \$15 fast food campaign, many of whom are young and African American, joined the protests over the shooting death of Michael Brown.

What cannot be denied about the Fight for \$15 is that it has had an actual impact on policy. While the nationwide minimum wage remains stuck at \$7.25 an hour, Seattle became the first city in the nation to make the fast food workers' demand law in June of 2014, when the city council—including socialist member Kshama Sawant, whose campaign for office focused on raising the wage to \$15 an hour—voted to phase in the increase over a period of years. San Francisco became the second city to enact the wage, with a ballot measure that passed with over 75 percent support on November 4, 2014.

Other cities and states have increased their minimum wages—even so-called “red states,” where a deeply conservative legislature was unlikely to make a wage increase law—since the fast food campaign began, and President Obama has issued executive orders raising the minimum wage for workers at companies that have federal contracts to \$10.10 an hour following strikes in Washington, D.C., at fast food workplaces inside the Ronald Reagan Building, the Pentagon, the Smithsonian, and the National Zoo.

“...and a Union?”

The “and a union” part of the workers' demands has been much harder to come by. To date, almost none of the workers who have joined the strikes have actually won union recognition at their stores. One exception came from among

the federally-contracted workers at the Smithsonian, who are employed through a contractor that already had a union contract with UNITE HERE Local 23 (notably not the union that has backed the fast food organizing).⁵

For most other workers in fast food, though, the process of organizing a union election through the National Labor Relations Board has seemed all but impossible. Labor law in the U.S. remains dysfunctional, and was never structured around small workplaces like individual fast food restaurants, which are often owned by franchisees that pay fees to the parent corporation for the use of its brand. For those workplaces, organizing shop by shop might be impossible.

The fast food campaign was designed instead to put pressure on the corporations at the top of the food chain, utilizing corporate campaign tactics that shame the companies at the top and gaining public support to pressure them into doing better by their workers. Instead of organizing at one store or even at one company, the Fight for \$15 took on multiple major brands at once, perhaps with a strategy of cracking one company and then pressuring others to keep up. A recent decision by the National Labor Relations Board (NLRB) that McDonald's could be held liable as a “joint employer” in 43 unfair labor practices claims before the board, which seemed to validate the organizers' decision to move forward in such a fashion.

McDonald's in particular has been the target of shaming campaigns, most notably when the company put out a website, partnering with the Visa card company, that included a sample budget for McDonald's workers that made it clear that the wages an employee at the fast food giant could expect to make would not allow them to make ends meet. As part of its spring disclosure to shareholders, the compa-

⁵ Julia Kann, “One-Day Strikes Yield Union in D.C.,” *Labor Notes*, Jan 24, 2014.

ny admitted that it might have to raise wages due to public pressure.

The latest strikes, in September of 2014, saw nearly 500 fast food workers arrested for civil disobedience as actions took place in 150 cities around the U.S., according to the Fight for \$15 spokespeople. For the first time, these fast food workers were joined by home care workers, who have launched their own demand for a \$15 an hour wage.

It is unclear where the fast food campaign will end up, and uncertain if SEIU has an endgame in mind. But it is worth pointing out that in a moment of record low union density in the United States, a major labor union has thrown funding and its name behind a campaign that looks unlikely to lead to more dues-paying members anytime soon. A willingness to experiment is something that the American labor movement has desperately needed for a while.

“We are here as a group”: OUR Walmart

No one company has symbolized the American economy and its role in globalization quite like Walmart. It’s perhaps fitting, then, that it was the company where the short-term strike exploded in popularity as a tactic for challenging the boss.

Unlike fast food restaurants, Walmart had been a target of the labor movement for decades, albeit with virtually no success. The company’s virulently anti-union management ethos blended with a paternalistic, “we’re all family here,” corporate culture within the stores to keep unions out, and a ruthlessness at the top that leaves the company willing to break labor laws in order to shut down worker organizing. As historian Nelson Lichtenstein writes:

Wal-Mart and the GOP worked symbiotically to roll back the wage standards and welfare systems established since the New Deal, while promoting a Protestant, evangelical sense of social morality, the de-unionization of labor, and the global expansion not only of U.S. economic power but of American cultural authority as well.⁶

In June of 2014, the Supreme Court of Canada ruled that Walmart violated labor laws in the province of Quebec by shuttering a store where workers had, in 2004, voted to join the United Food and Commercial Workers union (UFCW).⁷ And after meat cutters in a Walmart Supercenter in Palestine, Texas, won an NLRB election, the company decided to stop cutting meat in all of its supercenters, permanently.⁸ Which is why it came as a surprise to nearly everyone when Walmart workers in the Los Angeles area held what they said was the first-ever strike at the retail giant in October of 2012. Part of a new organization, backed by the UFCW and called Organization United for Respect at Walmart (OUR Walmart), the workers did not make up a majority at any one store, but did constitute a public threat to the dominant media narrative of happy Walmart employees.

The one-day strike, also used by the fast food movement and other low-wage worker movements, was a different tactic than the kinds of strikes most people envision. Instead of

6 Nelson Lichtenstein, *The Retail Revolution: How Wal-Mart Created a Brave New World of Business*, Metropolitan Books, 2010.

7 Bryce Covert, “Walmart Penalized for Closing Store Just After it Unionized,” *ThinkProgress*, June 30, 2014.

8 Nelson Lichtenstein, *The Retail Revolution*, op. cit.

taking all the workers in a given shop out on strike with the aim of shutting down business until their demands are met, the one-day minority strike aims to disrupt business in another way—by proving to workers that they can stand up to the boss. With the backing of local faith and community leaders and the union’s organizers, workers who walk out have a level of protection against illegal retaliation beyond just that provided by the law. Without having a union, they behave like a union and hope their actions will spread.

The first Walmart strikes did just that. Only days after the first strikes in California, workers walked off the job in 12 states, stating that they did so in protest against the company’s unfair labor practices. Colby Harris, one of those early strikers, said at the time, “They say [these strikes] are an attempt to get attention. But if we were getting the attention we deserved, we wouldn’t be protesting.”

Unlike the fast food movement and unlike the UFCW and other unions’ earlier attempts at Walmart, OUR Walmart is explicit about the fact that it is not trying to form a union at the retailer. Instead, it bills itself as an organization that exists to help Walmart employees as individuals or groups in their struggles with the company over labor issues. In effect, after years of trying to win at Walmart through the NLRB system, the union decided to try something new, betting that there were enough workers across the country who were frustrated with Walmart, and that the company’s reputation for pushing smaller businesses out when it comes in would bring them plenty of support within communities.

Despite not being a union campaign, OUR Walmart has demonstrated the value of collective rather than individual action. At an early action, the workers were invited by Walmart’s human resources president to take advantage of the company’s famed “open door” policy to

express their concerns individually. In an iconic moment, the workers chanted back as one, “We are not here individually, we are here as a group.”

Using “Christian Values” for Exploitation

Interfaith groups have been an important part of the movement to pressure Walmart, as they have been in many of the organizing efforts detailed in this report. But perhaps no other company has made as much of its purported Christian values as has Walmart. In her book *To Serve God and Wal-Mart*, historian Bethany Moreton detailed the way Walmart has used lip service to Christian values to win loyalty from the Southern women workers who made up the backbone of its early workforce, and how it spread its capitalist values through Christian colleges and universities to recruit a uniquely loyal management force and evangelize its beliefs across the world.⁹

But Janet Sparks, a longtime Walmart worker, saw gaps between what the company practiced and what it preached, and it was her Christian values that led her to stand up for her coworkers and eventually go out on strike. For many of the Walmart strikers, unpredictable scheduling is as big a problem as the company’s famed low wages. Despite a folksy image, Walmart has been a pioneer in technological advancements within retail, including a computerized scheduling system that spits out schedules based on the previous year’s sales on that particular day. Those schedules don’t take into account, Sparks told me, how difficult it might be for a single mother to find child care on short notice, or that a worker might be holding down two jobs in order to pay the bills.

⁹ Bethany Moreton, *To Serve God and Wal-Mart: The Making of Christian Free Enterprise*, Harvard University Press, 2010.

Building off of the momentum created in 2000 by a massive gender discrimination lawsuit at Walmart, in 2014 OUR Walmart held a strike specifically around women's issues. The "Walmart Moms" (a play on the way political commentators, during the 2008 elections, determined that the "Walmart Mom" was a key swing voter) walked out over erratic scheduling, unequal treatment, a lack of concern for pregnant employees and parents, and yes, those ever-present low wages. Mother of two Lashanda Myrick told me, "I teach my kids to stand up for what they believe in, so I don't want to show them that I'm a hypocrite by not standing up for something that I believe in."

OUR Walmart has also repeatedly built its actions around the biggest sales day of the year for U.S. retail businesses: "Black Friday." The day after the Thanksgiving holiday, Black Friday is a day of huge sales as retailers mark down big-ticket items in order to draw in Christmas shoppers. For the last two years, workers have struck and held protests on this major shopping day, including blocking the streets outside of Walmart stores and allowing themselves to be arrested in acts of public civil disobedience.

What has helped OUR Walmart and its partner organization, Making Change at Walmart (the corporate campaign side of the effort) build support across the country has been an innovative internet and social media strategy that has allowed organizers to reach workers and supporters in far-flung places. According to Jamie Way, an online organizer with the campaign, they've had success in getting workers to talk to one another on Facebook and then take those conversations offline, as well as organizing around specific issues—Lucas Handy, a Walmart worker from Fort Dodge, Iowa, found out about OUR Walmart from a targeted Facebook ad and then went on strike. He now maintains a Facebook group for LGBT workers at Walmart to talk about the specific challenges they face at work.

The internet strategy has made the OUR Walmart campaigns somewhat more free-flowing than the Fight for \$15, though in other ways the two are tactically similar, embracing one-day strikes and calling in community allies to support workers, using shaming tactics and NLRB complaints to back up workers' direct actions, and recently moving more toward civil disobedience.

The other major difference between the Walmart campaign and the Fight for \$15 is Walmart's supply chain. The retailer depends on massive "distribution centers"—warehouses where its imported goods are stored, packed, and shipped out to stores—and truck drivers who move goods from ports to the warehouses and then from warehouses to Walmart retail outlets. In 2012, striking workers at an Elwood, Illinois distribution center won full back pay and the reinstatement of workers who had been fired for organizing. The workers at the centers mostly work for temporary staffing agencies, not directly for Walmart, but nonetheless one worker estimated that their strike cost the retailer a possible \$10 million.¹⁰

Walmart has even been hit over working conditions in companies that manufacture its goods, from factories in Bangladesh to seafood packing plants in Louisiana (see next section for more). Though the Walmart workers appear to be far from pulling off such a coordinated strike, it is possible that actions up and down the company's supply chain could seriously hurt profits in a small amount of time. Savannah, Georgia, port truck driver Albert Dantes told me last year, "If we stop [work], in three days every store would be empty, we could shut down every Walmart. There'd be nothing."

For now, the campaign continues to target the Walton family and the company's executives,

¹⁰ Alexandra Bradbury, "Walmart Warehouse Strikers Return to Work with Full Back Pay," *Labor Notes*, Oct 9, 2012.

with workers holding sit-ins and taking arrest outside of their Alice Walton's New York City penthouse and the Walton Family Foundation in Washington, D.C. At those protests, they

joined the rising call for \$15 an hour and contrasted their relatively modest demands with the lavish spending of the people whose pockets they've filled.

Hyper-Exploited: National Guestworker Alliance

Targeting Walmart's supply chain helped bring national media attention to the National Guestworker Alliance (NGA), when in 2012 a group of workers from Sinaloa, Mexico, who were peeling and packing crawfish for Sam's Club (a Walmart subsidiary), went on strike.

The guestworkers came back year after year to work for the season on temporary H2-B visas from the U.S. government. But conditions at C.J.'s Seafood in Louisiana had dramatically worsened by 2012, and the workers had had enough. "Some of us work from 2:00 in the morning till 5:00 or 6:00 in the evening and get no paid overtime," Marta Uvalle, one of the C.J.'s workers, told me in 2012:

Pressures to work got so bad that the supervisors locked the doors so that we couldn't take breaks. When the doors weren't locked we could only take five-minute breaks. We were also threatened by the supervisor that if we took too long of a bathroom break or lunch break he would beat us.

An outside labor monitoring organization, the Worker Rights Consortium, investigated C.J.'s and told reporter Josh Eidelson that the conditions there were among the worst it has seen, inside or outside the U.S.¹¹

Because of the nature of the H2-B guestworker visa, the workers were tied to one particular job, and in this case lived in trailers in the backyard of the owner of the company. Though it

was their direct supervisor who was threatening them, with the help of the NGA, the workers decided to take their complaints straight to Walmart, in what has become the NGA's signature move. "What they understood was that Walmart was setting up all the incentives for C.J.'s to behave the way they did," explained Saket Soni, executive director of the NGA.¹²

By targeting a huge corporation instead of a tiny seafood company, the workers made headlines and won results: Walmart met with the workers to hear their complaints, and subsequently suspended C.J.'s as a supplier. In effect, they got Walmart to take responsibility, at least to a degree, for the working conditions in its supply chain.

Founded in New Orleans after Katrina

The NGA was founded in New Orleans after the post-Hurricane Katrina influx of guestworkers as a project of the New Orleans Workers' Center for Racial Justice. Despite there being thousands of workers out of jobs after the destruction of the hurricane, businesses—often the same ones getting massive contracts from the U.S. government to provide housing or do reconstruction—instead brought in guestworkers to perform the labor. Soni described a hotel that was being paid by the government to

¹¹ Josh Eidelson, "Guest Workers as Bellwether," *Dissent*, Spring 2013.

¹² "The Future of Work, with Saket Soni," *Dissent*, April 18, 2014.

house displaced New Orleanians, staffed with guestworkers on H2-B visas being paid wages so low that many of them were doing day labor on the side to pick up extra money. According to Soni:

These workers didn't experience their visa or their legal status as a liberating and freedom-giving vehicle, that they were here legally and could work. They experienced the visa as a real ball and chain that connected them to the employer.

Guestworker visas tie the worker to a particular employer—if they are fired, they can also be deported. This means that organizing is even more fraught; though these workers may not have built a home here as have immigrant workers, they often depend on the money they make in the States to support families back at home. As a result, the employers who bring them in have an additional method of control over the workers they employ.

And yet a guestworker program has been part of the conversation around immigration reform in the U.S. for the last decade or so. Businesses want the ability to bring in cheaper labor when they need it and send the workers home when they are no longer wanted. Nobody, Soni noted, asked guestworkers what they thought. “The U.S. doesn’t have an immigration problem,” he said. “The U.S. has an economic situation where most employers have enough incentive to hire the most exploitable workers in the low-wage economy.” Just because the workers have the legal right to work in the country doesn’t mean they’re safe.

In 2011, a month before Occupy Wall Street took off, workers at the Hershey Chocolate Factory in Pennsylvania sat down and occupied their factory, in a move reminiscent of the historic sit-down strikes of the 1930s. Those workers were there on a different type of guestworker visa, a J-1, which they were told meant they would be on a cultural exchange program. “There is no cultural exchange, none, none,”

said Zhao Huijiao, a twenty-year-old international relations student in the program, speaking to the *New York Times*.¹³ “It is just work, work faster, work.”

Those students had paid money to obtain their visas, but what they got in the U.S. was a backbreaking job with layers of subcontractors pleading innocence when they complained. Yet in Hershey, they got lots of support from locals, who blocked traffic outside to support their strike. As part of their demands, the workers asked that when they left, the jobs be returned to local Pennsylvania workers.

“Somebody told them in their home country that they were going to experience American culture, and they did,” Soni said.

“Independent Contractors”

The layers of subcontractors insulating the ultimate beneficiary of the workers’ labor aren’t just a problem for guestworkers. Increasingly, workers born in the U.S. are also working for staffing agencies and subcontractors, and are being told they are “independent contractors” rather than employees. Employers manage to avoid being held responsible for working conditions by blaming someone else, or by keeping workers so confused about who is the boss that they are unable to make complaints at all. “Those CJ’s workers are no longer an exception to the rule, they are an extreme version of the rule,” according to Soni.

The U.S. has a long history of excluding certain workers from labor protections. Farmworkers and domestic workers, at the time both majority-African American workforces, were left out of the New Deal labor protections put in place in the 1940s. Over time, the conditions

¹³ Julia Preston, “Foreign Students in Work Visa Program Stage Walkout at Plant,” *The New York Times*, August 17, 2011.

of those excluded workers have spread to more and more sectors of the workforce. The NGA's work aims to make this point clear, arguing that if we don't care about the most exploitable workers, their conditions will end up our conditions.

The NGA's targeting of Walmart, McDonald's, Hershey's, and other big-name companies serves two functions: first, of course, it's easier to make headlines with a major corporation as part of the story, but second, it is part of the strategy for "bargaining with the one-tenth of one percent," cutting through all those layers of protective subcontractors in order to hold accountable the very profitable companies and their ultra-rich executives, the richest of the rich ("the one percent," deriving from the Occupy Wall Street slogan "we are the 99 percent").¹⁴ It's a strategy that calls attention to the extreme inequality that Americans are increasingly angry about.

With the newly seated Republican Congress, it's unlikely that any type of immigration reform will pass in the next two years, so in addition to bringing the voices of guestworkers to the immigration conversation, the NGA is focusing on improving conditions right now.

The State Department has overhauled the J-1 visa program that the Hershey's workers used, though they have not always been able to prevent future abuses, and NGA has joined other organizations in calling for executive-level action from President Obama on immigrants' rights.¹⁵ In the summer of 2014, the NGA and other organizations launched a campaign against blacklisting in the seafood industry. Workers who complain about working conditions are often prevented from getting future guestworker positions, giving their bosses yet another tool to keep them compliant. The NGA is calling on employers to sign a Forced Labor Prevention Accord, ensuring workers' rights to make complaints about conditions.

NGA is also working on partnerships with existing labor unions, the Ironworkers and the UFCW, to protect guestworkers working on offshore oil rigs or seafood processing plants and to organize them alongside local workers, with an understanding that if labor standards fall for guestworkers, they will fall for everyone. It is creating a network of affiliates, the New Worker Network, that will organize guestworkers alongside other contingent workers in an attempt to wash away some of the historical barriers that divide them.

Community Victories: Carwasheros and Grocery Store Workers

Before the Fight for \$15, before the first fast food worker walked off her job in New York City, community groups and labor unions were testing their partnerships by organizing immigrant workers in the city's car washes and grocery stores. These businesses are often small, rather than the mega-corporations targeted by the Fight for \$15 and the Walmart workers, and

their owners are often immigrants themselves. Yet in many ways, they were the testing ground for the organizing campaigns that have taken the media by storm in recent years.

Car washes in the Los Angeles area were some of the city's most abusive employers. A report by the *Los Angeles Times* found that "hand car-

¹⁴ Sarah Jaffe and Michelle Chen, "Belabored Podcast #50: The Future of Work, with Saket Soni," *Dissent*, April 18, 2014.

¹⁵ Julia Preston, "State Department Revises Foreign Student Job Program After Abuse Complaints," *The New York Times*, May 4, 2012.

washes—automotive beauty shops patronized by tens of thousands of Southern California motorists every day—often brazenly violate basic labor and immigration laws with little risk of penalty.”¹⁶ Immigrant workers reported working only for tips, making less than minimum wage, and under constant threat that their bosses would have them deported if they complained. They worked with harsh chemicals, often without gloves or protective gear. After the investigation, the UCLA Labor Center picked up the issue and worked with the United Steelworkers union and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) who then announced that they would begin organizing car wash workers.

In 2011 they announced their first success: workers at the Bonus Car Wash in Santa Monica won a union contract.¹⁷ Two more car washes won unions the following year, joining the United Steelworkers. AFL-CIO President Richard Trumka prominently celebrated their victories, calling them historic.¹⁸ As of February 2015, the campaign had unionized 27 car washes.

The union funded a worker center known as CLEAN—Community-Labor Environment Action Network—with paid staff organizers, English instruction, training programs, and of course, help for workers who want to file labor complaints.

New York’s car wash campaigns were also funded by a union—in this case, the Retail, Wholesale and Department Store Union (RWD-SU)—and mostly carried out by a coalition of community organizations, including Make the Road New York and New York Communities for Change (NYCC). In this relationship, the com-

munity groups bring expertise in organizing immigrants and building a base among people of color, while the unions provide the funding and the workplace organizing experience.

These coalitions can be uneasy, as researchers have noted in the past. When the union holds the purse strings, it can expect and even demand results that the community organization may not be able to create, and unions in the U.S. have long been hesitant to try experiments in organizing technique. As researcher Ben Shapiro noted, when the union attempts to dominate the community partner, organizing is less effective than when the two partners collaborate and each brings separate strengths to the table.¹⁹

The WASH NY campaign (Workers Aligned for a Sustainable and Healthy New York) paid off with union election wins for “carwasheros” at nine car washes in the city, union contracts at seven, and are currently at work on more. They have won millions in back wages for underpaid workers. They also have dedicated organizers, and have mobilized community supporters, faith leaders, and friendly elected officials like City Councilmember Brad Lander in Brooklyn to join their protests. The campaign is pushing to pass the Car Wash Accountability Act in the city council, requiring aggressive oversight of the industry because of rampant violations and a \$300,000 surety bond for owners of car washes against possible future abuses.

The Grocery Store Campaign

Similar to the car wash campaigns, the grocery store campaign emerges from a partnership between NYCC and Local 338 of the RWD-SU/UFCW, aiming to win union contracts for workers but utilizing community organizing

¹⁶ Sonia Nazario and Doug Smith, “Workers getting soaked at Southland carwashes,” *The Los Angeles Times*, March 23, 2008.

¹⁷ Sam Quinones, “Carwash workers celebrate union contract,” *The Los Angeles Times*, Oct 26, 2011.

¹⁸ Lila Shapiro, “Car Wash Workers Unionize in Los Angeles,” *The Huffington Post*, Feb 23, 2012.

¹⁹ Ben Shapiro, “Organizing Immigrant Supermarket Workers in Brooklyn,” in: Ruth Milkman and Ed Ott (eds.), *New Labor in New York: Precarious Workers and the Future of the Labor Movement*, Ithaca: ILR Press, 2014.

techniques to succeed. Targeting small, independently owned grocery stores that are often owned by immigrants who pay their newer immigrant workers “under the table” or off the books, the campaign aims to clean up a whole industry.

Unlike most cities in the U.S., neighborhoods in New York’s outer boroughs still have many independent grocery stores, and the workers at them often labor in deplorable conditions. Winning NLRB elections is difficult when workers are undocumented and vulnerable to threats of deportation. In some groceries, management offered raises to workers in exchange for dropping the demand for a union. In others, management suddenly scheduled elections with a different union on the ballot (one they presumably judged to be friendlier to their position).

Similar to the fast food strikes, these campaigns were most effective when they targeted an industry and involved the community with pressure tactics. In Brooklyn, at the Golden Farm supermarket, repeated community boycotts, often with lively picket lines featuring marching bands and local officials giving speeches in support, pressed owner Sonny Kim to make a deal. (At one such rally, Kim taunted the workers on the picket line as they marched.) Brian

Pickett, a community member who joined the actions, wrote:

[T]he campaign has brought many people in the neighborhood out of our houses and into the street (and each others’ homes) where we have started to build towards a sense of community that is inclusive and grounded in a common sense of justice. We are local people taking local action in mutual support of each other and for the well-being of the entire community.²⁰

After a multi-year campaign pressuring Golden Farm, the workers finally got a union contract in 2014.

Similar campaigns have also used lawsuits over wage theft and other unfair labor practices to bring pressure on employers, and pushed for legislation on the city and state level, particularly to change the car wash industry. These kinds of comprehensive campaigns utilize every possible tactic to get employers to sign contracts.

With victories at these smaller businesses—the kinds of employers that often claim that they cannot afford to pay better wages—the path has been laid for a similar campaign on a national level that would take on much larger companies like McDonald’s, which would have a much harder time pleading poverty.

Driving to Strike: Taxi Workers, Uber Drivers

The New York Taxi Worker Alliance (NYTWA) held its first one-day strike shortly after its formation in 1998. The young organization demonstrated its power in a city that is deeply dependent on cabs as part of the complex transportation infrastructure that allows over eight million people to maneuver within a few square miles, and it is this power that has made

it one of the most visible of the new brand of worker organizations.

As *Labor Notes* Editor Mischa Gaus points out, the taxi drivers occupy a unique space, operating in some ways like a worker center and

²⁰ Brian Pickett, “A Union Grows in Brooklyn,” *The Independent*, June 29, 2012.

in other ways like a more traditional union.²¹ Their strike power, demonstrated once again in 2007 when the drivers resisted GPS tracking systems in their cars, has helped make them a formidable opponent in negotiations with the city, despite being a workforce made up of so-called “independent contractors” with no legal right to collective bargaining.

Understanding what it means to be an independent contractor is key to understanding the taxi workers’ organizing. Like other industries (most notably trucking), neoliberal restructuring of the taxi industry in the late 1970s shifted drivers from employee status to contractor status, shifting more of the costs of doing business onto the drivers. These days, drivers sometimes own their cab and medallion (the license to operate the cab, regulated by the city), but more often either lease both the cab and the medallion from a garage or own their cab but lease the medallion from a broker. Because the city limits the amount of medallions that exist, but allows them to be sold without regulation, their prices have skyrocketed, and many drivers find themselves stuck in the worst of both worlds, shouldering the costs of their labor while also having to answer to a boss who demands to be paid back.

The Taxi and Limousine Commission transitioned the cab drivers to “independence” in 1979. Interestingly, an early fight waged by the NYTWA was against a bill in the New York City Council that would have returned the drivers to employee status, suggesting that there’s something drivers value about their independence, even if they have been better than many independent contractors at waging collective action. The alliance still only represents 15,000 out of 50,000 drivers in New York, not a majority but certainly a larger percentage of the workforce than most other worker centers can claim.

21 Mischa Gaus, “Not Waiting for Permission: The New York City Taxi Workers Alliance and Twenty-First Century Bargaining,” in: Ruth Milkman and Ed Ott (eds.), *New Labor in New York*, op. cit.

Because New York City’s transit ecosystem relies on cabs, the alliance has been able to negotiate with the city and make gains for drivers through the city government. The taxi workers, like many of these other non-union organizing groups, engage in a kind of collective bargaining through action.

As Gaus writes, they have “shifted their demands to the state to win benefits that their employers will not (or cannot) provide.” This has included winning fare increases, of which the majority goes to drivers as opposed to owners. The most recent was a 17 percent increase in 2012, aimed at giving the drivers a raise.²²

The NYTWA collects dues from its drivers, with the money going to pay for legal services and health services and allowing the alliance, unlike many worker centers, to be largely independent of the need to appeal to funders—either foundations, who support many of the organizations in this report, or other labor unions. This means they answer to no one but their members, and as such have the flexibility to pull off strikes and actions from which funders might shy away.

Joining the AFL-CIO

The Alliance may not be a union, but in 2011 it was granted a union organizing charter by the AFL-CIO in a rare move by the federation to accept a non-traditional organization. This marked a recognition by the AFL-CIO that it has become harder and harder for workers to organize through the NLRB model, and that new and innovative ideas are necessary. Before that, the New York City Central Labor Council invited the NYTWA to join it in 2007. Bhairavi Desai, the executive director of the now-National Taxi Workers Alliance, currently sits on the AFL-CIO’s executive council.²³ According to Desai:

22 Matt Flegenheimer and Michael M. Grynbaum, “Taxi Fares in New York to Rise by 17%,” *The New York Times*, July 12, 2012.

23 Laura Flanders, “Bhairavi Desai of Taxi Workers Alliance

We are a union if a union means a group of workers banding together to stand up for dignity on the job and to use their collective power then we are a union. What we are not is under the labor laws a collective bargaining agent because as independent contractors, we don't have that right.

It's worth noting that Desai is a woman leading an organization in a workforce that is 97 percent male. As sociologist Ruth Milkman points out, this is also a common feature of many of today's new worker organizations: many of them are led by relatively young women of color.

The taxi drivers, also like many other excluded workers, are largely immigrants who face the challenges of U.S. immigration law on top of their struggles in the workplace. Like those other excluded workers, they have made fights for racial justice—particularly against the discrimination faced by many South Asian and Middle Eastern immigrants in New York since 9/11—central to their mission.

It's not all wins for the drivers—this year, a NY State Supreme Court decision gutted the health care fund that the drivers had won in 2012.²⁴ But they continue to push forward, in October 2014 securing the passage of the Taxi Driver Protection Act in the New York City Council, which will require the posting of stickers in each taxi, liv-

ery, and for-hire vehicle in the city notifying that “Assaulting a Taxi or Livery Driver Is Punishable Up to 25 Years in Prison.”²⁵

Notably, this bill includes drivers for new app-based car services like Uber and Lyft. The NY-TWA pushed for their inclusion. And those drivers in what's been deemed the “sharing economy,” but is more appropriately called the “gig economy,” are growing increasingly restive. In October 2014, Uber drivers had their first concerted labor action, with drivers in at least five cities turning off their app and refusing to work in protest of a cut to their pay and working conditions.²⁶ Drivers and supporters held rallies outside of the company's Santa Monica offices. The organization that pulled together the action, the California App-based Drivers Association (CADA), backed by the Teamsters union, formed this year in Los Angeles. As of this writing, Uber has refused to meet with the drivers.

Desai said that the Uber drivers face the same conditions (and are often the same workers) as those in cabs, and are using the same organizing model. “Taxi drivers, like Uber drivers, have been very invisible,” she said. “We've really broken through that by having mass actions on the street and work stoppages, and that's the same model that the Uber driver movement is utilizing.”²⁷

Not on the Menu: Restaurant Opportunities Center

The Restaurant Opportunities Center grew out of organizing being done in the wake of 9/11 by workers at the restaurant that had been located atop the World Trade Center. Windows on the World was a fine dining restaurant that prided itself on its diverse immigrant staff, and

73 of those workers were killed when the towers came down.²⁸

Elected to AFL-CIO Executive Council,” *The Nation*, Sep 16, 2013.

24 Michelle Chen, “How New York's Taxi Drivers Lost Their Health Insurance Fund,” *The Nation*, April 28, 2014.

25 Michelle Chen, “Do You Realize How Dangerous It Is to Drive a Taxi?” *The Nation*, Oct 24, 2014.

26 Rebecca Burns, “The Sharing Economy's 'First Strike': Uber Drivers Turn Off The App,” *In These Times*, Oct 22, 2014.

27 Ibid.

28 Alexander Eichler, “Former Windows on the World Employees Become Advocates for Fair Treatment of Service Workers,” *The Huffington Post*, Sep 9, 2011.

While most restaurant workers don't have union representation, the majority of these workers had been members of the Local 100 of the Hotel Employees and Restaurant Employees Union (now part of UNITE HERE). With support from HERE, Fekkak Mamdouh, one of the surviving, now jobless Windows workers, co-founded the Restaurant Opportunities Center of New York (ROC-NY) with Saru Jayaraman, who is now executive director of ROC United, a separate, national organization.

ROC-NY uses a three-pronged strategy to pressure the restaurant industry to clean up. It targets bad employers, using a combination of worker organizing in the restaurant and actions designed to draw attention to its labor practices, as well as bringing legal complaints around issues like discrimination (gender or race-based) and wage theft. It partners with and promotes "high road" employers, those who treat their workers well, pay decent wages, offer sick days, and still manage to provide an excellent restaurant experience. And it advocates for policy changes that would affect the restaurant industry and restaurant workers (or low-wage workers more broadly).

Like many other worker centers and non-union worker groups, ROC-NY punches above its weight class, boasting a relatively small membership (especially in New York, a city with over 200,000 restaurant workers by ROC-NY's own estimates) of 5,500 or so restaurant employees.²⁹ It works in coalition with other worker and community organizations on campaigns like the one for paid sick days in New York, a battle that took three years, or its current fight to abolish the sub-minimum wage for tipped employees, which allows employers to pay workers who make tips less than the regular minimum wage. It also provides training for workers, particularly for those who want to move up the job ladder within a restaurant but find that they are passed over time and again for new

²⁹ ROC-NY, Our History, www.rocny.org.

hires, and political education around the gender and racial discrimination and harassment that often happen in restaurant work. (Restaurants are often segregated by race and gender, with workers of color in the "back of the house" or the kitchen, and white male workers getting the highest-paid serving jobs.)

A campaign, which is taking place as of this writing, highlights the way ROC has included an intersectional approach to its challenges to working conditions in restaurants. A series of "Not on the Menu" rallies links sexual harassment (by customers) to the tipped minimum wage, pointing out that when women servers rely on tips to get by, "you are forced to tolerate whatever a customer might do to you, how they touch you, treat you, or talk to you. Because the customer is always right. Because the customer pays your income, not your employer," said Jayaraman.³⁰ More than a third of all sexual harassment charges filed with the Equal Employment Opportunity Commission come from women who work in restaurants.³¹

Going National

After successes in New York, Jayaraman and Mamdouh founded ROC-United, a national umbrella for local ROCs in cities around the country (New Orleans, Miami, Boston, Philadelphia, and several more). Those ROCs have led workplace drives and advocacy campaigns in local cities that have, on occasion, included strikes, like the one at Fat Salmon sushi in Philadelphia.

In her recent book, *Behind the Kitchen Door*, Jayaraman called for restaurant customers to pay as much attention to the working con-

³⁰ Jana Kasperkevic, "I'm not on the menu: Restaurant workers speak out against harassment," *The Guardian*, Oct 15, 2014

³¹ Saru Jayaraman, "Tipped Over the Edge: Women in the U.S. Restaurant Industry," *The Shriver Report*, Jan 16, 2014.

ditions of their server and chef as they do to the condition of the steak or tomatoes on their plate. She encouraged patrons to ask about pay and let restaurant managers and owners know that working conditions factor into their decision about where to eat.³² Consumer activism can be a powerful tool when combined with worker action, and it has helped turn ROC targets like Mario Batali into members of its high-road roundtable.

But this form of activism can also be limiting. Like many other non-union worker organizations, ROC has relied on foundation funding to replace the base of worker dues that support unions. This means that organizing plans have to please wealthy donors as well as low-wage workers. It can subtly tilt an organization's work toward advocacy on behalf of workers rather than organizing driven by those workers.

ROC has not shied away from confrontational tactics, however, and has drawn the ire of some pretty big enemies. There's even a website run by a prominent business lobbyist that is devoted entirely to "exposing" ROC.³³

ROC has had its own internal tensions as well. When Jayaraman and Mamdouh left ROC-NY

to form ROC-United, the organization was originally conceived as an umbrella for relatively independent local groups. Recently, though, the national organization moved to centralize operations within ROC-United. ROC-NY, meanwhile, resisted. Rather than merge with ROC-United, the New York organization preferred to stay independent. "[W]e also believe in the importance of preserving local grassroots organizations that are led by workers and are accountable to their members," the ROC-NY Board of Directors wrote in a letter posted on the organization's website.³⁴

Both organizations appear to be pushing forward, despite the split. This spring, ROC-NY held its first "high road restaurant week" to draw attention (and business) to restaurants that do well by their employees. New York elected officials and the New York City Restaurant Industry Roundtable joined the worker organization to hold events on issues facing restaurant workers. ROC-NY and ROC-United continue to release reports and run campaigns pressuring the restaurant industry and pushing for legislative wins. The tensions within the organization, though, are reflective of ongoing questions for worker centers and other non-union worker organizations—and indeed for major unions as well.

Selling Us Short: Retail Action Project

Along with food service and home health care, retail sales is one of the occupations expected to add the most jobs by 2022.³⁵ In New York City alone, there are over 300,000 retail workers, and their average wage is just over \$13 an hour.³⁶

Retail workers face many of the same conditions that fast food and restaurant workers contend with: uncertain scheduling, low wages, no benefits, and an expectation that they are working short-term transitional gigs, as opposed to career-track jobs that require liv-

32 Saru Jayaraman, *Behind the Kitchen Door*, ILR Press, 2014.

33 Steven Greenhouse, "Advocates for Workers Raise the Ire of Business," *The New York Times*, Jan 16, 2014.

34 "A Letter from the ROC-NY Board of Directors," ROC-NY, www.rocny.org.

35 Bureau of Labor Statistics, Occupations with the Most Job Growth, www.bls.gov.

36 Peter Ikeler, "Infusing Craft Identity Into a Noncraft Industry: The Retail Action Project," in: Ruth Milkman and Ed Ott (eds.), *New Labor in New York*, op. cit.

ing wages and full-time hours. Also like those workers, few of them are members of unions.

The Retail Action Project (RAP) was launched in 2005 as an independent worker center backed by RWDSU and community organization Good Old Lower East Side (GOLES) specifically to address the concerns of workers in this industry in a more holistic fashion rather than shop by shop. Its work began in the SoHo neighborhood of New York, which is densely packed with retail shops. While doing outreach in the neighborhood, organizers found workers at the Yellow Rat Bastard clothing stores making less than minimum wage, and particular abuses being heaped on the stores' immigrant stockroom workers.³⁷

Using the wage and hour violations as a cornerstone, RAP filed a lawsuit and accompanied the legal work with rallies and community pickets—until the owner of the stores did something unthinkable: he offered the workers “card check” recognition. This meant that rather than going through a prolonged NLRB election, the workers could join RWDSU if a majority of them signed union cards.

The success was great, but RAP realized quickly that it would be incredibly difficult to change conditions store by store in this fashion, and shifted to a strategy that concentrated on industry wide conditions. To do that, it drew on the “occupational unionism” model perhaps most familiar to readers from the building trades, providing workers with skills training and organizing them around their common identity as retail workers rather than around a particular shop. Its work has aimed to turn retail work into something to be proud of, and to change the perception that retail jobs are mostly done by teenagers.

RAP has also focused on campaigns that tackle particular structural conditions in the indus-

try, issuing research reports that highlight the precarious nature of retail work and drawing public attention to press for change. This year, for example, it published *Short Shifted* with Stephanie Luce of the Murphy Institute for Worker Education and Labor Studies at the City University of New York (CUNY), a report on unstable, just-in-time scheduling and “lean” production techniques as applied to retail, and paired it with its “Just Hours” campaign alongside labor, community, and faith allies for fair scheduling that allows workers adequate time to prepare and gives them enough work for them to be able to pay the bills. The report noted that since 2003, the number of involuntary part-time workers (those who would prefer full-time but were held below that level by bosses) has more than tripled.

The report further noted that some 62% of retail workers were women, and 21% were people of color. This adds another level to this work—like other worker centers, RAP understands that race and gender discrimination plays a role in the treatment that the workers it organizes face on the job. Its answers are not one-size-fits-all.

The report featured stories from RAP members like Modesta, who said that her job at Armani Exchange, a relatively high-end retail-clothing store, gives her shifts that max out at five and a half hours. According to retail worker Sonsira Espinal:

With such short shifts, sometimes I feel embarrassed to ask if I can stay and work for a couple more hours. I would rather have a job with a stable schedule instead of juggling two part-time jobs [...]. It's like you're signing your life to the devil but the devil isn't helping you in any way at all.³⁸

The endless stream of workers who need jobs means that these retail outlets can fill their stores with part-time workers, never coming

³⁷ Ibid.

³⁸ Sarah Jaffe and Michelle Chen, “Belabored Podcast #47: Retail Hours, Wholesale Injustice,” *Dissent*, March 28, 2014.

close to the threshold that would require them to provide benefits like health insurance, and requiring more and more flexibility of those workers. By drawing attention to these conditions in retail, RAP also succeeds in highlighting them across the workforce.

This is, as mentioned before, a strength and a weakness. Ruth Milkman, a sociologist at CUNY who edited a volume on “new labor” groups in

New York,³⁹ told me, “[m]any of these groups have been more successful on their sort of ‘air wars’ than on their ‘ground wars.’” In other words, she explained, “[a]ll of them have become highly skilled at figuring out how to shine a bright light on abuses and to get public attention, sometimes legal attention, sometimes media attention, to the issues, that turns out to be a lighter lift than actually organizing workers in a sustained way.”

Who Cares? Home Care Workers after Harris v. Quinn

In September of 2014, 60 percent of the home health care workers in the state of Minnesota voted to form a union, becoming that state’s largest existing collective bargaining unit (there are 27,000 home care workers in Minnesota).

The workers’ vote to join the Service Employees International Union was significant also because these workers were acting in the aftermath of a Supreme Court decision that was a direct attack on the power of home health care workers’ unions. In *Harris v. Quinn*,⁴⁰ written by conservative Justice Samuel Alito, a George W. Bush appointee, the court created a special designation of “partial public employees” for these care workers, whose labor is paid for by the state through programs like Medicaid, but who work in the homes of individual clients, allowing elderly people or people with disabilities to remain in their homes rather than to be institutionalized. These workers are 90 percent female, many of them immigrants and women of color, and their field is one of the fastest-growing jobs in the country. They make an

average of \$9.50 an hour.⁴¹ As labor organizer and author Jane McAlevey wrote:

*Harris v. Quinn unites some of the most toxic trends in American labor tradition. It resurrects the worst of the 1935 National Labor Relations Act, the racially motivated, sexist concept of “excluded workers,” and then joins it with one of the worst provisions of the 1947 Taft-Hartley Act, the so-called “right-to-work” legal framework which attempts to gut unions from the inside-out.*⁴²

The decision was an attack, funded by the richest of rich right-wing businesspeople, on the right of public sector workers to organize at all, and that it was only partly successful meant, as usual, that only the most vulnerable workers got hit.

Sumer Spika, one of the Minnesota home care workers, who had been working for six years with no sick time, no health insurance or benefits of any sort, and occasionally relying on food stamps in order to feed her family, and who kept organizing despite the court’s deci-

39 See Ruth Milkman and Ed Ott (eds.), *New Labor in New York*, op. cit.

40 For more on this issue, see also Nancy Folbre, “Who Cares? A Feminist Critique of the Care Economy,” August 2014, Rosa Luxemburg Stiftung—New York Office, www.rosalux-nyc.org.

41 Sarah Jaffe, “Why Harris and Hobby Lobby Spell Disaster for Working Women,” *In These Times*, Jun 30, 2014; “More Hurdles for Home Care Unions,” *The New York Times*, Oct 1, 2014.

42 Eileen Boris et. al., “After Harris v. Quinn: The State of Our Unions,” *The Nation*, Jul 2, 2014.

sion, explained why organizing is so difficult for these workers:

It's a little different than in a hospital where everybody goes to the same break room. In home care it's very isolated, so we had to [hold large rallies and actions] in order to reach other home care workers and tell them what we were doing and the changes we wanted made.⁴³

Excluded from New Deal-era Labor Protections

Because, as McAlevey noted, home care workers and other workers whose labor takes place in a private home were excluded from New Deal-era labor protections, the process by which home care workers were able to unionize at all has been a complicated one. First it requires changing the law in states like Minnesota and Illinois, where *Harris v. Quinn* began. Once the workers are designated public employees by law, they then have to go through a normal NLRB election process, made more complicated by the fact that, as Spika noted, they don't have a collective workplace in which to organize.

The case made by Pamela Harris, the Illinois home care worker backed by the anti-union National Right To Work Legal Defense Foundation in her lawsuit, was that she was simply caring for her severely disabled son in her home and that she wanted neither the government nor a union interfering in that private business. Except the state already was involved, because it was issuing her a paycheck for that work, work that saves the state money by allowing people to stay at home.

As Jennifer Klein and Eileen Boris wrote in their book, *Caring for America: Home Health Workers in the Shadow of the Welfare State*, home health care as a job was actually created by the state during the Great Depression as a work-relief

program that had the twin aims of providing care and providing work for poor women.⁴⁴ In recent years, the aging population and a move away from institutionalization, as well as a rising movement of people with disabilities, has seen spiking demand for home care workers, and with that demand, increased attention to their working conditions. Unions like SEIU and the American Federation of State, County and Municipal Employees (AFSCME) have been successful in moving to bring them into unions.

Yet they remained an easy target for the "right-to-work" crowd. Boris pointed out that the association of this kind of labor with Black women and slavery on one hand, and with intimacy and dirt on the other, has led people to consider it a different kind of work. "What we have here is a location, the home, that we have all kinds of ideological notions about. The work that is done is very similar with hospitals, with nursing homes, with other institutional locations," she said. "It has been long-term care on the cheap because of paying the workers less."⁴⁵

Harris v. Quinn does not take away the home care workers' right to organize, a point that Spika highlighted. Instead, what it does is take away "fair share" fees that are paid to the union by workers like Harris, who do not want to be members of the union even though they are covered by its collective bargaining agreement. This kind of attack aims to starve unions of funds, presuming that if workers don't have to pay to get the benefits of the union, most of them will choose not to. In response, unions have to go out of their way to make sure workers sign up to voluntarily pay dues—internal organizing work that Jane McAlevey and Harvard law professor Benjamin Sachs said can actually make unions stronger.⁴⁶

⁴³ Sarah Jaffe and Michelle Chen, "Belabored Podcast #60: Whither Market Basket?" *Dissent*, Sep 5, 2014.

⁴⁴ Eileen Boris and Jennifer Klein, *Caring for America: Home Health Workers in the Shadow of the Welfare State*, Oxford University Press 2012.

⁴⁵ Sarah Jaffe and Michelle Chen, "Belabored Podcast #38: Caring for America, with Eileen Boris and Jennifer Klein," *Dissent*, Jan 24, 2014.

⁴⁶ "Belabored Podcast #56: The Post-*Harris v. Quinn* Fu-

At present, less than a third of the nation's three million or so home care workers have union representation, and the union-busting crowd is looking to make sure that number goes down—the National Right to Work Legal Defense Foundation filed another suit in Minnesota, aiming to weaken Spika's union.⁴⁷

But Spika and her colleagues aren't giving up the fight. "In Minnesota we have overwhelming support from home care workers, it's not going to stop us. We're going to continue to move forward and fight for better lives for ourselves and our families and most importantly our clients."⁴⁸

Making All Other Work Possible: National Domestic Workers Alliance

When Ai-Jen Poo received a MacArthur Genius Grant in fall of 2014, it was only the latest acknowledgement of the remarkable success that the executive director of the National Domestic Workers Alliance has had in bringing attention to her cause. Poo and her organization have also been remarkably successful at articulating the way that domestic workers' conditions are a feminist issue, and attracting support from major foundations and celebrities as well as the mainstream labor movement.

Domestic Workers United was founded in New York in 2000; it became apparent to Poo while she was doing work with women who had survived domestic violence that their economic situation was often the decisive factor in whether they could escape abuse. She noted, "As a paid form of work, it's often being done by immigrant women or women of color. Society has devalued that work over time, and we think that that has a lot to do with who's done the work."⁴⁹ In 2007, she moved to the national organization, pulling together a network of do-

mestic worker organizations that have pressed for change around the country.

Poo is the public face, but the movement is much bigger than one woman. "I knew that my voice was bigger than that of the park bench," said nanny Allison Julien, who was part of DWU's six-and-a-half year campaign for passage of the first Domestic Workers Bill of Rights in New York State.⁵⁰ Domestic workers, along with farmworkers, were deliberately left out of New Deal-era labor protections, in large part because the workers who did those jobs were mostly Black. She lobbied state legislators, explaining the significance of the work they did for the state's economy, and brought the stories back to those other workers on the park bench to expand the campaign. "So many times we work in isolation and nobody sees us, nobody sees us pushing the stroller or cleaning the house or taking care of the elderly, we're often seen as the invisible workforce," she said.

But once we started organizing and legislating for the Domestic Worker Bill of Rights, it became clear that it wasn't just ten of us or twenty of us. Here in New York it's estimated that there's over 200,000 of us, that's a lot of people not to see and a lot of voices not to hear.

ture, with Benjamin Sachs and Sumer Spika," *Dissent*, Jul 11, 2014.

47 "More Hurdles for Home Care Unions," *The New York Times*, Oct 1, 2014

48 "Belabored Podcast #56: The Post-Harris v. Quinn Future, with Benjamin Sachs and Sumer Spika," *Dissent*, Jul 11, 2014.

49 Sarah Jaffe, "Low Benefits, Temporary Jobs: An Interview with Ai-Jen Poo," *AlterNet*, Aug 28, 2012.

50 Sarah Jaffe and Michelle Chen, "Belabored Podcast #63: Domestic Workers on the Move, with Allison Julien," *Dissent*, Oct 16, 2014.

Julien says that the Bill of Rights has made it easier for her to negotiate with employers to maintain a 40-hour workweek, but many of those workers in the state, four years after the bill's 2010 passage, still don't know about it and can't take advantage of it. "Once you're in a job it's hard to engage in these conversations without there being a level of retaliation, even though we know the law does protect against retaliation," she said. "It's still a very hard terrain to undo the culture which has been learned, passed down for so many years. We're talking about centuries of this work being isolated and not seen as real work."

While four states have now passed Bills of Rights for domestic workers thanks to pressure from NDWA-affiliated groups, "rights" remain an individualized framework. They were achieved through collective action of organized workers, perhaps, but enforcing them requires the individual worker whose rights are being infringed to report her conditions, and thus to challenge her employer. Particularly for domestic workers who live in the home that is also their workplace, this is an incredibly intimidating thing to do.

Challenge to Feminists

Domestic work has also been a challenging subject for many feminists, whose vision of liberation for women through work outside of the home was often achieved on the backs of other women who did the labor in their homes. As Barbara Ehrenreich wrote, "In their homes, the politics of housework is becoming a politics not only of gender but also of race and class, and these are subjects that the opinion-making elite, if not most Americans, generally prefer to avoid."⁵¹

51 Barbara Ehrenreich, "Maid to Order," in: Barbara Ehrenreich and Arlie Russell Hochschild (eds.), *Global Woman: Nannies, Maids, and Sex Workers in the New Economy*, Holt Paperbacks, 2004.

One way around navigating the messy politics of paid domestic labor has been to think of domestic workers as "part of the family." Home care workers, as explored above, are indeed sometimes being paid to care for members of their family, but most domestic workers hired in private homes are not—they are caring for the children of strangers, cleaning up after strangers, subject to sometimes very strict rules and controls on their behavior. As Sheila Bapat details in her book, *Part of the Family?*, domestic work has roots in slavery as well as women's unpaid housework, and the pretense that a worker who lives in a private home and works there is "family" often serves to mask exploitation.⁵²

NDWA and DWU have partnered with the employers of domestic workers both to get legislation passed and to educate employers after that legislation has passed; Hand in Hand is one organization of employers of domestic workers to come out of this work. Yet to organize these workers and to collect their stories is to hear tales of horrific abuse, treatment too bad to be excused as the employers not knowing better. As Julien noted, retaliation is a reality for many of them. A 2012 national survey of domestic workers conducted by NDWA found that 36 percent of workers were verbally harassed on the job, and 31 percent of live-in domestic workers reported no access to private means of communication such as a telephone or email.

DWU and other organizations have been willing to challenge bad bosses through direct action, particularly through rallies, pickets, and information campaigns at the homes of particularly bad bosses, aiming to shame them into treating their workers better and to show domestic workers that they have support in standing up for their rights. Legal action against abusive

52 Sheila Bapat, *Part of the Family: Nannies, Housekeepers, Caregivers and the Battle for Domestic Workers' Rights*, Ig Publishing, 2014.

employers, including challenges to diplomatic immunity for those diplomats who mistreat their domestic workers, is also part of the struggle.

“I don’t believe that collective bargaining is far-fetched” for domestic workers, Julien said. But it has been hard, outside of the successes of home care workers who are jointly employed by the state, to create a framework by which domestic workers can act collectively to pressure employers. For now, less formal means to bring collective pressure to bear on an employer have had to suffice, and DWU in particular

has experimented with organizing in neighborhoods, after the passage of 2010’s Bill of Rights in New York, to make sure domestic workers are aware of the bill.

Finally, NDWA has joined with Jobs With Justice, SEIU, AFSCME and other groups to create the Caring Across Generations campaign, an attempt to organize caregivers and care recipients around the issues of America’s aging population and the need for good caregiving jobs in the future. The goal of Caring Across Generations is to revalue caring work and in doing so, to create a more caring economy.

Conclusion: The Future of Work

The future of work, in many ways, is already here, and it looks very much like the not-so-distant past. In the U.S., we have been coming to grips with the fact that the brief period of stability and good wages that built the vaunted American middle class is gone, and furthermore, that it never existed for a great many workers. Today’s workforce is more fragmented and contingent; it gets fewer benefits from jobs and is more dependent on government support. Unemployment remains high and wages are decoupled from productivity.

The working conditions that immigrant workers, women, and African Americans faced a hundred years ago are now the reality even for many historically privileged white men. Many of those excluded, ignored, or forgotten workers are now at the forefront of the labor movement, challenging labor institutions that grew complacent in the postwar era to look at the way their own prejudices left them ill-equipped to deal with the way work in this country has been changing. The intersectional approach taken by many of today’s labor orga-

nizations, which brings an awareness of racism and sexism, and of the particular exploitation faced by immigrant workers, stems from an understanding that if we do not help the most exploited workers, we will all find ourselves in their situation.

In this economy, Saket Soni of the National Guestworkers Alliance notes, the adjunct professor and the agricultural worker are both working for piece rate—just like the garment workers who famously struck in New York over a hundred years ago. A PhD is no longer protection against the increasing casualization of labor. Cross-sectorial solidarity is no longer a nice gesture from privileged workers to those less well off: it is a necessity.

The new low-wage workers’ movements are not focusing on just one workplace, not solely negotiating for their own personal benefit. They are not content simply to let the future of work happen to them. They are, as Soni says, bargaining with those at the top, and at their best, they are aware that labor is at

its strongest when it is fighting for the entire working class.

Though many of the groups discussed in this report are focused on a particular sector or type of worker, they are increasingly working together to help workers have a say in their conditions.

The United Workers Congress (formerly the Excluded Workers Congress) was formed in 2010 at the U.S. Social Forum in Detroit, and includes restaurant workers (ROC United), guestworkers (NGA), domestic workers (NDWA), day laborers, formerly incarcerated workers, welfare and workfare workers, and more. NGA, Jobs With Justice, and National People's Action have come together to collaborate on a campaign around organizing and policy strategies that address the failures of the current political economic system to protect contingent workers. They are combining innovative ideas like the "bad boss tax," a proposal to claw back money that the state spends on services for low-wage workers from the companies that pay those wages, and putting together long-term plans to build a social safety net that, unlike the one built in the postwar era, is constructed around universal benefits not tied to a particular workplace.

Their "Future of Work" project includes an acknowledgement that automation and outsourcing have helped shape the way the U.S. workforce looks today, but unlike most of the politicians and commentators who talk breathlessly about robots taking our jobs, they are aware that the workplace is a site of struggle and that the economy is shaped by political forces. Political power and power in the workplace are both necessary in order to carve it into a shape that works for all.

That's why the low-wage workers' movements pressure the boss and the state at once; they push legislation as well as make demands on the job. In part, this is necessary because the

workers who are part of any one of these campaigns or worker centers represent at most a small fraction of the people who labor in these jobs nationwide. This is a serious challenge that these campaigns face: in a time of high unemployment, many workers are still too desperate and too afraid to speak up, to take action, to risk the job that feeds their family.

Another challenge is funding. For real change to happen, these workers' movements must present a serious threat to capital. Labor unions have been unwilling to do this in recent years; they've been more likely to talk about their "value proposition" than to threaten to shut a workplace down.⁵³ Even more risk-averse are philanthropic foundations, which are after all funded by the very same wealthy people whose position would be endangered if there were a serious shakeup in the structure of American society. It is easy for the wealthy to talk about helping the unfortunate and the exploited. It is more difficult for them to admit that they will have to give up some of their wealth in order to actually create the more equal society they profess to want.

An open question for labor in the U.S. is whether it will continue its mostly one-sided relationship with the Democratic Party. Labor backed Barack Obama for president in 2008 in hopes that he would sign into law the Employee Free Choice Act, a bill that would make it easier for workers to join unions, but Obama threw his weight behind healthcare reform and labor found itself hung out to dry. Republicans declared open war on unions when they swept 2010's midterm elections, but Democrats have been more than willing to go along. The November 2014 election was a debacle for Democrats, but around the country, even in supposedly conservative states like Arkansas and Alaska, low-wage workers' issues were winners. The minimum wage went up in four states thanks

⁵³ Sarah Jaffe and Molly Crabapple, "The History of Scabby the Rat," *Vice*, March 7, 2013

to ballot initiatives; San Francisco became the second city (after Seattle) to enshrine \$15 an hour as the minimum wage under law. Paid sick days laws were passed by voter initiative in the state of Massachusetts and in cities from New Jersey to California.

Workers' issues are more popular, in other words, than either political party—the margin of victory on paid sick days was considerably wider than that in the governor's race in Massachusetts (60 percent of the vote for paid sick days versus barely 50 percent for Republican Charlie Baker) and in the Senate race in Arkansas (65 percent for the minimum wage versus 56 percent for Tom Cotton). Carl Lipscombe of NGA says that part of their goal for the next two years is to make sure that contingent work, wages, and inequality are major parts of the debate for the 2016 election, but it is an open question as to whether Democrats will break with the big donors (Walmart was a huge supporter of Mark Pryor, the Democrat who lost

his Senate seat to Cotton in Arkansas) they need to fund big campaigns.

Still, the workers continue to fight, to attract new supporters, and to make sure that it is impossible even for well-paid pundits to ignore their struggles. In recent months, home care workers organized with SEIU joined fast food workers on strike in committing civil disobedience and demanding a \$15 an hour wage. Walmart workers also added the \$15 an hour wage to their demands, and held their first sit-down strike in California Walmart stores, after which action they marched to the ports of Los Angeles and Long Beach to join port truck drivers on strike.

These workers are waging offensive battles at a time when too much of labor, too much of the Left, has been stuck playing defense. They are helping to bring Americans' attention back to the subject of inequality—and this is precisely what is needed today.

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