

Building a New Social Contract at Work:
A Call to Action¹

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Who works and how we work have changed dramatically in recent years, yet the policies and institutions governing work and employment remain mired in the world of work of the 1930s. As a result, the social contract—what we expect from and are accountable for at work—has broken down. The central challenge of our generation of industrial relations professionals is to update these policies and institutions to create and support a new social contract capable of meeting the needs and expectations of the workforce, economy, and society of the 21st century.

The above statement captures why the IRRA dedicated this past year to a discussion of how to “Rebuild the Social Contract at Work.” There is a fundamental mismatch between today’s workforce and workplace and the institutions and policies that support and govern them. As a consequence, both the workforce and economy are held back from reaching their full potential and there is a growing gap between the winners and losers in society. Our generation of industrial relations professionals will be judged by whether or not we are successful in updating these policies and institutions in ways that give workers and employers greater control over their destiny.

We have been talking and writing about these issues in many different forums over this past year, including the IRRA’s first National Policy Conference held in Washington last June, at regional, state-level, and local chapter meetings, and in a parallel set of sessions sponsored by our MIT Task Force on Labor Market Institutions. The features of the “old social contract,” the pressures that caused it to break down and the challenges this poses to society have now been widely aired and so I will only summarize these points briefly here to set the stage for taking the next step in this debate. The main points emerging from these discussions can be summarized as follows:

1. The old social contract grew out of the images of work and employment relations that were prevalent during the New Deal era. Work and employment was envisioned as a long term relationship between a large firm competing mostly in an expanding domestic market involving two

¹ Draft text of Presidential address to the 52nd Annual Meeting of the Industrial Relations Research Association. Support for this work from the Edna McConnell Clark Foundation, the Alfred P. Sloan Foundation, the Ford Foundation, the Rockefeller Foundation, and the U.S. Department of Labor are gratefully acknowledged. Many of the ideas expressed here reflect the joint work with my colleagues and students at MIT and the participants in the Task Force on American Labor Market Institutions. I am particularly indebted to Robert McKersie and my fellow coordinators of this project Paul Osterman, Michael Piore, and Richard Locke. I remain responsible, however, for the views expressed here.

types of employees, hourly wage earners and salaried managers, with a spouse at home attending to family and community matters.

2. The policies and institutions that were put in place and evolved out of the New Deal were generally successful in producing a broadly shared prosperity and improved quality of work for the majority of Americans. Wages and benefits improved in tandem with rising productivity and profits, loyalty and good performance on the job were rewarded with increased security, dignity, opportunity, and savings for retirement. The combination of collective bargaining, professional personnel/human resource management, and government regulations created a dynamic that resulted in incremental expansion and diffusion of comprehensive benefits, employment standards and protections, and systems for fair administration and enforcement of workplace policies.
3. Over time the New Deal images of work became outmoded by globalization of markets, emerging technologies that created both new businesses and shifts in demand for labor and the organization of work; organizational restructuring that displaced senior and white collar workers; variation in employment types and uncertainty in employment duration; increased diversity in the workforce, and; increased interdependence between family and work responsibilities.
4. As a result, the old social contract has given way to a long period of stagnant real wages, increased inequality of income and wealth, falling health and pension coverage, increased perceived and real job insecurity, decline in union coverage, increased litigation and conflict over government regulations and their enforcement, increased polarization between business and labor on core values and issues, and a sustained impasse over labor policy.
5. At the same time, there is considerable good news to report. Innovations in how work is organized are spreading gradually to more workers, knowledge workers—those with high skills--are doing well in today's labor markets, the sustained macro economic growth and tight labor markets are now producing modest improvements in real income and job opportunities for low income workers, labor management partnerships are helping some unions and companies adapt to their changing circumstances, and flexible employment arrangements and practices are helping some families and employers integrate family and work responsibilities.

But this is the ground we have already covered. I want to use this occasion to move this discussion forward in two ways. First, I want to outline what I have learned in exploring these issues with colleagues around the country and propose an institutional and policy framework for reconstructing a social contract that allows working families

and employers to regain control over their destiny at work. Indeed, many of elements of a new policy and institutional framework can be already be seen in the large number of innovative efforts underway in different settings around the country. If past American traditions are true to form, it is out of these local experiments and innovations that the next generation of institutions and policies will emerge. But to date these are still islands of innovation. To move them to a scale that benefits our overall society and economy will require leadership and support from national policy makers and professionals in all parts of our field. Second, I want to challenge our profession, and our national leaders to move from passive analysis to active advocacy for putting the future of the social contract at work at the top of the nation's agenda. To do so we have to reframe our approach to these issues, bring new voices into the discussion, and offer new ideas capable of breaking the twenty year stalemate America has endured over labor and employment policy issues.²

The Social Contract as a Metaphor

Throughout our discussions, I have used the social contract as a metaphor to help reframe this debate. By the social contract I mean “*the expectations and obligations that workers, employers, and their communities and societies have for work and employment relationships.*”³ I believe this concept serves as a useful metaphor for our efforts because its philosophical underpinnings captures the central concern of workers and employers today and reflects the best values of our profession.

The concept of a social contract has its roots in the philosophy of Hobbes, Locke, Rousseau, and Rawls.⁴ It was originally developed to address the relationship of the citizen to the state—long before the industrial revolution created the modern employment relationship. Hobbes saw citizens as ceding authority to the state in return for protection and security but his was a dismal view of the state of nature. He saw man as surrounded by a hostile world, in need of state protection. Locke and Rousseau had more positive views of the world that were grounded in a more democratic perspective of the relationship between citizens and the state. Locke in particular argued that individuals need to create a government to extend these democratic rights into civil society. He further suggested a social contract required the consent of the governed—citizens could disavow or overthrow the government if it violated their rights or “broke” the social contract. Rawls emphasized the need for a social contract to contribute the good of society—a just society. He also stressed the role institutions play in supporting a just and efficient social contract. To him justice and efficiency (the latter term defined broadly to

² For an more complete discussion of these points see the summary of the IRRA's First National Policy Forum in Perspectives on Work, vol. 3, no.2, December, 1999.

³ Thanks are due to the Task Force on Labor Market Institutions Working Group on the Social Contract and the Corporation for crafting this definition of the social contract.

⁴ I am indebted to Arnold Weber for reviewing the intellectual development of this concept at the Chicago Regional IRRA Forum on October 22, 1999. For specific selections of these philosophers' writings on the social contract see Samuel Freeman, (ed.) Collected Papers of John Rawls, Cambridge, MA: Harvard University Press, 1999 and John Somerville and Ronald E. Santoni (eds.) Social and Political Philosophy: From Plato to Gandhi, New York: Anchor Books, 1963.

mean the efficacy of the norms, structures, and laws for achieving the common good) are the criteria for judging the quality of institutions.

Applying these political philosophies allows us to return to first principles by asking what meaning we attach to work and employment relationships today, what values should they be grounded in and seek to achieve, and what responsibilities the parties to employment relationships have to each other and to the larger society. This metaphor reminds us that work and employment should be a *voluntary relationship*, one *mutually agreed upon* and that over time have processes and procedures that ensure continued “*consent of the governed*.” Each party to the employment relationship has *responsibilities to each other and to society*. Therefore an employment relationship cannot be viewed as it has come to be in today’s “winner take all” economy as solely a two-party instrumental exchange focused on only narrow self-interest of the individual worker and his or her individual employer. Work and employment must contribute to a good society for all, however we define that term. For a social contract to be meaningful it must also be *enforceable* in some sense so that each party can be held accountable for keeping its part of the understanding.

By the term “contract” we imply not just the legally enforceable terms of an employment agreement but also the broad norms and expectations that we hold for work. Some of these may be codified in laws and regulations but many more are subjective principles and expectations that we bring to work as professionals, family members, and community citizens. Finally, an uniquely American approach to the social contract reflects our highly decentralized traditions—*we must focus on providing the parties closest to the workplace the rights, power, and capabilities needed to control their own destiny at work*. This was the genius of the New Deal legislation providing for collective bargaining—what one of our distinguished predecessor presidents, Milton Derber, described the American model of industrial democracy.⁵ Basic labor legislation would establish the floor that should apply to all workers and then collective bargaining was envisioned as a tool for workers and employers to build on and gradually raise this floor in ways that fit each particular employment setting.

We have allowed our unique American institutional approach to workplace relations to erode and atrophy. Indeed, collective bargaining is only a shadow of its original vision and stature, now covering less than one in seven workers in America. And the workplace is awash in specific workplace regulations, most of which are sensible and important in their own right, but some are not well suited to the variety of employment settings found in the economy, some conflict with each other, and some are out of the reach of enforcement to the average worker, let alone those most in need of protection.

We also have ceded responsibility for improving working conditions and living standards to the macro-economy. Thank God for the near decade long sustained prosperity the American economy has enjoyed for it is only the tight labor markets of the

⁵ Milton Derber, The American idea of Industrial Democracy, 1865-1965. Urbana: University of Illinois Press, 1970.

past several years that have been successful in helping improve the lives of those near the bottom of the income and occupational ladder and those moving from welfare to work. In some respects, the macro-economic policy makers have bailed out our profession. But we cannot assume the macro-economic boom will do the job for us forever. At some point we need to give parties at the workplace the tools to regain control over their destinies. Let us turn now to this task.

Starting Points: A Holistic View of Work and its Role in Society

A new social contract must be grounded in a clear vision of what members of society expect from work. What must we achieve at work to contribute to a good society and where does work fit into the larger set of institutions that constitute a modern, information based, global economy? Figure 1 lays out a multi-dimensional, holistic view of work that I would propose as a framework to evaluate the quality of the policies and institutions supporting and governing work. The first dimension focuses on work as a source of personal dignity, respect, identity, and social interaction. The traditions of our profession, and indeed, the deep value we place on democracy in our society, lead us to add voice to this dimension. For employment relations to meet our expectation of “consent of the governed” the parties to the relationship must be able to participate in and influence, individually or collectively, the conditions of their work. The second dimension recognizes that work has an important economic function—it must provide workers and their families security and the ability to improve their standards of living and it must serve the economy by producing quality goods and services efficiently. And finally, the third dimension recognizes that work is embedded in a larger society and shares scarce time and institutional space with family, community, and citizenship responsibilities. Indeed, a key part of the change in the nature of work and the workforce lies in the increased interdependence between family, community, and work roles and responsibilities, a fact that must feature prominently in the design of new institutions and policies.

If work has these multiple dimensions, then the institutions and policies that govern and support it must be held accountable for addressing each of them and their interrelationships. Too often our old institutions drew lines between these different aspects of work. Unions focused on improving the economic dimensions of work; employers took primary responsibility for shaping the workplace culture and designing and coordinating work to achieve maximum productivity and quality. And workers were expected to separate their family, community, and citizenship responsibilities from their jobs through a division of labor within the family unit. But if these dimensions are becoming more interdependent today all institutions at work must attend to these interdependencies.

Abstract philosophies and models such as those outlined above are fine. But to be true to the problem centered and problem solving traditions of our field we must be able to translate these ideas into concrete policies and institutions. This will be a long and difficult process. I don’t pretend to have all the answers for what the new policies and institutions should be. Indeed, each of us should be working these ideas out for

ourselves. So, what follows, is perhaps best viewed as my own work in progress, a sketchy blueprint will undoubtedly change through the course of the debates that occur at meetings like this and many to come in the years ahead.

The New Employment Institutions

Historically, our field has organized its analysis of the institutions governing employment relations around three key “actors”—employers, government, and labor, broadly defined to encompass both workers themselves and unions that may represent them. Typically, these actors are seen as operating in an environmental context defined primarily by exogenous market and technological forces.⁶ This convention still serves us well. Indeed, I have used this general model, or modifications of it, for most of my professional work. However we need to make two additional modifications to shape the employment institutions of the future. We need to add a fourth set of actors—the growing number of labor market intermediaries and community groups and organizations that help structure labor markets, work, and address the interdependencies of work and family life today. And we need to envision markets (labor, product, and financial) and technology not as totally external exogenous entities but as socially constructed parts of the institutional structure itself. To be sure, markets and technologies are influenced by many factors outside of work and employment. But it is precisely because we have allowed these forces to remain outside of our intellectual thinking and institutional design that we have lost control over our destinies at work. We need to think how changes in markets and technologies can be harnessed to help achieve the full range of objectives the different parties bring to work and employment relationships.

Finally, we need to see these as *complementary* not *competing* institutions. To be sure, we continue to accept the normative premise that parties can and do have some enduring conflicting interests and that there need to be effective means for making tradeoffs when different interests are at stake. But we also need to recognize all the actors or parties and institutions are interdependent. None alone can achieve the full range of outcomes required from work. Markets alone do not produce equity and leave many goals unachievable. Employers, acting unilaterally or singly, cannot produce the personal dignity, community, or economic security and improved living standards expected from work. Government policy is too rigid an instrument to address the varied circumstances of modern employment settings. Unions and other labor market institutions by definition must engage the other actors to represent their members and to add value in society. Labor market intermediaries and community groups lack the presence inside the employment relationship to give voice and power to workers or the contextual knowledge needed to effectively manage workplace relations. So in what follows, I want to present the outlines of a theory of complementary employment institutions, each with distinctive functions but engaged constructively with each other to together meet the needs of the contemporary workforce and economy. But, as we will see, each of these institutions will need to recast its role and image and its relationships with the others.

⁶ For the classic exposition of this model, see John T. Dunlop, Industrial Relations Systems. New York: Holt, 1958.

A Multiple Stakeholder View of Firms

Ever since the New Deal, American firms have been assigned two competing responsibilities—to serve as agents for shareholders by maximizing shareholder wealth and to meet a series of (growing) responsibilities as the key unit around which employment policies are built. These dual responsibilities have always been difficult to balance, and emphasis on each has risen and declined at different points in time. Unions and collective bargaining grew out of the New Deal to give a powerful voice to workers' interests. From the 1960s onward, society expanded the range of employment standards and human rights for which firms would be held accountable. Then over the past two decades as unions declined and government receded, the shareholder maximizing role of the firm has risen in influence, dominated analytical discourse, and focused managerial behavior.⁷ Paradoxically, just as pressures from shareholders have intensified, so to have human capital, knowledge, and learning come to be recognized as more critical strategic assets and organizational processes. And, to complicate matters further, these dual pressures come at a time when the boundary of the firm appears to be becoming increasingly uncertain and blurred as organizations restructure to find their “core competencies” and contract with other organizations in their value chain or networks for other necessary services and resources. If the number of firms characterized by unstable organizational boundaries, and uncertain tenure continues to grow, the locus of responsibility for employment policies may need to shift from the individual firm to the network of labor market institutions across which employees are likely to move over the course of their careers. Individual firms will then need to be more open to participating in a network of institutions that support and govern employment practices and opportunities, just as these same firms now are with respect to their networks of suppliers and vendors.

The range of interdependencies outlined above among shareholders, employees and their union representatives, government agencies responsible for enforcing workplace regulations, and labor market institutions suggest that if we are serious about creating a new social contract in today's environment, we have to shift political discourse and organizational analysis to conceive of firms as having multiple stakeholders to which they owe a fiduciary and social responsibility. This means accepting the view that employees who share residual risks by investing their individual and collective human capital should have a right to participate in the governance of the firm.⁸ It also means accepting the reality that firms as employers will be held accountable for meeting the goals society sets for employment standards and human rights at work and for working cooperatively with external labor market institutions. The task then is to design institutional forums and processes for allowing these multiple stakeholders (in this case managers, employees, government agencies, and external labor market institutions) to work effectively together to achieve these multiple objectives. Given the uncertainties facing firms and their legitimate needs for flexibility and adaptability, these arrangements

⁷ Michael Useem, *Investor Capitalism*, New York: Basic Books, 1996.

⁸ See Margaret Blair, *Ownership and Control*. Washington, D.C. The Brookings Institution, 1994; Margaret Blair and Thomas A. Kochan (eds.) *The New Relationship: Human Capital in the Corporation*. Washington, D.C.: The Brookings Institution, forthcoming, 2000.

need to be decentralized and well informed of the needs of the different stakeholders that share an interest in these outcomes.

How might this be done? The labor policies of the New Deal envisioned collective bargaining as the central (essentially the sole) instrument for engaging and resolving worker and shareholder interests. This view was based on a theory of countervailing power—management’s strategic decisions regarding how to allocate the firm’s resources would be held in check by unions empowered to negotiate over the impacts of these decisions on wages, hours, and working conditions. While collective bargaining (and the threat of unions and collective bargaining on non-union employers) performed well in structuring and adjusting a social contract that achieved a broadly shared prosperity from the 1940s through the 1960s, as a sole instrument, it has not been able to cope with the changes encountered in markets, technologies, workforce demographics, and employer structures and practices since then. As a result, these past two decades have been a period of both tumultuous decline in collective bargaining coverage, and significant innovation in firms and unions that are struggling to adapt to these changes. The innovations largely take the form of more flexibility in work organization and employee participation in problem solving at the workplace and greater information sharing, consultation, or in some instances formal representation in strategic management decisions and corporate governance. In their most developed forms we have tended to call these “labor-management partnerships. They certainly aren’t perfect, nor are they a panacea, but they are the best ideas we have going at the moment. As our former President Lynn Williams put it, “the problem with labor-management partnerships is we just don’t have enough of them.” Therefore we need to continue to study and practice how to make these work and to understand their limitations while supporting and encouraging them in public policy, public discourse, and in our varying roles as professionals in this field.

These partnerships have proven most difficult to sustain in settings where the boundary of the firm is unstable, as it is in an increasing number of settings where technological changes and uncertain markets and emergence of new narrowly focused competitors make it difficult to assure employment security.⁹ Because there are so few partnerships, and the basis for them is limited, we need to look for other institutional structures as well. The biggest problem lies in how to substitute for the partnership model in non-union or weakly unionized firms. Management culture (which abhors power sharing unless necessary), labor law (which limits such arrangements), and lack of employee power to influence strategic levels of decision making all rule out this option at the present time. There are no easy answers to this problem and it may be the biggest institutional design challenge we will face in the upcoming years. In keeping with American tradition, we will need to experiment with new options that bring the full range of voices into the process.

⁹ I am indebted to Richard Locke for emphasizing this point. See also, Saul Rubinstein and Charles Heckscher, “Partnerships or Alliances: Alternatives or Complementary Models for Labor Management Relations?” Rutgers University School of Management and Labor Relations, 1999.

Experimentation is especially needed and possible to envision at the interface between government and firm responsibilities for achieving the goals embodied in workplace regulations. On the one hand, the increased variety of employment settings make standard, uniform regulations inefficient and, from the standpoint of the individual firm, inflexible instruments for achieving the goals society has set for these policies. At the same time, many leading firms are implementing practices that go beyond minimum government standards. One option would be to encourage firms, working together with their employees (and unions) to develop workplace institutions capable of internalizing responsibility for adapting and enforcing employment policies to fit their particular circumstances in return for gaining greater flexibility from government agencies over how they meet these policy objectives. Indeed, a number of government agencies are already trying to experiment with this type of an approach. The Occupational Safety and Health Administration (OSHA) is perhaps the lead example. I will return to this idea in more detail later when discussing the role of government in this new institutional structure.

In settings where the boundary of the firm is unstable and firms can no longer make a reasonable promise (tacit or real) of long term employment security, the locus for employment policy and institution building needs to move from the worksite and the individual firm to the labor market and the network of institutions that facilitate mobility. This implies that individual firm becomes but one participant in a network of organizations and institutions capable of facilitating mobility, matching people to jobs efficiently, and sharing responsibility for investing in human capital and monitoring and improving employment standards.

This too will require significant institution building, but again the process is already underway. The variety of labor market intermediaries i.e., groups and organizations that operate outside the boundaries of individual firms, is expanding rapidly. I will discuss their roles in more detail later. The challenge is to build stronger alliances and collaborative relationships among these institutions and among firms participating in these labor markets.

Next Generation 'Unions'¹⁰ and Professional Associations

Before discussing the role of unions in this new institutional framework, let's deal with some basic issues. Unions are just as necessary and valuable today and in the future as they have been in the past. This is a deep value shared not only by members of this Association, but by the majority of the American public and by many leaders in the business community as well.¹¹ Unions provide a critical service to a democratic society as well as to their individual members. America is now paying the price for allowing union

¹⁰ Credit is due to Amy Dean for first coining this term.

¹¹ Gallup poll surveys and many other surveys continue to report that a majority of Americans continue to agree that unions are valuable institutions in society...cite the specific question and numbers. For a statement on the importance of unions to a democratic society jointly written by a group of leading business and labor leaders, see the most recent report of the Collective Bargaining Forum, "Principles for New Employment Relationships," Perspectives on Work, vol. 3, 1, 1999, 22-29.

representation to fall to such low levels. No task is more important to our profession, and indeed to American society, than building the next generation labor organizations. The good news there is an enormous amount of innovation and internal debate taking place within the labor movement today over how to achieve this objective. This bodes well, not just for the future of the labor movement, but for American society.

Unfortunately unions have an image problem and a strategic challenge. Workers, employers, and the public in general, and indeed, many union leaders, see unions as primarily defensive organizations to be called on for help only when a majority of workers in a specific bargaining unit distrust the employer sufficiently to engage in the high risk, high conflict battle needed to achieve union recognition and a collective bargaining contract. To be sure, unions need to continue to provide protection against arbitrary treatment at work. But the next generation unions must address the full range of dimensions included in Figure 1. They must focus on enhancing dignity, voice, social interaction, economic security, productivity, and family and community responsibilities. Serving this broader set of objectives requires that unions have a positive vision of their roles. And this positive vision must become the central reason why employees join, participate in, and retain their membership in the next generation unions, not whether or not they distrust their present employer.

Figure 2 illustrates the multiple purposes I believe the next generation unions need to carry out for American workers and society. Space and time allow only a brief listing here.

1. Collective bargaining will remain a bedrock role for unions. But, it may be only one of an increasing array of services provided, and it may be that not all union members will want, need, or have access to collective bargaining as we know it today. To remain focused on defining unionism synonymous with gaining collective bargaining status as it is structured today is neither consistent with the historical traditions of American unions¹² nor responsive to the stated preferences of a majority of the unorganized workforce.¹³ To do so will only lead to further union decline.
2. Given that over 70 percent of American workers want a direct voice at work,¹⁴ the next generation unions need to champion and support direct employee involvement and participation on the job to enhance worker learning, contribute to improved productivity, quality and customer satisfaction, and to build a workplace culture that satisfies employees' expectations for voice, respect, and social interaction at work.

¹² Dorothy Sue Cobble, "Historical Perspectives on Representing Non-standard Workers," in Francoise Carre, et al., Non-Traditional Work Arrangements and the Changing Labor Market, Madison, WI: Industrial Relations Research Association, forthcoming, 2000.

¹³ Worker surveys and opinion polls have been consistent on this point for many years. For the most complete recent documentation and analysis of worker preferences for participation and representation on the job see Richard B. Freeman and Joel Rogers, What do Workers Want, Ithaca, New York: Cornell University ILR Press, 1999. See also the various polls conducted for the AFL-CIO by Peter Hart Associates.

¹⁴ See the data reported in Freeman and Rogers and the Peter Hart poll cited above.

3. Unions will need to engage corporate decision-makers at the strategic level where the real power resides and the critical choices are made that shape employment outcomes and long term prospects. In some cases this means forming partnerships with individual employers as discussed above and as we have seen in the household names like Xerox, Levi Strauss, AT&T and its numerous off-spring, Corning, Saturn, Kaiser Permanente and others. But note, as this list suggests, these do not always last forever. In case where the boundaries of the firm are uncertain (e.g., Levi's, AT&T and its off-spring,) unions will need to rely on other devices such as sharing information on working conditions in the full supply chain or building networks that cut across firm boundaries to coordinate efforts at a community or industry level. In still other cases, this will require amassing the knowledge and resources needed to engage the investor community or international financial agencies with capital investment and development strategies that work for the workforce as well as the investors. Given that the level at which capital allocations and other strategic choices are made is where the power lies, we cannot expect unions to do well in representing workers unless they too are active at this level. To do so requires new skills and knowledge as well as new strategies.
4. If the firm is declining in centrality, the local community and political affairs will grow in importance. The Webbs were right.¹⁵ As they predicted over one hundred years ago, government enactment and community participation are growing in importance for unions. If macro-economic policies, and increasingly, international macro financial and trade policies are growing in importance, then unions will need to strengthen their ability to influence decisions and events at these levels. But equally important, if local community and labor market mobility are important, unions will need to become more important actors at this level as well. This is what the living wage campaigns are all about. Unions will need to continue working in coalition with community groups to make this role successful.
5. If job security is more uncertain, workers' ability to move at low cost across employers becomes a more critical source of bargaining power and career security. For some workers, exit will be as important a source of bargaining power as voice inside the firm is for others. Unions of the future will need to provide the full array of labor market mobility services—networks of contacts and job opportunities, portable pensions and benefits, education and skill accumulation and life-long learning, and perhaps other personal legal and financial assistance as well. If the locus of social interaction and identity from work is shifting from the workplace to the occupation, unions need to once again become occupational community building entities, much like the garment unions did in helping immigrants assimilate and make their way in a foreign environment during the early years of the 20th century.

These different functions may not necessarily be performed by the same organizations. There might be specialization—core competencies if you will. Some unions may choose to organize in traditional ways relying on traditional employee motivations while new organizations, professional associations, networks, etc. grow up

¹⁵ Sidney and Beatrice Webb, Industrial Democracy. London: Longmans, 1897.

that recruit, represent, and service members in new ways. I believe this would be a second-best solution. But if this is the case, then there must be active strategies for linking and cooperating across these different boundaries and mutual respect among and support among the different organizations in the network—unions, professional organizations, others yet to be named or invented. Or we might see the labor movement as the hub of a wheel that coordinates the work of different groups.

For this vision of the next generation unions to become a reality at least three things need to change. First, unions need to expand the ways they recruit and retain members. They need to recruit individuals and stay with them over the course of their careers rather than limit their organizing to the high stakes, all or nothing 50 percent majority it now takes to get one new member. The union-member relationship should be like that of a university student-alumni—once a member, a member for life. The fact is that there are nearly twice as many *former* union members in the labor force as there are *current* members.¹⁶ Second, substantial change in labor law will be needed to make it possible for unions to play these different roles effectively, a point I will return to later. Third, American management culture will need to change significantly to accept the simple idea that workers should have the same freedom of association at work as they have in civil society.

If unions adopt this more positive vision and these varied approaches and are accepted as legitimate participants in labor market, workplace, and community affairs, America would be well on its way to ensuring the next generation unions find their rightful place in the economy and society of the future.

Labor Market Intermediaries and Community Organizations

By the term labor market intermediaries, we mean the full range of groups and organizations that operate outside the boundaries of individual firms to support the mobility of workers across jobs and the matching of workers to job opportunities, coordinate employers and or labor-management joint efforts, provide training and educational services, or advocate worker and/or family and community concerns. This is an illustrative, not exhaustive list designed to make two simple points. The variety of intermediaries is expanding and their importance as labor market institutions is growing, ranging from temporary help firms, to recruiters in Silicon Valley and other tight labor markets, various family and work advisory services, cross-firm consortia, public and private training programs, and a host of new web-based information services.

Equally impressive is the growth in the number and range of community groups and organizations engaged in promoting worker interests in community politics and worker advocacy activities. Here the boundary between “unions” and other groups gets increasingly blurred. The more than forty living wages ordinances achieved through

¹⁶ Peter Hart and Associates, 1998 poll reports 28 percent of the non union work force were union members a some prior point in their careers.

coalitions of labor organizations and community activist are a prime example.¹⁷ So too are the new roles that central labor councils like the one in Silicon Valley that runs the gamut from being a temporary help service to a training and education center to a political mobilizing force. Indeed, a key challenge for unions and community organizations lies in developing sustained coalitions that both last beyond any single political campaign and that transition to on-going sources of power and support inside employment relationships.

It may seem ironic to be arguing, as I am here, that in today's "global" world, the local community and labor market will become a more important arena and institutional environment for shaping work in the future. But this is exactly the locus in which family and work responsibilities are joined, where most dual-career couples search for opportunities in tandem with their partners, where opportunities for life-long learning can be created and utilized most fully, and where the all-important social and professional networks are formed and sustained. Our history of policy and institutional innovation has strong local and state-level roots. We would do well to learn from this history and invest heavily in building and supporting the local community level infrastructures needed to give the future workers and employers greater control over their destinies.

Government as a Labor Market Institution

Government is sometimes viewed as a constraint on or an alternative to the market or private institutions. American political culture has always emphasized a limited role for government in private affairs, and especially in private employment relationships. Therefore, the vision for government that grew out of the New Deal was for it to set minimum standards on a limited set of basic employment rights and then set the rules of the game for the parties' efforts to improve on these minimums and expand into new areas as their interests and circumstances warranted.

This is a necessary, but not a sufficient, image or role for government as an actor in the labor market of the future. Instead, government, and most important, government leaders, also need to have a clear vision and active strategy for building and supporting the innovative capacities of the complementary, private institutions discussed here.

The consensus starting point for government policy in working with both market forces and local institutions is to support education and training—life-long learning opportunities for all workers.¹⁸ Education, skills, and human capital are essential foundations for getting ahead in the labor market today.¹⁹ Knowledge is a both a critical asset for individual firms and for the overall economy and a source of power in the labor market. Government's unique responsibility is to provide the resources to support early

¹⁷ "Giving Life to a Living Wage," Faith Works, Newsletter of the National Interfaith Committee for Worker Justice, Chicago, Illinois, October/November, 1999. See also, Louis Uchitelle, "Minimum Wages, City by City," The New York Times, November 19, 1999, p C1.

¹⁸ See the emphasis placed on education and training in the Secretary of Labor's 1999 Labor Day report, Futurework, <http://www.dol.gov/dol/asp/public/futurework>.

¹⁹ For a recent review of the evidence showing increased returns to human capital, see Frank Levy, The New Dollars and Dreams, New York: Russell Sage Foundation, 1998.

childhood and basic education, and work in tandem with other business and labor to encourage and support investment in life-long learning for adult workers throughout their careers. If government leaders share the vision for the new institutional framework proposed here, they need to provide incentives and resources to workplace and labor market education and training programs which worker, employer, and relevant community representatives govern jointly. Nothing would better ensure that scarce public resources are put to use in building *general human capital* grounded in the skills needed in the local markets while at the same time creating an incentive for these different stakeholders to work together on a collaborative basis.

A second role for government is also rather traditional, setting the floor on employment standards and enforcing the basic human rights Americans expect at work. What rights to include in this list and at what level these standards should be set will continue to be key political issues, in the best sense of that term. But whatever standards are included and wherever the minimum floor is set, government must take a number of additional steps if it is to serve as a catalyst for innovation and a complement to what private actors are already doing to promote these objectives.

Government policy must be informed by what the best of private firms, unions, and other institutions are doing to address these objectives. This requires both an active research and analysis capability and active involvement of professionals advising and consulting to provide input to policy making and especially to its administration. This was the legacy of John R. Commons and his approach to employment policy administration.²⁰ It was the right approach then, and it is the right approach today.

As suggested earlier, government should look for opportunities to provide more flexibility in how the parties achieve labor policy objectives to those employers and workplaces that have the institutional capacity in place to do so and a record of responsible behavior that justifies entrusting them with self governance/enforcement responsibilities. Now comes the tough problem. Just what institutional capacity is necessary? Does it have to be limited to where a traditional union is present? If so we limit the potential of this approach to a fraction of the labor force and reinforce the lines of demarcation across work groups that today's organization of work has rendered anachronistic. Moreover, it would freeze the institutional relations of the past along with the embedded adversarial culture associated with formal union-management relations. But to simply extend it to any workplace that claims to have any form of employee participation would not be responsible and would lack the legitimacy and independence workers expect and indeed require. So America needs a new institutional form that has sufficient independence and expertise and power to carry out these functions, is representative of the full range of employees covered by the regulations, and is accepted by both employees and managers as a normal part of the workplace culture and process.

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²⁰ John R. Commons, *Industrial Administration*. New York: Macmillan, 1923.

²¹ For various proposals for how to implement this approach to monitoring and enforcing workplace regulations, see David Levine, "They Should Solve their own Problems: Reinventing Workplace Regulation," pp. 429-74; Ray Marshall, "The Role of Management and Competitiveness Strategies in

Workplace safety and health provides the clearest opportunity for taking this approach since there are established performance metrics against which workplaces can be judged and the elements a comprehensive system for managing and monitoring safety and health are widely known and generally accepted. And a technically competent employee participation process is widely accepted to be a critical element in this system. Finally, in unionized settings the grievance procedure provides a channel for resolving disputes and claimed violations of worker rights and OSHA provides an appeal system for all workers, unionized or not. But these same criteria could be used to extend “self governance systems” to other employment standards’ areas wherever there are accepted verifiable performance metrics, knowledge of cause and effect practices that contribute to high performance, an effective established system for employee participation, and a system for resolving disputes or claims involving individual rights. Without meaning to limit the possible areas for experimentation, I would suggest family and medical leave, wage and hour (particularly overtime and compensatory time issues), and equal employment opportunity are especially well suited to different types of experimentation with this approach.

To make this approach work, significant expansions of the use of high quality alternative dispute resolution systems will be needed. There is already significant experimentation underway in the use of ADR (essentially mediation and arbitration) in resolving equal employment opportunity cases. Our field pioneered in the development of these techniques in labor-management relations. But the stature enjoyed by mediation and arbitration in this domain did not occur overnight. Instead, they earned the respect of the parties and the courts the hard way—they learned how to make these processes work in different settings. We need to now do the same with respect to the use of ADR techniques in the broader area of employment rights’ disputes. This might best proceed slowly and carefully, because there is tremendous potential for poorly designed systems or poorly trained neutrals to discredit ADR, to wit, the totally inadequate and unacceptable arbitration “system” used in the securities industry that gave rise to the Gilmer decision. In that model neutrals are not mutually selected or chosen, and employees do not voluntarily choose to use arbitration. Instead they must accept this proviso as a condition of employment. In short, the system is designed and controlled by the industry. We can do better and have, in the best traditions of our field, articulated a set of “due process protocols” that set minimum standards for these systems.²² At least one state agency, the Massachusetts Commission Against Discrimination, has now gained nearly three years experience using the principles embedded in the protocol and the

Occupational Safety and Health Standards,” pp. 499-512, and Thomas J. Schneider, “The Choice is Simple: A Strong Independent Labor Movement or Federal Government Regulation,” pp. 521-32, in Bruce E. Kaufman (ed.) Government Regulation of the Employment Relationship, Madison, WI: Industrial Relations Research Association, 1997. For my own suggestions on how to do this, see Thomas A. Kochan, “Labor Policy for the 21st Century,” University of Pennsylvania Journal of Labor and Employment Law, Vol. 1., 1998, pp. 117-30.

²² See Arnold Zack, “Bringing Fairness and Due Process to Employment Arbitration,” The Negotiations Journal, Vol. 12, April, 1996, pp. 163-69.

EEOC has likewise nearly a year of experience with a mediation program.²³ We need further experimentation with different approaches and most importantly we need to monitor and evaluate these programs rigorously.

Finally, no updating of national labor and employment policies will be complete, and the new institutional structure and strategy outlined here will not be possible, unless we restore the right for workers to choose whether or not to be represented by a union or some other organization. American labor law, and our inability to update it, is nothing short of a national disgrace. Study after study has documented the failure of labor law to provide workers with the means to implement what the international community has (correctly) described as a fundamental human right, the right to join a union.²⁴ And, the issues that need to be addressed to fix the documented flaws are likewise clear. Delays in processing elections must be reduced, strong measures are needed to eliminate discharges for union organizing and those that occur should be dealt with expeditiously and severely, and the ability to get a first contract when a majority votes for union representation must be ensured by arbitration if necessary. While I, along with many others, have specific views on how to address these and other problems with the law,²⁵ the specifics are clearly legitimate topics of debate. What should be unassailable is the need to address them.

But fixing the recognition process is only the beginning of comprehensive updating of our national labor relations policy. If we are to encourage and build on the new forms of employee voice and next generation unions suggested here, American labor law needs to support these alternative forms of participation and representation. If this is done on a contingent basis, i.e., limited to those settings in which the employer fully respects workers' freedom of association rights (to be specific, where the firm does not have a past record of or is not guilty of unfair labor practices when workers attempt to organize), we would create further incentives for employers to comply with this principle.²⁶ While these are new, and I recognize, controversial ideas, I believe they can work and fit into the American traditions of decentralized, flexible, and ultimately pragmatic workplace cultures and institutions. Like the changes in the representation process called for above, the specifics should open to debate, but there should be no serious debate about the need to update this part of national labor policy. Workers want to participate in decisions affecting their work; employers depend on significant worker input to improve quality, productivity, and customer satisfaction, these issues cannot be separated from working conditions or other issues the law reserves for collective bargaining, and changes in the law are needed for public agencies to implement self governance systems.

The final plank in a new role for government would be to promote building institutional capacity. The full arsenal of approaches need to be employed, including grants to local committees and organizations to develop their infrastructures and

²³ For an evaluation of the Massachusetts experiment, see Thomas A. Kochan, Brenda Lautsch, and Corinne Bendersky, "Massachusetts Commission Against Discrimination Alternative Dispute Resolution Program Evaluation," MIT Institute for Work and Employment Research, 1999.

²⁴ For a review of the evidence, see the Fact-finding Report of the Commission on the Future of Worker Management Relations, Washington, D.C.: U.S. Departments of Commerce and Labor, 1994, chapter 3.

²⁵ These are laid out in most detail in Kochan, "Labor Policy for the 21st Century."

²⁶ See Kochan, "Labor Policy for the 21st Century."

professional skills similar to the “New Directions” program used during the Carter Administration to support training of a cadre of industrial hygienists, to tax incentives for joint training funds to Presidential leadership aimed at building a new culture of legitimacy and collaboration among employer, labor, and community group leaders.

This last point—the need for presidential leadership—is especially important. If Franklin Roosevelt could provide the leadership needed to enact the New Deal labor policies and Ronald Reagan could usher in an era of aggressive managerial actions against unions by firing air traffic controllers, the next President can surely energize the country around an effort to support policies and institutions needed to build a new social contract based on the full range of human, economic, and social expectations and obligations we have for work today.

The New Institutions in Action

Just to show that this is not all “pie in the sky” abstract or utopian musing, let me illustrate how this new institutional framework might work with a concrete issue at the center of attention today: family and work policy and practice.

Family and work concerns provide the consummate example of why we need a new framework that links in a complementary fashion workplace, community, and public policy initiatives and engages in the full array of voices of employers, front line workers, union leaders, family advocates, community representatives and government policy makers. To illustrate this point, let me draw on an initiative started here in Boston’s IRRA local chapter last spring. In conjunction with the Labor Guild of the Boston Archdiocese and business, labor, and university co-sponsors, we held a conference to discuss how to “Build a Family Centered Labor Market Policy” for Massachusetts. The background research and case examples presented at that meeting demonstrated a tremendous amount is already being done to help high income, knowledge workers balance work and family responsibilities. But few of these firm-specific policies are being extended to lower income workers and families or to employees of small business. It was also noted that the formal policies on the “books” of firms are often underutilized because front line employees don’t “feel free” to use them for fear of the consequences for their future careers.²⁷ The research also showed that unionized workers are more likely to be covered by comprehensive family policies but less likely than non-union workers to actually use them. At the same time firms with advanced policies complain that formal government regulations conflict with or limit their ability to adapt policies to fit the specific needs of their workers. What is needed are workplace based participatory processes that change this workplace culture and build consensus on what arrangements best fit the varied needs of employees with different family responsibilities and the specific needs of the work, exactly the type of new institution called for above.

From the discussion at that initial meeting came a commitment to carry on an on-going dialogue and analysis that would build on what firms are doing and look at what

²⁷ For empirical evidence on this point, see Susan Eaton, [Integrating Work and Family in Firms of the Future](#), unpublished PhD Dissertation, MIT Sloan School of Management, 2000.

other workplace and community based arrangements might best complement and fill the gaps in what the “market” and individual large firms are doing. A broadly representative working group—composed of women and men from large and small businesses, labor, education, local and state government, the religious and university communities—is now meeting to see if a single text statement of principles can be produced and used for policy making and institution building within the state. While there is no guarantee this will be successful, it is one example of how we might proceed and what can be done, even in the current environment and legal setting.

Imagine, however, what might be possible if the ideological, legal, and institutional barriers that limit this approach were to be torn down and the new institutional arrangements called for here were in place. Workplace participation groups or committees could work to ensure the workplace culture supported use of the organization’s formal or stated policies without fear of the consequences for one’s career. These committees might be part of a larger council responsible for ensuring the objectives of public policies embodied in the Family and Medical Leave and other statutes are being met, albeit through specific practices or means adapted to fit the situation of that establishment and workforce. Individual firms, especially small firms, might be pooling their resources and working together with community groups and union leaders to ensure family and child care services are available to lower income workers and families. Union leaders would be promoting these issues both at the collective bargaining table where they are the authorized bargaining representative and in alliances with community leaders and family advocates. Armed with a knowledge of what these private institutions and market forces are doing in this area, state legislatures could then take up the question of how to best support and complement what these private actors are doing. Specifically, policy makers would have a more informed basis for debating proposals such as whether or not to use the unemployment insurance system or some other instrument to provide paid leave for family-related reasons.

The Need to Lead

As the philosophers who developed the concept of a social contract would point out, a new social contract does not arise out of some natural law of nature or invisible hand of the market. It comes out of political discourse regarding the values that define a good and just society and the creation of the institutions needed to achieve and support it. Then it takes a good deal of pragmatic, trial and error experimentation and learning to hone the institutions to perform effectively—in Rawls terms to achieve justice efficiently. In short if we are to build a new set of social contracts suited to the economy and workforce of the 21st century, we must lead in generating the necessary political discourse involving the full range of voices with a stake in the issues and produce the ideas and pragmatic experimental evidence that demonstrates a new social contract is both achievable and worth pursuing for the good of society. The IRRA’s historical legacy was passed on to us from Commons and his student-architects of the New Deal labor policies, to the generation of post-war scholar-activists and founding members of the IRRA who nurtured this system to maturity, to the life-long and emerging leaders in our

profession we are celebrating here today. They all inspire us to take up this “mantle of responsibility” to use a term from George Taylor, one of these post-war leaders.

We can't do this alone. We need to continue taking our ideas and message to the American public. Unless we engage a broad cross section of the public—young and old, women and men, entry level and professional-managerial workers--our message will fall on deaf ears. And we must reach out to and include in these discussions the same wide web of groups and leaders from business, labor, community groups, family advocates, and others who share an interest in these issues. If we do our job well, then we can hold elected leaders' feet to the fire and insist they carry out their responsibility by putting these issues front and center on the national agenda. As I said at the outset, the next generation of professionals in our field will judge us by how well we discharge this responsibility.