

## US Country Inventory of Informal Worker Organizing

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### Introduction

The combined effects of deregulation, deunionization and the increased use of business strategies that transfer risk from firms to workers have led to massive growth in what various commentators call "precarious," "unregulated," "casualized" or "informal" work in the United States since the 1970s (Milkman 2006; Kalleberg 2011). A closely related trend is the increase in the ranks of what have come to be called "excluded workers" - those who are not covered by basic labor and employment laws; at the same time, those laws themselves are increasingly honored in the breach rather than the observance.

Although the extent of these phenomena is modest in scale relative to the other countries that are part of this comparative project, they have become increasingly pervasive in many low-wage industries and sectors in major U.S. cities, most notably in those where immigrant workers are concentrated - especially immigrants who lack legal authorization for their presence in the United States. Residential construction, janitorial work, domestic and caregiving labor (including home health care), street vending, taxi and truck driving, restaurant and hotel work, small-scale manufacturing and warehousing, and retail trade are among the industries where informal workers are particularly concentrated (Bernhardt et al 2009). Sub-minimum pay and working conditions that were once limited to agriculture and domestic work have spread to more and more parts of the labor market in the past few decades. Precarity and exclusion are also emerging among significant numbers of middle-strata workers, including many with professional qualifications who are self-employed and/or classified (or misclassified) as "independent contractors" (Kalleberg 2011). Although all these developments predate the Great Recession, the plight of informal workers has only worsened as a result of the downturn, with unemployment, underemployment and reduced hours adding further emiseration to what were already poverty-level jobs.

Traditional unions, themselves declining steadily in membership and power over recent decades, have seldom been able to respond effectively to these developments or to organize the workers most affected. However, distinctive forms of organizing among low-wage informal-sector workers have emerged on a significant scale in recent years. The most important such organizations in the United States are the "worker centers" that now number over 200 and are found across the nation (Fine 2006, 2011). The broader immigrant rights movement (in which worker centers have long been active) is another important player in this field, since the quest for legal status for unauthorized immigrants is inextricably intertwined with the precarity that so many immigrants experience in the U.S. labor market (Milkman 2011).

Worker centers typically provide direct services to low-wage workers (especially legal and educational services); engage in popular education and leadership development; engage in direct economic action vis-à-vis employers; undertake various forms of advocacy on behalf of low-wage immigrant workers; publicize abuses and illegal employer behavior; and promote changes in public policy and new legislation intended to improve the situation of informal-sector workers (Fine 2006). In a very small number of cases worker centers have also sought to organize workers into labor unions and represent them in collective bargaining with employers. Although in their formative years worker centers and their leaders tended to be deeply skeptical about the viability of traditional unionism for informal low-wage workers (Fine 2007), more and more of them have recently reconsidered this view and some now take the potential of conventional unionism far more seriously. Implicitly recognizing the limitations and challenges of the worker center model, which include small size and limited resources, lack of stable membership structures, and dependence on external (foundation) funding, the centers have become increasingly interested in experimentation with traditional union organizational forms and with the potential of collective bargaining (Fine 2011).

The following sections describe the current state of organizing among various informal sector workers.

### Sectors to Explore

#### Domestic Workers

The growing ranks of domestic workers - a diverse group that includes housecleaners as well as in-home elder- and child-care workers; some who live with their employers and others who live out, as well as self-employed cleaners who work for many clients each week - have been organizing in a number of U.S. cities in the late 20<sup>th</sup> and early 21<sup>st</sup> centuries. The vast majority of the nation's domestic workers are immigrants, mostly from Mexico, Central America and the Caribbean, although smaller numbers from many other countries are also employed in this field of work. Nearly all are female. Many are self-employed, some work for a single household, and there are also small enterprises specializing in cleaning who have conventional employees. In addition, some employment agencies specialize in this type of work.

In New York City the group "Domestic Workers United," founded in 2000, has been especially successful in organizing and advocacy; in Los Angeles too the Coalition for Humane Immigrant Rights in Los Angeles (CHIRLA) has also been active and visible in this field. Smaller groups exist in other cities as well. In 2011 the National Domestic Workers Alliance (NDWA) was founded, seeking to extend organization to the national level.

In New York State DWU won passage of a pathbreaking Domestic Workers' Bill of Rights in 2010, promising better enforcement of wage and hour laws as well as mandating paid sick time to domestic workers in the state. Similar legislation was passed by the California state legislature but then vetoed by the governor in 2012. DWU and other US-based groups also were active in the global campaign for the International Labor Organization's domestic workers' convention, passed in 2011.

These organizations directly represent a small minority of the hundreds of thousands of U.S. domestic workers and have struggled with the challenges of recruiting a larger share of the workforce. The occupation is excluded from coverage under the National Labor Relations Act and workers are often self-employed in any case, so that collective bargaining is difficult or impossible. The organizations provide legal services and referrals to their members on an individual basis and also advocate for improvements in the occupation as a whole, in part by calling public attention to abuses. NDWA and its local counterparts have been highly effective in spotlighting the exploitation of domestic workers and in winning back pay for members who have experienced violations of employment law, with DWU alone winning over \$500,000 in back pay over the past decades.

A current focus in this sector in the U.S. is the DWU/NDWA sponsored "Caring Across Generations" campaign, which links improving pay and working conditions for home care workers with immigration reform, proposing the creation of special visas for home care workers as a way of meeting the growing demand for labor in this occupation. This work is being conducted in partnership with the Service Employees International Union, the American Federation of State, County and Municipal Employees and the AFL-CIO.

## Street Vendors

New York City today boasts three distinct street vendors' organizations, each representing a different sector of the vending population. At the bottom in terms of both economic and legal precarity is a 500-member group called VAMOS Unidos (Vendedoras Ambulantes Movilizando y Organizando en Solidaridad), which represents a majority female and largely undocumented Latino/a population of vendors based in the Bronx and other "outer-borough" areas of the city. These vendors have limited access to the various licenses and permits that are required by law and yet they manage to eke out an existence selling food on the edges of the city. Their situation contrasts with that of their Manhattan counterparts, who are in the lucrative part of the vending trade and operate in a context where the law is much more strictly enforced. This latter group is largely made of men, most of them immigrants with legal status. Many of the Manhattan vendors are organized into the Street Vendor Project (SVP), which has about 1300 members. Finally in recent years an even more elite segment of the industry has emerged, made up of food trucks; they are organized under the auspices of the New York City Food Truck Association (NYCFTA). This last segment includes trucks owned by restaurants that generate additional revenue and brand visibility for their brick-and-mortar operations via the trucks; they are basically business owners and not informal sector workers. In contrast the vendors who SVP and VAMOS organize are mostly informal workers; both include a mix of self-employed vendors and subcontractors.

Both SVP and VAMOS provide extensive legal assistance to their members, who have regular (mostly unwanted) contact with municipal authorities. The complex system of mandatory licenses and permits create a series of problems for vendors, especially for those in the informal sector where VAMOS operates. Fines and tickets are also a constant threat. Both organizations help their members with these matters, providing translations and legal

representation at hearings and the like, and both regularly advocate for vendors generally in various public arenas – for example, negotiating with police precincts and with Business Improvement District officials as well. SVP and VAMOS, as well as other (now defunct) vendors’ organizations, have initiated litigation on behalf of their members to address issues of regulatory enforcement, often with positive results. In the late 1980s and 1990s organized vendors also launched several strikes in New York City which garnered significant public support and which successfully reversed plans to close some streets to vendors.

These street vendors’ organizations also offer training workshops for their members on a variety of topics designed to increase economic self-sufficiency, and provide leadership development programs as well. VAMOS also is directly engaged in the immigrant rights movement on behalf of its largely undocumented membership, and participates in marches and protests with that movement.

In New Jersey, street vendors were first organized through ACORN in Newark and have since been working with New Labor, the New Brunswick-based worker center. Street vendors and other small business owners won an impressive victory in May, 2010 when they pressured the City of Newark to grant them vending licenses. Problems arose when close to 200 street vendors were left without a means to make a living when city authorities refused to issue vendor licenses to undocumented workers. The street vendors’ licenses expired the previous month despite assurances by the authorities that the licenses would be distributed at the last minute, which did not take place. Police authorities, who were supposed to expedite the paperwork, argued that an existing state provision required an applicant’s past arrest and criminal record be examined. This would have required the vendors to have documents showing legal residence in the country. Despite significant bureaucratic hurdles, New Labor kept the pressure on the administration of Mayor Cory Booker to make good on an earlier promise that the vendors would receive their credentials. The organization has conducted organizing workshops, helped street vendors prepare their testimony before the city council and conducted occupational safety and health trainings for the vendors.

#### Taxi Workers

There are 19 organizations across the U.S. of taxi workers. In 2011 the New York Taxi Workers’ Alliance (NYTWA), which has some 15,000 members (out of 50,000 drivers in NYC) obtained a union organizing charter from the AFL-CIO to found a national taxi workers’ union. But a conventional union is not an option for this group of workers. Although in earlier years they were regular wage and hour employees, and often were unionized; in most U.S. jurisdictions today taxi workers are mostly either self-employed or have the status of “independent contractors” rather than traditional employees, which means they lack access to legal collective bargaining rights or protection under minimum wage laws and other employment laws. Pay and conditions have also declined sharply in recent decades.

Whereas in the union era most taxi workers were U.S. born white men, as pay and conditions deteriorated along with de-unionization, those workers exited the industry. Today, most taxi workers are legal immigrants (in part because it is nearly impossible for the undocumented to obtain drivers’ licenses); they are still an overwhelmingly male group – although the NYTWA has a dynamic female leader at its helm, Bhairavi Desai. They hail from many countries but a large proportion are from South Asia, Africa, Central Europe and Latin America (with some variation by city). Taxi workers have nonetheless managed to organize effectively in some key cities, launching strikes (most recently in 2007 in NYC) at times and employing a variety of other pressure tactics to win concessions from the various regulatory agencies that govern their industry. Unlike many other “informal workers” because they constitute a vital component of the transportation system in many cities – especially New York - they have significant leverage, and the fact that their industry remains highly regulated means also that there are parties with whom negotiations can be conducted – both government functionaries in the agencies that regulate the industry, and employers associations (where those exists). The NYTWA, in this way, “acts like a union” even though it has no legal status as such. In New York in particular the NYTWA has been able to extract economic concessions from the Bloomberg administration in recent years and is on the verge of establishing a fund, drawn from the most recent fare increase, to create a health care and disability fund for taxi drivers. This is collective bargaining in all but name.

The NYTWA and other such taxi workers’ associations emphatically do *not* seek to convert taxi drivers back into traditional employees; on the contrary, the leaders recognize the appeal of the autonomy that attracts so many immigrants to the occupation, the dream of being “my own boss.” Instead they focus their efforts on trying to build an

internally democratic structure that offers taxi workers a real voice, and on building enough organization and power externally to improve the incomes of drivers as well as their working conditions.

Taxi driver organizing has taken place in many communities including Philadelphia, Chicago, San Francisco and Los Angeles. Interestingly, there are several cases of cab drivers organizing in southern states. In Alexandria, Virginia, driver organizing was strongly supported by the worker center Tenants and Workers United. More recently, in Tennessee, the Nashville Metro Taxi Drivers Alliance (NMTDA) is a non-profit organization, which was founded in 2007 with the help of the Middle Tennessee Central Labor Council and the United Auto Workers who were working together on a taxi drivers campaign and the Tennessee Immigrant and Refugee Rights Coalition (other organizations that have been supportive include Jobs with Justice and the Nashville Movement, a grassroots coalition of labor, homeless and immigrant advocates). NMTDA represents an estimated 40% of licensed drivers who are working to influence both the taxi companies and the Taxi and Limousine Commission (TLC). NMTDA was founded by drivers frustrated with Nashville's lack of an arbitration procedure for addressing disputes between the cab companies and the drivers as well as a mechanism for appealing to the TLC about fee increases. Other issues drivers are trying to address include racial profiling of drivers, fees charged by the taxi companies, improving the work environment at the airport and other taxi stations and preventing unauthorized drivers from competing with licensed drivers. Somalians are the largest single ethnic group of Nashville drivers and are in the leadership of the organization but there are also many Kurdish and Ethiopian drivers. Approximately 85% of the drivers own their own vehicles but a recent study estimated that the average net income a driver is under \$12,000—well below the federal poverty guideline for a family of five. There is very little scholarship on labor organizing among Muslim immigrants but that which does exist has focused on the large gateway cities. Drivers and their allies have engaged in marches and rallies and in 2008 approximately 120 drivers struck Nashville's largest company. By this time, an estimated 75% of drivers had joined the NMTDA and these drivers had taken preliminary steps to unionize by signing a petition to the NLRB. The company refused to negotiate or take the drivers back. As of 2010, the NMTDA had not become a labor union and little had changed with regard to the relationship among drivers, taxicab companies and the TLC.

#### Garment Workers

Informal workers in U.S. manufacturing are mostly unorganized. What remains of the formal manufacturing sector – in industries like steel and autos - still has a significant union presence, but in the small and unstable shops that make up the garment industry there are virtually no union members, and industrial homework and layers of subcontracting that make for highly insecure and casual employment, mostly paid on piece rates, are widespread. The industry relies entirely on immigrant workers, many undocumented, and although it employs both men and women, the latter make up a majority (as has long been the case in this industry.)

The garment industry was once unionized, but that is now only a memory. The only forms of organization that are now present are worker centers, among which the Los Angeles-based Garment Worker Center (GWC) is the best known. Los Angeles is the U.S. city that has the nation's largest single remaining concentration of garment workers. Over the 1990s and early 2000s, the GWC launched a series of successful campaigns calling public attention to sweatshop conditions in the industry by targeting well-known brand names like "Forever 21" and exposing the substandard pay and conditions of the contractors who made the clothes they sold. The organization worked with a coalition of other groups to pass groundbreaking legislation, Assembly Bill 633, which established a "wage guarantee," under which garment manufacturers are now liable for guaranteeing payment of minimum wages and overtime compensation to employees of their contractors. GWC was also instrumental in bringing joint employer cases, like the Wet Seal case, that were the first in the nation to successfully hold retailers and manufacturers jointly liable for unpaid wages by subcontractors. By linking up with anti-sweatshop organizations on college campuses and other progressive allies – such as religious leaders - in the larger community, and by recruiting and organizing workers in the garment shops, these campaigns made the abuses in the industry visible and enjoyed some modest success in improving the situation. GWC and its allies were also able to win new legislation to improve enforcement of wage and hour laws in the garment industry in California.

The GWC also has developed leadership training programs and other educational programs for garment workers, and sought to build an internally democratic structure centered around leadership from rank-and-file workers. Although the membership always was modest in size relative to the vast numbers of workers in the industry, and funding is almost entirely from foundations and quite modest in scale, the organization's campaigns have been highly effective in raising public awareness of abuses in the garment industry and in "naming and shaming" violators of minimum wage and other basic employment laws, as well as winning back wages for the victims of those violations.

## Trucking and Warehouse--Logistics

The workers who drive trucks from the nation's ports to warehouses where imported goods are stored and organized for later distribution to the retail sector, and the workers inside those warehouses, have been actively organizing in recent years. This sector has grown exponentially in the period of outsourcing manufacturing that took off starting in the 1970s, as imported goods from Asia, especially, have skyrocketed in volume. The logistics industry is a vital node of the retail sector that is increasingly central to the post-industrial U.S. economy.

In an earlier era, the port truckers (along with their counterparts in long-haul trucking) were highly unionized and paid on an hourly basis with high wages and extensive fringe benefits. With the 1980 deregulation of the trucking industry that changed, and independent contractors became the dominant group in port trucking, paid by the truckload and often working at very low effective salaries. As pay and conditions deteriorated, the largely U.S.-born males who once populated the occupation abandoned it, and they were rapidly replaced by an overwhelmingly foreign-born workforce. The industry was and remains male and most of the immigrants who work as drivers are documented (a requirement for obtaining a commercial driver's license), although in the warehouse industry there is a significant undocumented population.

There have been numerous strikes and also serious attempts to unionize this industry over the past three decades – most recently by the Teamsters' union in Los Angeles and Newark. Thus far none of these efforts have succeeded, in part because of the workers' independent contractor status and in part because of the political clout of the shipping industry, which depends on port trucking to get its goods to market. The recession has also affected the progress of these campaigns in the past few years. However, the truckers' organizing efforts, the most recent of which have tied the working conditions of truckers to environmental issues in the communities near the ports, have been effective in some areas – notably in southern California, home to the nation's largest ports and the entry point for the bulk of imports from China and other Asian exporters – in raising public awareness of the truckers' plight and have also led to growing support for re-regulation of the industry.

Organizing is also underway in the warehouses of the "Inland Empire" of southern California, as well as in the Chicago and central New Jersey area. Most of the workers in the industry are casual workers hired through temporary agencies. This makes organizing difficult and creates space for labor abuses. Groups like Warehouse Workers United are actively recruiting workers in the industry, targeting especially those in Wal-Mart's warehouses, with some success in launching strikes, filing legal complaints about abuses, and winning support from community and faith-based organizations. In 2012, Warehouse Workers United held simultaneous gatherings of warehouse workers in the Inland Empire, Chicago and New Brunswick area that were jointly televised so that the workers could "see" each other and feel part of a larger movement of workers. In New Jersey, New Labor worked with a researcher from the Harvard Kennedy School of Government to survey more than 300 warehouse workers and document their conditions of work as well as wages, overtime and training. The organization has been building a leadership group of warehouse workers and has conducted safety and health train the trainer workshops to begin to establish a network in the central NJ warehouses. New Labor is now developing a responsible employer campaign on the temporary agencies that are supplying the workforce to the warehouses.

## Construction

Construction was once one of the most densely unionized sectors of the U.S. economy and the building trades were perhaps the most stable and secure sector of the American labor movement. Coming of age decades before the Wagner Act of 1935 institutionalized the industrial union framework for organizing and collective bargaining, construction unions exemplify the craft union model which is premised on training and controlling the supply of skilled workers employed in a labor market and leveraging that power to achieve exclusive agreements with contractors. Although still subject to the extreme boom and bust employment cycles endemic to the construction industry (Mullins 2006), this model made it possible for unions to establish a modicum of stability for their members. They were labor market intermediaries (LMI's) that played a critical and stabilizing role in a brutally competitive and chaotic industry. Mapped to local construction labor and product markets as well as local and state government and politics in stable and predictable ways, building trades unions evolved into complex organizations with regularized methods of operation and established internal structures.

The institutional paradigm of the building trades includes: recruitment and training through union-based apprenticeship programs, union administration of a referral system through hiring halls, wages established through master agreements with contractors' associations and provision of health insurance and retirement benefits through jointly-administered Taft-Hartley health and welfare plans that are fully portable as union members move between employers. That institutional framework endures to the present day. Since the nature of construction is that workers move from employer to employer, members have always maintained their most consistent connection to their union, which represents them as they move from job to job and whether or not they are employed. Their union halls were social clubs and mutual aid societies which first generation immigrant workers established and generations of union members relied upon.

In a single generation, density in the construction industry fell from over 80% to under 20% (Leo Troy and Neil Sheflin, 1985). From 1973 to 2006, union membership declined from 1.6 to 1 million, *while construction employment increased from 4.1 to 8.4 million*. During that same period of time, construction union density declined from 39.5% to 17.4% and has continued to fall. It is now below 14% (Hirsch and Macpherson, 2006).

As construction unions have been marginalized in some regions, industry standards have eroded. Average construction wages have dropped by about 25% over the past 30 years (BCTD, AFL-CIO). As a result, it has been more difficult to attract new entrants into those increasingly de-unionized labor markets. Skilled labor shortages are increasingly common and tend to be more severe in less densely unionized areas. In many of those open shop markets, immigrants have migrated to take jobs that once paid decent wages and were commonly performed by native workers.

Today, foreign-born Latinos comprise a majority of the construction labor force in the South and Southwest and represent a growing portion in other regions as well. In 2006, Latino workers, most of whom were newly arrived and foreign-born, were hired for two out of three of the 559,000 new construction jobs in the United States (Pew Hispanic Center, March 2007). A significant portion of those immigrant workers are undocumented. It is estimated that 12% of the construction workforce is undocumented, the largest share of undocumented workers in any major industry category (Pew Hispanic Center, April 2006). While the construction labor market increasingly reflects the growth of this immigrant workforce, the membership of the building trades unions does not. This is unlikely to change until more unions embrace immigrant organizing with greater enthusiasm.

Many local union officials have not made immigrant members feel welcome and provided them with effective representation and support. Until recently, most unions did not translate contracts into other languages, have staff and stewards who spoke Spanish, knew immigration law, or included immigrant-specific work issues in the contract. Historically, many building trades unions have excluded people of color; the vestiges of that exclusion continue to make some local unions unwelcoming to immigrants. This animosity and exclusion of immigrants was not always the case. For example, the United Brotherhood of Carpenters (UBC) created a large number of foreign-language local unions to organize immigrant carpenters. In 1894, just thirteen years after its founding, 70 out of 597 locals were ethnic specific unions, predominantly German, but French, Bohemian, Scandinavian, Jewish, Dutch and Polish as well (Erich, 1988: 70-71). Similarly, new immigrants took laborers jobs because they were often denied membership in the craft unions. Many Laborers International Union locals were organized along ethnic lines: "often, individual Locals were all-Italian, all-German, or all-African American..."<sup>ii</sup> and their official journal was published in English, German and Italian. In Texas, the union affiliated a Latino-led union of laborers as early as 1899. However, the laborers take pride in the fact that the national union resisted segregation. For example, the Laborers internal history recounts that: "While the early Laborers Union would allow some cities to have multiple locals based on national origin—for example in Rochester N.Y. Local Union 15 was German, Local union 16 was Polish, Local Union 65 was Italian and Local Union 84 was English—it drew the line at racial segregation..."<sup>iii</sup>

Given that construction unions have been in decline since the 1970's (well before the great influx of immigrants during the 1990's), there is little evidence suggesting that immigration caused the crisis confronting the building trades today. Nevertheless, an unending flow of low wage immigrants whose undocumented status makes them particularly vulnerable to exploitation poses a real challenge for organizing the construction industry, especially the residential sector, where most immigrant workers are employed and where the building trades have not enjoyed a substantial presence for many decades. The continuing infusion of large numbers of immigrants provides nonunion contractors with a ready supply of workers who are subjected to unlawful and unethical employment practices that further complicate the challenge of protecting and preserving industry standards that took years to establish.

Several campaigns have been launched over the past few years to organize Latino construction workers including: drywall workers in Southern California in the early 1990's through the United Brotherhood of Carpenters and Joiners, roofers in the southwest including Nevada during roughly the same period through the Roofers Union and a building trades organizing collaborative in Nevada, asbestos workers in New York and New Jersey in the late 1990's and residential construction workers in the Arizona, Nevada and California between 2005-2010 and most recently in New York, New Jersey and Texas through the Laborers International Union of North America (LIUNA) (Fine 2011). The New York, New Jersey and Texas campaigns have been initiated through partnerships with worker centers including the establishment of new union locals with worker center representation in the leadership. Case studies exist of the carpenters, roofers, and laborers campaigns except for the most recent organizing campaign underway in Austin, Texas.

The following draws upon the case research conducted by Fine for of LIUNA's partnership with affiliated worker centers of the National Day Laborers Organizing Network.

While LIUNA has committed significant resources to its immigrant organizing and legislative agendas, victories have been hard to come by. Since 2000, LIUNA has lost 185,807 members.<sup>iv</sup> Thus far, the union's immigrant organizing efforts beyond the asbestos campaign of 1995-1996 have met with limited success. LIUNA's most ambitious industry-wide effort since asbestos, begun in 2006 to organize the residential construction industry in the southwest with a staff of forty, was derailed by the severe economic recession and decline of the housing market including the bankruptcy of its major corporate target. This is a period in which it is not at all clear what strategies will be effective in rebuilding unions, including the building trades. In general, greater commitment on the part of some unions, including LIUNA, to organizing contemporary immigrant workers has come during an epoch of rapid membership decline across the American labor movement. In addition, the economic crisis has had a major dampening effect on the construction industry across the board.

LIUNA's immigrant organizing agenda is tied to the union's residential construction and residential weatherization organizing agendas which have not yet developed a clear winning strategy and have been hampered by the severe crisis in the housing market. The biggest immigrant organizing campaigns have so far been mounted at the national level with national campaign, research and organizing staff disconnected from regional and local organizations out of concern that they will obstruct the campaigns but this also means locals have often not been available as power resources to support the campaigns.

LIUNA is an extremely decentralized organization where concerted immigrant worker organizing or collaboration between worker centers and unions is heavily dependent upon local organizational culture. Even those organizations that are "pro-immigrant" may still suffer from antiquated structures and strategies and a business union approach that sometimes interferes with coalition-building.

LIUNA's partnership with the National Day Laborers Organizing Network (NDLON) has not yet resulted in organizing victories or membership gains-- it has been more useful as a political partnership around federal immigration reform and generalized support for day laborers. During a period of heightened anti-immigrant activity, NDLON's priority as a national organization does not seem to have been on worker organizing rather it has emerged as a singular voice and movement building organization standing in opposition to state and federal enforcement initiatives.

The flagship partnership between New Labor, the worker center in New Brunswick and the Laborers Eastern Region, has suffered from several issues. Generally speaking, there seems to be only partial overlap between the day laborer constituency and the residential construction workforce. On the ground, there seems to be a tension for the union between organizing low wage Latino workers while at the same time supporting day laborer hiring halls. New Labor has felt it has burned day laborers when the Eastern region promised but subsequently reneged upon opening day labor centers. Dynamics between the two organizations are complex: control of resources and decision-making is not felt to be equal by both parties and New Labor has often felt under-utilized.

The shift in LIUNA's position on employer sanctions and legalization of the undocumented in 1999 has been backed by action at the national union level. The leadership of the Eastern region has been supportive of immigrants' rights and immigration reform at the local, state and national levels and has invested resources in doing so. Education and mobilization of the membership base of the union in general or of leaders outside of unions with large numbers of immigrant members, has not been a focus of LIUNA's efforts. Overall, as it tacks between more restrictionist and more

solidaristic positions with regard to issues like employer verification and border enforcement, the union exemplifies the notion of a movement wrestling that was discussed at the beginning of this paper.

LIUNA's ability, along with the larger immigrant rights' community's, to advance comprehensive immigration reform has been hampered by the competing priorities of the Obama administration and the rise of state-level anti-immigrant efforts fueled in part by the economic recession. Despite the lack of progress on federal reform, so far, *cooperation with immigrant rights organizations on politics and legislation* at the federal, state and local levels have been more successful than worker organizing.

#### Worker Center Trends and Questions

A shared strategic repertoire between unions and worker centers first began to emerge in the early years of the 21st century in Los Angeles (Milkman, Bloom and Narro 2010) and is now increasingly developing at the national level, with extensive tactical experimentation and growing synergy on both sides. Networks of formerly isolated worker centers have sprung up, and several key worker centers have moved beyond their local origins to spawn industry-specific national organizations. In this same period there has also been significant growth in international networks in which the U.S. worker centers participate and which link them to NGOs in the Global South; some of these global networks also have relationships with traditional unions in various countries (Fine 2011).

In a few cases traditional labor unions have also organized and represented informal workers, but more often the role of organized labor has been indirect: building political alliances with worker centers and providing moral and material support for their efforts. Such support has been especially forthcoming from the national AFL-CIO, and from a few key national unions; in a few instances union-worker center alliances have also emerged on the local level. On the other hand many AFL-CIO affiliated national and especially local unions continue to view low-wage immigrant workers as a threat to labor standards and/or as "unorganizable," although this is slowly beginning to change (Fine 2011).

In 1992 there were five worker centers in the United States, by 2005 there were 155 and there are now in 2012, two hundred and sixteen organizations. Not only have new centers emerged, but there has been a growing trend toward federation in which strong individual centers have joined existing national networks or formed new ones which have in turn helped to establish new organizations or affiliate existing ones. Federation, something Ulman posited as a central developmental milestone for unions, Skocpol argued was a distinguishing feature of American civic organizations historically and Swartz has pointed to as a significant strength of the now defunct national community organizing network ACORN, is enabling worker centers to spread strategies and tactics developed at the local level to labor markets in other cities and states, to launch national policy and corporate campaigns and to access greater foundation support (Skocpol 2003, Swartz 2007, Ulman 1955).

Since 2007, the Restaurant Opportunities Center New York (ROC-NY), Domestic Workers United and the NY Taxi Workers Alliance, have all begun to create national structures, develop guidelines for the establishment of new organizations or to affiliate existing organizations and to coordinate activity at the local, state and national levels. In 2007, the flagship New York Taxi Workers Alliance brought taxi workers across eighteen U.S. cities together with organizations from cities from around the world to form the International Taxi Workers Alliance and as discussed above, in 2011 received an organizing charter from the national AFL-CIO to create a national taxi drivers union. Likewise, over the course of the past few years, the movement for domestic worker organizing in the United States and globally has expanded. Domestic Workers United helped to bring organizations together to found the National Domestic Workers Alliance (NDWA) in 2007 and by early 2011 it had 33 affiliated organizations in 17 cities and 11 states, and a staff of nine. The organization has entered into a strategic alliance with the AFL-CIO, SEIU, AFSCME, Jewish Funds for Justice, National Council of La Raza, the NAACP, National People's Action, many other prominent national organizations and scores of local community organizing groups to launch a campaign intended to transform the caregiver industry through the establishment of labor standards, career ladders, pathways to legalization, and a new tax credit to support the cost of caring for other's families.

The Restaurant workers' federation seems to have established the most stringent affiliation structure. In 2007 ROC-United was formed with a goal of establishing affiliates in the top ten restaurant markets in the United States. ROC-United adopted an approach that called for hiring locally and moving new organizations through three phases. They begin as "incubits" that are subsidized by the national organization, then develop into independent affiliates, and eventually evolve into separate 501c(3) organizations with their own independent boards of directors. ROC-United brings new staff to ROC-NY to train them in the three prongs of their organizational model: a worker-led approach to



organizing for workplace justice, labor management partnerships to promote a high road approach which includes training programs, and research and policy work to highlight problems in the industry and to set forth solutions. In 2008 the organization set up the structures of the national organization including a national board of directors and a national organizing committee and opened up four affiliates. By 2011 ROC-United had expanded to a total of eight cities ,(New York, Chicago, Miami, Los Angeles, New Orleans, Detroit and Washington DC) had a national staff of ten, and sponsored its first national lobby day in the nation's capitol on the same day as the National Restaurant Association

The U.S. worker centers are showing many signs of organizational maturity and are gaining widespread recognition for their pioneering work over the past couple of decades. Public awareness of wage theft and other illegal employer behavior has also grown, as has public concern about deepening economic and social inequality. Worker centers have proven especially adept at putting a human face to these problems and casting workers' issues in moral terms. These developments, along with the forging of stronger ties among individual worker centers, on the one side, and between labor unions and the centers, on the other, suggest that the potential of worker centers as effective organizing vehicles for informal precarious workers remains substantial. However, whether these alliances are able to translate into ongoing collective bargaining rights or union membership is unclear. Although the increasingly mutual embrace of organized labor (at least at the national level) and worker centers and the low wage immigrant workers they represent is an encouraging development, it has come at a time when unions in America are in profound crisis. For labor to succeed in extending membership to these precarious workers, institutional renewal must address the mismatch between 1930's labor laws and models and 21<sup>st</sup> century firm and industry structures and strategies.

In November of 2011 the AFL-CIO announced its intention to grant the New York Taxi Workers Alliance (NYTWA), a worker center comprised of independent contractors, its first new organizing committee charter in more than fifty years. Independent contractors are excluded from the National Labor Relations Act. Although some have argued that the solution is for taxi drivers to "re-become" employees, many of the drivers prefer to see themselves as small businesspersons. NYTWA for all intents and purposes sees itself as a union but is prevented by the NLRA from calling itself one. The Freelancers Union brings together independent contractors across a range of technical and creative fields but although it even has the word union in its name, it is also prevented from actually operating as one.

The National Domestic Workers Alliance in cooperation with the Service Employees Union and the American Federation of State, County and Municipal Employees is campaigning through its Caring Across Generations campaign to establish two million new jobs in the home care sector. National unions have won collective bargaining rights at the state level for homecare workers compensated through public funding streams, but what are the private sector parallels to the public sector homecare employer authorities? Also, what are possible models for domestic workers and nannies interested in collective bargaining?

Change to Win and the United Food and Commercial Workers are taking another shot at organizing Walmart by targeting the logistics industry that facilitates the behemoth's business model. Core to this industry are warehouse workers most of whom are immigrants and people of color. These warehouse workers are neither employed by Wal-Mart nor by the companies that supply products to Wal-Mart. They are employed by contractors who carry out the warehousing function and by subcontractors who operate temporary agencies that provide labor to these contractors.

Finally, it is urgently important to identify the new labor organizing, labor standards enforcement and employment laws as well as changes to existing ones that would need to be enacted in order to accommodate these examples. Policy must combine minimum wage standards for low wage workers with measures that support the institutionalization of organizations. To raise their wages and improve their working conditions, low wage subcontracted workers need multiemployer bargaining on a geographic/industrial or chain of production/supply chain network basis.

The Service Contracting Act (SCA) may provide an example of what a new labor law for private sector workers might look like. It was enacted in 1965 to provide wage and safety protection to the growing number of employees working under U.S. Government service contracts. The SCA governs employment practices of service contractors and, in particular, the minimum wages and fringe benefits that they must pay to employees under their government contracts. In essence, the SCA requires that service contractor employees be paid not less than the "prevailing" wage and fringe benefits paid to private and public sector employees

engaged in similar work in the same locality, as determined by the U. S.

Department of Labor (DoL) Wage and Hour Division. A 1972 amendment to the SCA included a significant provision prohibiting successor contractors from paying less than the wages and fringe benefits provided for in the collective bargaining agreement of a predecessor contractor, if such an agreement was the result of arm's-length negotiations. This amendment effectively changed the existing Supreme Court precedent that a successor contractor was not obligated to observe its predecessor's collective bargaining agreement. By prescribing pay levels consistent with locally prevailing rates or, where the work force was unionized, consistent with the rates in a predecessor contractor's collective bargaining agreement, the SCA diminished wages and fringe benefits as a factor in competition for federal service contracts.

The SCA could be a model because it sets a prevailing wage for service work that rewards organizing. Where a rate has been established with a prime contractor, the rate must also be paid by the subcontractor. It requires successors to pay the rate that was established by the collective bargaining agreement and provides parity for temporary and part-time workers. It allows for joint and several liability which means that it is possible to move up the supply chain to hold the most powerful entities accountable for their suppliers' wages and working conditions. DoL implementing regulations provide that the prime contractor is jointly and severally liable with the subcontractor for payment of prevailing wage and fringe rates to subcontractor employees, even though those employees are not employed by the prime contractor.

What is distinctive about the US case? Possible questions to explore:

Worker centers, while they exist to a lesser extent in Canada, Japan, South Korea, India and Sri Lanka, are most widespread in the United States and have been growing since the 1990's. There are a number of questions that could be explored:

- Worker centers would seem to be particularly useful partners for federal, state and school-based workforce development programs. Many centers provide ESL and safety and health classes and particularly in the day laborer sector have engaged in efforts to formalize the hiring process. What are worker centers doing on workforce development and how are they connecting to the infrastructures that have historically carried out this work?
- While worker center federations are relatively new, it would be very worthwhile to more systematically explore their origins, structures and programs and to compare them organizationally to other national organizations with local chapters including labor unions.
- What models for public policy exist that combine improving standards in low wage industries with establishing permanent organizations?
- Worker centers are working with labor unions more than ever before but have so far not been able to forge a joint organizing and membership model that has resulted in larger numbers of workers gaining access to collective bargaining rights. What are the obstacles to unionization, what models hold out potential for overcoming the obstacles and what new laws at the local, state and federal levels might address the challenges of organizing supply chains? For example, we know that in California two model bills have been passed in garment and janitorial that address the issues of joint liability and underpayment of contractors but we know little about how these laws have contributed to organizing.
- While the permanent employees of warehouses may be able to be organized and represented through traditional mechanisms, temporary workers cannot. Temporary agencies that supply the warehouses are in many cases small and diffuse. (In fact, in Illinois and New Jersey, Theodore and Martino respectively have shown that temporary agencies are clustered in communities with high concentrations of foreign-born Latinos.) What are the reasons that previous efforts to establish non-profit temporary agencies and hiring halls have not been successful and what might be done to increase their likelihood of success?

- There is a need to understand how firms are really embedded in subcontracting supply chains including the true size of firms, how many are in direct relationship to large corporations at the top of the supply chain, and how many are just small firms that are not embedded in something larger
- Guest worker organizing has emerged in the past few years in agriculture, construction and manufacturing. How are guest workers organizing? What kinds of organizations are they building?

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<sup>i</sup> Benner et al define labor market intermediaries as “third party organizations that in some form or another involve themselves in the employer/worker relationship.” They go on to say that “Most LMI’s engage in job brokering activities, matching job seekers with individual employers. Some also provide job training, job search skills and/or access to a variety of other support services such as assistance with transportation, childcare and even portable health insurance and pension plans. Intermediaries come in a variety of forms, ranging from temporary agencies and professional associations to union hiring halls and community-based organizations.” Staircases and Treadmills: The Role of Labor Market Intermediaries in Placing Workers and Fostering Upward Mobility, paper presented at the Industrial Relations Research Association Annual Meeting, New Orleans, Louisiana, January 2001.

<sup>ii</sup> The Laborer, 100<sup>th</sup> Anniversary Edition, 2003, p. 71.

<sup>iii</sup> Ibid p. 72

<sup>iv</sup> US DOL LM-2’s accessed 6/29/2010.