Hatching Labor’s Phoenix –

Sparking Mass Union Organizing in the United States

Stephen Herzenberg, Keystone Research Center, January 2018.
“So while many Americans...believed industries like auto and steel were ‘unorganizable,’ British and Irish workers not only knew it could be done, but found it uncanny that it had not already happened. The potential for a mass-based mobilization of workers was, for them, a practical experience, not a theoretical possibility.” Steve Babson

“...movement moments...happen when large numbers of people...are truly pissed off and there is no other option, or because for some reason the horizon of what they think they are capable of achieving suddenly expands – or, most likely, a combination of both.” Jane McAlevey

“If the labor movement has a future, it’s with the building trades model,” Irwin Aronson, General Counsel, Keystone Research Center, 1995

Income and wealth inequality in the United States now pose a threat to broadly shared prosperity, widespread mobility, and democracy. This paper is premised on the idea that a revival of labor unions is necessary to sharply reduce income inequality and revitalize responsive democracy. It is further premised on the idea that unions that substantially reduce today’s economic inequality are not difficult to imagine. A small community of organizers and researchers have understood the basic structure of broad-based unions that could mesh well with the modern economy for a quarter century. The challenge to creating these unions on a large scale is not primarily a technical one but one of building will and power. This chapter aims to contribute to will building by identifying specific steps that might help new U.S. broad-based unions organize at scale. This chapter draws from 22 years as a Pennsylvania research center that works closely with unions and 13 interviews with organizers and unionists.
Ingredients for Union Take-Off: A Moral Mission and Concrete Vision of Success

Former national AFSCME leader, Paul Booth, observed in an interview for this chapter that there are only two theories of how U.S. labor unions might organize at scale again. One is through a mass movement of workers; the second through political victories that lead to policy and legal changes that make organizing easier. He and others also observed that these alternatives could operate in tandem.

This paper advances an argument about the circumstances in which a mass movement of workers might arise again. It then considers what practical actions – including after political victories – might be taken to increase the probability of these circumstances emerging.

Mass organizing in the past suggest two key ingredients for its reemergence: first, a sense of moral outrage and purpose – a conviction on the part of workers that their cause is just; and, second, attainability – a concrete vision that gives workers confidence that they could win. When workers feel that right is on their side and buy the slogan “we believe that we will win,” in part because winning is no longer an abstraction, then mass organizing is possible.

Three examples illustrate the power of morality plus a concrete idea that winning is possible. The first comes from the formation of the United Auto Workers, as interpreted by labor historian Steve Babson. Babson challenges the conventional interpretation of skilled crafts in the 1930s as monolithically “conservative.” Most
American-born crafts were conservative, having seen the decay of episodic production worker militancy, including after World War I, without significant unionization. Many Anglo-Gaelic crafts, however, had experience with “amalgamated craft” and “general” unions in England, Scotland, and Ireland. For these Anglo-Gaelics a union of all auto workers in a factory was not hard to imagine but rather part of their experience. In Babson’s synthesis, “while the American-born skilled crafts couldn’t imagine being able to organize the mass of semi-skilled production workers, the Anglo-Gaelics couldn’t understand why it hadn’t happened already.” As Babson details, their conviction in the viability of a broad union of all auto workers made them instrumental in the 1937 Flint sitdown strike and the unionization of General Motors. These events helped trigger the unionization of most U.S. manufacturing as increasing numbers of production workers caught up with the Anglo-Gaelics and grasped the potential of industrial unions to raise their living standards and deliver shop-floor protections.

The second illustration comes from home-based child care in the United States, which went from almost completely non-union in 2000 to significantly organized in 2010. Experienced organic leaders within the industry lit the fuse of this mass organizing. They were fueled by a sense of moral purpose built up over two decades as the field expanded as women with young children increasingly worked. This expansion took place without sufficient growth in public investment and compensation stagnated, turnover rose, and the qualifications of teachers and directors plunged. The catch
phrase “parents can’t afford to pay, teachers can’t afford to stay, there’s got to be a better way” captured a widely shared sense of frustration that traditional advocacy seemed powerless to change.

In the mid-1990s, early childhood leaders began to explore the idea of an encompassing union of all center-based educators and family providers. Could this deliver the political leverage to win more public investment as it already had in Quebec? Having entered the field with a commitment to delivering life-transforming early education, many early childhood leaders felt a deep anger at the world’s refusal to honor either early childhood educators or the children that they served. These educators had a clear, experience-based conception of quality child care and an equally clear idea of how it differed from custodial or unsafe care. Once introduced to the idea of an industrywide “high-road” union, experienced leaders quickly embraced it as THEIR transformative “better way.” Broad-based unions could unify the field more public dollars, quality education and quality jobs. When organizers also figured out how state executive orders or laws could set up statewide union elections for family child care providers, competing national unions poured in resources and organizing spread to 19 states accounting for half the U.S. population.

The populist movement offers a third illustration. The populists had a powerful sense of moral purpose born of the victimization of sharecroppers and small landowners after the United States went back on the gold standard following the Civil
War. This restricted the U.S. money supply and drove up interest rates. It pushed sharecroppers and small landholders into greater debt peonage to “furnishing men” that provided supplies for the winter and seed next spring in exchange for a portion of the crop.

The populist movement grew by building concrete responses to these conditions. It formed cooperatives to give small farmers and sharecroppers access to cheaper supplies and seed. It offered more affordable insurance that provided some protection against bad weather, poor yields, and low prices. Ultimately, agrarian populists needed lower-cost credit so that small holders and sharecroppers could escape the furnishing men. When U.S. banks denied access to credit, the movement developed a proposal for the federal government to expand the money supply and lower interest rates, foreshadowing the 1913 creation of the Federal Reserve System. Using their practical vision of a “cooperative commonwealth,” 100 “lecturers” spread the word and organized millions into the movement. The populists did not ultimately win, in part because of the growth of industrial workers for whom the movement had no answer. But it atrophied only after the combination of moral outrage coupled with solutions in which the populist base believed fueled the largest mass challenge to American capitalism in history.
The Emerging Vision of 21st Century Unionism

Reflecting on the examples above, to what extent are the two ingredients for mass organizing – a moral mission and a conviction that winning is possible – present today. Even with the increases in inequality of the past 35 years, middle-class living standards far exceed those in the 1930s. This may dull moral outrage among some workers. Still, broad awareness exists of the unfairness of the current economy exists, thanks partly to Occupy Wall Street, and as illustrated by the resonance of President Trump’s campaign claims that the economy is rigged against the middle class.

Thus, we argue that the biggest obstacle to a mass movement of workers is workers’ lack of conviction that unionism could transform their life and economic status. A central reason is the hold of the U.S. union industrial model of unionism on workers’ imagination, and on the imagination of labor leaders. Conflating U.S. unionism generally with its U.S. industrial union form, many have concluded that unions were important in the old economy but are not in the new.10

Implicit in innovative organizing, and explicit in a small research literature, however, is an outline of organizational forms that could make unions as important to the new economy as the old. As with the building trades – and in home-based child care—these unions would encompass many (ideally, all) work sites/employers within geographical areas. In today’s economy, such unions could mesh with any low- or
moderate-wage “non-mobile” service industry in which businesses must locate near their customers and cannot respond to organizing by relocating.

Around 1990, Rutgers Professor Sue Cobble extracted such a model for “postindustrial unionism” from her historical study of waitress unionism.\(^\text{11}\) Labor economist Howard Wial outlined a model of industrywide “occupational” unionism in the low-wage services drawing on interviews with innovative organizers including Stephen Lerner, the architect of the “Justice for Janitors” organized model (discussed below).\(^\text{12}\) The area-wide union model has broad potential applicability because most moderate-wage jobs are in non-mobile services.\(^\text{13}\) If workers at mass scale come to see such unions as the answer, union density could rise to the levels of the 1950s, restoring broadly shared prosperity.

As illustrated below, a growing number of area-wide organizing campaigns and the “Fight for $15 and a union” movement have recently taken this area-wide union model closer to mass consciousness.

In higher education in the last few years, out of nowhere, contingent faculty in higher education are organizing area-wide in many cities. In Boston, a symposium with SEIU organizers and adjunct faculty in April 2013 resulted in quick consensus behind a citywide model that could raise labor standards for all non-tenure track faculty. Five years later, the union has won representation and contracts for adjuncts/part-timers, non-tenure track full-time faculty, and/or graduate students at Tufts, Boston University,
Northeastern, Brandeis, Bentley and Lesley. At Northeastern, which hired a union-busting law firm (Jackson-Lewis), the support of students and the broader labor and Fight for $15 movements proved vital to winning a good first contract for adjuncts. SEIU has also organized and won a first contract for non-tenure track faculty at Duke. Despite Duke’s “rabid” anti-unionism, the union won 6:1, the first private sector faculty union in a right-to-work state in 25 years. Organizer Sam Wohns said, sometimes “we argue that we can’t organize until we get rid of right-to-work laws. Having to organize people after a union election is not such a bad thing.”

In Pittsburgh, in another citywide effort, the United Steelworkers has so-far organized contingent faculty at Point Park, Robert Morris, and Duquesne. In Philadelphia, in a campaign that connects to 29 higher education institutions, the AFT-affiliated United Academics of Philadelphia has so-far organized 1,500 adjunct faculty at Temple University and another 300 at Arcadia University.

In Seattle, the Teamsters in 2015 persuaded 16 of 18 City Council candidates to endorse a "For-Hire Drivers' Bill of Rights" that would give unionization and bargaining rights to all drivers. This ordinance capitalized on the fact that, as "independent contractors," drivers are not covered by the National Labor Relations Act and that the city may therefore grant them union rights (although the issue is still being litigated). The organizing effort is guided by a coherent vision of how wall-to-wall unionism among riders-for-hire can stop a race to the bottom. Unleashing constructive
competition based on technology in place of destructive competition based on exploiting drivers, an area-wide union could take wages, benefits, and working conditions out of competition. Market share would then depend on which app could attract customers and drivers: “may the best app win.”

In the janitorial industry, Justice-for-Janitors is now a well-established area-wide model that has yielded multi-employer agreements in many large cities.\textsuperscript{18} Helped by the fact that the same building owners that hire janitorial contractors also hire security guards, Justice-for Janitors has also spawned successful security guard unionism in a growing number of cities. In Pittsburgh, spurred in part by “Fight for $15 and a Union,” security guards organized in 2014 in less than a year. SEIU has also organized geographically at airports among restaurants and other retailers. In Philadelphia, this leveraged local political relationships and a faith-based community coalition which saw the airport campaign as a way to lift minority workers out of poverty.

One sector in which workers have already organized area-wide at scale is home health, in which about 600,000 U.S. home care workers belong to unions, 30% of the total.\textsuperscript{19} Home health care, like child care, is exempt from the National Labor Relations Act, and state legal innovation has given workers the opportunity to form encompassing unions at the county or state level. Given this opportunity, workers in what have traditionally been poverty-wage jobs have taken it. Unionization kick started
in 1995 with the unionization in a county wide election of 75,000 Los Angeles home health care workers.

In acute health care and long-term care, in places such as Pennsylvania, Fairfield County, Ct., and Las Vegas, SEIU has sought to align existing contract expiration dates and to organize major non-union employers to establish area-wide wage and benefit standards. In Pittsburgh, area-wide acute care organizing faces the adamant anti-unionism of the giant University of Pittsburgh Medical Center (UPMC). To build community support, the union framed the organizing of UPMC, and of all of health care, as stepping stones towards establishing higher wage and benefit standards throughout the broad service sector.

Truck drivers who haul cargo in and out of Los Angeles and Long Beach have also organized geographically (https://teamster.org/divisions/port). Says Nick Weiner, campaign director for Justice for Port Drivers, “There are approximately 12,000 truck drivers who haul cargo in and out every day, and there are networks that cross company lines. It’s really one very large organizing group of workers; they have multiple employers, but it’s really one unit.” An estimated 82% of port drivers are misclassified as independent contractors. Organizers first had to convince independent contractors that being recognized as employees served their interests, and that they could come together to set area-wide standards for any truckers that come through the two ports. According to Weiner, a militant minority has helped
demonstrate to co-workers that they don’t have to be afraid. Two years ago, a handful of companies in Los Angeles with 500 workers signed Teamsters contracts and, Weiner says, “demonstrated that these trucking companies can reclassify their workers, agree to labor peace, and be neutral so that their workers can have a fair pathway to unionization.”

Another development with an industry focus in geographical areas has been the proliferation of worker centers over the past 15 years. Worker centers typically seek to reshape their industries through legal action to enforce labor standards and worker rights, policy advocacy (e.g., eliminating the tipped minimum wage), and partnering with “high road” employers. In Los Angeles which has strong service sector unions and many worker centers, sociologist Ruth Milkman and co-authors have documented growing interaction and synergy between unions and worker centers. These authors suggest that significant potential exists for worker centers to serve as a transitional and “pre-union” formation that might in some cases catalyze or assist area-wide union organizing. Asked his 10-year vision, one worker center leader said he hoped a core of unionized employers would set industry wage and benefit standards that would then apply industrywide, including to non-union employers. This is one approach to sectoral standards that has long existed in Quebec and in Germany.

The visibility of geographically based unionism has grown since the emergence of the “Fight for $15 and a union” movement (https://fightfor15.org). Best known for the
organization of fast food worker protests in over 300 cities globally, “Fight for $15” has become a banner under which workers’ mobilize and organize for decent pay and other gains in many industries. Perceptions of “Fight for $15” vary. In Pennsylvania, “Fight for $15 and a union” has framed, and invigorated, existing bargaining fights (in nursing homes and the janitorial industry), ongoing organizing (e.g., in health care in Pittsburgh), and new organizing (as noted earlier, in the Pittsburgh security guard industry in and at the Philadelphia airport). Several interviewees, however, viewed “Fight for $15” as an example of what Jane McAlvey calls “mobilizing not organizing,” with some leaders heralding mass turnouts achieved with membership levels of one percent or two percent. Organizers who seek to persuade a strong majority of workers to engage with a union as their vehicle for empowerment and positive transformation see rallies organized by tiny leadership groups as a dubious achievement. Other interviewees perceived the “…and a union” part of the Fight for $15 phrase to have been, or become, an afterthought in some areas. There has also been variation in how much activity under the “Fight for $15 and a union” has operated with a concrete vision of unionism that workers might “get” as way to sustainably transform their jobs and lives. The Pennsylvania examples linked tightly to ongoing organizing and bargaining may be at one end of a spectrum of possibilities, with fast food protests at the opposite or “mobilization” end. One interviewee, however, suggested that Fight for $15 might
have led to area-wide bargaining in fast food in the event of a democratic victory in the 2016 U.S. presidential elections but that Trump’s victory eliminated that possibility.

An optimist might see all the activity described above as potentially converging and, in the right circumstances, triggering a mass takeoff of area-wide unionism when tens of millions of workers grasp its transformative power.

We certainly seem closer today than a decade ago to a take-off possible once a mass of workers can readily imagine area-wide unions with the capacity to transform their workplace, economic status, and industry. As one young organizer said: “New forms of worker organization are not going to be rocket science, resulting in models of sectoral bargaining as in Europe...” He added that he thought unions need to “go small in the short to medium term,” applying this model in a critical mass of places and sectors. “Sometimes the temptation among national union leaders is to want to go big and broad – 400 one-day walkouts on the same day, front page of The New York Times. This is a longer-term project that requires more patient investment in real worker leadership.”
Obstacles to the Take-Off of Area-Wide Organizing and Bargaining

Interviewees emphasized several obstacles to an upsurge in union organizing. One concern is the diminishing power of unions, what one source termed “the incredible shrinking labor movement.” On September 28, 2017, the Supreme Court announced that it would take up the Janus Case on appeal. Most observers expect it to decide 5-4 by mid-2018 that public sector unions across the country cannot collect any “fair share” contributions in lieu of dues. Observers expect this to reduce union resources by about 30 percent.

Some observers critique unions’ reliance on a “consultocracy” that views organizing like a political campaign in which you try to fine tune the message to sway the swing voters in the middle. Critics of this approach see it as part and parcel with a “mobilization” rather than deep organizing approach. They also see consultants’ use of opinion research (e.g., focus groups and surveys) to refine messages as, at best, confirming what good organizers already know from conversations with workers. At worst, consultant-driven campaigns, some organizers believe, impede the development of workers’ own agency to transform their jobs, industries, and lives.

One observer worried about the lack of places to “reimagine unions.” Experience in Pennsylvania over the past two decades buttresses the same point. Brainstorming across union lines and between unions, researchers, and early childhood advocates helped birth Philadelphia’s United Child Care Union and nationwide organizing in
family child care (see footnote six). But such brainstorming, and the kind of symposium that kicked off contingent faculty organizing in Boston, are unusual. Many unions and organizing campaigns have been reluctant to open themselves up to outsiders – other than consultants on contract – who might expand their repertoire of union forms and tactics or their connections to policymakers and power brokers within an industry.\textsuperscript{28}

And supportive governments and foundations – who could have brought in outside resources to help unions strategize and reposition themselves – have rarely done so (until recently).

Another obstacle: the lack of an analogue to the communists and socialists of the 1930s, which leaves many wondering whether there is adequate ideological leadership among workers and within unions to trigger an upsurge in organizing.

“Millennials” may offer a ray of hope as a cohort of well-networked, open-minded new leaders. Unlike older cohorts, millennials are not burdened by personal knowledge of “old” manufacturing unionism. This leaves them freer to imagine and embrace forms of organization that fit the industries and economy of today. The networking proclivities of millennials may also contribute to some opening of unions and organizing campaigns to community members, researchers, political leaders – anyone who an organizer believes can help workers win. Contingent faculty, some of them millennials, provide another source of leadership – and not just in the higher
education sector – drawing on their experience as workers and profession as intellectuals.

Another potential obstacle is the continued “fissuring” of business organization and the emergence of the “gig economy.” This fissuring, however, goes along with increasing concentration of non-manufacturing industries locally, nationally, and globally (think Walmart and Amazon). This concentration creates analogues to GM in 1937 – “big enough to scale” new forms of area-wide service unionism. Fissuring has also opened more unions and workers to the need for flexible forms of unionism such as have long existed in the arts and the building trades.

**Do We Have to More Directly Confront the Power of Capital?**

Perhaps the most fundamental critique of an optimistic read of the potential for an upsurge of area-wide organizing perceives a need to more directly confront corporate and financial power. Highlighting the potential of area-wide organizing does not ignore the need to confront power *in the context of that organizing*. McAlevey, for example, highlights the need for geographical organizing to begin with a power analysis. Virtually any area-wide organizing or bargaining teaches the same lesson – that you must understand who has the power to make concessions. This was another lesson of Justice for Janitors: even if the goal was an area-wide union contract in Los Angeles or Pittsburgh, you needed to understand that it was pointless to focus on
“middle men” such as individual small janitorial contractors. You had, instead, to identify the power players in building services – the major building owners and global building service companies (such as ISS) with the power to bless union recognition and area-wide standards.

From the perspective of this chapter, the feasibility of organizing and amassing worker power one metro area or region at a time – not all at once on a broader or national scale, at least initially – is part of the potential of area-wide organizing. This makes it possible for McDonald’s or other fast food companies to recognize unions, or get their franchisees to do that, in San Francisco, or New York, or Seattle – if local worker power and political connections can make that the price of participating in these metropolitan markets. After all, McDonald’s bargains with unions in Denmark. Asked about this scenario, however, one organizer responded skeptically, saying “it is not clear who is going to concede in those first three cities.”

In sum, we argue that sectoral organizing within geographical areas could light the spark of a new upsurge in unionism. Its potential can be realized initially one small victory at a time, but each such victory increases the odds that workers will see the general applicability of area-wide union models in all regions and many industries. Each such victory increases the odds that area-wide unions will come be seen not as an abstraction and theoretical possibility but as a practical reality that growing numbers of workers want to bring to their job, employer, and sector – “I’ll have some of that thank
you.” Mass area-wide organizing in non-mobile services triggers might also trigger a rebound of unions in other sectors, just as building trades unions grew during the rise of industrial unionism. Skill-based manufacturing unions – organized geographically and/or along supply chains (“keiretsu unionism”) – might also grow with workers emboldened and manufacturers needing craft-like unions to help them train and retain skilled workers once jobs in the services have become more attractive.

The President…Governor…Mayor…Civic Leader…Faith Leader…Economist…Want You to Join a Union

We divide our “recommendations for action” into two “buckets.”

Reimagining Unions and the Economy

At the outset of this paper, we highlighted workers’ having a concrete vision of unions that could transform their lives and industry as pivotal to their willingness to organize. Our first set of recommendations therefore aim to help workers see that their industry could be reorganized to lift workers, with benefits also in most cases for consumers and the community. These recommendations should be implemented in support of actual or planned organizing in specific industries and places.

- Conduct accessible case studies of area-wide unionism in places and industries where it already exists – e.g., health care in New York City, the casino industry
and hotels in Las Vegas, the janitorial industry in Boston, the security guard industry in Pittsburgh, child-care in New York state, and others.\textsuperscript{29}

- **Hold envisioning sessions, including workers, in support of organizing or contract campaigns, and of multiple sectoral campaigns within some regions.**

Like the “symposium” that shaped contingent faculty organizing in Boston, envisioning sessions could reimagine the future of each industry. Where there is sufficient organizing taking place, it might have resonance to envision a future with multiple industries transformed – to demonstrate that broad-based unionization would deliver the broadly shared prosperity to which Pittsburgh or Buffalo aspire.

- **Develop training, union leadership academies, and internship programs that emphasize sectoral organizing and bargaining** – for a mix of union organizers, worker leaders, worker center staff, and students. These leadership development efforts would resemble past initiatives such as “The Organizing Institute” (later the Organizing Department of the national AFL-CIO) and Union Summer (for college students) but would focus more explicitly on area-wide organizing models and tools for getting workers to see these as a concrete possibility not an abstraction. Part of such trainings could also respond to the challenge of the Janus case, exploring how to recruit and retain voluntary dues-paying members based on a positive vision of the transformation of their employer and sector.
• Explore apps and organizational structures that allow worker organizations to control the labor supply in an industry. Several observers, from different vantage points, have recently concluded that technological and organizational innovation might enable worker organizations to control the labor supply within industries. For example, Irwin Aronson, general counsel to Keystone Research Center, has suggested that a competitive ride-sharing app that embeds decent wages, benefits, work-time rules and other standards could compete away drivers from other apps. Palak Shah of the National Domestic Workers Alliance has also stated that “…labor markets are not the property of private capital – we should imagine new structures in which the supply side is essentially a union” – such as family child care and home care unions.

“Algorizing” – Getting Progressive Politicians to Support Next Unionism

Conservative politicians from Wisconsin Governor Scott Walker to Tennessee Governor Bob Corker to Mississippi Governor Phil Bryant take no prisoners when it comes to their aggressive antipathy to unions. Typically, progressive politicians are less bold in their support for unions, although exceptions exist. President Obama in a video states emphatically and repeatedly “if I were in a service industry today, I’d join a union.” It’s past time for unions to demand that all politicians they support advocate forcefully for worker organizing as a way fix economic inequality and democracy – this
is a “which side are you on?” period in our history. Assuming those politicians believe in democracy, the American Dream, and a strong middle class, demanding more assertive support for broad-based unions should not be a hard sell. Here are some specific ways this can be done.

- **Politicians Should Use the Bully Pulpit to Support Workers’ Organizing and Connect the Dots that Area-Wide Unions CAN Create a Dynamic Economy that Works for All.** One critical way to support broad-based unions is through the bully pulpit – to directly articulate in the context of specific union organizing fights and contract campaigns the narrative that joining area-wide unions in the tens of millions can lift middle-class incomes, enhance dignity at work, and profoundly improve quality of their life. Progressive governors, mayors and other elected officials should explicitly aim to build workers’ confidence – to let workers know “you’re on the right track” – and to thank them for advancing an answer to the scourge of inequality in America. Directly countering the Corker’s and the Bryant’s of this world, leading progressive policymakers should echo the famous phrase used by John L. Lewis in the 1930s “the President wants you to join the union.”

- **State and local public officials should also use public programs and policies to support high-road sectoral unions.** Despite federal pre-emption on labor law for many private sector workers, state and local public officials still have many tools
available with which they can promote the sectoral high road founded on respect for area-wide unionism. Examples include training funds, labor-law enforcement, government contracting, wage boards (backed by statute or simply advisory), and many others.  

- **Civil society should more explicitly support worker organizing and broad-based unions.** Many elements of civil society have in the past been ambivalent about unions. As workers and unions seek to organize in ways that more clearly mesh with the economy of the future, leaders from the faith, philanthropic, minority, and academic communities can offer vital support and validation – as they already have in many successful organizing efforts. As with politicians, one aspect of this support should be to reinforce workers’ emerging confidence that they can come together in ways that will work.

**The Chicken and the Egg – Organizing and Labor Law**

This chapter argues that if workers develop a combination of moral outrage and confidence in the payoff to organizing than another upsurge in unionization like the 1930s could emerge again. Looming in the background alongside the issue of power has been the issue of labor law and the extent to which labor law facilitates or impedes organizing on an area-wide industry basis.
Right-wing opponents of worker organizing and unions can be counted on to use the law at every turn to impede area-wide organizing, just as the Trump NLRB is now undoing the incremental steps taken by Obama’s NLRB to protect worker rights.\textsuperscript{34} Illustrative of this, the innovative attempt to allow all ride-share drivers in Seattle to organize into a single union immediately prompted two legal challenges.\textsuperscript{35} In home care and child care, successful organizing precipitated the 2013 Harris vs. Quinn Supreme Court decision that states cannot authorize collection of “fair share dues” from home care workers who are not union members (and, implicitly, family child care providers paid partly with state funds). This was also the warm-up act for the Janus case, which, is intended to, and will, deprive unions of financial resources for influencing politicians, policy advocacy, organizing – for everything they do.\textsuperscript{36}

For their parts, workers and their unions will also use the law when they can. Moreover, diffusing area-wide unionism throughout the U.S., a country in which current federal law (as interpreted by the courts), is uniquely hostile to sectoral organizing and bargaining, will take major progressive changes to federal labor law – a “Wagner Act for the New Economy.”

In the end, labor law is shaped by organizing as well as shapes organizing. The legal changes needed to generalize area-wide unions in the United States are not coming UNTIL and UNLESS there is a sufficient scale of organizing first that the legal changes would ratify – not invent – a model that already exists for millions of workers.
Job one for workers and their unions then is to demonstrate at a mass scale that they know how to restore equity through area-wide unions. And job one for political and civic leaders who share the view that union revival is essential to economic and social justice in America is to do everything they can to support workers in that demonstration.
END NOTES


3 Personal communication with Irwin Aronson, Willig, Williams and Davidson and General Counsel, Keystone Research Center, 1995.

4 Interviews who agreed to be identified were: Steve Babson, Paul Booth, Heather Cushman, Denise Dowell, Marshall Ganz, Erin Johansson, Stephen Lerner, Cassandra Oggren, Teo Reyes, Jesse Wilderman and Sam Wohns. The author also thanks these individuals and Costas Spirou for valuable feedback on the conference version of this chapter.


6 In a case of “simultaneous discovery,” Keystone Research Center (KRC) had also come to the view that a wall-to-wall union of early childhood educators made sense, drawing from research on the industry and the literature of new paradigms of service industry unionism. This led us to organize in 1998, with Cooperative Development Incorporated (CCDI, the replication arm of two worker-owner child care centers in Philadelphia), and the National Union of Hospital and Health Care Employees (NUHCE), a forum for representatives of multiple unions and a half dozen researchers and non-profit early childhood advocates and organizers. The early history of UCCU is documented in the participant-observer dissertation written by one of its lead organizers: see Denise Dowell, “Regional Sectoral Strategies to Improve Low Wage Jobs: A Case Study in Child Care – the Philadelphia Experience,” Ph.D. dissertation, Bryn Mawr Graduate School of Social Work and Social Research, March 17, 2003.


Non-mobile services account for 49 percent of all jobs and a larger share of lower-wage jobs. The 49% includes retail trade, bus service and urban transit, taxi and limousine service, the postal service, education and health services, leisure and hospitality (which includes restaurants and fast food), services to buildings and dwellings, landscaping services, personal and laundry services, car washes and auto repair and maintenance. Adding in other inherently local industries – construction, public administration, and wholesale trade – brings employment in non-mobile sectors to 63 percent of the U.S. total. Employment shares calculated from 2016 employment by detailed industry online at https://www.bls.gov/cps/cpsaat18.htm. The 63% is conservative: excluding almost all professional and technical services, transportation and utilities, financial services, mining, agriculture, and manufacturing. Mike Burrows and Jessica Gokhberg, “Graduate Worker and Faculty Unions Are Taking on Duke’s Administration,” Paste Magazine, July 3, 2017; accessed September 24, 2017 at https://www.pastemagazine.com/articles/2017/07/graduate-worker-and-faculty-unions-are-taking-on-d.html


17 For an LA-centric timeline on Justice for Janitors, see http://socialjusticehistory.org/projects/justiceforjanitors/timeline;

18 For the Fairfield County and Las Vegas examples, see McAlevey with Ostertag Raising Expectations.


Matt Dimick identifies two other sectoral approaches: one is a “voluntarist model” that operates by mutual consent in Nordic counties with little state support but also no restrictions on use of secondary boycotts to impose the standards on uncooperative employers. The second approach is the “wage board” model used most extensively in Australia where tri-partite commissions set wage standards in many industries and occupations. Presentation by Matt Dimick, University of Buffalo Law School, conference on “Could Experiments at the State and Local Levels Expand Collective Bargaining and Workers’ Collective Action?” Harvard Law School, September 19, 2017.

On the distinctions between deep organizing (of substantial shares of workers), mobilizing (relying member on a small number of leaders and activists), and advocacy (heavily reliant on professional lawyers, pollsters, researchers and communication forms), see Jane McAlvey, *No Shortcuts: Organizing for Power in the New Gilded Age* (Oxford: Oxford University Press, 2016).

For an overview of Janus, see [https://www.afscme.org/now/what-janus-v-afscme-is-really-about](https://www.afscme.org/now/what-janus-v-afscme-is-really-about).

These observations recall Marshall Ganz’s development of a theory of strategic capacity in unions out of his participant-observer experience within the union. He argued that the United Farm Workers proved able to organize farmworkers when better resourced unions could not because of the intersection of three factors: “motivation,” information (or “salient knowledge” – connections to all the worlds that might impact farm workers), and “heuristic capacity.”

Existing studies of union wage effects tend not to isolate examples in which a union has achieved density of 55% to 70% or more in a city and thus likely underestimate the impact of this. Some of this has to do with technical challenges associated with the primary data base (the Current Population Survey) used for studies of union wage effects. But it does not preclude more systematic study than published recently of the wage impact of raising union density in a sub-state geographical area within non-mobile industries.

Personal communication with Irwin Aronson.

Family child care unions vary in terms of which part of the industry supply they include. Some include all regulated providers (e.g., one of the WA units), some include all regulated providers that provide subsidized care, and others include (in one or two bargaining units) regulated providers and unregulated (license-exempt). Setting aside the details, these unions illustrate the potential to define a group of workers – and a worker organization – through regulation and licensing.

Accessed September 25, 2017 at [https://www.youtube.com/watch?v=SzvtCTI7UY0](https://www.youtube.com/watch?v=SzvtCTI7UY0).

For eight ways state and local government can support sectoral bargaining, see David Madland and Alex Rowell, “How State and Local Governments Can Strengthen Worker Power and Raise Wages,” Center for American Progress, Washington, D.C., accessed September 25, 2017 at [https://cdn.americanprogress.org/content/uploads/sites/2/2017/05/01144237/C4-StateLocalWorkerVoice-report.pdf](https://cdn.americanprogress.org/content/uploads/sites/2/2017/05/01144237/C4-StateLocalWorkerVoice-report.pdf).

Mark Joseph Stern, Donald Trump, “Union Buster: The president’s appointees to the National Labor Relations Board have already incinerated Obama’s labor legacy,” *Slate*; [http://www.slate.com/articles/news_and_politics/jurisprudence/2017/12/donald_trump_s_union_busting_appointees_just_incinerated_obama_s_labor_legacy.html](http://www.slate.com/articles/news_and_politics/jurisprudence/2017/12/donald_trump_s_union_busting_appointees_just_incinerated_obama_s_labor_legacy.html).
Charlotte Garden, “The Seattle Solution.”