

## Labor Citizenship for the Twenty-First Century

### Abstract

Today, immigrant women and men toiling with their citizen colleagues in insecure employment that Guy Standing (2016) describes as the post-industrial precariat make up the vanguard of the struggle to protect labor rights. In this paper, I argue that immigrant participants in the labor movement are acting as exemplary citizens motivated by a factor beyond self-interest—the well-being of workers in mixed-citizenship communities where they have laid down roots. My focus here is on how immigrants are acting as participatory citizens in the workplace. Their exemplary citizenship is expressed in their willingness to assume the risks that come with labor organizing, including wage losses, termination of employment and threats of deportation, for the benefit of a mixed-citizenship status community of workers. In the process, they are overcoming the racial, gender, occupational, and national origins exclusions of traditional “business unions,” which only recently included immigrants and care workers in their ranks.

### Introduction

As a contribution to our understanding of citizenship in political theory, taking part in grassroots labor organizing efforts should be recognized as a form of participatory community citizenship that demonstrates a willingness to work with diverse members to achieve shared goals as preparation for the obligations of national citizenship. Beyond the primary normative argument about the connection between labor activism and citizenship that I am making here, we could envision further public policy applications in the immigration debate. The participatory citizenship of labor activists can form part of a moral claim on the part of unauthorized immigrant community organizers and workers to earned legalization and citizenship. A labor organizing-based pathway to legalization for unauthorized immigrant long-term U.S. residents, with eligibility for naturalization, would also at least address concerns by citizens and legal residents that legalization will undermine labor organizing efforts (Quigley 2015, 39). Comprehensive immigration reform legislation that partakes of this ideal of workplace activism as a form of exemplary citizenship would include a clause placing immigrants who participate in labor organizing efforts at the front of the line for access to legal permanent residence as deserving applicants, shortening the time it takes for them to become citizens. Worker solidarity expressed by giving up individual short-term earning opportunities by refusing to cross picket lines or work for substandard wages to advance long-term collective gains for all workers should be recognized and rewarded as preparation for citizenship.

To understand where the efforts of today's generation of labor activists fit in the broader political theory of citizenship, I begin by first explaining ideas about industrial participatory citizenship set forth by earlier theorists including T.H. Marshall (1950), Harry Arthurs (1967), Robert Dahl (1985) and Judith Skhlar (1991). Second, I will explain the shortcomings of industrial citizenship in terms of the subordination of racial minorities and women within business unions that eschewed organizing drives in favor of a conservative posture that favored conciliation with management. Unions that reached out to previously underrepresented segments of workers, including immigrants and care workers, were one of the few areas of growth during

the overall decline in the power of organized labor in the private sector in the late twentieth century. Third, I will explain what features of “industrial citizenship” are most relevant today, and how previously marginalized groups, including immigrants, minorities, and unpaid care workers are acting as exemplary citizens in social movements fighting for improved conditions for all workers. Their exemplary citizenship comes from their willingness to assume the risks of labor organizing, including wage losses, termination of employment and threats of deportation, for the benefit of a mixed-citizenship status community of workers.

## **I. Industrial Citizenship in the Late Twentieth Century**

In its heyday from the 1950s to the early 1980s in Canada, the United States, Western Europe, Australia and New Zealand, industrial citizenship stood for state and union protections from arbitrary dismissal, job security based on seniority, health and safety regulations, workplace compensation, minimum wages, and the right to collective bargaining (Stone and Arthurs 2013, 2; Standing 2009, 37). Some of these social rights were guaranteed by states, building a further bridge between citizenship and the working class (Fudge 2005, 632). But for the most part, the rights of industrial citizenship were institutionalized by trade unions, which bargained for higher wages and benefits than the minimum required by law (Barbalet 1988, 26).

Reflecting on a series of settlements between large corporations and unions following the Second World War that offered workers greater security in wages and working conditions, political sociologist T.H. Marshall argued that union membership had become a form of “industrial citizenship” for employees “parallel with, and supplementary to the system of political citizenship” (Marshall 1950, 94; Janoski 1980, 7). Overall, Marshall emphasized that political equality was not sufficient, and the rights of citizenship ought to move beyond civil and political rights to encompass social rights. Even so, he regarded the right to work as a mere civil right to enter into a contract. This is a position consistent with earlier American ideals that civic standing is premised on being an “‘earner,’ a free remunerated worker . . . who is rewarded for the work he has done, neither more nor less” (Skhlar 1991, 64). Skhlar’s vision of “economic independence” in turn is compatible with earlier, republican theories of virtue insofar as labor organizers fought for the means for ordinary workers to become informed and active citizens in their unions, the workplace, and the broader community (Gourevitch 2015, 145).

Marshall’s vision was not so progressive as to enumerate labor rights as social rights, or obligations that ought to be safeguarded by the state rather than left to collective bargaining amidst shifting economic conditions and balances of power where management now has the upper hand over workers without union representation (Giddens 1982, 172; Barbalet 1988, 22-23). Beyond rights, Marshall was also interested in recalling workers to what he viewed as their social duties, using the British worker’s role in wartime as a normative starting point. Workers had a responsibility to meet production quotas, and in turn, employers and the state had a responsibility to ensure that workers could not just survive with adequate wages and working standards, but could also develop their personal and professional capacities with free time, training, and income to spend beyond the mere necessities (Strangleman 2015, 677).

Canadian socio-legal scholar Harry Arthurs envisioned a broader and more enduring normative vision for industrial citizenship extending beyond Marshall’s narrow, time-bound

description of industrial workers' mid-century status and rights. He envisioned that a more enduring normative standard of labor protection outside the state that would transcend union membership (Arthurs 1967, 786, 813-815). Arthurs argued that labor relations laws had outgrown their original role as arbiters between employees, their union representatives and employers. By 1967, "the worker, shipper, insured, investor, farmer or consumer" all gain "certain advantages . . . because of his status as a member of 'an industrial community' that constituted a state within a state, all under the jurisdiction of labor law" (Arthurs 1967, 787). The central members and rights-holders of this "state within a state" were still industrial employees with union representation. Arthurs' aspirational vision of industrial citizenship was synonymous with economic dependence rather than trade union membership. This status and accompanying rights would include "any person who is obliged to sell his services in a market in which he is dependent on a single purchaser" from employees "to many other economically vulnerable groups – self-employed truck owners and taxi-cab operators, fishermen and service-station lessees" (Arthurs 1967, 790). All contractors could look to labor arbitration boards for redress against an adverse change in working conditions for the employee (*Ibid*).

### *The Height of Industrial Citizenship: Public-Sector and Military Unions*

In retrospect, Harry Arthurs was writing about industrial citizenship during a peak in union membership and political influence in North America, at a time when private sector "business union" leaders faced growing discontent within their ranks. Minority workers in the United States in particular demanded that labor unions address inequality, inadequate representation, and segregation within their own ranks, with limited success (Foner 1982, 410-421; Faue 2017, 150-152). Within unions, which constituted a key institutional location for industrial citizenship and the source of many of its rights and duties, exclusion prevailed during their mid-twentieth century peak. Opposition to non-white immigrant labor, as a source of competition and as an "other" against which workers could forge bonds of solidarity was evident as early as the turn of the twentieth century in the anti-Asian and anti-immigrant rhetoric of Samuel Gompers' American Federation of Labor (Aronowitz 1992, 141-142). In the 1930s and 1940s, communist-affiliated unions organized African-Americans and spoke out against segregationist policies, only to be suppressed by mainstream business unions and law enforcement during the Red Scare that followed World War II (Frymer 2008, 62-63).

At the height of the Cold War, when Marshall and Arthurs theorized the concept of "industrial citizenship" as a locus of participatory citizenship in the U.K. and Canada, unions in the United States were reluctant to challenge gender and race segregation in the workplace. Few unions promoted women or racial minority workers to positions of union leadership (Hill 1961; Fudge 2005, 640; Standing 2009, 40; Frymer 2008, 68-69). Union leaders like George Meany of the American Federation of Labor and Congress of Industrial Workers (AFL-CIO) clung to a conservative posture on civil rights when confronted by social movements within their unions demanding internal desegregation and support for broader social and political equality (Lewis-Coleman 2008, 24, 74-76; Estlund 2001, 793-794). In 1961, Herbert Hill, the Labor Secretary of the NAACP, took the AFL-CIO under George Meany's leadership to task for tolerating the exclusion or segregation of Black workers in southern union locals, belying the AFL-CIO's half-hearted commitment to racial equality (Hill 1961, 110). Whereas pre-World War II union organizing efforts within the Congress of Industrial Workers (CIO) were often premised on

racial unity as a means of overcoming divide and conquer tactics by employers, Cold War-era AFL-CIO organizers often viewed racial justice as a distraction from class solidarity and the pursuit of purely economic objectives (Cohen 1990, 337; Lewis-Coleman 2008, 3, 24).

U.S. public sector unions fared better than private sector unions in the 1960s and 1970s, in terms of both membership growth and inclusiveness. Public sector union membership grew from 10.8 percent union density in 1960 to 40.2 percent union density in 1976 (Goldfield 1989, 404). Public sector unions like the American Federation of State, County and Municipal Employees were also at the heart of the civil rights struggle, highlighted by AFSCME's role during the Memphis Sanitation Strike of 1968 (Foner 1982, 381-384; Ryan 2011, 181). By the 1970s, previously quiescent public sector unions like the American Federation of Government Employees (AFGE) became more militant, going so far as to attempt to organize military personnel (Cortright and Watts 1991, 47-48). Delegates to the AFGE National Convention in September 1976 voted to amend the federation's constitution, rendering military personnel eligible for union membership (Taylor 1977, 13). Owing to ongoing racial discrimination within the military and the belief that unions would address their grievances, Black enlisted personnel were most likely to support unionization (Cortright 1991, 47-48).

The failure of military labor organizing can be traced both to the conservatism of labor leaders like the AFL-CIO's George Meany and the Teamsters Frank E. Fitzsimmons, who opposed military unions, arguing that the need for military discipline in combat was incompatible with civilian labor grievance arbitration processes (Mittlestadt 2015, 62). With the help of congressional allies like Strom Thurmond (R-SC), military leaders successfully quelled military unionism in 1977 and proscribed future efforts to unionize military personnel in 1978 (Mittlestadt 2015, 70-71). To undermine support for military unions, military leaders increased benefits providing for military personnel's social welfare needs in exchange for their faithful service (Mittlestadt 2015, 34-45, 232-236). Still, the AFGE's unprecedented attempt to organize an occupation defined by deference to authority attests to the strength and scope of public sector organizing efforts during the 1970s, and to the union's belief that the rights and duties of industrial citizenship should be extended across all occupations.

### *Neoliberal Retrenchment in the Late 20<sup>th</sup> Century: From Industrial to Consumer Citizenship*

By the 1980s, neoliberal governments in Canada led by Brian Mulroney, the United States under the Reagan Administration and the United Kingdom led by Margaret Thatcher challenged the power of public sector trade unions, while multinational corporations threatened private sector unions with outsourcing to secure contract concessions (Turner 2016, 680, 685). The role of union membership that formed the bedrock of industrial citizenship for its core status holders in Marshall's limited understanding of the concept was under attack. Still, the concept of industrial citizenship continued to gain adherents as a normative vision for resisting these changes and protecting workers' rights. In 1988, Australian political sociologist Jack M. Barbalet followed Arthurs' normative vision for an expanded constituency for industrial citizenship limiting the commodification of employed persons. He contended that potential membership in industrial citizenship was not exclusionary, but universal, available to anyone whose material situation required them to draw upon such protections (Barbalet 1988, 26).

Robert Dahl provided an alternative, related conception of economic democracy that did not depend upon unions as guarantors of social rights, vesting control over wages, benefits, and hiring on “the people who work in the firm” who “might be called citizens of the enterprise” (Dahl 1985, 92). On this account, self-governing enterprises would do more than just guarantee economic benefits to workers, they would also inculcate the duties of firm citizenship by giving workers a stake in the firm’s welfare (Dahl 1985, 100). This vision of industrial citizenship is not limited to unionized workers, but it still has the downside of being limited to those privileged to be employees of a self-governing enterprise (Dahl 1985, 114-116). Judith Skhlar expanded this normative vision to those not currently employed, defining economic citizenship as a social commitment to provide opportunities for work at a living wage for everyone (Skhlar 1991, 99).

## **II. Overcoming the Exclusionary Dimensions of Industrial Citizenship**

For all of its benefits for employees of large, unionized firms, and despite efforts to expand “industrial rights” to non-union members, the mid-century vision of “industrial citizenship” was exclusionary in practice, and limited to a select cadre of employees of large organizations represented by union federations (Stone and Arthurs 2013, 3). The underlying concept of industrial citizenship set out by its leading twentieth century theorist, T. H. Marshall, assumed that women would gain their social entitlements through a male relative’s participation in the workforce, union membership, and access to government social welfare benefits and protective labor legislation (Zetlin and Whitehouse 2003, 774). Still, an element of Marshall’s vision of social and industrial citizenship transcends the exclusions of his time: the notion that there must be a compact enforced by the state to ensure that all persons have the right to work for a living wage that accords them with the means of survival, respect, and social standing. In turn, workers have the reciprocal duty to support the state with their taxes and a cooperative enterprise with their labor (Zetlin and Whitehouse 2003, 776). Even when evaluated from the standard of the gender norms of Marshall’s mid-twentieth century Britain, industrial citizenship failed to cover the significant social labor performed for the most part by women, to support paid workers, union members, and taxpayers. A model of industrial citizenship that does not fully recognize the contributions of women as both paid workers and unpaid caregivers is not normatively defensible. The remaining problem, for those who do not work outside the home, lies in recognizing the social value of unpaid care work as a benefit for care receivers, an investment in the training of young citizens, and as covering a cost that other workers or social welfare providers would otherwise have to bear.

On the issue of immigrant rights, large union federations like the AFL-CIO advocated for restrictions on the entry and employment of non-citizen agricultural and industrial workers until the mid-1990s (Hamlin 2008, 305-310). Since then, labor unions and other forms of labor organizations have become more inclusive of immigrant workers who once fell outside the protection of union federations (Hamlin 2008, 310). This development has the potential to serve a new constituency of workers without access to the rights and status of formal state citizenship, including unauthorized immigrant workers. Since the 1990s, unionization campaigns like Justice for Janitors in Los Angeles and Houston, to represent service workers who cannot be readily outsourced by firms, have been so successful that the once protectionist AFL-CIO set aside its opposition to unauthorized immigrants in a February 2000 policy statement (Minchin 2017, 250). Community labor organizers are leading the movement to organize immigrants in geographical

areas of low union density (Adler and Cornfield 2014, 38). Coalitions between labor and entrenched immigrant rights movements are key to the success of these efforts. Victories for immigrant rights movements in cities with relatively strong labor movements and a dense network of immigrant rights organizations, like San Francisco, have not been replicated to the same extent in other major immigrant receiving centers like Houston without these favorable conditions for organization (de Grauw and Gleeson 2017, 81, 85, 89). State policies that undermine city-level immigrant-rights initiatives, like Texas’s anti-sanctuary city law SB4 have undermined the gains that immigrant workers have made in Houston, forcing the city’s undocumented workers to curtail their participation in the economy (Garza 2017; Najarro and Rhor 2017; Zelinski 2018).

Throughout the U.S., citizen and non-citizen employees share in the struggle for a living wage and job security in what has become a “gig economy” for service and care providers (Gleeson 2016, 2, 7, 23; Minchin 2017, 270-271; Thelen 2019, 6). Unions that represent mixed-citizenship status employees in these precarious lines of work have become key players in the immigrant rights movement. For workers without legal resident status and citizenship in the country where they reside, who can become members of unions or organize in alternative labor representation mechanisms, “industrial citizenship” may be more effective in protecting their social rights than state institutions that may expose them to the danger of deportation.

### *The Marginalization of U.S. Organized Labor and Transformation of Industrial Citizenship*

The prospects of an “industrial citizenship” vested in a compact between unions and corporations have dimmed, as union membership has declined, and firms outsource work to other countries with lower wages and fewer labor protection standards. Labor standards in the United States have regressed over the past generation with rampant under-enforcement of labor law by administrative agencies and courts (Frymer 2019, 216). The toll for the wages and employment rates of blue collar men who benefitted most from the compact between industry and unions<sup>1</sup> from the late 1940s to the 1970s – across racial and ethnic lines - was particularly grave (Self 2017, 278). In the United States, it is estimated that average wages for nonunion men without a college degree would have been 8 percent higher by 2016 if unions were as prevalent as they were in the late 1970s (Rosenfeld, Denice and Laird 2016, 2, 19).

In the U.S., service workers that cannot be readily outsourced are increasingly employed on temporary, contingent contracts or as independent contractors in a “gig economy” that replaced the convention of a “standard employment contract” that provided labor market security for employees in larger firms in the late twentieth century (Standing 2009). More recent critics of Marshall’s concept of “industrial citizenship” note that the trade union rights of the time were a product of the institutional strength of a few unions that excluded most workers (Janoski 1980, 7-8; Mundlak 2007, 733; Anderson 2017, 69). Industrial citizenship may still be relevant if we look beyond its mid-century institutional structure towards other forms of workplace democracy vested in alternative labor market institutions. These can range from works councils in Europe to day labor centers for unauthorized immigrants in the U.S. (Mundlak 2007, 734; Quigley 2015).

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<sup>1</sup> The blueprint for welfare capitalism in the United States – provided for by patterned bargaining agreements came with the provisions of the “Treaty of Detroit” in 1950 between the UAW and General Motors after four rounds of strikes and negotiations in the late 1940s (Davis 2016, 41-43).

### III. Industrial Citizenship for Precarious Twenty-First Century Workers

The fact remains that many citizen and non-citizen workers alike have sunk into a condition of precarity (Standing 2016). They are far less likely to benefit from the labor protections taken for granted by their twentieth century predecessors under the “standard employment contract” that Marshall and Arthurs described as the hallmark of industrial citizenship, with social rights guaranteed by law and by corporations held accountable by unions to their long-term workers (Stone and Arthurs 2013). Union density fell to a new low in 2018 in the United States, with the share of employed workers belonging to unions falling to 10.7 percent (Heinwood 2019).<sup>2</sup> Less educated citizen and non-citizen workers alike whose skills have been rendered redundant by deindustrialization and technological change have few options but to participate in the gig economy, where corporations owe them nothing but minimum wages, and they are one accident away from destitution (Bruder 2017). Diminished status can lead to distrust and anti-immigrant attitudes that managers can use to divide workers and prevent them from organizing effectively (Ribas 2016, 51-53, 99; Loscocco 2018; Gest 2018, 135). Populist politicians appeal to these same attitudes to gain power through working-class resentment (Ribas 2016, 105; Longazel 2016; Gest 2018, 92, 99). When undocumented workers challenge illegal labor practices or attempt to organize with citizen workers, employers respond with requests for documents and threaten to report them to immigration (Ribas 2016, 132; Muñoz 2008, 43-44).

For citizen and non-citizen workers alike who can no longer look to weakened state institutions for labor protections, a more inclusive version of “industrial citizenship” vested not only in unions, but also in alternative modes of labor representation, might fulfill earlier aspirations for a status based in the workplace and rights secured through collective organization. With the decline in union membership during in the 1990s, Harry Arthurs saw “industrial citizenship” as being “about the attempt to make the New economy less volatile and brutal, so as to ensure a modest measure of security, dignity, and justice for us all” (Arthurs 1997, 18). By the turn of the twenty-first century, Arthurs, like other interdisciplinary scholars of labor relations, were more muted about the prospects for industrial citizenship as an empirical description of the rights and status of workers in developed countries (Fudge 2005, 641-644; Murray 2017, 66-68). Today, Arthurs and other socio-legal scholars like Katherine V.W. Stone view industrial citizenship as a normative vision that might protect precarious participants in the “gig economy” working outside the “standard employment contract” that once guaranteed job security and other rights to employees (Stone and Arthurs 2013, 8-12). To accomplish this vision, citizen workers must act in solidarity with their non-citizen colleagues and resist divisive populist political explanations that blame their plight on competition with immigrants.

#### *Earning Citizenship on the Job: Organizing as Community Service*

Beyond just working for wages as a reward for their economic contributions to employers, some unauthorized immigrants are also taking it upon themselves to organize with their citizen co-workers in solidarity to ensure fair wages and labor protections for all workers, risking their jobs, freedom and capacity to remain in the United States in the process. Labor solidarity was an accepted pathway to community acceptance and membership during César

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<sup>2</sup> In 2018, non-union workers in the United States earned only 82 percent (\$860 US per week) of what union workers earn (\$1051 US per week) (U.S. Bureau of Labor Statistics 2019).

Chávez's United Farm Workers (UFW) organizing campaigns during the 1960s and 1970s. The UFW assisted affiliated workers with immigration matters even while it enlisted the Border Patrol and INS's assistance deporting non-union strikebreakers (Hernandez 1968, Chandler 1974). As union activists, unauthorized immigrants risk termination of employment and deportation if immigration officials find them, even while they are organizing with citizen co-workers to improve their collective working conditions (Gordon 2007, 546). When management engages in practices that endanger the safety and livelihood of all workers, rank-and file employees will engage in grassroots protests and work stoppages. This step was facilitated by social movement unions like the Service Employees International Union (SEIU), which organized mixed-immigration status workplaces following a surge of protests and work stoppages by non-unionized janitors in Los Angeles in the early 1990s (Milkman 2006, 123). This grassroots movement soon spread to the construction and food processing industries, where concerted efforts by employers to recruit undocumented workers led to a deterioration of wages and working conditions over the previous decade (Muñoz 2008, 133-146).

Today, immigrants are a source of renewed vitality for the labor movement, both in traditional unions like the SEIU, and in alt-labor organizations like worker centers (Meyer 2016, 39-40). Labor lawyer, scholar and activist Fran Quigley has found that immigrants are actually more receptive to union membership than are native-born workers, because they already have taken so many risks to better their lives through migration (Quigley 2015, 40). But the ideal of civic membership as arising from worker solidarity and reciprocity faces substantial difficulties, since unauthorized immigrants are concentrated in industries where union density is low, and unions no longer have the political influence they once did (Rosenfeld 2014, 156; Gest 2016, 195, 199; Gleeson 2016, 11).

### *Care Work: Expanding the Ambit of Social Citizenship*

On a global scale, care work is a growing economic niche where employment is available to immigrants with or without documentation where they work in the shadows subject to the goodwill of individual families (Fish 2017, 5; Volpp 2017, 158). Female family members typically perform the bulk of unpaid care work, even when they also work outside the home. Their labor falls outside the ambit of the traditional "standard employment contract" and the rights safeguarded by unions for paid employees in large companies during the mid-twentieth century, leading to a disjunct between "worker's rights and women's rights" when they are engaged in care work (Gottfried 2015, 146, 158). Political theorists like Paul Kershaw (2010) are rectifying this devaluation of care work by demonstrating its civic value for society at large. Both unpaid and paid care workers perform the essential work of social reproduction, sustaining their communities by transmitting their ideals and values to their children, and teaching them the habits that will prepare them to be productive and caring citizens later in life (Kershaw 2010, 409; Sullivan 2019, 165). Recognizing the community-wide benefits of caregiving, scholars of industrial relations like Judy Fudge (2016) urge policymakers to include this unpaid care work within the ambit of labor law. Fudge rejects earlier assessments that unpaid caregiving should fall in the the domain of private family law, since caregiving is socially necessary for a functioning labor market to operate by providing for their dependents while they perform paid work (Fudge 2016, 22).



One flashpoint in the struggle for care worker collective bargaining and recognition as employees under the U.S. federal Fair Labor Standards Act involves In-Home Supportive Service (IHSS) program workers. The IHSS program started in California in 1973, and other states have since implemented this model (Boris and Klein 2006, 89). IHSS in California evolved out of previous attendant and homemaker programs aimed at providing non-institutional care for disabled people on public assistance (*Ibid*). Disability rights advocates initially welcomed this program as a means to allow them to hire a caregiver of their choice on contract by providing state funding to care receivers (Boris and Klein 2006, 90). The IHSS program allowed care receivers to employ relatives to care for them, but caregivers usually had to quit other jobs to receive state funding (*Ibid*). From the inception of the program, IHSS workers toiled long hours for low wages, often below the legal minimum after factoring in off-the-clock personal care (Boris and Klein 2012, 190).

Care workers seek the benefits of wage, labor standards, and collective bargaining that earlier generations of “industrial citizens” fought for in factories represented by unions. But in contrast to the paradigmatic “industrial citizens” of the twentieth century who worked together, and could readily organize to resist unfair or illegal working conditions, IHSS workers continue to labor in isolation from their peers in individual households (Poo 2015, 87-88). Whereas the blue-collar industrial citizen in pattern bargaining agreements in mid-twentieth century unionized factories were predominantly male U.S. citizens, IHSS careworkers were predominantly women of color or immigrants. Many of these immigrants do not have legal status in the U.S., and live and work in fear of deportation (Boris and Klein 2014, 473; Greenberg et al. 2019, 33-34). The nominal employers of IHSS workers, care receivers who received IHSS funding to hire care workers, were usually very poor, with a monthly income of less than \$600, and limited capacities to care for themselves, let alone to advocate on behalf of their caregivers (Boris and Klein 2012, 190). To characterize these care receivers as employers with considerable control over the employment relationship, or customers of care, as Justice Samuel Alito did in *Harris v. Quinn* rationalizing limitations on the ability of unions to organize IHSS workers, overstates the degree of agency and control that care receivers have in this relationship (*Harris v. Quinn* 2014; Clifford Simplican 2017, 7). Instead, care workers and care receivers share in a state of mutual economic and political vulnerability to the state that finances the IHSS and similar programs in other states (Chang 2017, 164). Given their mutual interests in funding care work, unions may end up representing the interests of care workers and care receivers as nominal employers alike in negotiations with the state (Cranford and Chun 2017, 49-51, 56).

The U.S. Supreme Court dealt the movement to unionize in-home and family care workers in the United States a blow on 30 June 2014 when Justice Samuel Alito delivered the majority opinion in *Harris v. Quinn* prohibiting unions from collecting dues from home care workers. Alito’s opinion affirmed the view that “the organization of household workers like the personal assistants does not further the interest of labor peace,” thereby justifying the exclusion of care workers from coverage under the National Labor Relations Act (*Harris v. Quinn* 2014, 32). For feminist legal scholars like Eileen Boris and Jennifer Klein, this decision “exposed the limits of an industrial-era labor relations regime that privileged white men in manufacturing and transport industries and poorly serves many workers in today’s . . . service economy” (Boris and Klein 2014, 473). Beyond the challenge to funding for collective bargaining for all workers in this decision, the *Harris v. Quinn* holding served as a reminder that foundational guarantees of

industrial citizenship like the National Labor Relations Act still need to be re-conceptualized to recognize the value of all forms of work, paid and unpaid, beyond former male-dominated blue-collar factory strongholds. Care receivers are more adequately characterized as intermediaries between the state, which provides the funding and sets wages and working conditions, and IHSS workers. The multiple subaltern statuses of IHSS workers continue to complicate efforts by labor organizers to reach and organize this marginalized workforce. This does not mean that we should discard the industrial labor relations regime. Rather, we should find ways to include care workers within the labor protections established for “industrial citizens” in the twentieth century.

In spite of the aforementioned barriers to organization, in-home care workers have succeeded in obtaining collective bargaining rights (Boris and Klein 2014, 474; Clifford Simpican 2017, 2). Unions have not stood alone in this fight for collective bargaining rights. California led the nation in granting legislative protections for collective bargaining for independent homecare providers with the passage of legislation (AB 1682) allowing them the opportunity in 1999. This achievement came through the combined efforts of disability rights advocates, senior rights advocates, clients and caregivers, in a pattern that was replicated in other states that later enacted legislation providing home care workers with collective bargaining rights (UDW 2014). In the wake of AB 1682, unions that had already organized other domestic workers including the SEIU and the United Domestic Workers of America (UDW) began to organize IHSS workers in California (Cranford and Chun 2017, 42-43). AB 1682 in California was followed by successful campaigns in Oregon and Washington to amend the state Constitution to allow for home care workers to organize in 2000 and 2001 respectively (Boris and Klein 2006, 98-99; Mareschal 2006, 32-35). In 2003, Illinois Governor Rod Blagojevich signed an executive order granting personal assistants paid with state funds the right to unionize (Boris and Klein 2012, 214).

Between 2003 and 2015, Michigan, Massachusetts, Ohio, Missouri, Vermont, Minnesota, and Pennsylvania followed suit with legislation providing collective bargaining rights to home care workers and wage and working condition protections at the state level not found in federal law (Rhee and Zabin 2009, 87; Schreiver 2015). As of 2015, an estimated 440,000 home health aides and personal care attendants across the U.S. are union members owing to state-level collective bargaining protections (Hammonds 2015, 232). These legislative victories for home care collective bargaining at the state level were only a starting point. They marked the start of a difficult task of community organizing and building a social movement that would reach and respond to the needs of dispersed care workers and care receivers alike. At the same time, home care union organizers have had to devote considerable resources to legal action and political lobbying to resist efforts to roll back collective bargaining rights in the courts and legislatures. Republican governors in Michigan (Rick Snyder) and Ohio (John Kasich) reversed home care collective bargaining rights in 2012 and 2015 respectively, and a Pennsylvania court took similar action in 2016 (Schreiver 2015; Scolforo 2016).

Where care workers have succeeded in unionizing, their average hourly wage has increased, and they gained access to training programs, safety equipment, and health benefits (Clifford Simpican 2017, 3; Chun and Cranford 2018, 1015). Many of these workers labored in the shadows of the unpaid, informal economy prior to unionization. In California, 70 percent of the home care workforce are relatives of caregivers, predominantly women who seek to avoid

institutionalizing their loved ones by taking up home care work at the expense of their own careers (Boris and Klein 2014, 475-476). Across the United States, the primary beneficiaries of in-home health care worker unionization have been women, immigrants, and African-Americans who collectively make up the majority of all in-home care workers (Clifford Simplican 2017, 3). Beyond the SEIU, the UDW and other care worker unions that bargain with employers and the state for better wage and working conditions, care workers also look to broader community organizations to provide them with job training, camaraderie, language instruction, and political education (Cranford and Chun 2017, 59-61). Together, formal unions and community organizations provide an essential support network for isolated care workers, through social movement labor organizing that transcends the collective bargaining relationship between workers and employers (England 2017, 373-380).

Worker centers and community labor organizing efforts have the kind of flexibility to engage in political action, protests, and boycotts that traditional labor unions lack owing to the strictures of U.S. labor laws (Luce 2015, 160). In the wake of the U.S. Supreme Court's 27 June 2018 decision in *Janus v. American Federation of State, County and Municipal Employees*, public sector unions have lost their legal power to require workers to pay dues for representing them (*Janus v. AFSCME* 2018; Rosenfeld and Denice 2019, 53). In this legal environment, grassroots collective action may have an advantage over traditional labor organizing and collective bargaining. For instance, public school teachers have successfully resorted to grassroots collective action outside the collective bargaining process in Arizona, Colorado, Kentucky, North Carolina, Oklahoma and West Virginia to achieve improvements in wages and working standards (Goldstein 2019). These victories are particularly notable in Arizona and North Carolina where both striking and collective bargaining by teachers is illegal (Fisk 2018, 2077-2078; Henig and Lyon 2019, 56). It remains to be seen whether these short-term victories can be replicated in other occupational sectors or sustained for educators as legislators in Arizona and West Virginia considered retaliatory measures restricting the political speech of teachers in response to their labor actions in early 2019 (AZ House Bill 2015 [2019]; Goldstein 2019).

Within the broader framework of social movement labor organizing, Domestic Workers United (DWU) and the National Domestic Workers Alliance (NDWA) are key examples of alt-labor community organizing efforts advancing the rights and community interests of care workers and care receivers alike (Boris and Klein 2012, 221; Poo *et al.* 2010, 167). Domestic Workers United (DWU) is a non-union labor organization that was founded as a multiethnic coalition of Caribbean, Latina, African and South Asian organizations launched in 2000 in New York City to represent the interests of minority immigrant women in the rank-and-file of the domestic work industry (Boris and Klein 2012, 221; Goldberg 2014, 272). DWU's immigrant membership played a key role in the campaign to enact a Domestic Workers' Bill of Rights through a bill introduced in the New York State legislature in 2004 and finally enacted in 2010 that guaranteed overtime pay, rest periods, and protections against harassment in the private households where they work. DWU achieved this objective through the advocacy efforts of its members combined with the support of traditional labor federations including the AFL-CIO (Goldberg 2014, 274-279). The NDWA has campaigned for similar legislation nationwide.

The NDWA was founded on 30 June 2007 at the United States Social Forum in Atlanta as a coalition of thirteen community organizing groups that emerged out of the immigrant rights

movement rather than traditional unions (Boris and Nadasen 2008, 413). The DWU, the NDWA and its community partners defend the interests of domestic workers classified as companions who are excluded from the NLRA and other laws providing for minimum wages, overtime pay, and other protections (Boris and Klein 2012, 132-133; Goldberg 2014, 271; Fish 2017, 234-235; Katz, Poo and Waxman 2018, 2, 14). The NDWA has expanded to represent a broader coalition of community partners and to represent individual care workers directly. It advances a model of workplace relations that recognizes that care workers and care receivers as having shared interests that include family ties, marginal socioeconomic status, and a dependency on state funding (Poo 2015, 115-116). Moving beyond domestic political advocacy, the NDWA partnered with other national domestic workers associations, trade unions, and human rights organizations to secure ratification of Convention 189 of the International Labor Organization on “Decent Work for Domestic Workers” (NDWA 2016). This convention would broaden the reach of the National Labor Relations Act to expand labor protections to domestic workers. While the political climate under the Trump administration in the U.S. is not congenial for ratification of this convention by the U.S. government, the NDWA continues to use Convention 189 as a benchmark for its lobbying efforts (Fish 2017, 234-236).

### *Care Workers in Alt-Labor, Today’s Exemplary Post-Industrial Citizens?*

Care workers – otherwise known as personal attendants or domestic workers – more broadly are like twentieth century industrial citizens in their need to organize together to obtain and safeguard labor protections. But they are not always in the same adversarial relationship as factory workers are to industrialists where the threat of work stoppages is necessary or possible to obtain concessions from powerful capital-owning employers that were at the center of the national economy. Rather, care workers are more like the “gig” workers that inhabit a fissured workplace where “contract” workers cannot look to a single employer for redress when labor violations occur (Weil 2014, 184-186, 190-195; Cranford and Chun 2017, 49-50; Stone 2017). Like other contract workers, outside the employer-employee relationship, care workers are relying on “social movements of social change, such as lobbying and legislation, codes of conduct and education,” instead of strikes and work-to-rule campaigns (Boris and Nadasen 2008, 415; Katz, Poo and Waxman 2018, 14). These movements unite immigrants and citizens who are working towards a common cause, and sharing the risks associated with political protests and labor actions (Paret and Gleeson 2016, 283-285). In this way, alt-labor organizing efforts resemble their forebears in the mixed-citizenship status United Farm Workers (UFW) union during its founding period. The UFW granted immigrant workers access to community benefits, including assistance in immigration hearings in exchange for sharing the economic burdens and risks to their safety and livelihood during labor actions (Hernandez 1968, 16).

As immigrant-led movements, alt-labor organizing initiatives are radically inclusive. They transcend divisions that the trade union movement condoned up until the turn of the twenty-first century – a division of workers into “legal” and “illegal” that still resonates with many rank-and-file members of trade unions that defined the industrial citizenship of the twentieth century (Ott 2014, 290; Elk 2018). Beyond the domestic work sector, community-based worker organizations have great potential for representing the broader economic, political and legal interests of contract and other precarious workers, including undocumented immigrants in sectors of the economy where union membership is not readily attainable (Katz, Poo and

Waxman 2018, 12-14). Barriers to union organizing can include employer resistance, the lack of organization in the sector of economy where migrants work, and local union unwillingness to organize immigrants (Turner 2016, 689). Even in these restrictive environments, unauthorized immigrants are mobilizing with lawful permanent residents and citizens to protect their labor rights through day worker centers (Tait 2016, 141, 156; Meyer and Fine 2017, 332-334). Day worker center involvement also reflects a commitment to the well-being of a broader community of citizen and immigrant workers constituting earned community membership. To survive and grow, traditional labor unions and federations are also supporting a broader “social movement unionism.” Social movement unionism organizes workers who cannot join unions to protest against both their employers and government policies demanding higher wages and enforcement of existing labor laws (Meyer 2016, 45, 49; Ibsen and Tapia 2017, 183; Hyman and Gumbrell-McCormick 2017, 547; Zepeda-Millán 2017, 37). Social movement unionism can bring in workers at the margins of formal economic and political community membership that include “gig” workers of all immigration and citizenship statuses. Not bound by the terms of a collective bargaining agreement or the strictures of labor laws prohibiting secondary picketing, social movement union campaigns can fight for labor and immigrant rights together, acting as citizens by simultaneously demanding political and economic inclusion (Meyer 2016, 49). Citizens in precarious working conditions and immigrants without legal status are successfully acting together as members of a shared community of interests making common economic and political demands to employers and government officials alike (Meyer 2016, 51).

#### **IV. Conclusion**

Taking part in labor organizing efforts – from traditional trade unions to alt-labor organizing campaigns – should be recognized as a form of participatory citizenship that demonstrates a willingness to work with citizens to achieve shared goals as preparation for the obligations of national citizenship. As a matter of public policy I realize this goal is highly aspirational and unlikely to occur any time soon in a challenging political climate for organized labor. But as a matter of normative theory, alt-labor organizing efforts are the modern incarnation of what T.H. Marshall, Harry Arthurs, Robert Dahl, and Judith Skhlar valued about industrial or economic citizenship as an ideal with rights and responsibilities that workers should aspire to as a form of exemplary citizenship in their workplaces, communities and their nation. To respond to common economic challenges, immigrants and less affluent citizens must develop networks of solidarity both within and outside traditional national labor unions (Ypi 2018, 145).

Twentieth century industrial citizenship stood for the notion that there must be a compact enforced by the state to ensure that all persons have the right to work for a living wage that accords them with the means of survival, respect, and social standing. In turn, workers have the reciprocal duty to support the state with their taxes and a cooperative enterprise with their labor. Beyond union membership, participants in twenty-first century alt-labor organizing campaigns are performing these duties and more to fight for workplace rights. Immigrants are taking part in labor organizing campaigns and protests for a mixed-citizenship status occupational community while assuming the risks of being fired, blacklisted by employers, and targeted for deportation. They are acting as exemplary citizens who are motivated by a factor beyond self-interest—the well-being of workers in mixed-citizenship communities where they have laid down roots.

Who are these exemplary post-industrial citizens? We can distinguish between the level of participation of a worker-activist who leads an organizing drive and a dues-paying member who joins a union only because he is required to in a closed shop. But so long as both display solidarity towards the objective of collective action to safeguard wage and working conditions, they are displaying the virtues of post-industrial citizenship. They might even help defuse longstanding charges at the grassroots level that unauthorized immigrants will undermine citizen wages and working conditions (Draut 2016, 75; Gest 2016, 196). Labor organizations are training workers to be civic leaders, in both the workplace and the broader community (Ahlquist 2017, 420-422; Meyer and Fine 2017, 21). Unauthorized immigrant workers who forego short-term wages and work by not crossing picket lines and taking part in labor actions are acting in the interests of their fellow workers regardless of citizenship (Sullivan 2019, 40-41). Their solidarity and willingness to share in the risks of community-building should be recognized as a form of exemplary citizenship, meriting legalization and a path to citizenship.

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