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## The Twin Track Model of Employee Voice: An Anglo-American Perspective on Union Decline and the Rise of Alternative Forms of Voice

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# The Twin Track Model of Employee Voice: An Anglo-American Perspective on Union Decline and the Rise of Alternative Forms of Voice

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## ABSTRACT

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# The Twin Track Model of Employee Voice: An Anglo-American Perspective on Union Decline and the Rise of Alternative Forms of Voice

We present a simple framework for analyzing decline in union voice in the Anglo-American world and its replacement by non-union, often direct, forms of worker voice. We argue that it is a decline in the in-flow to unionisation among employers and workers, rather than an increase in the outflow rate, that accounts for this decline. We show how union decline is predicted by experience good and cost-disease models of trade unionism and is linked to specific institutional and policy constraints on union organizing in the Anglo-American world. We show how the coexistence of union and non-union forms of worker voice is predicted by transaction cost economics, while the growth in non-union forms of worker voice is aided by declining costs of employers “making” voice mechanisms. We draw on “spurt” theories of unionisation to help understand factors underpinning union decline, including falling costs of employer opposition to unionisation as density falls, as discuss possibilities for “bottom-up” growth in union-like forms of worker voice implied by “spurt” theories.

**JEL Classification:** J51, J52, J53, M54

**Keywords:** worker voice, unionisation, collective bargaining, experience good, cost-disease, transaction costs

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## 1. INTRODUCTION

The effect of trade unions on the outcomes of firms and workers has been a core concern of labour and industrial relations (IR) scholarship for as long as IR has been considered a distinct field of study (Webbs, 1897; Dunlop, 1944). Indeed, some labour historians have gone so far as to argue that the debate over the “labour problem” that emerged in the wake of the Industrial Revolution was instrumental in the birth of the new science of IR during the late 19th and early 20th century (Kaufman, 2010).<sup>1</sup> Essentially, industrial relations experts were “in demand” to solve real tractable problems like absenteeism, sit-down strikes and violent clashes between workers and management (Derber, 1967). One of IR scholarship’s earliest recommendations was for workers to have some mechanism for collective representation at the workplace (Feldman, 1928) and independent trade unions were seen as the closest embodiment of this goal (Commons, 1935).

Although labour scholarship no longer uses terms like “industrial man” or the “labour problem” (Dunlop, 1958) to frame the debate over unions and the labor market, current concerns about the causes and effects of trade union decline are remarkably similar to those of nearly a century ago. In particular, the problem of fostering industrial democracy, as *it* [i.e., employee voice and representation] was originally termed by scholars like the Webbs (1897) and Commons (1935) was still at the forefront of research and policy making well into the 1970s

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<sup>1</sup> A reasonable argument could also be made that “scientific management” and industrial engineering (IE) was an equally compelling creation of the industrial revolution in that industrial engineers provided a ready-made alternative solution to IR experts and unions in resolving the difficulty of managing large numbers of laborers (Jacoby, 1985, 2004).

(Milton, 1970). Now after a long period of dormancy, the issues of worker representation and employee voice are making a noticeable return in public policy debates.<sup>2</sup>

As seen in Figure 1, the main problem facing scholarship in the area of employee voice, especially in the Anglo-American world,<sup>3</sup> is that the main vehicle for providing voice and representation to workers (i.e., the trade union) has witnessed a near universal decline over the past 40 years. This raises the inevitable question of just how important voice and representation is in the context of post-modern/post-Fordist economies (Thompson and Newsome, 2004).

[Figure 1]

We begin by presenting a simple framework for analyzing union decline that follows some of our own work in this area (Freeman, 1998; Freeman and Rogers, 1999; Bryson and Gomez, 2005; Willman, Bryson and Gomez, 2006, 2014; Bryson, Willman, and Forth, 2017). We model the decline in union representation as a shift in uptake by workers and firms between (at least) two types of employee voice –from representative (collective) to direct (individual) voice. We discuss the potential channels that link a rise in “direct (individual) voice” and a commensurate fall in “representative (collective) voice” to specific subgroups of firms and workers, focusing on two alternative hypotheses: (1) the loss of unionised jobs and a decline in

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<sup>2</sup> The 2016 British government green paper on Corporate Governance Reform and Theresa May’s recent calls for worker representation on public company directorships suggests that this new-found interest in industrial democracy will remain on the political agenda as an element in wider reforms to boost social cohesion, both in Britain and internationally. Many countries currently face similar social strains and are looking to a revitalised workforce as an answer. Some, like the Trump administration and Brexit advocates, are trying to improve domestic wages through a combination of immigration restrictions and managed (as opposed to ‘free’) trade. A longer-lasting and empirically successful alternative would be a Nordic-model of economic openness coupled with a high degree of worker protection and collective bargaining coverage.

<sup>3</sup> We could of course add countries like Australia, New Zealand and Ireland to the mix but then the term ‘Anglo-Saxon’ would be ill-fitting for a country like Ireland often billed as the ‘Celtic tiger’. Perhaps a more neutral phrasing like English speaking countries works though even here we would need to qualify that we are focusing on advanced/industrialised economies as well. This is why we settle on the Anglo-American world as our country-focus descriptor.

union density in established firms and amongst older workers; versus (2) new workers and new firms adopting alternative forms of non-union voice or no voice at all.

We show that it is more the latter channel, the rise of so-called ‘never-membership’ and rise of alternative voice systems in newly set-up firms, which has contributed to most of the decline in union density (especially in Britain where we have the best and longest time series data on workplace voice).<sup>4</sup>

We then turn to a discussion of how the decentralised form of labour relations that prevails in the Anglo-American world – specifically the Wagner-Act model with its emphasis on organizing individual workplaces –not only accounts for the never-membership phenomenon but has also fostered a “twin track” mode of employee voice whereby established sectors and occupations with high barriers to entry -- e.g., where there are stable product markets or service delivery monopolies (i.e., public services)-- enjoy higher rates of union voice, whilst a growing new segment of workers and private sector firms exist as either “no voice” enclaves or have filled the union-only voice void with employer provided systems and increasingly, it seems, with self-organized on-line forums and social-justice campaigns.

Speculation of what lies down the road comprises the final section. We think some traditional notions of voice as proposed by authors like Barbash (1989), Meltz (1989) and Budd (2004) have salience in this new era since their basic thrust was that a “law of equilibrium” or “balance” between equity, voice and efficiency exists in the labour market. When the provision of voice and equity is missing, different actors step in to fill the void. If all three traditional

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<sup>4</sup> A study of never unionism by Booth, Budd and Munday (2010) finds never-unionization rates in the United States are also increasing as new cohorts enter the labour market, even after adjusting for demographic and structural changes. In the mid-1980s, 58.1 per cent of 23-year olds had never been unionized, but roughly 20 years later, 70.6 per cent of 23-year-olds had never been unionized.

actors are absent (i.e., management, government, unions), this is when we would expect new forms of voice propelled by new actors to emerge.

## **2. DECENTRALISED BARGAINING AND THE RISE OF TWIN TRACK UNIONISM**

The early 1980s marked the high-water point for union representation across the Anglo-American world (see Figure 1). In 1980, for example, five out of ten workers (51 percent) were represented by trade unions in Britain. By 2014 that number had fallen to just one in four workers (25 percent). In the United States representation was always on the low end of the cross-national scale (see bottom line in Figure 1), but more disquietingly perhaps, is that this overall decline masked an even sharper fall in private sector union representation, something that has afflicted all Anglo-American countries. Whereas union density rose in the public sector during the late post war period in the United States, in the private sector it has been falling continuously since as far back as the 1960s (Figure 2). The same pattern of high public sector density and declining private sector membership since the 1970s prevails in Britain and Canada.

[Figure 2]

The three panels for the US, Canada and Britain look very much like unionism has been on a “twin track” for some time, with a sectoral bifurcation that is only one of many that exist in the provision of union voice across all Anglo-American countries. Given such a marked decline in such a vital labour market institution in the private sector, several questions arise.

- First and foremost is the question of why? Why such a decline in collective representation almost entirely concentrated amongst private sector workers?
- Second, does this decline call into question the relevance of trade unionism or the need for any other form of employee voice?



- Lastly, in light of past practice, current industrial and workplace make up, and more pointedly, given the shifting nature of work and employment under the auspices of what has come to be known as the ‘4<sup>th</sup> industrial revolution’, ‘gig economy’ or ‘new world of work’, what forms (if any) of collective representation and voice might be possible in the Anglo-American world?

To answer these questions, we need to first examine the Anglo-American model by which employees secure union representation and voice. Though each country differs, the Anglo-American model nevertheless contains a set of features that are common to all systems where certified bargaining agents acquire exclusive representation rights and where the employer has no statutory obligation to deal with sectoral bargaining agents or minority unions.<sup>5</sup> In this system -- sometimes termed “exclusive representation with majority support” or simply the Wagner Act Model (WAM) -- workers who have certified bargaining agents are commonly referred to as “unionized” or “organized” while those with no certified agent are referred to as “non-unionized” or “unorganized”. Though different mechanisms exist across Anglo-American economies for securing trade union representation (e.g., some jurisdictions invoke easier certification processes while others prevent agency-provisions)<sup>6</sup>, the Anglo-

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<sup>5</sup> In Canada and Britain, unlike the US, there is a tradition of “voluntary recognition” in which an uncertified employee association can bargain on behalf of its members with management, so long as management willingly accepts. Such employee organizations sign memorandum of agreements (MOUs) with the employer and confer a considerable range of protection for workers. They can also in Canada finance their operations through automatic dues payments (agency shop provisions) much in the same way as certified unions do (Taras, 2006). For the most part, however, Canada unlike Britain, operates like our southern neighbour and representation is secured through formal certification procedures.

<sup>6</sup> Two systems exist for obtaining union certification in North America: The Card Majority Certification Regime (card system) and the Mandatory Secret Ballot Vote Certification Regime (vote system). Under both systems, the first stage in applying for union certification is proof of support for the trade union in a bargaining unit. Under the Card Majority Certification Regime, adopted by four of the ten provinces in Canada (Quebec, New Brunswick, Manitoba and P.E.I) union certification will succeed if a majority of employees represented by the bargaining unit are signed up. This majority varies among the different jurisdictions: New Brunswick and Manitoba require a super

American model in its essential form displays the following seven characteristics that are present in all workplace-based majority representation systems:<sup>7</sup>

*a. “Seven” Key Features of Decentralised Representation Systems in the Anglo-American World*

i) A non-union / no-voice default setting for employees – i.e., whether working in a bank branch or retail outlet there is no system of worker representation in nascent organizations. That is, private sector workplaces are set up and largely exist in an entirely unorganized, unrepresented, non-union condition. As a result, private sector employees, for the most part, work in non-union workplaces and have no access to formal representation systems.

ii) If an employee has access to some modicum of voice and representation within the workplace, it is because the majority of workers were first organized to undertake the process of joining an independent union, securing certification from the labour board and then signing a first collective agreement with the employer. For the typical worker, possessing no past experience with unions or certification procedures, this process can appear lengthy and complicated. In cases where employers are opposed to unionisation, the process is tilted against workers gaining certification (Doorey, 2013). In particular, the use of mandatory vote certification procedures (as opposed to card-based certification which exists across some Canadian jurisdictions) has had a negative effect on certification success rates and on union density (Johnson 2002, 2004). Slinn and Hurd (2011) argue that in Canada certification delays often arise from unfair labour practices (ULP) applications and hearings related to employer

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majority of signed cards (60%+1 and 65% respectively), while a simple majority (50%+1) is sufficient for automatic certification in Quebec and Prince Edward Island. Even under this system, should a group not obtain automatic certification; labour law allows a vote when another threshold of signed cards (obviously lower than for automatic certification) is met. In the US it is exclusively a vote system that prevails nationally and in Britain unions can choose long-standing voluntary recognition or a certification vote similar to the North American model.

<sup>7</sup> This is a list adapted from an original list of five features of the US system found in Weiler (1989).

conduct during organizing while in the US a similar pattern prevails (Ferguson, 2008).

Moreover, there is evidence that employer ULPs are substantially more effective at defeating unionization under mandatory elections than under card check certification (Riddell, 2001).

Though British employees face similar hurdles in organizing their employer as do their North American counterparts, getting to first contract is not an issue in the same way because although in law a collective agreement can be directly binding, it is usually (nearly always) the case that collectively agreed upon terms are *implied* terms in individuals' contracts of employment. Thus, a collective agreement is almost never directly legally enforced.

iii) Non-union employers can be quite averse to unionisation drives and as such deploy a variety of tactics in order to head off incipient unionism (Riddell, 2001; Slinn, 2008; Doorey 2012). Though these tactics have been associated more closely with US style labour relations (Logan, 2006), comparative research has actually shown that managers in other countries report equal, if not greater, negative attitudes towards unions than their American counterparts (Beaumont, 1986, 1994; Campolieti et al., 2007, 2013; Lipset and Meltz, 1997; Saporta and Lincoln, 1995; Taras, 1997). Many non-union employers also engage in sustained efforts to persuade and supplant independent trade unions while others will coerce and suppress incipient unionism (Thomason and Pozzebon, 1998). Furthermore, although there is evidence that major companies headquartered outside of the US have a lower likelihood of opposing unions with the same kind of zeal as US counterparts (Thompson, 2001), union acceptance amongst employers in Canada and elsewhere, as Rose and Chaison (1996: 92) presciently observe, 'is most likely the result of a low probability of escaping unions rather than a [less inherent antagonism]'. There is also a particular UK employer response to unions, found in recent analyses of WERS data in Britain, which can perhaps be best couched as "apathy"; a recognition perhaps that organizing a

workplace is difficult and likely to fail on its own terms such that expending valuable resources in opposing a union is not only unnecessary but possibly counterproductive (Amosse, Bryson, Forth, and Petit, 2016).

iv) As a result of the difficulties in establishing union representation – as documented in i) to iii) -- unionisation can be conceived of as an ‘experience-good’ which is defined by Nelson (1970) as any good or service whose quality cannot be truly discerned before purchase. For workers (and employers alike) unionisation is an experience good in the sense that most union benefits (procedural justice, job security, the provision of family-friendly policies) are hard to observe before joining a union or working in an organized workplace. Experience goods in turn have certain properties that make them hard to ‘market’ to potential adopters who have never sampled membership. In our case this means that groups like young workers or immigrants are particularly likely to by-pass union organizing unless otherwise compelled to do so (Gomez and Gunderson, 2004). Moreover, even if attributes are made visible (through information campaigns) union provided benefits are still of indeterminate quality to a non-union worker (i.e., “you don’t know how good a union is until after you join”) and hence still subject to the same experiential marketing challenges.<sup>8</sup> The indeterminate nature of benefits associated with unionisation can generate hesitation and skepticism on the part of non-union workers, which means that organizing to join a union is difficult since it is a decision whose payoff is only fully revealed after joining.

v) Most workers are members of large (more than 100,000 members) unions. This is natural given that in order to establish a critical degree of employee interest and to overcome the sustained resistance of some employers, the attempt to provide voice and representation rarely

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<sup>8</sup> This is why some unions in the UK and Australia (e.g., the Independent Education Union (IEU)) have experimented with “free” membership for students and newly hired teachers (Costa et al., 1997).

succeeds on its own. It is instead necessarily taken on by large national (or international) unions that have ample resources to overcome the fixed costs associated with new certification drives and experience organizing under the Wagner model in order to lower the marginal costs associated with representing new workers. Large national/international unions are less successful, however, at unionising new firms and small-to-medium sized enterprises in the private sector; instead they deploy scarce organizing funds to certify large well-established firms with large bargaining units (Willman, 2001). Rightly or wrongly, larger unions are also perceived by many non-union employees as having a distinct impersonal and bureaucratic flavour (Weiler, 1989).

vi) Partly as a result of i) through v) there has been a steady decline in unionisation in the private sector and a growth in “frustrated demand” for employee representation that is not being met (Freeman and Rogers, 1999). Frustrated demand for unionisation is generally greater for younger workers. For instance, Bryson *et al.*, (2005: 165) found youth (<25 years) representation gaps of 36 percent (50–16 percent) in Britain, 44 percent (57–13 percent) in Canada, and 42 percent (47–5 percent) in the U.S. The corresponding adult (25-64 years) representation gaps were 11 percent (46–35 percent), 12 percent (48–36 percent), and 37 percent (53–16 percent), respectively.

vii) This large representation “gap” has been filled, in part, by a growing array of statutory provisions (e.g., minimum notice periods) and regulatory mechanisms (e.g., minimum wage laws). Unfortunately, as pointed out by legal and economic scholarship, these universal regulatory standards are subject to the problem of “unfulfilled legal promise” (Weil, 2007). Unless there is an indigenous base of union representation or workplace oversight, the internal

vigilance required to make the universal employment standards programme a reality is often lacking in non-union workplaces and compliance is attenuated (Barbash, 1987; Meltz, 1989).

Given the problems associated with decentralised majority-based collective bargaining outlined above, the rest of the paper identifies an analytical framework to understand union decline in Anglo-American economies and ends with a discussion of the future of voice. The series of employee/workplace voice options for the unrepresented worker and unorganized workplace cover the gamut of employment relationships: from employees working in traditional workplaces under standard employment relationships (e.g., full-time work with permanent as opposed to temporary contractual arrangements) to employees lacking a clearly defined employer (e.g., temp- agency workers) or workplace (e.g., freelance workers).

A common thread linking all possible voice ‘futures’ is a resetting of the current default, whereby employers (and their associated workplaces) are “voice free” until such time as an indigenous non-union scheme is established or an independent trade union emerges through a formal certification process (Doorey, 2013; Braley-Rattai, 2013). An alternative is to fashion a system akin to health and safety whereby all employers are obliged to conform to some minimum requirement for employee consultation and participation. The particulars of which, depending on their size and nature, would be enshrined in standards that apply to all workplaces. Or perhaps consideration should be given to a “minority union model” whereby in an appropriate bargaining unit, the most representative union (or coalition of unions) with a minimum membership to make it credible, could be certified by a labour relations board as a primary bargaining agent with all of the rights and duties of exclusive agents (Adams, 2015).

Underpinning these and other options is a broader view, held by many in the employment relations field, that every worker should as a matter of principle be afforded some system of

employee voice (Adams, 2008; Budd, 2004) irrespective of whether this form of voice has been adopted by the firm or whether a union representation system has been secured via the certification process common across most of the Anglo-American world (Slinn, 2008; Doorey, 2013). And drawing from the earliest scholarship in our field, it should be noted that while the ‘under-provision’ of collective voice may be optimal for an individual employer wishing to secure employee compliance without investing in commitment mechanisms, these private choices may be suboptimal from a societal perspective, either in terms of low economy-wide productivity emanating from lost shop-floor knowledge or from a lack of meaningful participation in an industrial democratic sense.

### **3. A FRAMEWORK FOR UNDERSTANDING UNION DECLINE AND THE RISE OF NON-UNION VOICE**

We argue that the fall in private sector unionism and the high and relatively stable rates in the public sector can be accounted for by a model of unionism where union growth (or decline) is part of a “bottom-up” process (Freeman, 1998) embedded in a wider set of competing and complementary voice channels – all of which exist in a solution market for employee voice.<sup>9</sup> Each voice channel – union, non-union or some dual form hybrid – requires a set-up ‘cost’ and has to be experienced first in order to discern true quality and the full scope of benefits. This idea is captured by the “experience-good model of employee voice” (Bryson and Gomez, 2003, 2005; Gomez and Gunderson, 2004; Budd, 2010) which borrows some basic elements of consumer

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<sup>9</sup> In the union case it is arguable that the ‘experience good’ in question has three components: 1). A right to have a say over the conditions of work and pay (i.e., voice); 2). Some measure of bargaining power such that a greater share of profits flowing to workers than would otherwise be the case (i.e., wage premium); 3). Some modicum of job security provided via internal grievance procedures and just cause termination provisions (i.e., insurance). All three elements are only revealed to workers after they have secured representation, or in the parlance of the model, have “purchased” membership

theory to predict the way in which voice provision differs amongst groups and how voice provision has shifted over time.

We highlight evidence that is potentially consistent with the experience-good hypothesis and those that pose either a problem or a puzzle for the model. By problems, we mean the evidence suggesting that workers desire union representation but are not being organized by labour unions in sufficient numbers to increase density figures, which at least superficially appears to be inconsistent with the view that workers ‘truly’ desire union alternatives over employer voice.<sup>10</sup> Troy (1999) and other authors have used this fact to advance the claim that collective representation has simply been overtaken by self-representation and individualised contracting as the preferred employee mode of employment.

We disagree with this reading and instead rely on the ‘incumbency effect’ (Freeman and Diamond, 2001), which states that any established employee voice system (provided it meets a minimum standard of acceptability) will be favoured over a proposed alternative, even if that alternative is better in some objective way. The acquisition of switching-costs for workers (and firms) is one of the key elements in experience good-theory that ties the incumbency and experience-good models together such that an incumbency effect is captured by the added “cost” and/or “risk” of switching out of one employee voice system to another of lesser-known quality (Willman et al, 2014). Switching costs can keep employees locked-into sub-optimal employment

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<sup>10</sup> Bryson and Freeman (2013) find a correlation between increasing problems at work and the desire for ‘solutions’, and when the desired solution was more union-like, workers seemed to gravitate to that suggesting that there is clear evidence of a representation gap. But as with any desire (I may want to drive a lamborghini) there are costs that workers have to ‘cross’ in order to be unionised and relative to benefits those costs may be too high. And second, perhaps the defining factor is the reduced desire for union voice on the part of employers. Indeed it is, arguably, this rather than changes to employee desire that is deterministic since in the Anglo-Saxon world unions require an employer ‘host’. The decline in unionisation amongst new workers is really just a reflection of their concentration in new firms which have chosen not to unionise for the reasons explained in our model.



relationships just as they can keep consumers locked-into sub-optimal mobile service contracts or bad banking relationships.

By puzzles, we mean evidence that is potentially consistent with our version of experience good theory but appears to be driven by other causes. For example, there is increasing evidence that the standard labour organization itself– i.e., the modern trade union – has significant “cost-disease” attributes (Willman, Bryson and Forth, 2017) that in the current legislative and economic climate render their operation highly tenuous and which might explain their current lack of large-scale organizing success despite an apparent appetite amongst many workers for representation.

Our conclusion is that the experience-good hypothesis is an accurate depiction of why unionism has slowly ebbed as the default form of voice in Anglo-American economies but falls short as a mono-causal explanation for the decline of unions and evolution of alternate forms of voice in the most recent period of the early 2000s to the present. A theory compatible with experience-good unionism is one which sees the emergence (or decline) of unions and worker voice systems as part of a “bottom-up process” in which individual actors make decisions, adopt new strategies and/or engage in behaviours that can (cumulatively) generate sharp changes in trends or likewise contribute to long periods of union stagnation or decline (Freeman, 1998).

Though it seems like union decline has been the dominant theme since the 1980s, this is not to say that we believe traditional unions have become irrelevant, or that recent changes to their organizing strategies have had *no* effect on certain groups of previously unorganized workers (i.e., organizing public sector workers in the 1960s and 1970s or extending their reach through Justice for Janitors campaigns in the 1990s etc.). There were clearly innovations in union organizing over the past 30 to 40 years and it seems likely that these changes had *some effect* on

new groups of workers (Erickson et al., 2002). Rather, we argue that while existing models can account for the presence of a pretty stable (albeit declining in relative terms) group of workers and firms that have union representation and therefore have access to collective voice; industrial relations theory, up to now, has not been particularly helpful in understanding the shifts in the structure of new forms of voice and the birth of “do-it-yourself” organizing that has occurred in Anglo-American labor markets over the last decade.

Based on our reading of the evidence, we believe it is time to re-evaluate the rise of individualised and increasingly digitally infused forms of worker voice that have emerged in the first quarter of the 21<sup>st</sup> century.<sup>11</sup>

We begin, however, with a look as to why union voice has declined, focusing on the proximate cause first, namely the rise in the share of workers that have never sampled union members or have never been covered by a collective agreement (i.e., ‘never-members’).

#### *a. The Rise of the “Never- Member”*

Though many authors have contributed to the scholarship on union decline and noting that the reasons for union decline in the Anglo-American world are multi-causal (reflecting changes in industrial composition, free-trade and the mobility of capital, low inflation and high unemployment, conservative governments and associated legislative swings etc.), we wish to

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<sup>11</sup> The difficulty in this area is that it is very hard to move beyond the few anecdotal case studies that exist. These new employee advocacy groups are so new that they still have not appeared in a systematic way on many nationally representative survey designs. Specifically, the question becomes how does one locate these new forms in the context of the theory and models discussed above? We know in theory that they can reduce the union cost disease problem by ‘farming out’ union organising and services to committed volunteers – the so-called ‘off balance sheet’ work of unions. But perhaps more importantly there appears to be a fluidity to the organisational form that these on-line union tools take which means they do not conform to standard models of trade union representation which pivot around collective bargaining rights at a specific workplace. In military terms the analogy we have in mind is conventional ground forces (old unions) versus guerilla forces (new unions).

focus on a finding first observed in Britain. We do this in order to point out that irrespective of underlying causes, the proximate cause of union decline has more to do with several features of Wagner-style representation systems highlighted above than anything else.

Bryson and Gomez (2005) were the first to track the rise in the percentage of employees in Britain who had never become union members ('never-members') since the mid-1980s (see Figure 3). The data for Britain showed that never-membership had increased markedly in the 20 year period between 1986 and 2006 whilst ex-membership had remained roughly constant. The work also showed that by the early 2000s, never joining a union had grown steadily for the average 30-year old worker outstripping changes in other major life-course events such as marriage and university attendance. Bryson and Gomez (2005) went on to show that it was this reduced likelihood of ever becoming a member and not the loss of existing members which accounted for the decline in overall union membership in Britain since the 1980s.

[Figure 3]

In the United States, though we do not have a comparable never membership figure, we know from Budd and Booth's (2010:42) analysis of successive waves of NLSY data that it "does indeed appear that never-unionization rates in the United States are increasing as new cohorts enter the labour market, even after adjusting for demographic and structural changes." Such a view is also consistent with what has occurred in a Canadian context. Since 1997 Canada's unionized workforce has actually grown in absolute terms. Presently, roughly 4.56 million workers are members of unions — or are covered by collective agreements or union contracts — up more than 800,000 since 1997. We also know that de-certification in Wagner-style systems

offering first-contract arbitration is rather rare (Baker, 2012).<sup>12</sup> So why then has union density declined across Canada?

The reason is that union membership expansion has been far outstripped by the growth of the non-unionized workforce, which grew by about 2.5 million over the same period. In other words, new workers are not being organized at a sufficient rate to increase union representation as a share of the overall workforce. Put simply, never-membership is rising in Canada as it has in Britain and in the United States and this has negative implications for the future of the Wagner Act Model (WAM) of representation (Booth, Budd, and Munday, 2010).

The rise in never-membership, however, is still a by-product of some set of larger underlying processes and as such is still only the “proximate” cause of union decline in Anglo-American economies. To understand the deeper causal processes at work we need a more ‘general theory’ of union growth (and decline).

#### *b. The “Spurt Theory” of Union Growth and the Rise of Right-to-Work Laws*

As noted by Freeman (1998) two types of models can generate changes in union growth. The first, and probably most often used in IR scholarship, are models in which massive shocks or environmental changes generate commensurately large responses in otherwise stable union membership. The second are models in which the *process of growth* creates nonlinearities that produce “phase transitions” when certain conditions are met, generating models of tipping-point, contagion, self-organized complexity and so on.

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<sup>12</sup> Unless a workplace closes or moves, a union voted in by a majority of the workers in Canadian jurisdictions tends to stay in place. As noted by Baker (2012) “Unlike the US, most provinces [such as Ontario] have laws that provide for first contact arbitration in the event of a deadlock in negotiations. Almost half of all successful unionisation drives in the US do not lead to a contract. While the company is legally obligated to negotiate in good faith, this is generally not much of a requirement. Delaying a first contract is an effective way to undermine support for a union and often leads to a union being decertified. Provinces with first contract arbitration have higher rates of unionisation [and lower de-certifications].”

The latter models stress the underlying process by which organization occurs and the cumulative effect of individual actions taken by workers, unions and firms. The focus is on the behavior of many individual actors acting in response to one another. The former models stress the exogenous shock, usually generated by political forces which is perhaps why legal scholars and labour historians gravitate to these explanations and generally interpret the growth or decline of unionism in their respective country as resulting from one (or more) of these “one-off” legislative changes: i.e., unions declined in the United States because of Reagan’s firing of PATCO strikers, in Britain they fell because of Thatcher’s crushing of the coal-miners, in Canada they grew because of the enactment of PC 1003, and so on.

Without denying the importance of particular laws or external events as catalysts for the growth process, Freeman (1998) lays out a model in which sudden sharp changes in union density (what he calls ‘spurts’) do not depend upon “external environmental changes” but rather arise endogenously from the process of union organization.

There is an affinity between Freeman’s spurt model and a related theory of industrial mobilisation proposed by Kelly (1998), which generates a similar tendency for explosions in industrial militancy and union growth. These shift-changes coincide with critical turning points in “long wave” political-economic developments. Kelly’s use of mobilisation theory reveals the problems faced by workers in pursuing a course of collective action to settle grievances and promote their own goals. In particular, he emphasises the importance of workers acquiring a collective awareness of injustice emanating from the social relationship between capital and labour, where employers and employees pursue different and/or opposing sets of interests. The question is how can this collective awareness emerge or be ‘mobilised’? Mobilisation, according to Kelly, depends on the accessibility of effective worker organisations and the availability of

labour leaders willing and able to head workers' struggles. The opportunity to take collective action, however, can be curtailed by employers via sticks (threats such as firings and plant closures) or carrots (inducements like profit sharing or internal grievance procedures). The state can also enter the labour-capital relationship typically (though not always) on the side of employers with legislation and actions that thwart worker organizing efforts.

What's interesting is that Freeman's (1998) model identifies the same forces of union 'mobilisation' (organizing) and 'employer threats' (opposition) identified in Kelly's theory of discontinuous union growth and decline, but formalises them into union "organizing" and employer "opposition" behavioural functions. Freeman's model can explain and anticipate the nonlinearities present in union density over time and across space as functions of divergent union and employer behaviours. As such, we see the two theories ('mobilisation' and 'spurt' theory) as complimentary to each other. The key to Freeman's model, however, is that employer opposition is linear in that anti-union efforts decline as union density rises while union organizing is non-linear (i.e., weakest at the lowest and highest union density levels). The reason is that at very low density levels unions lack resources to mobilise, whereas at high levels, there is little incentive for unions to organize given that the small number of non-union workers have little incentive to join given positive union-spillover effects. The union organizing function therefore rises and falls in an inverted-U fashion with increasing union density.

There are two stable equilibria in the Freeman model, a zero union density equilibrium (though Freeman acknowledges that in practice there would naturally be some unionism at the theoretical 'zero' mark due to the difficulty in removing unions where they are present) and a high (though not 100 percent) union density equilibrium. A low (non-zero) union density level generates instability in a positive or negative direction for unionisation. Moves in a negative

direction are initiated by employers given their opposition to unions increases as density declines (i.e., no employer wants to be the single employer encumbered by a collective agreement or having to pay a union premium). Given the difficulties in organizing at the best of times, moves in a positive direction from a low union starting point generally coincide with a confluence of external factors but more importantly with union innovations in organizing that appear to shift the organizing function upward. The well-noted “strategic-choice” approach advocated by Kochan, Katz and McKersie (1983) to explain how differences in labour-management outcomes can emerge in firms facing observably similar external environments is therefore compatible with Freeman’s “spurt theory” of union growth. Innovations can emerge locally from actors facing otherwise similar external constraints but it is only when they spread in quick succession to others that innovations in worker organizing become transformative.

The empirical evidence highlighted by Freeman (1998) shows that all spurts in union density were generated by every union adding members. However, a much larger proportion of the growth in the 1930s and 1940s (the largest era of union growth in the US) occurred through “new” CIO industrial unions emerging and organizing *new* workers in *new* ways than in previous spurts, which explains the uniquely large growth experienced in that period.

The spurt in public sector unionism that occurred in North America in the 1960s and 1970s had properties similar to the private sector growth noted above (i.e., rapid expansion of unionism into new areas with new or changed organization forms such as the switch of employee associations like the National Education Association [NEA] into certified unions) and growth of existing unions under the help of legal changes (Freeman and Ichniowski, 1988). It is interesting to note that the levels of unionisation achieved in the public sector across most of the Anglo-American world (and as noted in Figure 2) have been high and fairly stable. It might be that they

have reached (for a given level of employer opposition in each national context) the high-level equilibrium anticipated in Freeman's model. In Britain, US and Canada the public sector unionisation rate is roughly five-times the rate present in the private sector and the gap has persisted for over 40 years in the case of the US and Canada and even longer in the case of Britain.

One final striking fact anticipated by Freeman's model requires mentioning: given that bottom-up processes rather than external shocks are implicated in long-run changes in union density one would expect that employer (and or State) opposition to unions is triggered when organized labour is already weak and in decline rather than when unions are strong and on the ascent. Such a tendency is revealed when we look at the US in more detail especially since the 1960s which coincided with the peak of the US union movement in terms of membership growth. It was a decade or more after this peak that decline in density had begun in earnest and that individual states began enacting right-to-work (RTW) laws, which limited trade unions ability to collect dues from workers and, it is alleged, hampered unions' ability to organize. The passing of the Taft-Hartley act in 1947 led to an immediate adoption of RTW laws by historically low-density Southern states but then after a thirty year period of stasis not a single State enacted a RTW law. That is until 1976 whereupon states began enacting RTW laws such that by 2017 more states had RTW laws than did not.

We compiled data (shown in Table 1) on when states (in the post 1960s time period) enacted RTW laws and compared union density at the time of the law passing. In each and every case, a RTW law was passed when union density was *below* (and well below in most cases) historical highs. Never was it the case that a RTW law was enacted at a time when union density



was higher than its historical average, rather laws “restricting” union organizing were passed when density was at or near the state’s historical low.

[Table 1]

What can we infer from these data? As it relates to the “spurt” theory of union growth the answer becomes apparent once we visualise the data contained in Table 1. Graphically depicting the emergence of RTW from 1964 to present, we get a feel for what happened from the peak of the labour movement in the US to its nadir today. As shown in Figure 4 the first four states that enacted RTW laws were Louisiana (1976), Idaho (1985), Texas (1993), and Oklahoma (2001). All of these four states share the distinction of occupying the bottom four lines in the graph; that is, they were the “lowest density states” and were below the US average at the time they enacted RTW laws. In fact in all cases but one – Michigan – US states enact a RTW law only *after* state union density falls *below* the US average (dotted line). This is a remarkable finding because it supports Freeman’s model of bottom-up processes rather than external “shocks” through “legal changes” as leading the decline of unions in the American context. Recall as well that the union “opposition” function in Freeman’s model predicts just such behaviour in that union opposition is inversely related to union density e.g., (low density engenders higher opposition). Laws and legal changes are more like “trailing indicators” of organizational or movement strength/weakness rather than generators of them.

[Figure 4]

*c. The Experience Good Model of Union Membership and Implications for Employee Voice*

The rise in never-membership, decline in overall density and the spurt model of union growth documented above have several important implications for the future of traditional collective representation.

First, when unions are present in an establishment they extend the benefits of union representation to a wider set of workers than just the ones they represent. Whether it is through the “threat effect” (i.e., the inclination of non-union employers to match or even supersede certain contractually bargained outcomes in an effort to forestall union interest) or by lobbying government for improved legislated outcomes, a strong union movement also affects labour conditions outside of the organized sector.

Second, unions are successful in organizing workplaces when workers possess considerable knowledge of what unions can do through mobilisation (Kelly, 1998) or when there is strong demand for collective representation amongst workers (enough to overcome the significant hurdles associated with majoritarian representation). As a result, any decline in the number of workers who have ever sampled unionism makes the task of organizing individual workplaces especially hard.

Third, to the extent that unionism is an “experience good” in the sense that workers can only fully appreciate the benefits of unionization by experiencing it firsthand, or indirectly through familial and collegial relations with other union members, then worker and sector composition matters. If the bulk of workers who have never-sampled union membership are concentrated in new sectors of the economy and amongst new workers, it is hard to see how the majority-based workplace model-- designed as it was to organize workers with some knowledge of how unionism functions and how certification is achieved -- can ever recover in a private sector dominated increasingly by new (often hostile or apathetic) employers and new (often uninformed) workers.

In short, gradual union decline is more likely when the default representation system in place is one in which workers have to continually organize individual workplaces, however small

or newly established, with a majority vote. As Bryson and Gomez (2003:73) assert: “a ‘key feature of unionization’ in decentralised majority-based union representation systems is that ‘increasing the flow of members into unions is far more difficult than maintaining the existing stock’” (Bryson and Gomez, 2003). This statement assumes that the trade union movement, as it stands, is incapable on its own to educate and attract workers in small firms and new industries. This, of course, is not a given and a new strategy by unions may emerge to target these workplaces and workers. Indeed the last section of our paper is devoted to just such possibilities.

Two caveats, however, in the experience-good/never-membership story have to be added in order to fully account for the declines in unionisation witnessed in the private sector and the wide disparity of trade union representation observed between the public and private sectors.

The first issue revolves around the role of employer opposition (e.g., requiring employees to attend anti-union speeches by the employer, meeting between supervisors and small groups of bargaining unit employees, the distribution of anti-union literature, threats against union supporters, and promises of higher wage or benefits) in reducing support for the union and the probability of certification. There is evidence that public sector employers do not resort to the same degree of employer opposition as private employers do (Freeman and Kleiner, 1990).

The second issue has to do with establishment size. As seen in Figure 5, for the largest establishments in Canada (i.e., those with 500+ employees) the incidence of unionisation is well over 50 percent. In other words, roughly one out of every two workers in large employment settings is currently represented by a trade union. In contrast, the level of union representation for the smallest employers (those employing fewer than 20 employees) is 14 percent in Canada, or roughly one in seven workers, a figure almost in line with the overall union density rate observed in the US. This is also where the largest concentration of private sector employment is

housed (close to 30 percent) as compared to just over 17 percent in the public sector (see Statistics Canada. Table 282-0075).

The average establishment size in the public sector is therefore larger than it is in the private sector, i.e., more public sector workers are employed in large establishments than is the case in the private sector (26 versus 12 percent respectively). There is necessarily then a confounding relationship at work suggesting that part of the reason the public sector is more heavily unionised has to do with a “need for voice” (arising both on the employee and employer side) that emerges in any large establishment. And voice provision, in our labour relations system, is necessarily met by trade union representation. These data are all the more striking in their consistency across jurisdictions sharing decentralised workplace model of representation (i.e., UK and the US share similar gradients in union density as firm size increases).

[Figure 5]

One implication of the data in Figure 5 is that as newer (and presumably) smaller private sector workplaces become the norm in most Anglo-American countries, it becomes difficult and inefficient for large national unions, from an operating standpoint, to organize these workers. This could therefore provide a justification for a number of remedies such as allowing more informal voice mechanisms to emerge gradually, a “broader” bargaining model and/or expanded powers for labour relations boards to revamp and resize bargaining units. This is essentially the argument first advanced by Willman (2001) – himself a former union organizer -- and made in the context of why UK unions were in decline amongst small private sector establishments. A more detailed elaboration of this idea – formalised as an extension of the Baumol “cost-disease” argument -- has been put forth by Willman et al., (2017) and is discussed below.

#### *d. The Union 'Cost Disease' Argument*

Union organisation processes are not costless. In order to develop representation structures around an existing membership, unions must solve two collective action problems. The first, is to encourage employees to join unions under circumstances where the benefits of such collective action may be available to free riders (Olson 1965; Olson and Zeckhauser, 1966). The solution to this problem is twofold: first, selective incentives via the introduction of private goods dependent on membership to supplement the public benefits of collective action and, second, special conditions to coerce or form constraints to encourage membership. Where these are possible, membership may be consistently preferable to non-membership since free riding is curtailed.

However, this sets up the second collective action problem: provision of such mechanisms have costs, and these costs must remain lower than the benefits of union membership to avoid the free riding problem. A central organisational problem for unions is how to control such costs, and a central dilemma is how to balance the costs of servicing an existing membership with those of recruiting a larger one (Willman 2004).

This is exacerbated because union organisations suffer from what Baumol and colleagues have termed the 'cost disease' (see Baumol and Bowen, 1966; Baumol, 2012; Flanagan, 2012). This affects several sectors of the economy that deliver personal services – the main examples are healthcare, education and the performing arts – in which costs tend to rise consistently faster than productivity and inflation, because the labour input of service delivery is difficult to replace with capital and technology.

Baumol characterises these as ‘stagnant sector services’ (the stagnation referred to is in productivity growth) and contrasts them with ‘progressive’ sectors – the examples he uses are computers and electronics – in which technology leads to rapid increases in productivity, reduction in real unit costs and thus the prices of goods. Costs in the ‘stagnant’ sector do not in this approach rise primarily because of general inflation, or because of excessive wage demands. The problem is rather *relative* productivity growth. Salaries in the ‘stagnant’ sector tend to rise at broadly the same rate as those in ‘progressive’ ones, but since the percentage of total costs represented by labour costs is falling rapidly in the latter, but maintained in the former, only the former suffer from the ‘cost’ disease. Cost disease organisations tend to experience cost and price rises, such that their services demand an ever higher proportion of disposable income. One characteristic of such organisations is that unit costs increase in real terms consistently over very long periods. A second is that prices follow.

The evidence from the longest-running and most extensively analysed dataset, from the UK, shows that unions in the aggregate display consistent long-term real expenditure increases. This has been documented over a period of almost a century (Webb and Webb, 1907; Roberts, 1956; Latta 1972; Willman et al. 1993; Willman et al. 2017). However, they also suffer from pressures not to increase prices (subscriptions, membership dues) in real terms; these pressures are primarily from competition between unions and competition with never membership. The result is a consistent pressure on union financial reserves such that, in the UK, the trade union movement in the aggregate is asset-poor and reserves are at all time historical lows. This affects the ability of unions to seek membership expansion over servicing of existing members.

Put simply, what the cost-disease argument reveals is that the ‘business model’ of UK and other Anglo-American unions is extremely fragile, pointing to the need to develop other

revenue streams and organisational models which avoid (or suffer less from) cost disease in order to sustain collective voice.

*e. Make or Buy Dynamics in Explaining Employer Voice Choices*

Finally what role does the employer play in this discussion? We know from the analysis of ‘spurts’ in union growth that their behavior can be a contributing factor in union decline or ascendancy. The question is whether they in fact thwart unionisation by negative (anti-union) or positive (formal provision of their own brand of non-union voice) means or some combination of both? Before we can answer this question we need to look a little closer at the nature of voice and its provision by either unions or employers.

Defining voice as any formal mechanism for communication between management and workers we can distinguish *voice regimes* from *voice types*. A voice regime refers to whether a union or the firm provides the voice mechanism for workers and a voice type refers to whether voice is direct or representative in nature. Non-union voice can be representative (such as statutory works councils or a joint consultative committee) or direct (such as employer led team briefings or problem solving groups)<sup>13</sup> whereas union provided voice is (in its current version) always representative in nature. Voice regimes and types mix at the workplace level such as when an existing managerial practice that provides voice to workers (an innovation circle) mixes with a collective agreement and union presence. There is also the possibility of *no voice* employers in which unions are absent and there is no formal employer provided mechanism for engagement with employees.

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<sup>13</sup> Such mechanisms can only be said to offer voice for workers where they provide for two-way communication between workers and the employer: one-way downward communication from the employer to workers does not constitute a mechanism for worker voice.

If we assume that firms play a key role in the provision of workplace voice then we need to know why some workplaces provide ‘no voice’, opt to create their own joint consultative committees (‘make’), allow unions to form and provide voice themselves (‘buy’), or allow for both employer-provided systems to co-exist with union voice (“dual/hedge”).

Answering this question relies on transaction cost economics and institutional theory. In essence, we are dealing with bounded rational choices by employers who subsequently face high switching costs once a voice regime/type is chosen. A short primer on the transaction costs approach will be followed by an application to workplace voice.

Transaction cost economics suggests that in exchanges characterised by asset specificity, frequency of interaction and uncertainty, choices about transaction governance structures are required. In particular, the choice whether to make or buy, or, more accurately, own or contract. All else equal, the more idiosyncratic the investments, the greater the frequency of interaction (and duration of exchange) and the greater the uncertainty facing the buyer, internalising the function rather than buying from the market will be preferred (Williamson, 1975, 1987, 2013). The vertical integration decision by the firm is the paradigmatic example.

This choice of governance mechanism is made by parties operating under bounded rationality, faced with the possibility of seller opportunism and operating on a risk neutral basis. The unit of analysis is the transaction and variance in governance modes is generated by differences in and the interaction among three actor variables: i) boundedness of rationality, ii) trust between parties (i.e. expectation of opportunism) and iii) risk preference. Where one allows for variance in risk preferences, as in Chiles and McMackin, 1996, one in effect shifts the unit of analysis from ecological to cognitive, focusing directly on managerial decision making and operating with a subjective conception of costs, i.e. as experienced by managerial decision



makers. Focusing on conditions at the moment of regime choice allows consideration of different patterns among the three actor variables, but at the expense of predictive power. However, it also allows consideration of cohort effects and switching costs.

We can read this over into the analysis of employer voice regimes in the following way. With no idiosyncrasy, single interactions (the temporary employee paid by the piece) and no uncertainty, the employer will not need any voice and will therefore likely be a 'No Voice' workplace; the classic example might be the longshore hiring hall while a contemporary one would be Uber and its platform-economy which can recruit drivers on a daily basis and monitor their quality through customer feedback. However, the employer not operating under these narrow conditions and wanting voice faces a governance choice problem when seeking to 'obtain' a voice-producing workforce. Such an employer faces three options.

The first option is 'making', which involves full provision of those mechanisms which might engender employee voice, including those perceived as legitimate by employees. Specifically, this would involve provision of non-union voice through internal employer-made structures (be they direct or representative). 'Buying' voice is the second option and would, in extremis, involve the subcontracting out to a union of all aspects of voice provision. 'Dual' forms, which involve a mixture of union and non-union voice are a third possibility and might be differentiated in terms of variance in the nature of the transaction (asset specificity, frequency and uncertainty) or of the purchasing party (boundedness of rationality, expectation of opportunism and risk preference).

Our central concern in this section is with explaining differences in voice regimes and types across employers and we argue this difference can be partly explained in terms of employer decision making under uncertainty. Such an approach can explain a central feature of

the evolution of voice regimes in Britain and elsewhere in Anglo-American economies– i.e., the move towards non-union voice as part or all of workplace voice regimes.

Competition in the product market appears to encourage the shift towards non-union voice. Traditionally, this would be interpreted as a rent issue; in competitive product markets rent sharing possibilities disappear and the benefits of unionisation for employees diminish. But for employers, the disappearance of a union wage premia should have made union voice more attractive suggesting that an explanation relying on risk management is at least worth considering – i.e., employers facing high product market risk seek to control labour supply risk through internal voice-making decisions. This move could have been accelerated by the hollowing out of union density itself, raising questions about unions’ ability to aggregate worker preference and increasing the risk of “buying” over “making” voice in the period under analysis.

One theoretical conjecture is that there has been declining costs (and risks) in the employer provision of voice (i.e., making voice) in Anglo-American economies over time, from the paradigmatic choice of union voice in the 1960s to the non-union dominated world of the 1990s. This decline in cost of ‘making’ voice-- perhaps through the increasing availability of Human Resource (HR) professionals and the spread of HR benchmarking available – has had the effect of lowering the make/buy threshold for firms across all risk appetites. Supporting evidence for this conjecture has recently been presented in a meta-analysis of union-effect studies where the authors state that the “decline in the union effect of productivity in manufacturing, from...positive...in Brown and Medoff (1978) to...negligible...in later studies, could reflect the spread of “good labor practices” over time as non-union firms copied attributes of union workplaces...[such as] seniority systems, job posting,...systems for filling vacancies rather than relying on supervisors to promote workers, establishing formal wage scales, grievance systems

and mechanisms for employee voice and so on” (Doucouliagos et al., 2017:155). Indeed, as the authors point out, many studies have documented the spread of high-commitment workplace practices in the 1980s and 1990s, which were pioneered by unionized firms but adopted in non-union settings. To the extent that these practices provided a productivity edge to union firms in the 1930s through to 1970s, their spread to the non-union sector eroded the union advantage over time (Foulke, 1981, Lewin, 1990, Colvin, 2012).

Another factor in explaining the shift away from “buy” to “make” and from “representative” to “direct” voice is the deregulation of economies and the opening up to global trade that increased product market risk and shifted the risk appetite of firms, thus compounding the move away from representative union voice and towards employer-provided direct channels. It is clear that in the private sector at least, the default option in the choice of voice regime has shifted from union to non-union, from make to buy, from representative to direct, according to changes in the values of risk and cost variables (assuming of course that returns were equal). The presence of switching costs in our model, however, makes regime choice ‘sticky’ rendering radical switching (from union to non-union and vice versa) rare. This, as we shall see, is consistent with evidence presented in Section 4.

Our conclusions are illustrative at this point but we feel that the case for modelling employer decision-making in order to explain voice regime and voice type evolution in Anglo-American economies has been made. It can only be a partial one and a fuller explanation of why representative union voice has declined and direct employer types have risen, as we have argued above, has to incorporate employee attitudes towards unions and indeed as we saw in the “spurt theory of growth” union policies themselves. This particularly the case as union behaviour and organizing innovations affect the cost and risk of union voice for employers, especially in the

private sector where they are under increased competitive pressures and the decline in unionism has been most felt.

#### **4. FILLING THE VOID: WHAT HAS CHANGED IN VOICE PROVISION IN THE EARLY 21ST CENTURY?**

##### *a. The Shift from Union (Buy) to Non-Union (Make) and from Representative to Direct Voice*

The section starts from the premise that there is a “market void” in the provision of collective representation in the private sector in almost all Wagner style systems of collective bargaining, which is to say across most of the Anglo-American world. The reason for this void, as we have just seen, is both structural (i.e., inherent in the way decentralised bargaining systems based on majority representation work over time in a dynamic way) and behavioural (i.e., part of the decision-making process of individual workers and firms).

Relying on the best available dataset for charting voice over time, the Workplace Employment Relations Survey (WERS), we display the evolution of workplace voice regimes in Britain for the private sector since the 1980s. The US and Canada have had their versions of WERS over the years but nothing close to the consistency of measures found in the British survey. Where findings have a uniquely British character we shall take note.

In Table 2 Panel A, we look at voice regimes and see that the proportion of workplaces with no voice has been roughly constant over nearly three decades (e.g., 24 percent in 1984, 22 percent in 2004 and back to 24 percent in 2011). The first three rows of Table 2 demonstrate the growing share of non-union voice over the period 1984 to 2011. The most common form of voice at the start of period was dual channel voice (where union and non-union voice co-exist) at 30 percent. By the end of the period, dual voice had fallen to 14 percent while non-union voice constituted 58 percent of all private sector workplace voice regimes in Britain, up from 25

percent in 1984. This stands in sharp contrast to the steep decline in union-only voice (18 percent to 3 percent between 1984 and 2011).

In Panel B of Table 2 we show the parallel shift from representative forms of voice (irrespective of the union or non-union source) to direct forms since 1984. Direct forms of voice which include management having regular meetings with employees, to team briefings and problem solving groups now occupy the majority of voice provision at 43 percent in 2011 as compared to just 9 percent with representative voice alone.

[Table 2]

While the *scale* of the decline in private sector union voice and representative voice has been well documented (in the form of falling union density and representation figures), the *scope* of the decline is often overlooked. By scope we mean the multiple dimensions in which union decline has manifested itself beyond just membership decreases. In Table 3 we see that whereas almost 60 percent of private sector workplaces had at least some union members at the start of the period, union presence dropped dramatically by the mid-to-late-2000s. It has continued to fall reaching 28 percent in 2011. On-site union lay representation declined continuously, falling from 38 percent in 1980 to 13 percent in 2011 (Table 3, last row), suggesting a loss of unions' ability to represent workers effectively even where unions continue to be recognised by the employer (Willman and Bryson, 2009). Finally, we see a fall in union recognition across British workplaces from 50 to 17 percent between 1984 and 2011.

[Table 3]

As anticipated by our model of employer-choice, the type of voice provided has also changed. While many authors have accounted for the decline in the British unionisation rate (Machin 2000) and some have even considered the rise of non-union systems as a potential cause

(Machin and Wood, 2005) few have considered the changing nature of non-union voice, in particular the growth of direct forms of voice. From Table 3, we see that the decline in representative voice was more general, extending to its non-union (employer-sponsored) forms. For instance, the percentage of workplaces with a functioning joint consultative committee (JCC) meeting at least once a quarter fell from 26 percent in 1984 to 16 percent by 2011. Though there was a small increase in non-union employee representatives at the workplace, the decline in JCC's suggests that representative voice – in both its union and non-union forms -- suffered a substantial decline in the private sector from 1984 to 2011.

By contrast, direct voice types have been either constant or increasing in coverage since 1984. The incidence of team briefings for example has risen by more than half (31 percent at the start of the period rising to 51 by the end of the period). Regular meetings between employees and senior management became more prevalent over the period 1984-1990 and have remained common (37 percent) ever since.<sup>14</sup> On the whole, the decline in representative voice has been gradual in the private sector whereas the incidence of direct voice rose dramatically between the 1980s and mid 2000s and has remained high ever since.

#### *b. Some Notable Features of Workplace Voice since the 1980s*

What can we conclude from the British data?

First, that voice coverage (in all forms) is as extensive in 2011 as in 1984 or alternatively stated, there are as many workplaces offering no voice to workers today as there were in 1984.

This may seem surprising given the extent of union decline documented in Figure 1, but this is

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<sup>14</sup> The time-series on problem-solving groups is problematic because questions are not consistent over the years. Efforts to construct a more consistent series for the period 1998-2004 suggest modest growth in their use over the period (Kersley et al., 2006: 93-94).

because the prevalence of voice regimes and voice types have shifted substantially over the period in question, moving from union to non-union and from representative to direct forms of voice. On balance voice is still being offered but non-union forms have grown to fill the void left by declines in unionisation.

Second, in the broadest terms, our picture of the shift away from union voice begins with employers choosing voice regimes up to the 1960s in circumstances where union-based voice regimes were common exemplars and where there were normative and mimetic pressures to avoid non-union only regimes. The costs of opposing unions were also higher. The risk-averse option was dual voice. Over time, the compositional shift from manufacturing to services and inward investments by companies with higher levels of asset specificity offered examples of non-union voice to many employers. By the 1990s, cohort effects dominate with almost all new entrants choosing non-union voice. Where union voice persists, as seen in Table 2, it is highly likely to do so as part of a dual channel voice regime and very rarely on its own.

This last point is also true in the Canadian case where in the private sector, companies are free to establish non-union labour relations approaches which facilitate (and mimic) formalized union mechanisms for employee voice outside of a union-only structure. This is not a system that is legally available to US employers and employees because of the peculiarities of section 8 2(d) of the National Labor Relations Act (NLRA), which prevents most non-union forms of workplace voice that are not certified unions (Taras, 2006). Typically, such non-union forms of employee voice take place via employer sponsored groups and committees that may deal with issues that are of particular interest to employers such quality, cost issues, or issues related to improving organizational outcomes (Taras, 2006) These approaches also allow for voice on working conditions and offer an effective platform for employee management on workplace

productivity and innovation related issues. An example recently in Canada is WestJet, the second largest domestic air carrier, which saw its regional pilots reject certifying as a union in the summer of 2015 and continue under the umbrella of the company's own non-union labour relations model, while its main carrier pilots voted to certify as a union in spring 2017. This “dual” voice channel persisted until late 2017 when the regional pilots finally voted to certify.

*c. Some Summary Conclusions*

Explanations of union decline in Anglo-American countries have often focused on employer opposition, macro-economic environment (high-unemployment in the 1980s to early 1990s period and low inflation) and politics (an unfavourable legislative and social climate over the period). These explanations are better at explaining decline in unionisation in the neo-conservative political climate of the 1980s and early 1990s than the subsequent failure of revitalisation in what could be described, at the very least, as a neutral organizing environment (Kelly, 1998; Fernie and Metcalf, 2013) in which voice was still being provided to workers, albeit in non-union ways.

We therefore argue that unionisation decline in the Anglo-American world may be part of a broader bottom-up pattern of change in voice systems. The WERS evidence suggests that direct voice may be replacing representative voice in the private sector, whether that representative voice is union or employer-generated. Future work examining why direct forms of voice have replaced representative forms could hold the key to understanding union decline.<sup>15</sup>

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<sup>15</sup> We are not the first to tread this ground. In 1999 the late Leo Troy published *Beyond Unions and Collective Bargaining* and his answer to the question of why unions have declined was simple: most workers prefer individual (direct) as opposed to collective (representative) voice. The “product” the unions are selling—their services in negotiating and administering a collective labor contract—is one that, according to Troy, many workers have come to see as unattractive or irrelevant. A key reason in Troy's model for the shift to individualised contracting is that business managers have become, on the whole, far more sophisticated in their handling of workers than they were in the era of advancing unionism. This is not a wholly unreasonable argument but it fails to consider the considerable



## 5. SOME POSSIBLE FUTURES FOR EMPLOYEE VOICE

### *a. Traditional ‘Wagner style Unionism’ Reimagined: Or why ‘training wheel’ versions of collective voice may be required*

With specific reference to systems that are most like the Wagner Act model (exclusive representation systems), a potential new form of unionism that is suited to smaller workplaces facing greater market competition and smaller profit margins is possible. We are talking about workplaces that often are not the targets of organizing drives by unions (because of the costs associated and the likelihood of failure) and where workers lack the knowledge and/or expertise to undertake their own independent organizing efforts. There is also just less scope for traditional collective bargaining over wages and benefits in such highly competitive product or service markets because firms are in effect wage and price takers (Brown, Bryson and Forth, 2009). One might say, what else is there left to bargain over in such circumstances?

The answer is a whole lot. Everything from scheduling, procedural fairness in the allocation of promotional or training opportunities, to simple dignity at work; all of these issues often require a collective solution and hence representative voice to secure (Metcalf, Hansen and Charlwood, 2001). Indeed despite having a high degree of job security and access to a non-union employee voice system, it was scheduling concerns, not pay, that lay behind the WestJet pilots decision to abandon their non-union association and successfully organize as a certified union (described above).

Our reading of the historical and cross-sectional evidence, as well as the wording of actual legislation, suggests that existing provisions under the Labour Relations Acts (LRAs) of most jurisdictions allow for the formation of single or multiple issue employee groups that could

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costs involved in organizing under the existing Wagner-Act model and does not acknowledge the consistent “latent” demand for representation found in representative surveys in the US, Canada and the UK.

represent all or just a fraction of the workers in a workplace. This is certainly the case in Britain where the voluntarist character of collective representation still applies (despite a statutory procedure available with formal certification procedures introduced during the mid-2000s under the New Labour government) but is also true in Canada and to a lesser degree in the US.

Specifically in Ontario Sections 5 and 7 of the LRA that pertain to forming a legitimate union and the protections members of such an association are afforded, suggests that at a minimum any employee group that decides to form a union (which in our reading is actually not onerous and could be aided by the provision of “boilerplate” union constitutions) would have the protection of unjust dismissal and Labour Boards would have the authority to reinstate workers that formed such employee associations.

In the US Section 7 of the National Labor Relations Act (NLRA) provides employees with explicit protection in that “the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purposes of collective bargaining or other mutual aid or protection . . .” is expressly permitted. Notably, Section 7’s wording protects both certified union and “other concerted activity for mutual aid and protection” undertaken by non-union workers. Stated differently, the NLRA protects employees’ exercise of their Section 7 rights independent of whether a *certified* union is involved. The NLRA applies to *all* employee conduct so long as employees are engaged in “concerted protected activity,” i.e., activity undertaken together by two or more employees, or by one on behalf of others, “when they seek to improve terms and condition of employment or otherwise improve their lot as employees.” Recent decisions by the National Labor Relations Board (NLRB) have expanded the terms by which an

activity retains the protection of Section 7 to include Facebook posts and other social communications by employees.<sup>16</sup>

To be clear, in the examples above we are talking about the formation of independent associations of employees that could arise around a single issue – such as a hypothetical change to benefit provision – that many employees (if not all) in a non-union setting feel was poorly handled by management or without adequate consultation. The non-union employee group would not necessarily be seeking “certification” in order to be granted the right to formally bargain with their employer over an entire panoply of issues, but given that their employer is likely small or otherwise benevolent, they would at the very least have the ability to *inform* management of the collective views of their fellow employees and ask that management reconsider their decision. Such participation systems can provide opportunities for improved communication flows between workers and management and allow “workers to fine-tune otherwise blunt managerial initiatives to better suit the situations of workers” (Taras, 2002).

This is an in-between model of employee representation that clearly does not afford workers the protections afforded under the LRA certification route that if successful, compels an employer to bargain under good faith and which in some jurisdictions afford the right to first contact arbitration. But what it does do is reduce the costs to employees of trying to establish some mechanism for collective voice; provides a stepping stone for workers that may one day choose to organize and certify in the traditional way; as well as allow employers to hear from

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<sup>16</sup> Two cases in particular have expanded the role of non-union employee activity to include public shaming of employers for worker mistreatment. In *Pier Sixty, LLC*, 362 NLRB 59 (March 31, 2015), the NLRB affirmed an administrative law judge’s finding that the employer *Pier Sixty* violated Sections 8(a)(1) and (3) of the NLRA rights when it fired an employee for protected, concerted comments which were posted on his personal social media account. Similarly, in a second case the US Court of Appeals for the Second Circuit released a summary order and held that an employee’s “like” on Facebook can be protected by Section 7 of the NLRA. *Three D, LLC v. NLRB*, --- Fed.Appx. ---, No. 14-3284, 2015 WL 6161477 (2d Cir. Oct. 21, 2015).

employees who may otherwise be happy in their jobs but who have a collective grievance or issue that they feel has been overlooked or handled poorly.

The role of statutory (employment) law in lowering the costs of ‘sampling’ this kind of representation is an important one. Looking to statutory regimes outside of the Anglo-American sphere (in Germany and across Europe) one can see that these systems make the formation of works councils rather easy, at least when compared to organizing a certified union in the Anglo-American world.<sup>17</sup> In a recent paper Forth, Bryson and George (2017) show that this legislative support for worker representation is one of the major reasons for cross-country variance in workplace-level worker representation across the EU. There is as a consequence a much wider spread of representative voice coverage in regimes where the set-up costs of that voice are low.<sup>18</sup>

In short, this form of employee voice could offer a way for workers to receive representation in a tailored and independent way, especially in the majority of private sector establishments that are often small, made up (in many cases) of temporary and part-time workers that have very little chance of ever being targeted by a traditional union organizing drive and/or of becoming full blown bargaining agents under the guise of a “certified” union. Rather, this “training wheel” model of voice is a way of potentially rebuilding the union movement around a grass-roots, bottom-up set of employee groups that could more easily “unionise” but not necessarily aspire to formal collective bargaining, or at least not in the first instance.

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<sup>17</sup> In one case, a large German technology company was reportedly forced to establish a works council because it met the minimum threshold of at least five employees wanting one even though 90 per cent of all other employees opposed the idea. See Allison Drutchas, “An American Works Council : Why It’s Time to Repeal NLRA Section 8 ( a )( 2 )” (2016) 93:29 Univ Detroit Mercy Law Rev 29 at 40.

<sup>18</sup> What is interesting and has to be acknowledged is that even when the costs are pretty low the demand (either by employees or employers) is not always there. Thus the absence of works councils in smaller newer firms that are still above the threshold for works council representation.

*b. Is the Employment Tribunal System a Model to Emulate in a World of Declining Private Sector Unionism?*

One of the unique features of the English-speaking world, outside of North America, most notably in New Zealand, Ireland, Britain and Australia, is that most employment issues and disputes are regulated by independent ‘third parties’ or ‘tribunals’ accessible to all workers (whether unionised or not). These tribunals can make decisions with respect to workplace related disputes and enforce certain aspects of employment law.

In New Zealand it is the Employment Relations Authority (ERA), set up under the Employment Relations Act of 2000; in Ireland there is the Workplace Relations Commission (WRC) formerly the Employment Appeals Tribunal which as of 2015 was folded under the WRC; in Britain the Employment Tribunal (ET) deals with issues such as unfair dismissal, discrimination, and unfair deductions from pay (there are similar tribunals in Northern Ireland and Scotland); while in Australia the Fair Work Commission (FWC) deals with even a wider remit of cases and regional agencies (such as the South Australian Employment Tribunal) that are entrusted with resolving workplace-related disputes and individual employment issues.

Each of these are examples of an independent arbitral body with the power and authority to regulate and enforce provisions relating to minimum wages and employment conditions for non-union workers, and for unionised workers related to collective bargaining disputes, industrial action, individual dispute resolution, and termination of employment.

Australia’s FWC is particularly interesting, and the focus of most of our discussion, because it was created after a 12 year period of ‘neo-liberal hegemony’ in Australian industrial relations (Cooper and Ellem, 2008), which weakened collective bargaining coverage and increased the share of non-unionised workers. The FWC deals with unfair dismissal and redundancy claims for union and non-union workers; something that in North America is not

covered by statutory protection. The only redress non-union workers have is through costly Common Law court proceedings while unions deal with this in their internal grievance dispute systems. The FWC was introduced by the Fair Work Act of 2009 and was an attempt to create a national system for regulating industrial relations in Australia (Teicher, Holland, and Gough, 2011). It is also involved in the process of determining national industrial relations policies, including setting minimum wages and regulating the modern award system (akin to the old wages councils).

The FWC is similar in some respects to Britain's Advisory, Conciliation and Arbitration Service (ACAS) but with statutory power to have hearings and impose binding decisions. Accordingly, it has some of the powers that the British Employment Tribunal system in that it can resolve individual disputes but extends these to wider areas of employment and labour law. FWC members are tenured until age 65 and the Fair Work Act of 2009 requires that those appointed to the Commission have appropriate knowledge or experience in relevant fields. The one drawback is that members are appointed by the Governor-General of Australia on the recommendation of the Australian Government of the day and there is always the potential for political bias surrounding the appointments process.

Commission Members issue binding arbitration decisions on parties and perform a quasi-judicial role by interpreting and applying the relevant labour laws and considering evidence. The written decisions reflect the fact that they are decisions following arbitration rather than a judicial hearing. The Commission can also make non-binding recommendations and deal with labour disputes. All cases are heard by a Commissioner sitting alone. Legal representation is not a right and parties need to seek leave to be legally represented.

Because the FWC was designed to fill a void left by a lack of collective bargaining in major sectors of the economy, statutory employment laws in Australia (like in most jurisdictions with low collective bargaining rates) are extensive and complex. In Australia there are also different states and jurisdictions with their own laws, such as in the areas of human rights and discrimination. This is potentially confusing for employees, trade unions and employers alike as it is not possible to raise multiple claims such as discrimination and unfair dismissal before the FWC. A claimant has to decide at the outset what sort of claim to make and in what jurisdiction. Once the claim has been presented it is very difficult to pursue a different basis of claim in a different jurisdiction involving the same matter.

The Employment Tribunal system as originally established in Britain also has its merits. Although recent changes have had the effect of lowering the numbers of workers using the system, it is a judicial system with appropriately qualified full-time specialist adjudicators who make judgments based on application of the law and consideration of the evidence. Parties receive fair hearings and judgments as a consequence. It has been described as a “one stop shop” for individual workplace disputes with jurisdiction to deal with all employment matters including unfair dismissal, discrimination and contract claims. This makes it far more straightforward than raising proceedings in the Common Law court system in North America. Tribunal judges in Britain, unlike Australia, are appointed on merit, independent of the Government which means they are not political appointees. Parties are also entitled to legal representation in an area of the law which is increasingly complex and difficult.

Of course, this is all possible in Britain which, apart from devolution, is still effectively a unitary state and not one with the severe geographic and federal division present in Australia or the US and Canada for that matter. But as a model for minimal individualised “voice” and

redress of complaints and potential abuses, there is a lot to admire in the tribunal systems developed outside of the North American context. Unions, who in some cases might oppose these intrusions in what would otherwise have been rights-based grievances handled by them, could (and have) found a role in the British and Australian tribunal systems by providing legal and other services to employees bringing forth cases, thus providing another membership-based model of unionism, albeit an individualised as opposed to a collective one.

*c) Bespoke Unionism and 'New' Online Models of Worker Voice*

Looking to the future, as technology and artificial intelligence produce more viable substitutes for human labour, workers especially will face competition from machines as well as from young peers in lower income developing countries. Better training and more education can surely help, but it is hard to imagine the average worker in the UK, Canada or the US obtaining higher pay, benefits, and job security without also gaining a greater say in what happens at their workplace and greater ability to defend their collective interests. Historically, trade unions have been the major societal force for reducing inequality and raising the pay, benefits, and job security of workers (Freeman and Medoff 1984; Blanchflower and Bryson, 2007). But while workers, especially the young, often want to unionize, they have largely been unsuccessful with rates of unionisation for young workers that are often one fifth that of older workers (Bryson, Gomez, Gunderson and Meltz, 2005).

Perhaps part of the reason unions have been so unsuccessful with youth under the traditional organizing model has less to do with 'cost-disease' arguments (Willman et al., 2017) or with the prevalence of young workers located in newer workplaces (Machin, 2000), but rather with important cohort shifts that have, hitherto, been unknown or played down. These have



direct implications for the potential of new models and e-platforms to form the basis of new forms of worker voice. These include the following three new developments:

(i) The reaching of a never membership tipping point whereby the vast majority of new labour market participants (born after 1985) have been untouched by old forms of unionisation. This means non-unionism is the new default with direct implications for unionism as an experience good. This makes attracting new members particularly urgent. But can unions shift forms of reaching young workers and more generally inculcating themselves in young peoples' lives, or do they fade even more into the background of a young person's day-to-day existence?

(ii) The millennial population is the same generation to be fully immersed in digital technologies. They are, in the parlance of the current age, "super-conversant" with it. Accordingly, e-platforms become a standard, "second-nature" technology that they are willing to access at any time for near any type of need. As documented somewhat amusingly by millennials themselves (Harris, 2017), this is not true of older generations. The obvious question is whether new generations will utilise this new technology to tackle workplace-based problems?

Initial signs suggest the answer is 'yes'. The group that has obtained the most attention in this regard is OUR Walmart, which originally adopted a Facebook-based strategy for campaigning within Walmart and has now developed an App technology with support from IBM Watson as a virtual expert and advisor. The App can be adapted by workers to other firms, depending on their labor practices and policies and thus can be viewed as an experiment with potential extensions to other firms. OUR Walmart has a miniscule staff (4 people) and comparably small budget and by necessity operates by providing platform tools for workers to self-organize. When it introduced its App in the fall of 2016, Walmart advised workers not to download it – a sure sign that the firm viewed the App as a potential danger to its mode of

operating. OUR Walmart believes that its activities over the past two years spurred the February 2016 increase in minimum pay at Walmart, which induced its main competitors to increase their pay commensurately. Even if OUR Walmart was only a partial factor, it is a remarkable achievement as Walmart is the largest employer in the US, with 1.5 million “associates”, whose labor practices influence those of other retail firms throughout the country. It is also adamantly opposed to traditional unions. If modern technology can allow a tiny David-sized organization to pressure such a Goliath to improve its pay and conditions, such a model of organizing could have a huge impact on young Anglo-American workers now and into the future.

Another alt-labor group that has attracted attention is [www.coworker.org](http://www.coworker.org), which provides internet resources for workers to campaign for specific improvements at their workplace. Coworker.org's design is to develop petitions that many workers sign along the lines of the highly successful [change.org](http://change.org). It was formed by young union activists who saw an opportunity to help non-union workers with particular issues. Given that they and the larger [change.org](http://change.org) run many petition campaigns on worker issues, it is perhaps an opportune time for labour relations scholars to begin analysing the outcomes of these campaigns and identify correlates of their success or failure.

(iii) Young workers (those under 35) are the first truly post-modern generation. They do not take for granted the welfare state, liberal values and the like. Instead they live in a more heavily ‘contested’ world where issues of identity and control are key. Yet it is unclear what channels individuals can pursue to ‘fix’ their problems. Perhaps trust in leaders and politics generally, is particularly low for the new generation and there is openness to ‘do-it-yourself’ voice. Responding to the current situation, some pro-worker activists have concluded that the best way to help young (and other) workers is through social media and e-based platforms that

young person's use to a greater extent than older persons. These forms of modern communication and technology could potentially provide the channel for collective voice by which workers could pressure employers for better labor conditions absent traditional unions and collective bargaining.

Various "alt-labor" groups (Economist, 2013, Hackman, 2014; Eidelson, 2013) now pursue the once 'far-out notion' of workers sharing information openly about organizing campaigns and gaining collective power to improve their economic situation through modern communication technology (Bryson, Gomez and Willman, 2010; Freeman and Rogers, 2002). If firms like Uber and AirBnB can upend traditional business practices and grow suddenly through Internet-based networked platforms (Parker et al., 2017), it seems reasonable that groups of workers can use similar technologies to upend traditional union practices, resurrect collective action, and improve worker well-being.

Some of these "alt-labor" groups receive traditional union support – such as Workers Action Centres (WACs) that have led the 'fight-for fifteen' campaigns across many North American cities -- but most are on their own, with few resources. They resemble the start-ups of the dot.com period and all it takes is for at least one of them to succeed and traditional unions will likely imitate their strategies or amalgamate/merge and transform the way they operate. The union explosion that began in the Great Depression era was initiated by groups using the "new" industrial union model of the CIO, which was then copied by the more 'conservative' AFL craft unions. We have clearly been here before, but just as history never repeats itself in exactly the same way, there is room for yet another voice 'track' to emerge which can channel the views and interests of workers for the century ahead.

## 6. CONCLUSION

This paper has reviewed the evidence on union decline in the Anglo-American world, focusing on the connection this has had on the patterns and provision of employee voice, with a particular emphasis on the rise of alternative forms of workplace voice and representation. Canada, Britain, and the United States, the focal countries of our work, provide a potentially valuable set of countries for examining the phenomenon of union decline and rise of alternative voice. All three countries now collect comparable data on union status in their regular labor force surveys and their collective bargaining institutions make them suitable for studying the relationship between unions and voice provision; e.g., bargaining is highly decentralized; there are no general mechanisms for extending collective bargaining provisions beyond the "organized" sector; and the fraction of the private sector work force covered by collective bargaining is relatively modest. It is therefore possible to compare the voice systems available to workers that are covered by union contracts to those who are not covered, and potentially answer such questions as the effect of non-union voice on overall union coverage.

Our conclusion is that trade union representation and employee voice have been on a "twin track" for some time in all three countries. The most obvious case is the difference in unionisation found in all major Anglo-American economies between the private and public sectors, with the latter seemingly able to achieve a high and stable union-density coverage rate while the latter has been in decline for over for 30 years (more in the case of the US) and approaching historically low levels. But there was other evidence of "twin-track" unionism such as the division found between large well-established employers (where representative union voice still prevails) and smaller newer organizations that seem to have eschewed union and representative forms of voice completely.

We found that the “spurt” model of unionisation, first formalised by Freeman (1998), is consistent with these trends. This model-- with its emphasis on bottom-up processes of organizing and union and employer responses to union density level changes -- is also consistent with other approaches such as mobilisation theory (Kelly, 1998), strategic-choice theory (Kochan Katz and McKersie, 1983), the experience-good model of unionism (Gomez and Gunderson, 2004) and the make-or-buy dynamics of transaction cost theory applied to employer-provided voice choices (Willman et al., 2014).

We ended our paper with some possible futures for employee voice, having concluded that the decline in traditional workplace-based collective bargaining is not to be taken as the ‘end’ of representative employee voice as some have suggested (Troy, 1999). The periods of representative voice explosions (mostly union-based) have coincided with innovations in institutional forms and new grass-roots organizing, something we contend is still possible given the evidence over the past century in Anglo-American economies. Finally, there is also a possible role for statutory regimes (i.e., tribunal systems or employee committees) if only to provide some measure of voice and balance to the employment relationship while new organizing models take hold and/or old ones are rejuvenated.

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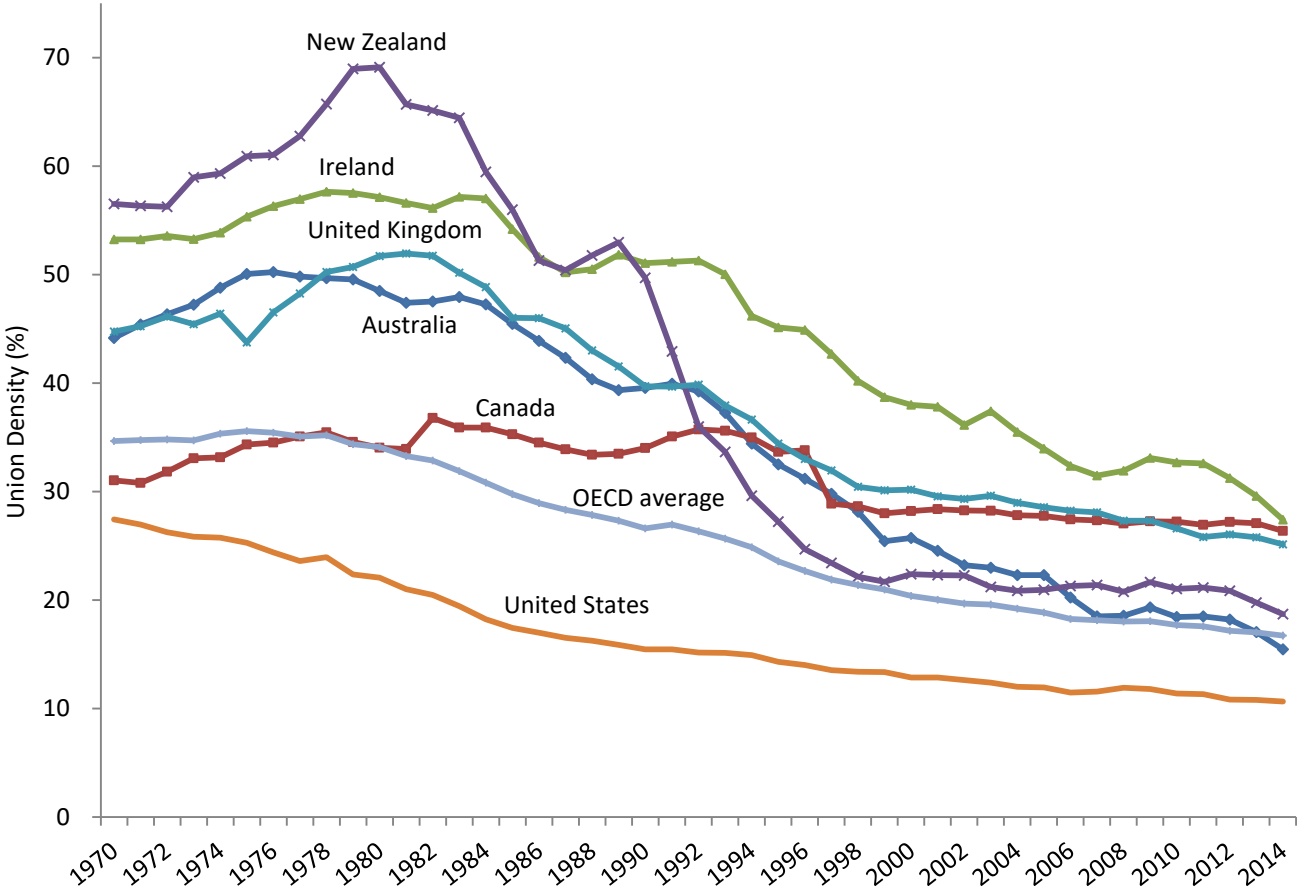
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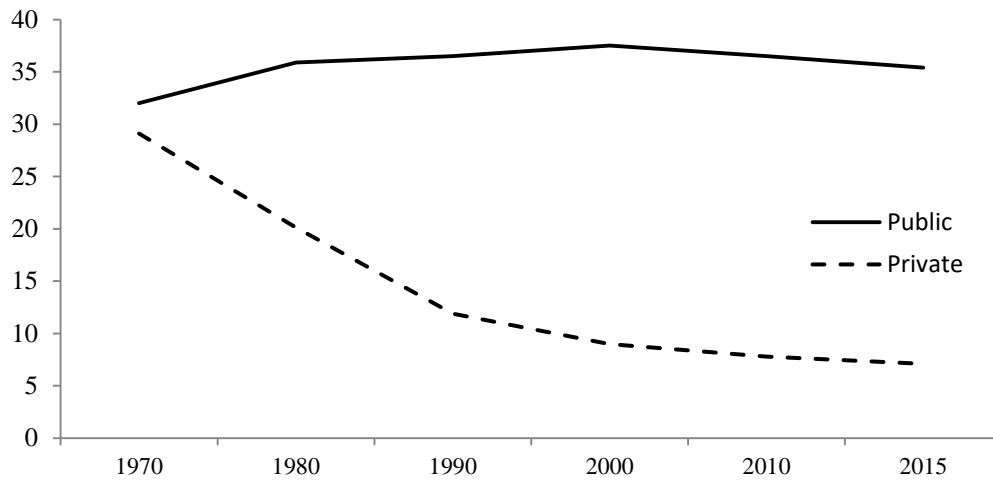
Figure 1: Union Density in Six English Speaking Countries, 1970-2014



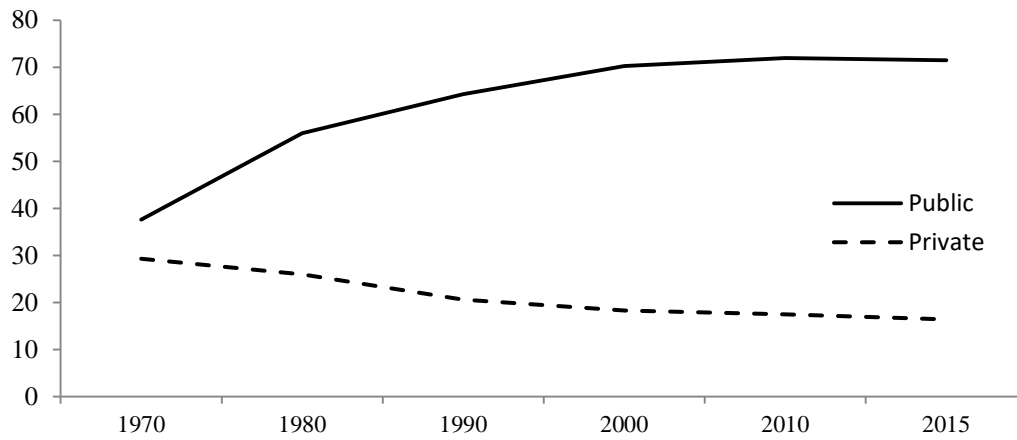
Source: OECD, accessed on *OECD.stat* June 7 2017.

Figure 2: Union Density (%) in Public versus Private Sector, 1970-2015

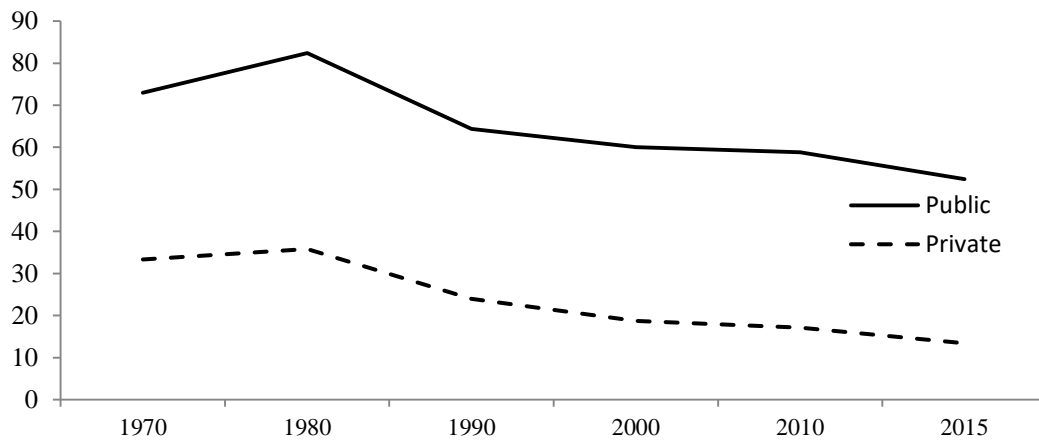
a) United States



b) Canada

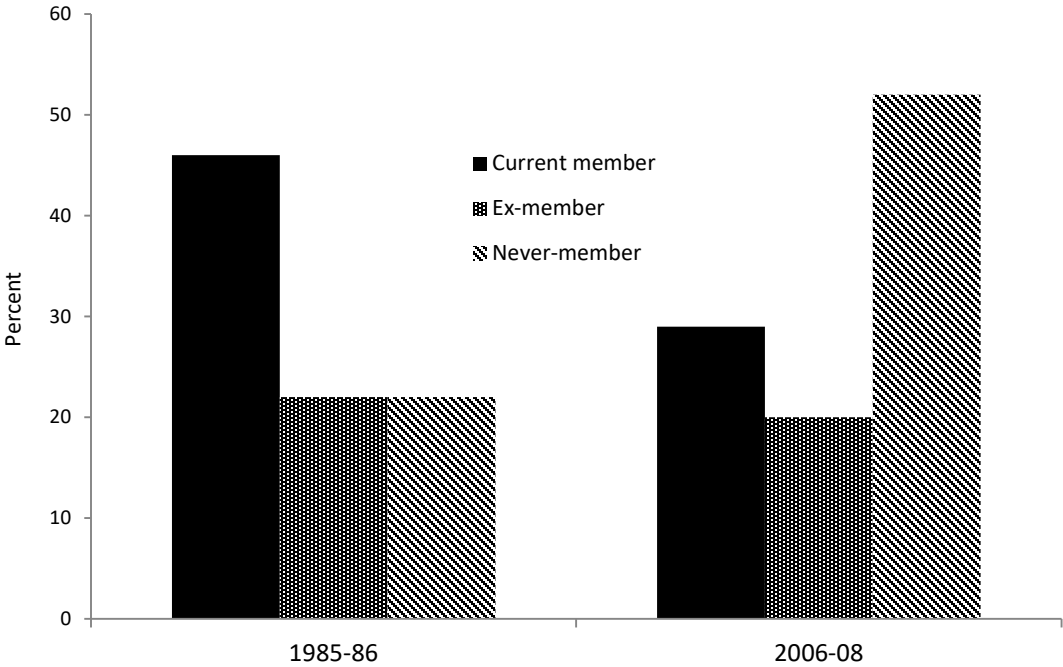


c) United Kingdom



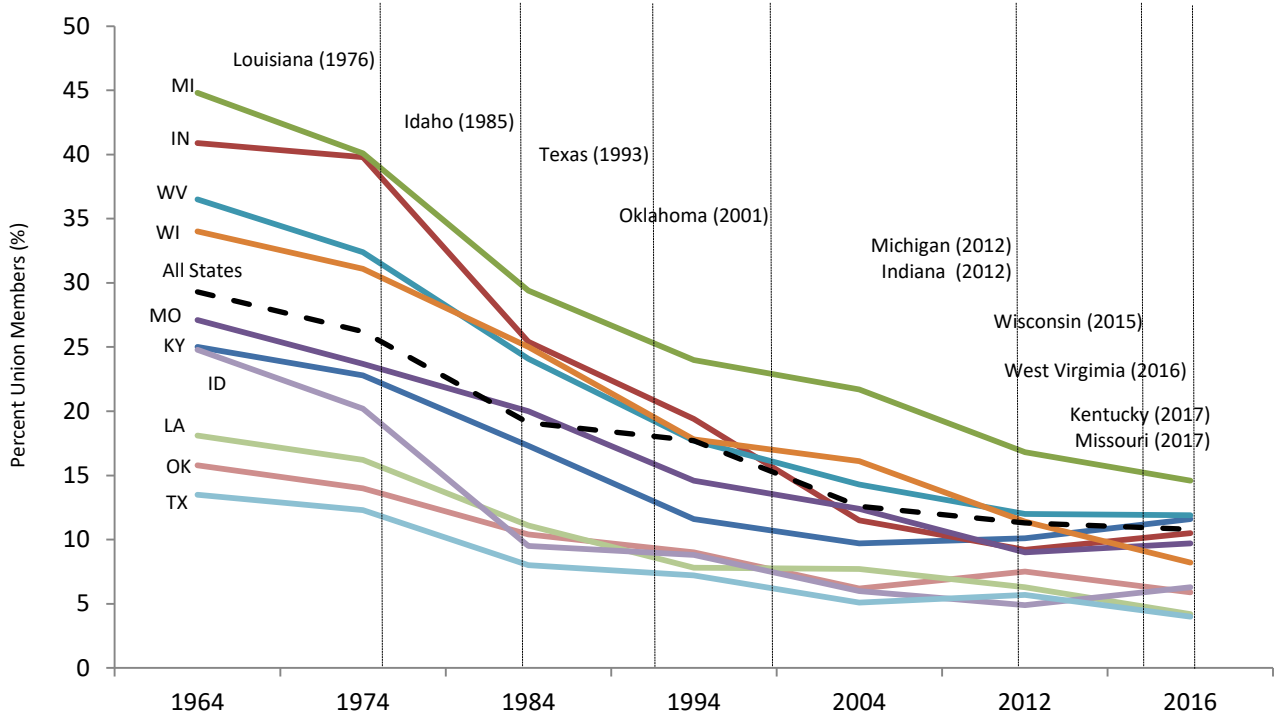
Source: Bureau of Labor Statistics (BLS); Statistics Canada (StatsCanada); and Office of National Statistics (ONS)

Figure 3: Current, Ex and Never Union Membership Rates in Britain, 1986-2008



Source: Adapted from Forth and Bryson (2010), Figure 4.

Figure 4: Union Density and Timing of U.S. State-level Right-to-Work Laws, 1964-2017

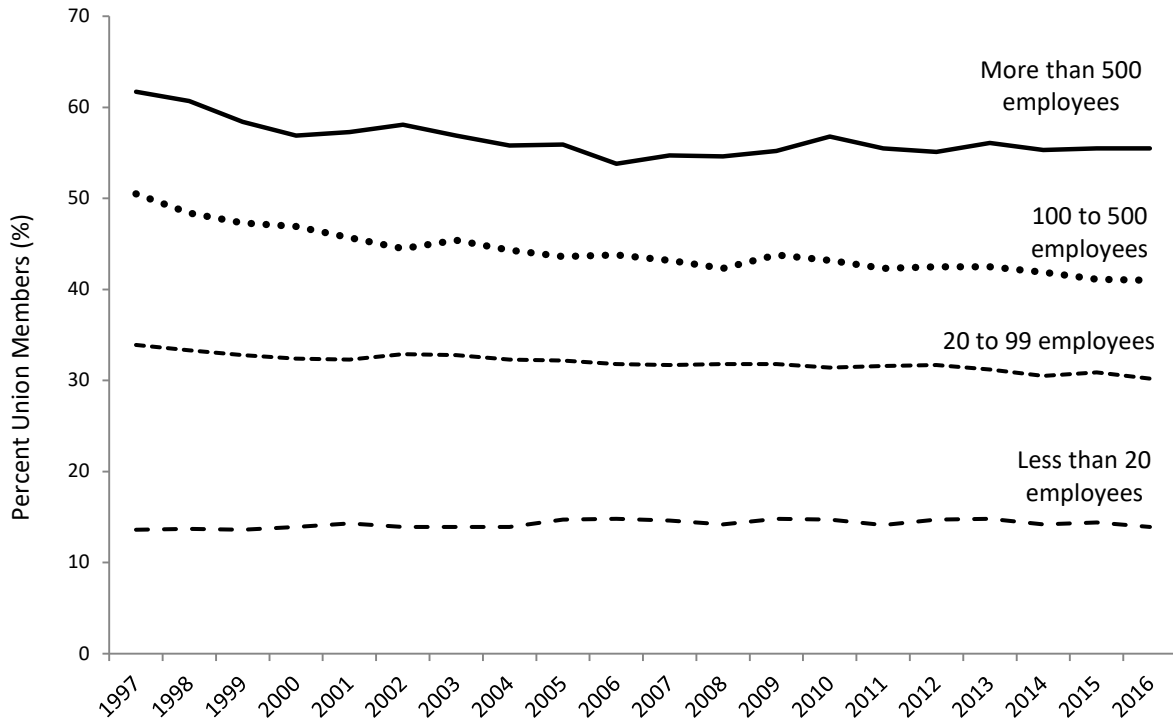


Source: Barry T. Hirsch, David A. Macpherson, and Wayne G. Vroman, “Estimates of Union Density by State,” *Monthly Labor Review*, Vol. 124, No. 7, July 2001, pp. 51-55. Accompanying data for 2001 to 2016 online at [www.unionstats.com](http://www.unionstats.com).

Notes: Figures represent the percentage of each state's non-agricultural wage and salary employees who are union members. The vertical lines indicate the year when the state “right-to-work law” was passed outlawing union shop (which allows for hiring non-union employees, provided that the employees then join the union and pay dues within a certain period) and agency shop (in which employees must pay the equivalent of the cost of union representation, but need not formally join the union) provisions in their jurisdictions.



Figure 5: Union Density by Size of Establishment in Canada, 1997-2016



Source: Statistics Canada. Table 282-0224 - Labour Force Survey estimates (LFS), employees by union status, and establishment size, Canada, annual (persons unless otherwise noted).

Notes: Union density is calculated by members of a union and / or covered by a collective agreement as a proportion of all employees. Beginning January 1997, the number of employees at the location of employment (for example, building or compound) is collected from employees. Responses are recorded according to the following size groups: less than 20, 20 to 99, 100 to 500, more than 500. The concept of location of employment approximates the concept of establishment used by many Statistics Canada business surveys.

Table 1: Union Density and Timing of State Right-to-Work (RTW) Laws, 1964-2017

State	Right-to-Work Law		Union Density	
	Year passed	Union Density	High (year)	Low (year)
Louisiana	1976	17.3	18.1 (1964)	4.2 (2016)
Idaho	1985	12.2	25.0 (1968)	4.7 (2013)
Texas	1993	7.6	13.8 (1970)	4.0 (2016)
Oklahoma	2001	8.5	16.8 (1970)	5.4 (2016)
Michigan	2012	16.8	44.8 (1964)	14.6 (2016)
Indiana	2012	9.2	40.9 (1964)	9.2 (2012)
Wisconsin	2015	8.4	34.0 (1964)	8.2 (2016)
West Virginia	2016	11.9	36.5 (1964)	10.6 (2014)
Kentucky	2017	11.2	25.4 (1970)	8.7 (2008)
Missouri	2017	9.7	27.1 (1964)	8.4 (2014)
Overall Average	2004	11.3	28.2 (1966)	7.8 (2014)

Source: Barry T. Hirsch, David A. Macpherson, and Wayne G. Vroman, "Estimates of Union Density by State," *Monthly Labor Review*, Vol. 124, No. 7, July 2001, pp. 51-55. Accompanying data for 2001 to 2016 online at [www.unionstats.com](http://www.unionstats.com).

Table 2: Prevalence of Voice in British Private Sector Workplaces, 1984-2011

	1984 (%)	2004 (%)	2011 (%)	Percentage Point Change
<b>Panel A: Voice Regimes</b>				
Union voice only	18	5	3	-15
Dual voice <sup>†</sup>	30	17	14	-16
Non-union voice only	25	55	58	+33
No Voice	24	22	24	No change
<b>Panel B: Voice Types</b>				
Representative voice only	23	11	9	-14
Representative + Direct voice	35	26	24	-11
Direct voice only	17	40	43	+26
No voice	24	22	24	No change

Notes: This voice typology is constructed using the voice items which are present in the data throughout the period 1984-2011 for private sector workplaces with more than 25 employees. All values are column percentages. Columns may not add up to total voice percentages due to rounding and missing information on some workplace. <sup>†</sup> Dual voice refers to presence of union and non-union voice systems in the same workplace.

Source: Authors calculations. WERS survey various waves.

Table 3: Prevalence of Voice Types in British Private Sector Workplaces, 1984-2011

	1984 (%)	2004 (%)	2011 (%)	Percentage Point Change
<b>Panel A: Non-Union Voice</b>				
<u>Representative Voice</u>				
Join Consultative Committee (JCC)	26	20	21	-5
JCC that meets regularly	24	15	16	-8
Non-union employee representative	10 <sup>†</sup>	16	15	+5
<u>Direct Voice</u>				
Regular meetings with employees	34	37	37	+3
Team briefings	31	48	51	+20
Problem-solving groups <sup>†</sup>	30	28	25	-5
<b>Panel B: Union Voice</b>				
Any union members	60	35	28	-32
Any recognized union	50	22	17	-33
Any on-site lay union representative	38	14	13	-25

Notes: This voice typology is constructed using the voice items which are present in the data throughout the period 1984-2011 for private sector workplaces with more than 25 employees. All values are column percentages. Columns may not add up to total voice percentages due to rounding and missing information on some workplace. <sup>†</sup> This question was only asked starting in 1990.

Source: Authors calculations. WERS survey various waves.