

## “The Politics of Labor Market Regulation from Below: the Strategic Logic of Conflict Socialization”

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### **Abstract:**

In this paper, we present a new theoretical framework to explain a family of policy innovation aimed at redistribution and the private regulation of low-wage labor markets at the local level. Drawing upon E.E. Schattschneider’s classic account about the scope of conflict in the American political system, our “strategic logic of conflict socialization” explains labor market regulatory and policy innovation among political actors as tactics to maximize their bargaining power by constraining or expanding the scope of conflict. This approach emphasizes the scope of conflict, as conceived by Schattschneider, as a *continuum* bounded by opposing tendencies toward the privatization or socialization of conflict. It also shows how collective benefits can sometimes be neither concentrated nor diffuse, but what we call “diffusely concentrated”. We make three arguments. First, we argue that these private local labor market regulations must be understood as a constellation of grassroots strategies that share similar characteristics. Second, we argue that these efforts challenge the conventional wisdom about the role of cities and redistribution broadly, and labor market regulation specifically. Cities have, in fact, become a key yet overlooked political arena for responding to contemporary inequality and regulating low-wage labor markets. Third, using historical examples and a comparative case study of community-labor campaigns around low-wage work in Los Angeles and Chicago, we argue that our framework explains the development and patterning of these seemingly disparate public and private regulatory innovations as *organizing* tactics to win collective benefits for union and non-union workers. Unexpectedly, political actors often win collective benefits through private means. Though political actors frequently seek to expand the scope of conflict to offset their relative powerlessness, this analysis shows how they can sometimes maximize bargaining leverage by constraining, or privatizing, the scope of conflict in the short term.

### **Introduction**

The rise of economic inequality has defined the political economy of the United States over the last thirty years. A growing scholarly consensus now confirms that the levels of inequality, the divide between the haves and have-nots, is as great and as consequential as levels of inequality during the Gilded Age and in the period leading up to the Great Depression (Bartels 2008; Hacker & Pierson 2010; Krugman 2002; Massey 2007; Piketty & Saez 2009). Reinforcing and

contributing to economic inequality are significant inequalities in political voice and participation, creating significant obstacles for less powerful groups to achieve some form of economic security and redistribution (Skocpol & Jacobs 2005; Schlozman & Burch 2009; Shapiro 2002). In fact, recent studies describing and analyzing the sharp rise in inequality since the 1970s show how a small yet powerful economic elite have exercised their power to extract more income and wealth, casting doubt on whether or not economically disadvantaged groups can exert countervailing political power to reverse these trends (Winters and Page 2009; Hacker and Pierson 2010; Winters 2011). Yet, since the mid-1990s, political activity and policy innovation at the local level seeking to address this growing economic inequality have proliferated. In a context of closed political opportunities to achieve governmental redress at the national level, political actors innovated new strategies and tactics to regulate low-wage labor markets and achieve redistribution at the state and local levels.

Many pundits argue that the U.S. political system has been captured by wealthy elites, and a growing body of scholarly work points in the same direction.<sup>1</sup> For example, the recent work of political scientists Jacob Hacker and Paul Pierson (2010) argues that the expanded political voice of economic elites and business interests are causal factors in rising economic inequality since the 1970s. Larry Bartels (2008) advances a similarly distressing argument in explaining what he calls the “new gilded age”: not only are policymakers most responsive to the rich and affluent but poor, working-class and middle-class Americans have almost no political voice when it comes to the issues that most affect their lives. Martin Gilens’ (2012) new book also shows how “representation inequality” occurs on a range of policy issues in national politics by presenting evidence of how the most affluent Americans’ preferences systematically win out over those of their middle-class, working-class and poor counterparts. Jeff Winters’ (2011) recent book goes further, arguing that we now live in a “civil oligarchy,” dominated by wealthy elites who use an “income defense industry” (i.e. tax lawyers and lobbyists) to protect their income and wealth while also getting their way in the political system. The latest definitive study on inequality in political voice by Schlozman, Verba and Brady (2012) confirms what the American Political Science Association Task Force report on growing inequality in 2004 found: that growing economic inequality is tightly linked to and reinforces deep inequalities in political voice. Schlozman, Verba and Brady find that there are alarming inequalities in political participation by education and class among individual Americans, and even more severe representational inequality among organized interests. Others, from Robert Putnam (2001) and Theda Skocpol (2003) to Fredrick Harris and his collaborators (2006) have argued similarly that the erosion of mass membership-based organizations in late 20<sup>th</sup> century American politics has contributed to increasing political inequality. In

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<sup>1</sup> Recognizing this growing scholarship and the still remaining gaps in our understanding of economic elites’ political influence, RSF recently supported the creation of a Working Group on “Mechanisms of Elite Influence on Political Life”.

short, the political science literature on political voice and participation has quickly reached a consensus about the state of contemporary American politics: the tiny number of elite and affluent Americans dominate our politics, resulting in policies that exacerbate economic, racial and other inequalities, to the detriment of Americans in the bottom two-thirds of the income distribution.

Contrary to this narrative of elite dominance in contemporary American politics, we suspect that the current political situation may be more dynamic than this body of scholarship suggests. Many left-of-center political organizations that represent the bottom two-thirds of Americans have advanced innovative policies to address economic inequality (Parks & Warren 2009; Warren 2010). Many have also experimented with new and unparalleled political alliances (Pastor, et. al. 2009; Dean & Reynolds 2010). Some trade unions, for example, are fundamentally rethinking their political programs and directions. This past May SEIU, one of the largest unions in the country representing low-wage janitors, health care and public sector workers, voted to allocate \$25 million/year for “Strategic Partnerships” with community based organizations, aimed towards building a new politics of equity and social justice. They invited more than 200 community and advocacy organizations to their national convention to discuss this new approach. Healthcare advocacy groups are rethinking their political alliances and working on strategies to organize in Southern states (historically lacking in healthcare advocacy) to push governors considering opting out of the Medicaid program (which could deny millions access to healthcare).

Thus, our overall hypothesis is that the political voices of ordinary Americans are being heard in many places across the country through new and innovative organizations that are challenging inequality and engaging in a politics of redistribution and equity. This new politics of inequality has been overlooked and understudied by the existing scholarly consensus focused on the dominance of economic elites and the affluent. A systematic exploration and analysis of this new politics of inequality will shed new light on enduring questions of the quality of political voice, the dynamics of governance and representation, and the causes and effects of political reforms.

The starting point for such local innovation is the first municipal living wage ordinance passed in Baltimore in 1994 (Fine 2004; Luce 199x; Swarts 2008). More than fifteen years later, there are over 150 such local living wage ordinances in localities across the country (Martin 2001, 2006; Swarts 2008; Sonn & Luce 2008). A similar exponential increase in state-level minimum wage laws is another indicator of local political organizing and innovation around labor market regulation. Responding to the national government’s failure to increase the federal minimum wage for over ten years (1997-2007), local political actors targeted state governments to advance labor market regulation and redistributive policy (Atlas 2010). In 1998, there were seven states with a minimum wage higher than the

federal; by 2008, twenty-seven states had higher minimum wage laws on the books. In 2006 alone, grassroots political actors were successful in getting seventeen states to pass laws increasing their minimum wage (either through legislatures or via ballot referenda).

These local policy successes affecting low-wage workers and people living in poverty are not surprising. Marginalized and less powerful groups have often sought and won public reforms (labor market and otherwise) through the political system, especially when they are considered too weak to achieve reforms privately or directly with more powerful economic actors. What is surprising—and the central puzzle of this article—is the emergence of successful *private* labor market regulations that provide *collective* benefits to disadvantaged groups or communities.

We focus on two of these new private regulations that political actors have innovated to regulate local labor markets: community benefits agreements (CBAs) and union process agreements (UPAs). Community benefits agreements are legally binding agreements usually between a private developer and a coalition of community-based organizations, labor unions, environmental and other advocacy groups. In the agreement, community members pledge support for a development in return for tangible benefits such as living wage jobs, local hiring agreements, green building practices, funds for parks, affordable housing, and child care. Since the very first CBA negotiated in 1997 over the Hollywood & Highland development in Los Angeles, there are currently more than fifty in effect in regions across the country. Union process agreements are also voluntary and legally binding agreements (often called “neutrality” and “card check” agreements) between employers and unions at the local firm level. These agreements outline a code of conduct between both parties during union organizing campaigns as well as often include alternative mechanisms to traditional National Labor Relations Board (NLRB) elections for union recognition (Sachs 2007; Brudney 2005). When successful, they often lead to collective bargaining agreements between an employer and a union, the key (private) distributive mechanism at the firm level. Emerging in the 1990s around the same time as the first living wage ordinance, there were over 400 of these agreements just between the years 1999-2003.<sup>2</sup> Additional private labor market regulations that provide collective benefits that have recently emerged are private agreements between major fast-food chains, tomato growers and tomato pickers in Florida increasing wages and improving working conditions.<sup>3</sup> Common to all of these labor market regulations is the accrual of redistributive collective benefits through private mechanisms.

In a context of successful *public* regulation and redistributive policies at the local level, what explains the emergence of CBAs and UPAs as *private* local labor

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<sup>2</sup> Database of union process agreements collected by Bronfenbrenner & Warren (2010) from 2006-2010.

<sup>3</sup> Examples in the international context are codes of conduct, which aim to improve working conditions for sweatshop workers in the global apparel industry (Bartley 2007; Seidman 2007; Barenberg 2008).

market regulations that provide broad *collective*, as opposed to narrow particularistic, benefits? Existing theory and empirical work on interest groups and social movements explain the emergence of successful public regulations around employment and economic equity as a result of urban workers and residents being too weak to win privately, and leads us to expect that less powerful actors will pursue public policy interventions when their economic power is limited (Fine 2005; Martin 2006; Schattschneider 1960; Swarts 2008).<sup>4</sup> However, this extant scholarship fails to predict or explain the emergence of CBAs, UPAs and other forms of *private* redistributive mechanisms that provide *collective* benefits. Unlike interest groups' use of public power for private gain, CBAs and UPAs use private power for public gain. And rarely are these public and private efforts at labor market regulation and redistribution—living wage ordinances, community benefits agreements, and union process agreements—considered part and parcel of the same strategic repertoire in the academic literature. Scholars have conceived of these political responses to low-wage work and economic inequality as separate and apart from one another driven, in each case, by some vague set of local, community actors. But why and how have local political actors pursued collectively-oriented private regulation of the local labor market? Under what conditions have they succeeded or failed? And how do we understand why and how these efforts have emerged at the *local* level, especially considering the conventional wisdom that the national government, not cities, is the state entity that engages in economic regulation and redistribution?

In this paper, we present a new theoretical framework to explain a family of policy innovation aimed at redistribution and the private regulation of low-wage labor markets at the local level. Drawing upon E.E. Schattschneider's classic account about the scope of conflict in the American political system, our "strategic logic of conflict socialization" explains labor market regulatory and policy innovation among political actors as tactics to maximize their bargaining power by constraining or expanding the scope of conflict. This approach emphasizes the scope of conflict, as conceived by Schattschneider, as a *continuum* bounded by opposing tendencies toward the privatization or socialization of conflict. It also shows how collective benefits can sometimes be neither concentrated nor diffuse, but what we call "diffusely concentrated".

We make three arguments. First, we argue that these private local labor market regulations must be understood as a constellation of grassroots strategies that share similar characteristics, not the least of which they are frequently deployed by the same set of political actors. We show how these initiatives are best understood as coordinated efforts to push and mandate labor market regulation and

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<sup>4</sup> The converse is true in the unique case of civil rights law *monitoring* and *enforcement*, as opposed to *emergence*. As a compromise to Southern Democrats hostile to civil rights and national public authority, Congress provided incentives to encourage the *private enforcement* of civil rights statues via private litigation instead of bureaucratic implementation. See Farhang (2009, 2010).

redistribution “from below.” Secondly, we argue that these efforts challenge the conventional wisdom about the role of cities and redistribution broadly, and labor market regulation specifically (Peterson 1981). Cities have, in fact, become a key yet overlooked political arena for responding to contemporary inequality and regulating low-wage labor markets. Third, using historical examples and a comparative case study of community-labor campaigns around low-wage work in Los Angeles and Chicago, we argue that our framework explains the development and patterning of these seemingly disparate public and private regulatory innovations as *organizing* tactics to win collective benefits for union and non-union workers. Unexpectedly, political actors often win collective benefits through private means. Though political actors frequently seek to expand the scope of conflict to offset their relative powerlessness, this analysis shows how they can sometimes maximize bargaining leverage by constraining, or privatizing, the scope of conflict in the short term.

In the next section, we describe the context of rising economic inequality and the proliferation of low-wage work that local political actors seek to address. We then present our theoretical framework of the strategic logic of conflict socialization, drawing on Schattschneider’s classic argument about the privatization and socialization of conflict. After a brief illustration of our model through describing the evolving strategies of American unions, we then present our original empirical case of the emergence of community benefits agreements in Los Angeles, followed by how our framework explains the emergence of union process agreements. We then conclude by discussing the tactics used in these efforts at labor market regulation from below and how our framework is applicable to a range of other forms of private regulation.

### **The Politics of Rising Inequality & the New Economy**

In contrast to accounts that focus on global economic processes, technological change or changing social norms in explaining the dramatic increase in inequality over the last thirty years (Krugman 2002; Freeman 2007), recent scholarship by political scientists has shown how *politics*—institutions, behavior, ideas and policies—is also a cause of rising inequality and the deteriorating conditions of low-wage work in the new, service-based economy (Bartels 2008; Hacker & Pierson 2010; Jacobs & Soss 2010; King and Rueda 2008; Page and Jacobs 2009; Soss, Hacker & Mettler 2007). Politics and policy choices explain the variation in how industrial and post-industrial democracies respond to “cheap labor” and economic inequality (King and Rueda 2008; Bradley, et. al. 2003).

To understand our current era of economic inequality and the emergence of labor market regulation from below, returning to the response to the Great Depression and high levels of economic inequality in the 1920s and 1930s is illuminative. Responding to the collapse of the economy, high unemployment and rising inequality, President Franklin Roosevelt, supported by strong Democratic majorities in Congress, sought successfully to increase the power of the federal

government to intervene in the economy, reshape labor markets and advance redistributive social policies (Brinkley 1996; Goldfield 1989; Fine & Skocpol 1984; Farhang & Katznelson 2005; Hacker & Pierson 2002; Plotke 1996). Breaking with the late 19<sup>th</sup> and early 20<sup>th</sup> century Lochner era of non-intervention by either state or national government into the economy, the Roosevelt Administration continued previous Progressive-era efforts to build a “new American state” while directly intervening successfully into the economy on the federal level (Skowronek 1982; Sunstein 1987; Gillman 1993). Breaking sharply with the pre-Depression Lochner era, the federal government in the New Deal and post-World War II era was now solely responsible for economic policy, labor market regulation and redistribution in a federalist political system. Yet, not long after the New Deal wave of new federal laws to stimulate the American economy and regulate working conditions, including most significantly the 1933 National Industrial Recovery Act, the 1935 National Labor Relations Act (NLRA) and the 1938 Fair Labor Standards Act (FLSA), organized business sought to regain the political and economic power they lost in relation to workers, unions and the national government in regulating workplace conditions (Hacker & Pierson 2002; Phillips-Fein 2009).

For instance, one effect of the NLRA was the upsurge in union members in the American workforce to roughly 1 out of 3 workers belonging to a union by the 1950s. The economic effects of such high union density are straightforward. In advanced industrial democracies such as the United States, higher union density reduces inequality directly through labor market intervention via negotiating collective bargaining agreements with employers, and indirectly via the political system through support for redistributive social policies (Bradley, et. al. 2003; Freeman & Medoff 1984; Freeman 2007; Wallerstein 1989). But unions also have political effects; in the U.S. context, unions help to alter inequalities in political voice by serving as a primary “mobilizing institution” in American politics, particularly for those least likely to participate in elections (Greenstone 1969; Rosenstone & Hansen 1993; Jacobs and Skocpol 2005; Freeman 2003; Nagler & Leighhey 2007). Thus, by the end of the 1960s wave of civil rights and Great Society legislation further regulating the American economy, organized labor as well as other liberal-oriented interest groups along with an activist national government had come to be seen as countervailing forces to private, primarily business interests in American politics and political economy (Galbraith 1952; Olson 1965; McConnell 1966; Lowi 1979).

Yet the countermovement to these New Deal & Fair Deal social policies begun in the 1940s gathered steam in the 1970s, when organized business and a broader conservative movement sought to regain the economic and political power temporarily lost during the post World War II middle decades of the 20<sup>th</sup> century (Hacker & Pierson 2002; Polanyi 19xx; Pierson and Skocpol 2007; Lowndes 2008; Teles 2008; Phillips-Fein 2009; Stein 2010). This is, not coincidentally, the period that social scientists now mark as the beginning of the rise of increasing economic

inequality (Krugman 2002; Massey 2007; Piketty & Saez 2009). One result of this resurgence of business political capacity beginning in the 1970s was the effort to roll back elements of labor law or to block reforms that would strengthen workers' rights (Warren 2011). The original NLRA was affected by the political strategy of "drift", whereby the policy is no longer effective in accomplishing its original goals under new political and economic conditions and efforts to update it are blocked (Hacker 2004). The minimum wage (Fair Labor Standards Act) has also been subject to policy drift over the last thirty years, as attempts to update it to keep up with inflation have been continually blocked, making it worth less in real terms now than in 1968. Now over the age of seventy-five, the National Labor Relations Act is a relic of the industrial economic and political New Deal orders under which it was enacted (Plotke 1996). Scholars have described its "ossification" and inability to address the major challenges facing workers, especially low-wage workers, under a new post-industrial economic regime with new norms and practices (Estlund 2002). Job instability and insecurity caused by increased global competition for goods and services, contingent and part-time work, short-term contracts and employment attachments, and volatile and frequent shifts in consumer demand requiring flexible management practices, characterize the dominant features of the contemporary post-industrial, service-based, "digital" workplace (Stone 2004; Greenhouse 2008).

Another result of the increase in business and conservative power and the subsequent shift in American politics has been the de-capacitating of federal agencies' ability to monitor and enforce already existing labor regulations. For example, beginning with the Reagan Administration in 1981 and continuing through the George W. Bush Administration at the end of 2008, federal agencies such as the Department of Labor had their budgets routinely cut, their staffing levels decreased, and their missions redefined to favor employers (Fine and Gordon 2010; McCartin 2011). It has been in this context of increasing economic inequality driven by enactments that favor businesses over labor, policy drift of existing labor market regulations that would otherwise address labor market inequities, and the inability of workers to achieve new enactments to address this new post-industrial economic environment, that political actors have innovated and focused on using political opportunities at the local level.

### **Labor Market Regulation & Redistribution From Below**

In response to the failure to achieve federal-level policy enactments to address the inequalities generated by the new, low-wage, post-industrial economy or to update existing policies that drifted from their original purpose, political actors perceived the national level of economic intervention as blocked and unavailable as a venue for relief. The spurt of activity at the local level, at the level of neighborhood, firm and urban politics, is explained in part by federalism and in part by the nature of the actors involved. With federal level politics running in the opposite direction—no increase in the minimum wage for a decade, increased



deregulation of the labor market, lack of enforcement of employment protections still on the books—political actors concerned with the plight of low-wage workers looked to a political venue closer to home.

Three conditions helped enable this spurt of local labor market regulation and redistribution. First, the rules of federalism allow for political actors to seek redress at the local scale and have even provided the basis for innovation—for example, “home rule” authority allowed actors to move living wage coverage into the private sector in some cases. Second, the high number of veto points at federal level make passage of new regulation difficult relative to state and local levels (Kreibel 1998; Schickler & Wawro 2006). Third, because employment and labor relations are primarily structured at the local level—unions in the American context bargain with local firms, not with national companies—and because community activists usually only engage in urban, not national politics, local politics has been a natural arena of engagement for a coalitions of community residents, workers and union members, and other allied political actors. We identify a constellation of policy mechanisms that comprise what we call “local labor market regulation and redistribution from below”, the results of this wave of local policy innovation since the mid-1990s. Municipal “living wage” laws sit at the center of this constellation, the gravitational anchors that draw together a seemingly disparate collection of local regulatory policy efforts.

### *Living & Minimum Wage Laws*

Living wage ordinances are an exemplar of this new set of regulative and redistributive policy mechanisms. Sparking what Chris Tilly has called a “revolution” in the “local regulation of the labor market,” (Tilly, 2005, p. 143) municipal living wage laws emerged in the mid-1990s and quickly became the most well-known and ubiquitous form of local labor market regulation in the United States. Following the adoption of Baltimore’s seminal 1994 ordinance, living wage ordinances proliferated as local actors quickly picked up the idea, mobilized campaigns, and won (Luce; Martin 2001, 2006; Swarts 2008). By 2010, more than 150 municipalities had passed some version of a living wage policy, prompting advocates and some scholars to characterize the swift diffusion and high frequency of living wage campaigns as a “living wage movement” (Reynolds 1999; Reich 2010).<sup>5</sup> Relying on their role as proprietors as opposed to regulators, cities initially allowed living wage ordinances to set standards only for employees of city contractors or businesses receiving city subsidies (Wells 2002). Subsequent

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<sup>5</sup> Living wage campaigns also have emerged in venues other than municipal politics. Following the highly visible living wage campaign mounted by students at Harvard, several universities and other large institutions have adopted living wage policies in response to student and community demands that all work carried out on university premises, especially subcontracted employment, pay a minimum “living wage.” Rather than pursuing a course of action that encodes living wage standards as/within governmental regulation, these campaigns represent modes of private regulatory action. Citations: Harvard living wage campaign, Northwestern Living Wage Campaign website [[www.nulivingwages.org](http://www.nulivingwages.org)], paper about university living wage campaigns?, our CBA paper.

ordinances expanded the number of workers covered (including attempts to cover private sector workers) and, in some cases, the scope of benefits guaranteed. These first- and second-generation living wage ordinances, as Stephanie Luce has categorized them, paved the way for citywide “minimum wage” policies—effectively universal living wage laws that extend coverage to all workers (public and private) in a municipality. To date, only four cities have passed such ordinances.<sup>6</sup>

Yet, while these local living wage and minimum wage policies raise a significant puzzle themselves about the role of cities in labor market regulation and redistributive policy, Tilly’s “revolution” excludes several additional policies that constitute the constellation of locally-based policy mechanisms aimed at addressing low-wage work and inequality. As mentioned earlier, these include community benefits agreements that often include a secondary “right to organize” side agreement, and union process agreements.<sup>7</sup>

### *Community Benefits Agreements*

In addition to living and minimum wage laws, a second innovation at the local level is community benefits agreements (CBAs): voluntary, private and legally binding agreements usually between a developer and a coalition of community-based organizations, labor unions, environmental and other advocacy groups. Under such agreements, community members pledge support for a development in return for tangible benefits such as living wage jobs, local hiring agreements, green building practices, funds for parks, affordable housing, and child care. Since the very first CBA negotiated in 1997 over the Hollywood & Highland development in Los Angeles, there are currently more than twenty in effect in regions across the country (Parks & Warren 2009). These community benefits agreements often include “right to organize” provisions as part of or as a side agreement: local, firm-specific, mutually agreed-upon rules for union organizing. These provisions (often called labor peace agreements) make it easier for workers employed by the development to choose to unionize. Often negotiated separately from community benefits agreements but simultaneously with them, these labor side agreements come in several variants, including neutrality agreements and majority sign-up procedures. Usually covering a specified length of time, these “private agreements establish varied sets of ground rules governing unions’ and employers’ conduct during organizing campaigns, procedures for registering workers’ preferences on the question of collective representation, and mechanisms for resolving disputes” (Sachs 2007: 378).

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<sup>6</sup> Washington D.C., San Francisco, Santa Fe, NM, and Albuquerque. See Sonn 2006. Sonn, fn. 15, p. 7: Baltimore has had a citywide minimum wage law since 1964, although it has little significance today because it is set at just \$5.15 — the same level as the federal minimum wage. New York City enacted a citywide minimum wage law in 1962, but it was blocked by the courts.

<sup>7</sup> Schragger (2009) is the one exception who groups these range of policies together under the same umbrella. His conceptual grouping (extractions) is different from ours in that while he describes the dependent variable, he doesn’t offer an explanation for how and under what conditions they emerge.

### *Union Process Agreements*

As stand-alone private, voluntary agreements separate from CBAs, these “union process” agreements are a third major innovation at local labor market regulation employed by local political actors to great effect over the last fifteen years (Brudney 2005; Eaton & Kriesky 2001; Sachs 2007). Although there is no centralized database of these agreements, there are probably at least a thousand or so of these agreements since the mid-1990s (cite). These agreements have become the primary method used to organize workers into unions today; of the 400,000 or so private sector workers organized in 2008, only 70,000 were organized through what unions consider the broken National Labor Relations Board election process (Amber 2009).

These private and voluntary union process agreements come in several variants, including neutrality agreements, majority sign-up procedures, and private elections (Congressional Research Service 2005; Eaton & Kriesky 2001). Neutrality agreements are an agreement between employers and unions in which an employer agrees to remain neutral on the question of unionization during an organizing campaign. These types of agreements set restrictions on the kind of conduct, such as speech, in which employers and unions can engage during a specified length of time. The next two types of agreements focus on the precise process or mechanism through which workers will decide on union representation. “Card check” or “majority sign-up” procedures allow workers to decide on union representation by signing a union authorization card (or choosing not to sign). In these cases, an employer agrees to recognize a union as the exclusive representative of employees IF a majority of workers sign authorization cards. Usually, a mutually agreed-upon neutral third-party counts the cards and makes a determination as to their legitimacy. The employer—and the union—agree not to demand a National Labor Relations Board-supervised election.<sup>8</sup> Finally, a private election procedure is where a union and employer agree on a non-NLRB secret ballot election conducted by a neutral third-party to determine whether a majority of workers want union representation. Other elements included in these process agreements include language around union access to the worksite or employees, how the employer and union will resolve disputes that arise over bargaining unit determination or a party’s conduct (usually through arbitration), and in some majority sign-up agreements, variants of “triggers” are attached. For instance, several process agreements include a trigger for majority sign-up when 65% of employees sign union authorization cards (well above the 50% plus 1 threshold in NLRB or privately-supervised elections).<sup>9</sup>

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<sup>8</sup> See *Verizon Information Systems*, 335 N.L.R.B. (2001), where the union wanted a board election after agreeing to card-check and their request was denied.

<sup>9</sup> See Sachs (2007: 379) describing a different kind of “trigger agreement” between employers and SEIU in the Houston janitors’ case. This process agreement included neutrality and voluntary union recognition by employers only when a majority of workers signed union authorization cards, in addition to a provision that once recognized by the employers, SEIU would delay engaging in collective bargaining until it had organized the majority of the regional market in order to sustain the firms’ competitiveness in the local marketplace.

As mentioned above, the extant scholarship, especially in urban politics and American political economy, fails to predict or explain the emergence of all of these forms of local labor market regulations and especially *private* redistributive mechanisms that provide *collective* benefits. And while scholars like Tilly focus on living wage ordinances as the “revolution” in local labor market regulation, rarely are these other efforts—living wage ordinances, community benefits agreements and union process agreements—considered part and parcel of the same strategic repertoire as the wage policies in the academic literature. Scholars have up to this point have conceived of these political responses to low-wage work and economic inequality as separate and apart from one another driven, in each case, by some vague set of local, community actors. We challenge this narrow conception and offer an alternative framework that explains the emergence of and conditions under which these labor market regulations from below occur.

### **Theoretical Framework: Strategic Logic of Conflict Socialization**

#### *Schattschneider’s Two Appeals*

What explains this constellation (living & minimum wage laws, CBAs and UPAs) of labor market regulation and redistribution from below? The core assumption of existing theoretical frameworks, from E.E. Schattschneider to Frances Fox Piven to Janice Fine, is that disadvantaged and weak groups must always expand the scope of conflict to win a political contest (Schattschneider 1960; Piven 2008; Fine 2005). As Schattschneider argued in his classic text on American democracy over fifty years ago, “the most important strategy of politics is concerned with the scope of conflict” (3). In his account, more powerful groups routinely seek to limit the scope of conflict through privatizing it, while weaker groups routinely seek to expand the scope of conflict through socializing it. His insight into this virtually timeless dynamic is the closest thing we have to a truism of politics: “A look at political literature shows that there has indeed been a *long-standing struggle between the conflicting tendencies toward the privatization and socialization of conflict*” (7, original italics). While we believe this dynamic is at work in our focus on the politics of redistribution and regulation of low-wage labor markets, empirically, this maxim is borne out in a wide variety of political conflicts across issue domains including civil rights and racial justice, labor, environment, social welfare, women’s rights, gay rights, among others.

Conflicts remain private when they are worked out between groups without appealing to public authority. The more powerful players, according to Schattschneider, want “private settlements because they are able to dictate the outcome as long as the conflict remains private” (39). In contrast, it is always the weaker player or “*loser* who calls in outside help” (16: original italics). Conflicts become socialized when they are taken into the public arena. And conflicts are taken into the public arena when one side wants to change the private-power ratios. Usually this is the weaker party that wants to socialize conflict because often it is

the only way to change the balance of power: “it is the weak who want to socialize conflict, i.e., to involve more and more people in the conflict until the balance of forces is changed” (40). In this way, weak groups want to expand the scope of conflict for two distinct yet fundamentally related reasons. First, socializing conflict targets the unequal power relationship between two or more groups. Through attempts to expand the scope of conflict, weaker groups aim to strengthen their position vis-à-vis stronger groups on the political playing field. Second, socializing conflict increases the probability of weaker groups winning on an issue or demand.

Schattschneider discusses two elements of conflict socialization that we think often become conflated: appeals to audience and appeals to public authority. First, in a political skirmish weak groups often appeal to a broader audience. By socializing conflict via appeals to a larger audience, political actors seek the engagement of participants who are not directly affected by the conflict in order to destabilize the power relationship in the fight, hopefully to their (the weaker group’s) advantage. These appeals to an audience are inherent in Schattschneider’s emphasis on visibility and publicity (16). By making visible and publicizing an issue, political actors socialize conflict through exposing to the public what was previously private and unknown information. The publication of such powerful images of non-violent protestors sprayed by fire hoses and maimed by attack dogs in the Jim Crow South in the 1950s and 1960s made visible to a broader national and international audience the inhumane injustices of racial oppression, and compelled audiences (the broader public, the federal government) to act on the side of black Americans (Dudziak 2002).

The second element of conflict socialization often conflated with the first is political actors’ appeals to public authority for redress of grievances. Not only do weaker political actors appeal to a broader audience, but in Schattschneider’s framework, they appeal specifically to public authority to socialize conflict. The state, and particularly the national government, is usually the entity to whom groups appeal to get involved in a fight. To return to our civil rights example, political actors appealed to the federal government to intervene in the fight around racial exclusion and discrimination. The call for national action by the federal government was dramatized through several tactics including the 1960 student sit-ins, the 1961 Freedom Rides, and of course the 1963 March on Washington for Jobs and Freedom. The March sought to expand the scope of conflict by both appealing to a broader audience (publicizing racial injustices to Americans of good conscience) and via appeals to public authority (the Kennedy and Johnson Administrations). Of course, white Southerners wanted to keep these conflicts private or local, and this goal of conflict privatization underpinned the rhetoric around “states’ rights”.

One additional shortcoming of Schattschneider’s concept of conflict socialization that we expand on here is the fact his account of American politics was written at a particular historical moment that has since changed: the context of the

immediate post-World War II, post-New Deal period resulting in the rise of a strong American state. At that particular moment, the nation-state was the most important arbiter of the scale of conflict. As Schattschneider put it, “*Democratic government is the greatest single instrument for the socialization of conflict in the American community*” (original italics: 12). He continues, “Government in a democracy is a great engine for expanding the scale of conflict. Government is never far away when conflict breaks out. On the other hand, if the government lacks power or resources, vast numbers of potential conflicts cannot be developed because the community is unable to do anything about them” (12-13). Here, Schattschneider couldn’t foresee the changes to come in the world; as economist Joseph Stiglitz puts it, “in effect, economic globalization has outpaced political globalization” (Stiglitz 2006: 21). This means that for workers in a sweatshop factory owned by a multinational corporation in Bangladesh or Honduras, there is no national public authority to which to appeal in order to expand the scope of conflict. Globalization in the late 20<sup>th</sup> and early 21<sup>st</sup> century has created what political theorist Nancy Fraser calls political “misrepresentation”: the mismatch between injustices caused by private actors (multinational corporations) not subject to national regulations of a nation-state or any enforceable international legal regime (Fraser 2009). How does a powerless group like sweatshop workers in developing countries appeal to a domestic public authority when that option is unavailable, either due to lack of state capacity or lack of state jurisdiction to intervene in a fight?

Our framework fills in this puzzle by zooming out from the local level to the global scale. Indeed, the strategic logic of conflict socialization explains the emergence of private codes of conduct in the international arena, in addition to local efforts at private regulation of collective benefits. Whether globally or in our cases, weak political actors all aim to increase the scope of conflict. But we find that their strategic decisions provide new insight into the political risks involved in expanding the scope of conflict in contemporary politics, particularly around the issues of low-wage work and economic inequality. Instead of seeking always to expand the scope of conflict indefinitely, political actors engage in a strategic calculation to determine under what conditions, to what extent, and at which temporal moments it makes most sense to socialize or privatize a conflict in order to maximize their economic and political bargaining power.

### *Strategic Logic of Conflict Socialization*

But what makes political actors’ calculations around conflict socialization *strategic*? Political strategy enters because actors are playing an interactive game involving an opponent, under uncertain conditions with incomplete information, and often repeated. The political risk of a weak political actor expanding the scope of conflict through appeals to audience and/or public authority is that their opponent might react by doing the same. For instance, if Actor A appeals to an audience in order to gain allies in the conflict, Actor B might also do the same, and her allies might be stronger than Actor A’s, resulting in the same power asymmetry

at T2 present at T1. Thus, the strategy of the weaker actor is often to expand the scope of conflict enough to win an audience (allies) while at the same time taking into account the anticipated reactions of an opponent in order to restrict their ability to counterattack through appeals to audience or public authority. This helps to change the power asymmetry toward the weaker actor's favor.

The strategic decision around conflict socialization or privatization is also contingent on the bargaining power the actors have in a given context. As described later, contemporary efforts aimed at redistribution and regulation of low-wage labor markets from below use a wide range of tactics to socialize conflict enough to gain bargaining leverage in order to win a private resolution of the conflict. Major tactics of these efforts include a repertoire of "contentious" and "disruptive" tactics: shareholder actions and resolutions, direct action and demonstrations, consumer boycotts, legislative and regulatory efforts, targeting corporate directors and investors, use of the media and public relations, legal action, and engaging in alliances. All of these tactics are important tools for often weak or powerless groups against more powerful opponents, as most of these campaigns require a combination of contentious politics, disruption or dissensus, and sustained pressure (political, social, moral and economic) to gain bargaining leverage in the short term in order to win collective benefits through private mechanisms (Piven 2009; Seidman 2007; McAdam, Tarrow & Tilly 2001; Meyer & Tarrow 1997).

There are four dimensions to our strategic logic of conflict socialization framework: scope, resolution, inclusivity and range. All four of these facets of our framework are arrayed on continuums; political actors move from one end to the other depending on their strategic calculations and interactions with targets, other allies, opponents and public authority. The first dimension is the *scope of conflict*. This is the one and only dimension in Schattschneider's original formulation. Political actors, most likely weak ones, often seek to expand the scope of a conflict from a privatized one to a socialized one. They seek to get others into the fight by appeals to audience and appeals to public authority. Going beyond Schattschneider's one-dimensional articulation of conflict socialization, our second dimension is the *nature of resolution* of the conflict. Conflicts can be resolved on a continuum from private to public. Private contracts between two or more parties anchor the private end of the resolution axis, while a new enactment by a public authority falls on the opposite end (see Figure 1).

The third dimension in our framework is *inclusivity of benefits*: who is included or excluded from the collective good. Most public choice and collective action theories assume that the costs of policies tend to be either diffuse while the benefits are often concentrated, the costs and benefits are both concentrated, or the costs are concentrated while the benefits are diffuse (Wilson 1980). We think of this more as a continuum; in our constellation of labor market regulation and redistribution the costs tend to be concentrated, while the benefits are more toward

the diffuse end of the continuum. We think of living wage bills, CBAs and UPAs as “diffusely concentrated”. That is, while the costs are almost always concentrated (among the small number of political actors and political entrepreneurs involved in the fight to win the collective good), the benefits are neither diffuse nor concentrated, but rather somewhere in between.

The fourth and final dimension is the *range of benefits*. This characterizes the number of different kinds of benefits provided. On a continuum from narrow to broad, minimum wage laws would fall on the narrow end, as they only provide one benefit: increased wages. Alternatively, a private individual employment contract anchors the other, broad, end of the continuum, as sometimes anything is up for grabs in individual negotiations (in addition to wages, the number of holidays or sick days, the duties constituting the job description, work equipment, etc.). As stated earlier, community benefits agreements often include non-employment goods such as funds for parks, day care centers, or other non-economic collective goods.

[Insert Figure 1]

[Insert Figure 2]

We argue that on all four of these dimensions (scope, resolution, inclusivity and range), political actors make strategic decisions about privatizing or socializing conflict in interaction with other actors (allies, opponents) and in specific political-institutional contexts. In the next section, we begin the empirical illustration of our model of the strategic logic of conflict socialization using the historical case of American labor. We then turn to two empirical case studies of labor market regulation and redistribution focused on community benefits and union process agreements. We conclude by briefly illustrating how our framework might go beyond the “local” and also explain the emergence of private labor market regulations with diffusely concentrated collective benefits in the global “stateless” arena.

### *Strategic Logic of Conflict Socialization & The American Labor Movement*

A brief look at the ebbs and flows over time of the American labor movement’s shifting strategy between the privatization and socialization of conflict is an illustrative historical example. As the history of organized labor shows, it has sought to both socialize and privatize conflict through appeals to audience and public authority. The appeals to public authority or state intervention are fraught with political risk for labor; under some conditions a strategy of conflict socialization can result in government intervention in the economy and political inducements to advance economic reforms that help labor (Collier & Collier 1979). Under other conditions, labor’s conflict socialization results in state intervention—repression even—on the side of its opponents. The effect of this strategic decision to expand the *scope* of conflict when labor loses is that the public authority ends up



providing strong incentives for political actors to retreat from political action and engage in private negotiations with economic actors directly. As Vicky Hattam (1993) shows, exceptionally hostile courts in the late 19<sup>th</sup> and early 20<sup>th</sup> century invalidated most labor-supported legislative reforms, reflecting the repressive nature of the state. Courts, as the dominant and most powerful political institutions in 19<sup>th</sup> century U.S. politics (Hattam 1993; Skowronek 1982), nullified social reforms labor successfully passed through state legislatures (e.g. eight-hour day, anti-conspiracy, anti-sweatshop & child labor legislation) and restricted workers' collective action abilities through the legal doctrine of criminal conspiracy (Robertson 2001; Orren 1991). As a result, the main labor federation at the time, the American Federation of Labor (AFL), retreated from the political arena altogether in favor of a "voluntarist" model of direct negotiation with employers (Hattam 1993; Rogin 1962; Robertson 2001). Moving away from conflict socialization to a strategy of conflict privatization, the result was labor political quiescence and even opposition to early Progressive-era reforms like old-age assistance, health and unemployment insurance, and minimum wage and maximum hours laws until labor's organizational and political resurgence during the Great Depression and New Deal when a new rival federation (the Congress of Industrial Organizations) again pursued a strategy of expanding the scope of conflict to win protections for workers.

Of course the AFL's voluntarism at the turn of the 20<sup>th</sup> century, the privatization of conflict between employers and unions, could only be successful under certain conditions. Unlike its rival Congress of Industrial Organizations, the AFL affiliates consisted of mostly highly-skilled craft workers who, because of their monopoly of skills, control of the labor supply and strike threat, had enough *bargaining power* to force employers to negotiate directly with them around their demands.<sup>10</sup> In these cases, the scope of conflict was privatized, the resolution was quasi-private, the inclusivity of benefits were diffusely concentrated to all existing and new members of the union, and the range of benefits was in the middle between narrow and broad (wages, benefits, workplace conditions, etc.). This outcome (of the collective bargaining agreement) is depicted in Figures 1 and 2 as being located in the middle of each dimension in our framework.

Alternatively, the unskilled workers of the CIO unions, with very little bargaining power vis-à-vis employers, had strong incentives to pursue another strategy to advance their interests: socialize conflict through the political system. Thus, for a brief period of time in the early New Deal, we can see two parallel yet distinct labor movement strategies: CIO unions aimed to expand the scope of conflict through appeals to audience and appeals to authority to achieve reforms through the political system as a strategy to address economic inequality, while AFL unions with relatively stronger bargaining power aimed to privatize conflict to achieve collective goods through direct negotiation and private agreements with

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<sup>10</sup> Long before the right to collective bargaining was established in the 1935 National Labor Relations Act.

employers. Both strategies aimed to win diffusively concentrated collective benefits for workers.

While the New Deal period provided a short yet significant window of political opportunity for successful conflict socialization by a weak political group, this window was soon closed, influencing the strategy of the labor movement yet again (Goldfield 1989; Farhang and Katznelson 2005; Skocpol and Finegold 1984; Hacker and Pierson 2002). Beginning with the Taft-Hartley Act in 1947, the national state once more turned hostile to organized labor, providing constraints on unions' behavior and disincentives to engage the state (Collier & Collier 1979; Farhang & Katznelson 2005). In many ways, organized labor again retreated from the political arena and the socialization of conflict in favor of a "neo-voluntarist" model of direct negotiation with employers—the privatization of conflict (Fantasia & Voss 2004). This neo-voluntarist strategy during the post-war period was the result of state failure at providing broad collective benefits to ensure economic security for most Americans. The failure to pass national health insurance encouraged unions to privatize conflict and utilize their bargaining power to win health care benefits for their members directly from employers via collective bargaining agreements, the "original" CBAs (Gottschalk 2000). Thus, post-war union-employer collective bargaining agreements sought to privatize the scope of conflict, were quasi-private resolutions,<sup>11</sup> with diffusely concentrated benefits on the inclusivity dimension<sup>12</sup>, and featured a broader range of benefits such as working conditions and work rules, grievance procedures, paid holidays and sick days, health care and pensions benefits, as well as wages. As seen on figures 1 and 2, these CBAs are located in the middle of the continuums of our framework, illustrating how political actors can win public benefits through private means.

### *The Emergence of Union Process Agreements*

In the current political environment discussed earlier of increased business political power, growing inequality and union decline, organized labor has once again sought to expand the scope of conflict through appeals to audience and public authority. For over a decade, the labor movement has sought labor law reform from the federal government to address the "policy drift" of the National Labor Relations Act, which from labor's point of view, has given undue power to employers over workers. Yet these efforts at conflict socialization seeking a public resolution have failed, in part due to the multiple veto points at the federal level (Warren 2011). As a result, unions have innovated at the local level to win collective goods through private means. Unions have been focused on winning union process agreements

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<sup>11</sup> Collective bargaining agreements are "quasi-private" resolutions in that the state still structures and creates the background conditions for labor-management resolution of conflicts.

<sup>12</sup> In addition, the union "threat effect" via the private labor market regulatory mechanism of collective bargaining resulted in collective benefits for union and non-union members alike, whether as higher wages, health benefits, or retirement security (Mishels 200x).

through what are often called “corporate campaigns” or “comprehensive campaigns” against employers (Jarley & Maranto 1990; Congressional Research Service 2005; Perry 1996). The Congressional Research Service describes these campaigns in this way: “to gain an agreement from an employer for a card check campaign—possibly combined with a neutrality agreement—unions sometimes engage in ‘corporate campaigns’” (CRS 2005: 10). From unions’ point of view, the goal of these campaigns is to expand the scope of conflict—through appeals to audience and appeals to public authority—to create a context for a *private* resolution in the form of a UPA. Put simply, the nature of these campaigns is to put pressure on a company in order to gain *bargaining power* to induce employers to agree to one or more elements of these private organizing agreements.

These union process agreements do not guarantee that workers will ultimately decide on union representation (Jarley & Maranto 1990; Brudney 2005; Eaton & Kriesky 2001). If such an agreement is reached between a union and employer, the union *calls off* the campaign.<sup>13</sup> Indeed, in the vast majority of comprehensive campaigns aimed at process agreements, the precise leverage unions have is their ability to end the campaign upon an agreement. For instance, in the New Haven Omni Hotel campaign, the labor-community coalition ended their campaign once a union process agreement was struck (Warren & Cohen 2000). Similar to previous “Justice for Janitors” campaigns in Denver and Los Angeles, in the 2005 Houston janitors campaign SEIU ended their corporate campaign once the employers agreed to a union process agreement (Sachs 2007; Waldinger, et. al., 1998; Milkman 2006). In our own research on the campaign targeted at winning a community benefits agreement with Walmart in Chicago, the labor-community coalition was ready to call off the campaign if Wal-Mart agreed to a CBA or UPA process agreement.<sup>14</sup> Jarley and Maranto discuss campaigns around these “procedural concessions” at length, especially the J.P. Stevens campaign, often considered one of the first modern union “corporate campaigns”,

In exchange for these concessions [“procedural agreements”] ACTWU not only ended the campaign, but agreed to forgo use of nationwide access to Stevens plants granted to the union by the NLRB and upheld by the Supreme Court. In general, these procedural concessions had the effect of de-escalating the conflict by removing the charges that representation or recognition was being unfairly withheld from employees or the union. The union still faced the task of turning procedural concessions into more substantive bargaining gains (518).

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<sup>13</sup> In their analysis of “campaign outcomes”, Jarley and Maranto emphasize “union gains that were immediately realized in exchange for cessation of the campaign” (508).

<sup>14</sup> In fact, while the unions involved were ready to strike a deal with Wal-Mart around organizing rights, several community groups were demanding more (greater inclusivity and range of benefits), which potentially would have created a conflict between them if Wal-Mart had agreed to some kind of process agreement. This is the key difference between unions, which are much more amenable to settling and ending a campaign, compared to non-labor NGOs. See Manheim (200x) and Greven (2003).

As mentioned above, union “corporate campaigns” focused on securing union process agreements emerged in the context of intense and hostile employer opposition to unionization (Johnston 1994; Minchin 2005). But political actors in all of these kinds of corporate campaigns do not seek to expand the scope of conflict all the way to a public resolution; instead, they seek to expand the conflict enough through appeals to audience and public authority to gain bargaining leverage for a private resolution to the conflict. After all, similar to local communities’ relationships with developers and landowners in their neighborhoods, in this context, the goal is not to destroy the company, as once an employer and a union come to an agreement, they must form a constructive and working relationship. The result is usually some form of redistribution of collective goods through private means (a collective bargaining agreement). Kate Bronfenbrenner describes this best,

With so many different allies and constituency groups involved, it is important to remember the original focus of the comprehensive campaign. It is not about leverage for leverage’s sake. It’s not about finding dirt on the boss or destroying the company. For the workers involved in these campaigns, no matter what terrible deeds this employer may have done, at the end of the day, it is still their employer, the one that pays their bills, keeps food on the table, and keeps the community alive. They do not want the company destroyed or run out of town. Nor do they want it to destroy their community, its land, air, or water supply, their health, or their ability to have children. (223)

### **Tactics, Conflict Socialization and Bargaining Power**

Contemporary efforts aimed at redistribution and regulation of low-wage labor markets use a wide range of tactics to socialize conflict enough to gain bargaining leverage but in order to win a private resolution of the conflict. Major tactics of these campaigns include: shareholder actions and resolutions, direct action and demonstrations, consumer boycotts, legislative and regulatory efforts, targeting corporate directors and investors, use of the media and public relations, legal action, and engaging in alliances. This wide-ranging list constitutes the historic and contemporary repertoire of tactics used by grassroots political actors as they engage in labor market regulation and redistribution from below. All of these tactics are important tools for often weak or powerless groups against more powerful opponents, as most of these campaigns require “contentious politics”, disruption or dissensus, and sustained pressure (political, social, moral and economic) to gain bargaining leverage in the short term in order to win collective benefits through private mechanisms (Piven 2009; Seidman 2007; McAdam, Tarrow & Tilly 2001; Meyer & Tarrow 1997).

Political actors use these varied tactics to put several different types of pressure—social, political, moral and economic—on a target and its multiple relationships in the broader society. The target (corporation or developer) is seen as a “social institution” where the focus is on the many linkages it has including shareholders, board members, creditors, investors, customers, and its reputation or public image (Greven 2003; Manheim 200x; Perry 199x; Fantasia and Voss 2004). By expanding the scope of conflict, the target’s relationships are often besieged via direct action and disruptive protests (which can include civil disobedience, picketing, leafleting, and public demonstrations), pressure on public officials and the political system, effective and strategic research on the company or developer and its vulnerabilities, use of the media to disseminate the group’s message about the target and the campaign, and the mobilization of residents or workers most affected (Juravich 2007; Perry 199x).

Appeals to audience, in particular, are key tactics used to gain bargaining leverage in efforts to secure public goods through private means. For example, consumer boycotts have a long and storied history as a popular and accepted tactic to expand the scope of conflict through appeals to audience. We see this in the infamous Montgomery Bus Boycott led by Dr. Martin Luther King, Jr. during the civil rights movement, anti-slavery activists who called for boycotting sugar produced by slaves on plantations, and farmworkers in the 1960s and 1970s who famously called for national boycotts of grapes, lettuce and strawberries to expand the scope of conflict to win labor market regulations and redistribution (Seidman 2007: 29-30; Boris 2003; Cohen 2003; Frank 1999). Public exposure and education through the media are often used in combination with boycotts to target consumers and other allies although these tactics are most effective when the target has reputational risks about which it is concerned.<sup>15</sup> According to one retail industry consultant, “Big companies today have to be seen as responsive and socially and politically correct. They know their image is at stake” (Heckscher 2001).

An important strategy in these local efforts is the building of broad coalitions with key allies to support the campaign. Similar to their historic antecedents, contemporary political actors generally engage in coalitions with religious, social and political allies united by shared interests, values and ethics. The vast majority of research on contemporary campaigns to regulate and redistribute low-wage labor markets argues that alliances with community and other organizations are key to successful efforts at conflict socialization and ultimately public or private mechanisms of redistribution (Bronfenbrenner, et. al. 1994; Bronfenbrenner & Hickey 2001; Voss & Sherman 2000; Fantasia & Voss 2004; Clawson 2003; Warren & Cohen 2000; Pastor et. al. 2009; Dean 2009; Swarts 2008). A broader alliance of groups involved in a campaign increases the potential bargaining power and

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<sup>15</sup> For instance, the success of the anti-sweatshop movement’s media and publicity elements of its campaign was the focus on high-profile “brands” like Nike, Guess, or Gap concerned about their reputations and public image (Seidman 2007; Klein 2001).

influence of the coalition's goals. The scholarship on social movements confirms this relationship between the size and strength of a movement "network" and the outcomes of movement demands (Diani & McAdam 2003; Tarrow 1998).

### **Conclusion & Implications for the Global Scale**

We have presented a new dependent variable for investigation and analysis—labor market regulation and redistribution from below—and have argued that our theoretical framework explains its emergence and the strategic calculations by the political actors involved in the private settlements. Our strategic logic of conflict socialization conceptual framework clarifies this seeming anomaly: the use of private regulatory mechanisms to redistribute public goods. Or as we also described it, labor market regulation from below consists of concentrated costs but diffusely concentrated benefits from CBAs and UPAs, in addition to traditionally public forms of labor market regulation like living wage ordinances. By considering all of these together: living wage ordinances, city-wide minimum wage bills, Big Box Living Wage Ordinances, Superstore Ordinances, CBAs, labor peace agreements, UPAs, we argue they all fall under the umbrella of labor market regulation "from below." As we showed, on the part of political actors in L.A., this umbrella program is purposeful as they engage these strategies simultaneously. For example, the same mobilized coalition of labor and community organizations mobilized around the LAX CBA and LAX Living Wage Ordinance —two different mechanisms pursued to address low-wage employment as part of the same development. The CBA, signed in 2004, laid the political groundwork to achieve the second, passed in 2007 resulting in a public resolution with a local municipality.

#### *Global Implications?: The Anti-Sweatshop Movement*

But what happens when there is no public authority to whom to appeal? American workers, as described, have sought to socialize conflict through appeals to audience as well as public authority (the federal government). And after the 2010 midterm elections resulting in unified Republican legislative power in several states, labor's opponents have sought to socialize conflict at the state and local level to weaken their historic foes. Yet a second empirical example of political actors' use of the strategic logic of conflict socialization is the recent effort to improve labor standards for workers in global supply chains. Specifically, the university-based, student-led anti-sweatshop movement of the late 1990s led to the emergence of corporate codes of conduct in the global apparel industry, what Vogel calls the "private regulation of global corporate conduct" (Vogel 2010). These codes of conduct are private agreements between corporate brands like Nike, their suppliers in developing countries, and usually a third-party monitor such as the Fair Labor Association or the Workers' Rights Consortium regulating workers' rights and labor

conditions in apparel factors (Bartley 2007; Seidman 200x; O'Rourke 200x; Barenberg 2008; Vogel 2010).<sup>16</sup>

What is key about this effort to enact a private regulatory mechanism with collective benefits is the earlier distinction in our framework between appeal to audience and appeal to public authority. Due to the low capacity of developing countries to enact and/or enforce decent working conditions, combined with the lack of a global public authority with the power to regulate labor conditions in poor countries effectively, political actors have innovated private forms of regulation of low-wage and dangerous work using private codes of conduct. Activists have successfully won these codes of conduct to improve labor conditions through appeals to audience. These campaigns have sought to “name and shame” well-known corporate brands who worry about their “reputational risk” and are uniquely vulnerable to bad publicity, especially around an issue such as “sweatshop labor”.

Our strategic logic of conflict socialization explains the emergence of these codes of conduct in the global arena which offer collective benefits through private means. The anti-sweatshop movement effectively expanded the scope of conflict through appeals to audience using the media to “shame and name” large and notable brands. And using a range of disruptive and contentious tactics described above, political actors on college campus were able to leverage their universities’ purchasing power to gain bargaining power over the big brands. Once they were able to equalize the power ratio and make their opponents vulnerable, and without a public authority to which to appeal, anti-sweatshop activists sought to use their new bargaining power to negotiate a private settlement with brand retailers that would apply to the entire global supply chain.

A more domestic version of this use of the strategic logic of conflict socialization is the successful code of conduct won by farmworkers in Florida through the Coalition of Immokalee Workers (CIW). Primarily through appeals to audience and not public authority, CIW got several big brand retailers worried about reputational risk (McDonalds, Burger King, Subway, Taco Bell, Whole Foods) to agree to a code of conduct governing the pay and working conditions of tomato pickers. This private regulation offering collective benefits was won similarly to how the anti-sweatshop actors succeeded in the global arena: expanding the scope of conflict through publicity and appeals to audience, followed by restricting the scope of conflict once their bargaining power was strengthened to strike a deal with the brands vulnerable to reputation risk.

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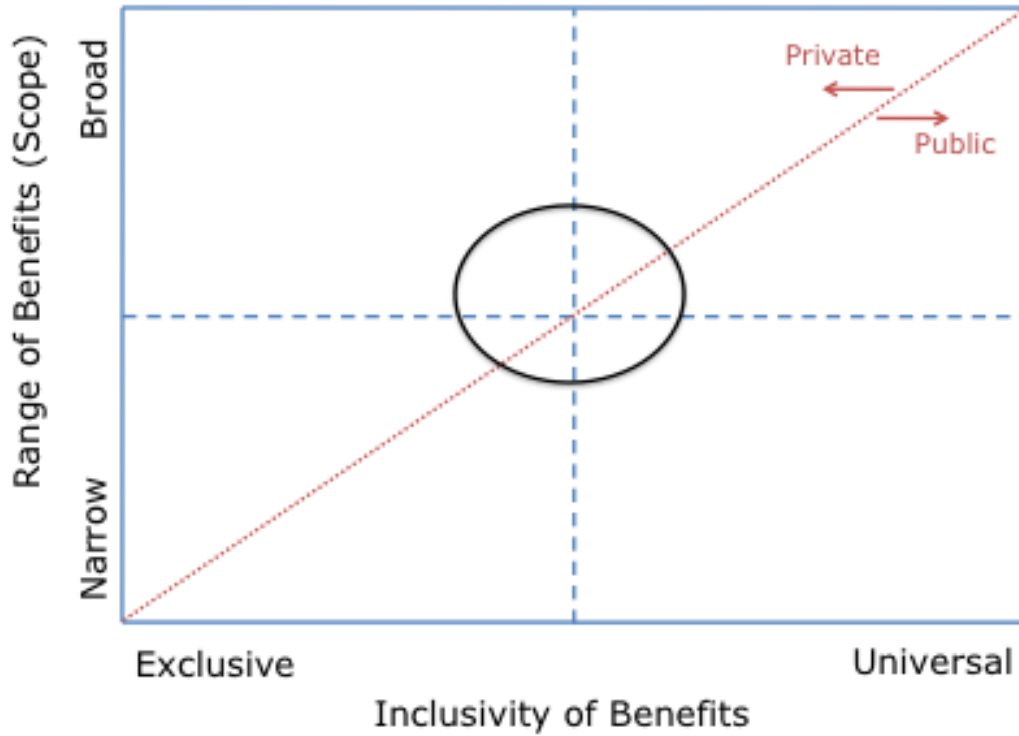
<sup>16</sup> These codes of conduct usually include the International Labor Organization’s four “core labor standards” which are: freedom of association, elimination of forced labor, elimination of child labor, and non-discrimination.



Figure 1



### Strategic Logic of Conflict Socialization



### Strategic Logic of Conflict Socialization



