



# A Policy Foundation to Revive Worker Voice

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## Recommendations from the Aspen Institute Idea Lab on Worker Voice in Corporate Governance

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After four decades of declining influence in the economy, American workers are demanding more voice at work. Unfortunately, public policy, in concert with our corporate governance system and dated management practices, stands in the way. Stifling worker voice undermines America's democratic values and is particularly detrimental in this moment, as business leaders proclaim commitments to inclusive leadership, racial justice and equity, purpose beyond profit, and stakeholder capitalism. These aspirations simply cannot be achieved without meaningful and robust worker voice.

America's two-generation decline in worker influence has changed the power balance in business and the economy. The voice of shareholders filled the void. Public policy shifted from its post-WWII focus on protecting workers and growing the middle class to protecting investors and growing capital markets. Wages stagnated despite steady increases in the productivity and education levels of American workers. Payouts to shareholders swelled, inequality soared and social mobility declined. A [recent study by RAND Corp](#) puts these impacts in perspective: between 1975 and 2018, per capita GDP grew 118 percent, but at the bottom, incomes only rose 13.5 percent; at the top, it grew by 166 percent.

Silenced and disempowered, workers have also lost political power. Ties that once anchored large companies in communities disappeared. In the face of globalization's competitive pressures and investor demands for higher return, workers and their communities shoulder the downside. Today, large swaths of voters in both political parties train their ire on "rigged" systems controlled by "moneyed elites." Polarization and instability continue to spread.

The lives of tens of millions of workers have been effected, especially those of historically marginalized groups—Black, Latino, and Indigenous workers, whose essential labor and skills contribute significantly to the nation's growth and productivity but who are far less likely to invest money in the stock market. Analysis by the Washington Post in 2020 found that the Black-White wealth gap in the US is the [same today as it was in 1968](#). Economic gains made in the wake of Civil Rights legislation passed in the 1960s have been stymied and even reversed. As a result, Black, Latino and Indigenous Americans were left more vulnerable than other Americans to both the health and economic effects of the pandemic.

Lifting the voice of workers and putting upward pressure on wages is essential to closing the racial equality gap while helping all American workers.

While there is no single solution to address these problems, a public policy agenda that restores worker voice and influence can redirect the energy and resources of American capitalism toward a more sustainable, equitable and just path. Enhancing worker voice will meaningfully improve the lives of workers and ensure American capitalism is in fact good for all.

We offer the following policy recommendations in order to recenter worker voice in business and in our economy. Some of the recommendations offer a starting point for research and development; others are ready for immediate action by Congress. The recommendations offer a foundation on which to build in a moment of reflection about the health of our economy, and society.



## Increase Worker Voice at All Companies

*Against a backdrop of CEO statements about the importance of workers, “their company’s most valuable asset,” the U.S. system stands out for its lack of corporate governance rules that require consideration of worker concerns.*

*The business case for greater worker voice is strong. Management literature on high-performing companies is replete with evidence that worker engagement, input, and collaboration drive innovation, motivation and productivity. Inclusive, participatory workplaces attract and retain better talent. As the most direct interface with customers and communities, workers are a wellspring of knowledge and insight into risk, opportunity and innovation. And yet workers have reported persistent and significant “voice gaps” at work for decades. Nearly half of American workers would vote to join a union if the opportunity was available, but the private sector in the US has only 6% union density. The US also lags in non-union mechanisms for worker voice. Many capitalist nations, even those without board-level codetermination, require that all large companies have a works council requiring ongoing consultation with workers.*

- Require the boards of large, socially important companies to create workforce committees to address workforce issues at the board level.
  - Develop rules (via the SEC, DOL and NLRB) requiring the boards of companies with more than \$1 billion in annual sales to have a committee focused on workforce concerns. By requiring these committees at all large corporations, not just public corporations, more accountability would be imposed on large private companies, such as those owned by private equity firms, to treat their workforce fairly.
- Modernize the National Labor Relations Act to enable companies and workers to experiment with new forms of engagement.
  - Rules will need to ensure that the company doesn’t interfere with, restrain, or coerce employees in the exercise of their rights to collective bargaining and self-organization, and to open the door for consideration of works councils that are common practice in Europe.
- Enable More Workers to Organize Collectively.
  - Permit sectoral bargaining to make it easier and more effective for workers to help shape industry-wide employment standards and encourage companies to compete on productivity and product quality rather than low wages.
  - Allow unions to collect “fair share” fees that facilitating first contracts between employers and newly formed unions.
  - Close loopholes in existing law that allow management to classify workers as independent contractors.
- End mandatory arbitration for disputes between companies and workers so that workers can be heard in court.
  - The Federal Arbitration Act (“FAA”), as currently interpreted, denies American workers and consumers their day in court by funneling them into private arbitration proceedings (and preventing class action as a means of redress). This interpretation of the FAA has also been applied to suits arising under state law, blocking the states from determining how to best enforce their own laws.
  - Adoption of The Forced Arbitration Injustice Repeal Act (“FAIR Act”) would open the court house doors to aggrieved workers.



## Require Basic New Corporate Disclosure on the Treatment of Workers

Pressure is mounting for companies to disclose more information about their workforce. Recognizing that over 80% of corporate value today is in intangible assets like company culture and brand, investors are demanding information on diversity, equity and inclusion, and other worker-related metrics. Yet, measurement and accounting for worker-related investments and concerns remains stuck in the 20th century. Acknowledging the humanity of workers and the personal investment of labor, knowledge and skill—rather than treating workers as abstract costs—demands new approaches to both corporate disclosure and accounting.

- Standardize worker-related disclosure, in consultation with the Department of Labor, the Department of Commerce, the Department of Justice, and the Environmental Protection Agency, so that it serves both public interest and investor materiality purposes.
  - Require disclosure from any public or private firm of a certain size to publicly report basic information such as labor compensation, broken down between their domestic and foreign workforce, the total cost of each company's workforce (including wages, benefits and other payments), workforce turnover, workforce diversity, and similar information for workers who regularly provide services for the company through contractors.
- Reform accounting rules to treat investments in human capital like other long-term investments and require companies to disclose more information in narrative form about their human capital investments:
  - The SEC should be required to instruct the Financial Accounting Standards Board to treat investments in human capital as capital expenditures like investments in plants, property, and equipment, and the Commission to require additional narrative disclosure by companies about their investments in human capital.



## Make Institutional Investors More Accountable to their Worker-Beneficiaries

*Collectively, American workers invest trillions of dollars in our capital markets to save for long-term goals like retirement and education. The large institutional investment firms, including mutual funds and pension funds, that manage these savings wield power over companies by voting the shares owned by working people. But these same investing institutions are currently under no obligation to tailor their voting to the actual preferences, interests and investment objectives of their beneficiaries. This further dilutes worker voice in the economy.*

- Enable any institutional investor to consider their ultimate beneficiaries' overall economic and human welfare in determining how to prudently invest their funds for sustainable, ethical portfolio growth.
- Require index and pension funds to consider their investors' interests in sustainable, long-term growth, in line with the diversified and long-term nature of their portfolios.
- Require institutional investors to explain how their voting policies and other stewardship practices ensure the faithful discharge of their new fiduciary duties and take into account the new information reported by large companies on employee, environmental, social, and governance matters.
  - Require via the SEC and Department of Labor that institutional investors disclose how their voting policies and other stewardship practices: (i) comply with this broader understanding of fiduciary duties; (ii) take into account company disclosures about their worker, environmental, social, and governance effect; and (iii) address the specific objectives of the institutional investors' ultimate beneficiaries.
- Require institutional investors who manage worker retirement and long-term savings to actively survey and collect feedback and priorities from their beneficiaries at minimum annually, to properly represent their interests in proxy voting and corporate engagement.
- Ensure that proxy advisory firms provide recommendations specifically tailored to worker pension and retirement investments, particularly the fund's investment style and horizon.

### Address the legitimate needs and rights of contracted workers:

- A substantial portion of the modern workforce spends their working hours laboring for particular corporations but are not employed by those corporations. They work instead for entities operating under contract to the corporation for services that span a host of functions, from cleaning corporate facilities to customer service and manufacturing products. When corporations speak about their commitment to treating workers well, that commitment is not complete unless the same standards of pay, benefits, respect, inclusion, and tolerance are extended to contract workers. How do we ensure that corporate policies and practices ensure contractors meet the same standards of responsibility and ensure that all American workers are empowered and can access upward mobility?
- Millions of American workers are now classified as “independent contractors” despite working and generating profits directly for companies. Uber drivers, for example, are considered customers— users of the Uber app— rather than employees. What is the proper way to classify these workers and to protect their rights and voice at companies that profit from their labor?

### Create new mechanisms for worker voice suitable for the unique context of the US:

- Many US workers don't have access to a union. Access to a union should not be a prerequisite for a worker to have real voice in the workplace. What policies can ensure that viable and credible options for worker voice are available to workers and that non-union mechanisms for worker voice do not replace the right of workers to organize?
- In many successful capitalist economies, workers have access to numerous mechanisms of voice and influence. Works councils, for example, are a staple of successful European firms, regardless of whether those workers have joined a union. Often works councils exist in addition to labor unions and have the responsibility to oversee critical issues such as workplace safety, family-friendly scheduling, discharges and reassignments, and discrimination and diversity. By contrast, the US creates a binary choice for workers and companies: workers who are part of a union will have a good deal of voice on certain matters, but if workers have not unionized, then they are left to fend for themselves. What can the US learn from models of worker voice in the Germany, Scandinavian countries, Japan and Canada?

### Prevent new methods for circumventing the unionization of a company's workforce:

- Companies continue to develop and deploy new techniques to circumvent unionization (both in the U.S. and by moving work outside the US). How can policy evolve with or stay ahead of such practices?

### Review options for enabling sectoral bargaining:

- Sectoral bargaining enables workers to bargain at the level of an industry or sector—rather than just at the level of an individual enterprise. While sectoral bargaining offers substantial benefits to workers and firms, it is complex. A review of would be an important step towards workable policy. What preconditions would make sectoral bargaining feasible? Are there incremental steps, such as requiring works councils in specific sectors, that would offer a path to sectoral bargaining for companies and workers?

# Acknowledgements

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