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## [Alt-Labor](#)

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# Alt-Labor

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Nonunion workers' groups are gathering strength across the country. But will they ever make the kind of impact that traditional labor once did?

On a warm evening in July, the Chrysler Center Capital Grille in Midtown Manhattan had more than customers to contend with. Inside, diners feasted on a \$35 prix fixe dinner as part of the city's Restaurant Week promotion. Outside, protesters handed out mock "menus": "First course: Wage Theft. Second course: Racial discrimination." Some passersby rolled their eyes; others pumped their fists. Dishwasher Ignacio Villegas yelled: "No more exploitation of workers!" His fellow demonstrators—a few co-workers and a couple of dozen staffers and activists from the Restaurant Opportunities Center (ROC)—picked up the chant, Occupy-style.

The protest was one of many the center has mounted since 2011 against the Capital Grille and its corporate parent, the restaurant giant Darden Inc. (It owns the Olive Garden and Red Lobster chains, among others.) Villegas helped sign up nearly half of the Capital Grille's staff to join a class-action lawsuit the ROC filed against Darden, alleging that the company violated minimum-wage laws and forced employees to work off the clock. In other states, workers are suing over similar allegations. (Reached over e-mail, Darden communications director Rich Jeffers called the allegations "baseless," adding, "Any assertion that we do not pay our employees fairly, that we discriminate, or that we do not offer opportunities for advancement is completely false.")

Helping aggrieved dishwashers, cooks, and waitstaff take legal action against companies that violate the law, and organizing street actions to pressure management, are the hallmarks of the ROC's efforts to improve working conditions in the low-wage restaurant business. "Our approach," says ROC deputy executive director Sekou Siby, "is to surround the industry." Nationally, the center has won settlements against 13 employers, winning about \$6.5 million in

back wages and penalties, since its inception in 2001.

The most recent to concede, following a two-year fight, was celebrity chef Mario Batali. The ROC had alleged overtime violations and racial discrimination at Del Posto, Batali's Italian restaurant in Manhattan. Under a settlement reached in September, Del Posto will become one of the "high road" employers collaborating with the center to implement improved benefits. In a statement to The New York Times, Batali maintained his company's innocence but said he looked forward to working with the center.

The ROC is a labor group. But it's not a union. It represents a new face of the U.S. labor movement—an often-ignored, little-understood array of groups organizing workers without the union label. As unions face declining membership these workers' groups—like the mostly union-free job sectors they organize—are on the rise, particularly in New York. Because of their efforts, more restaurant workers in the city get paid sick days, domestic workers receive overtime pay, and taxi drivers will soon have health insurance.

Twenty years ago, when Rutgers labor professor Janice Fine first set out to count the nonunion groups that were organizing and mobilizing workers, she found just five in the entire country. Today, her tally stands at 214. These groups organize farmworkers and fashion models. They go by names like "workers' centers" and "workers' alliances." Some are rooted in the immigrant-rights movement as much as the labor movement. Lacking the ability to engage in collective bargaining or enforce union contracts, these alternative labor groups rely on an overlapping set of other tactics to reform their industries. The ROC teaches workers their rights and also restaurant skills; advises and publicizes model employers; and helps organize protests like the ones at Capital Grille, making customers aware of what goes on behind the dining room. The ROC also lobbies state and local lawmakers for reforms and helps workers take legal action when all else fails.

"Workers come to us with specific complaints," says ROC founder Saru Jayaraman. "Then we're able to talk to them about all of the things that they'd like to see change in their workplace. That's what we base our campaigns on." While the center only goes after companies that have allegedly broken the law, its legal settlements often require those companies to go above and beyond the law, by instituting new benefits like paid time off or creating formal procedures for workers to register grievances. Employers who violate the settlements risk both legal penalties and the resumption of pressure campaigns.

Why are alt-labor groups like the ROC proliferating? To begin with, unions are in crisis. Over the past 20 years, private-sector unionization has plummeted to just 7 percent. Formerly stalwart pro-labor states, like Indiana, are increasingly emulating Southern states' "right to work" laws, which make unions harder to sustain and easier to break.

There's another reason for the rise of alt-labor: For an increasing number of U.S. workers, unions are not even an option. Labor law denies union rights to increasingly significant sectors of the workforce, including so-called independent contractors and domestic workers, whose numbers are expected to double as baby boomers enter elder care. In 1989, the United States had twice as many manufacturing jobs as service-sector jobs; now the numbers are nearly equal. But many corners of the service sector are virtually union-free—even where, as in restaurants, workers have the right to organize.

At first, traditional unions dismissed alt-labor efforts. Now many have come to recognize

workers' groups for what they are: part of the labor movement. The AFL-CIO and its local unions and labor councils have increasingly been funding, collaborating with, and rallying beside their alt-labor counterparts. The country's other major labor federation, Change to Win, and its affiliates have also been supporting and partnering with alt-labor groups. Those efforts burst into the headlines with strikes by Wal-Mart employees and fast-food workers last fall. "Workers' centers are movements in search of institutions," says Ana Avendaño, who directs immigration and community policy for the AFL-CIO. "And our unions are often institutions in search of movements."

Alt-labor groups are limited by having no collective-bargaining rights. They lack some of the rules that reinforce a union's stability: the cycle of contract renegotiations, the requirement to elect leaders and represent all members, and the responsibility of all workers (outside "right to work" states) to contribute to the organization's coffers. Because they mostly count on support from progressive foundations, rather than members' dues, they don't have a stable financial base to build on. Another obstacle: The group's numbers tend to be small relative to the workforce. The ROC, for example, has 5,300 members out of an estimated 200,000 restaurant workers in the city.

But workers' groups have some advantages that unions lack. Labor law restricts unionized workers from picketing companies that aren't their direct employers; groups like the Florida farm laborers in the Coalition of Immokalee Workers (CIW), however, are free to organize national boycotts of chains like Taco Bell that buy produce from the agricultural companies that employ the workers. In 2010, after more than a decade of boycotts and legal wrangling, CIW finalized a landmark agreement with local tomato growers and buyers to pay the pickers a higher rate for the fruit they harvest. Last October, another major chain, Chipotle, agreed to a settlement in order to stave off a potential boycott.

The question, as alt-workers' groups further expand their efforts outside of labor-friendly cities like New York, is how much they can accomplish for American workers. If unions continue to decline, can these groups ever hope to accomplish what old labor once did—substantially improving working conditions on a mass scale and helping to build a new middle class?

Alt-labor made its first big splash in the late 1990s, courtesy of a band of aggrieved New York taxi drivers. The drivers had been seething ever since 1979, when the city's Taxi and Limousine Commission dramatically changed the industry with a new system under which the owners of "medallions" (permits to drive cabs) would lease them out in 12-hour shifts. That meant drivers who had been waged employees became "independent contractors" who now had to pay medallion owners for the privilege of driving cabs.

Health benefits vanished, even for drivers injured on the job. The drivers, one-sixth of whom had been unionized, were cast into the growing ranks of workers ineligible for unionization. Some accused the commission of exploiting an overwhelmingly immigrant workforce. "They tell us to assimilate with Americans," says eight-year driver Frederick Dsouza, who emigrated from India. "But they don't want us to assimilate with the middle class and the rich class."

In 1996, the taxi drivers fought back. Led by 23-year-old Bhairavi Desai—an Indian-born woman who would become a national alt-labor leader—a fledgling group now called the New York Taxi Workers Alliance began aggressively organizing the drivers. "We were going to

different ethnic restaurants,” says Javaid Tariq, a co-founder of the alliance. “We were going to different garages’ shift-change areas, we were going to airports, we were standing at every bridge coming into the city, giving a flyer, talking one on one.”

Two years later, enraged drivers pushed back against Mayor Rudy Giuliani’s proposed new rules that included more-expensive insurance requirements and swifter suspensions for drivers with violations. On May 13, 1998, most of New York City’s taxi drivers went on strike, taking to the sidewalk to distribute thousands of leaflets advertising their grievances. Because drivers have to be licensed, they were difficult to replace, and the streets were suddenly missing thousands of cabs. Giuliani dismissed the action as “a theater of the absurd,” but The New York Times reported that “city officials were stunned” by the success of the strike.

The work stoppage failed to halt most of Giuliani’s new rules. But the drivers say it bound them together while also drawing attention to their working conditions and showing elected officials what they were capable of. Led by Desai, who became its executive director, the alliance began to grow. In 2007, it organized another show of force: a 48-hour work stoppage in response to the city’s demand that cabs install GPS and video screens that would allow for credit-card purchases; the drivers said the credit-transaction fees would cut into their profits.

The drivers’ solidarity helped lead to a landmark victory in July: the passage of pro-labor measures by the Taxi and Limousine Commission. Approved by a 6-2 vote over industry opposition, the new law raised fares 17 percent to hike drivers’ pay, created a health-care and disability fund, and strengthened a cap on leasing fees. Alliance member Beresford Simmons, who’s been a driver for 40 years and who participated in negotiations with the commission, says he was overcome when the vote was announced. “I ran from the media, because as a grown man, I have to tell you the truth, I cried.”

Even though the taxi workers won major concessions, the drivers’ raises only brought their wages back to where they were, adjusted for inflation, following their last sizable raise in 2004. To break the cycle of falling behind and catching up, the alliance’s outreach coordinator, Victor Salazar, says the group must expand its membership—which is currently 15,000, about one-third of the city’s licensed drivers and one-half of those currently driving.

The taxi drivers’ success showed how alt-labor groups, through a combination of tactics, can change their industries without formal unionization. For the taxi drivers, the keys were workplace activism and political mobilization. Other groups, like the restaurant workers, have turned to lawsuits, consumer and media outreach, training in workers’ rights, and collaboration with friendly employers. Traditional labor groups increasingly use similar tactics as well. When they have relied on the legal right to collective bargaining alone to ensure good-faith contract negotiations with companies, unions have repeatedly gotten clobbered. So some are turning to “comprehensive campaigns” designed to discourage a company’s customers and sully its brand until it agrees to forgo union-busting.

But the alternative tactics have their limits—particularly in the case of alt-labor groups, which don’t get to pair them with collective bargaining. Everything depends on the willingness of workers to stick their necks out, confront their bosses, risk their livelihoods, and assert the rights they win.

That's especially tricky for domestic workers, who may see their employer every day but go weeks without seeing a fellow worker. "There is a culture in the domestic-work industry that we call the Wild West, because it's basically like anything goes," says Ai-Jen Poo, director of the National Domestic Workers Alliance and a co-founder of New York's Domestic Workers United (DWU). When domestic work was excluded from labor law, she says, "it was basically a signal to employers that it's not real work."

The domestic workers' groups are fighting to bring some law and order into the industry. In 2010, after six years of mass rallies, packed hearings, and relentless lobbying by domestic workers, New York state lawmakers passed the nation's first Domestic Workers Bill of Rights. The law establishes overtime pay, sexual-harassment protection, and paid time off for workers hired by families to care for children or the elderly in their home.

While the law was a major step—and created a model for other states—its effectiveness depends on whether workers can enforce it themselves. Marilyn Blackett, a DWU member, now spends her Saturdays training domestic workers on how to assert their rights. "A lot of them are afraid to carry what we got in the bill to the employers," she says.

For some, the domestic workers' groups have made that easier. Meches Rosales, a member of the DWU's outreach committee, says that before the group came along, "I felt like I didn't have any power—I should say yes to everything. Now, when you go to your employer's house, you feel like all of your sisters, all of the domestic workers, are with you, and you have the power to ask" for overtime pay or sick time. "The problem," Rosales says, "is I don't have everyone organized." Like the Restaurant Opportunities Center, the DWU still represents a small percentage of its workforce. Of an estimated 200,000 domestic workers employed by families in New York state, about 10,000 are members of DWU or another affiliate of the National Domestic Workers Alliance.

What you win on paper has real teeth only when workers are organized to help punish infractions, whether by slowing down the pace of work or publicizing mistreatment to customers. It's a challenge long faced by unions and now by alt-labor groups as well. As the struggle with Capital Grille's ownership drags on, Ignacio Villegas says the biggest obstacle is keeping his co-workers strong. Management, he alleges, "attacked us individually ... all of the workers who'd signed, they pressured." According to Villegas, Capital Grille fired a leader of the campaign based on a false sexual-harassment accusation and has discriminated against ROC supporters by selectively cracking down on the shortcuts workers use to endure understaffing. (Darden denies these allegations.) Villegas says some of the workers who had signed the lawsuit no longer want to be involved.

Cornell University's labor-education director, Kate Bronfenbrenner, says the ROC is serving an important purpose by enforcing oft-neglected laws and raising awareness, by example, of nonunion workers' basic rights. But she questions how well its model can work after a settlement has been won. "When you have these agreements," she says, "they don't keep organizing." Thus, "they'll have to keep fighting the same fight every time a new employer comes in or a new supervisor comes in ... unless they actually get unionized."

Another obstacle: Once you've raised a workplace's standards from outrageous to acceptable, it's harder to enlist politicians or consumers in a campaign for further progress. Adam Kader, program director for the workers' center Arise Chicago, says his group has had the most success when it can expose illegal practices. In order to get beyond the minimum standards

guaranteed by law, Arise Chicago is increasingly partnering with unions to win formal unionization where it's a legal option, even if it's a heavy lift. Like workers' centers in New York and Los Angeles, Arise Chicago is collaborating with a local union to organize car-wash workers. Of course, the law doesn't provide that option for others, like the Polish domestic workers Arise also organizes.

Labor historian Nelson Lichtenstein, who directs the Center for the Study of Work, Labor, and Democracy at the University of California, Santa Barbara, is skeptical about the potential of nontraditional organizing. "There is no way you can have a non-bargaining institution in the long run," he says. With few exceptions, "they will all fade away" because "they are dependent usually on outside funding and support," and "they aren't sustained by the workers themselves." But Lichtenstein is equally pessimistic about the prospects for unions: "Spending a lot of effort on certifying a union these days may be fruitless and not the best place to put one's efforts. Because the payoff is so little and the amount of energy and risk are so great, collective bargaining per se, whether public- or private-sector, is pretty much a dead end." Labor victories, Lichtenstein says, are now more likely to come through political mobilization for pro-worker policies.

It's true that alt-labor groups are no cure-all for what ails unions—in fact, they face most of the same challenges. But in a growing segment of the economy, they are the only labor groups making gains for workers. "Given what we're up against," Poo says, "it's about any and all tactics."



Domestic Workers United protests in Manhattan.