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The Historical and Legal Creation of a Fissured Workplace: The Case of Franchising

This dissertation explores the consequences of institutional change in capitalist firms, focusing on vertical dis-integration, the legal boundaries of the firm and what David Weil has called workplace "fissuring," in which corporations place intermediaries (subcontractors, temp agencies or franchisees) between themselves and workers, often with negative consequences for workers. While existing research explains workplace fissuring in terms of firms responding to changing technological and other exogenous factors, I show that policy changes pushed for by the firms themselves are an important part of the story.

The first essay, "Vertical Dis-integration and the Creation of a New Business Form: Franchising 1960-1980," uses archival sources to identify the legal and policy changes driving workplace fissuring in the franchising context: specifically the relaxing of antitrust prohibitions on vertical restraints (contractual controls on separate firms, such as price and supplier restrictions). These contractual mechanisms, which allow chains to achieve uniformity and control over their outlets without directly owning them, helped create fissured workplaces in the case of franchising. I show that franchising firms waged a legal and legislative struggle to expand their ability to impose vertical restraints, pulling in the legal boundaries of the firm and leaving workers outside.

The second essay, "Vertical Restraints and the Creation of a Fissured Workplace: Evidence from Franchise Contracts," exploits a new, hand-collected data set from 530 franchise contracts, to link, to my knowledge for the first time, vertical restraints to workforce characteristics. It uncovers an empirical relationship between contingent, relatively unskilled, and low-wage workforces and the likelihood of franchisors imposing vertical restraints. I argue that franchisors impose vertical restraints to target a vulnerable and cheap workforce. By removing alternative profit-making strategies from the franchisees' decision set, these restraints incentivize franchisees to focus on minimizing labor costs and extracting effort from workers for their profit margins.

The third essay, "Franchising as Power-Biased Organizational Change," shows that while franchise contracts increase franchisor profits in efficiency-enhancing ways through aligning franchisee incentives with franchisors, achieving more ouput per unit input, these contracts also increase profits in non-efficient ways, by squeezing additional effort from the labor input. With a formal model emphasizing the two-level principal-agent problem in franchising (between franchisors and franchisees, and franchisees and workers), I show that franchise brands can induce very high levels of franchisee effort by leveraging product market power and one-sided contract terms to reduce the franchisee's bargaining position. Franchising in this context functions as a type of surveillance and labor discipline organizational technology, in which franchise contracts induce franchisees to surveil and extract high levels of effort from production workers, reducing the investments in monitoring and/or efficiency wages that franchisors would otherwise have to make.