

# Clearinghouse REVIEW

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# Advocacy Note

## Organizing to Transform Ourselves and Our Laws: The New York Domestic Workers Bill of Rights Campaign

The fight to win a Domestic Workers Bill of Rights was like a love affair—full of exciting moments, inspiring growth, and life-changing struggles. Throughout this six-year campaign in New York State—led by Domestic Workers United and the New York Domestic Workers Justice Coalition—we were told that our task was impossible. But we believed we could win.

Our campaign culminated with the passage of the Domestic Workers Bill of Rights in 2010. This statewide legislation recognizes the domestic workforce and establishes basic labor standards. The first law of its kind, the bill provides expanded overtime pay, protection from discrimination, mandatory days of rest, and other basic benefits for the tens of thousands of women—mostly immigrants of color—who work as nannies, housekeepers, and companions for the elderly in New York State.

Here we tell the story of this campaign from the perspective of Domestic Workers United and its membership as well as the many allies who helped along the way. We begin with an overview of the industry and explain why the Domestic Workers Bill of Rights was such a priority, particularly in light of these workers' historical exclusion from labor laws. We explain the genesis of the bill, our strategy in pushing for its passage, and the lessons learned in the process: lessons about building not only a coalition but also a movement; consolidating a strong base of workers; and organizing in the face of legal impediments. And we take stock of the transformed landscape of domestic workers' rights and chart our next steps.

### Background: Working Inside the Home

In the United States today over two million women labor as domestic workers, serving officially as nannies, housekeepers, and caregivers for the elderly but often performing the expanded duties of nurses, art and language teachers, counselors, tutors, assistants, and nutritionists (Gary Humphreys, *U.S. Domestic Workers Find Their Voice*, *WORLD OF WORK: THE MAGAZINE OF THE ILO*, April 2010, at 11, <http://bit.ly/foFV2d>). Most of the approximately two hundred thousand domestic workers in greater New York City (extrapolated from 2000 U.S. census data) leave their homes early in the morning, often in the dark, to arrive at their work sites before their employers leave for work. Others live in their employers' homes and care for these families day and night.

**Working Conditions and Contributions of a Critical Labor Force.** Domestic labor is critical to our urban economies. However, quantifying domestic workers' economic output is

difficult because labor statistics have neglected women's work in the home. Imagine if these workers withheld their labor: if they were to strike, they could paralyze the urban economy, affecting doctors, lawyers, bankers, professors, small-business owners, civil-sector employees, and media executives.

As part of a global female workforce, domestic workers also contribute significantly to the economies of their home nations. In a 2006 study of these workers in New York City, DataCenter and Domestic Workers United researchers found that 98 percent of domestic workers surveyed were foreign born and 59 percent were their families' primary income earners (Domestic Workers United & DataCenter, *Home Is Where the Work Is: Inside New York's Domestic Work Industry* (July 14, 2006), <http://bit.ly/glmR6q>). Most domestic workers are immigrant women of color from the Global South; they face enormous pressure to earn enough money to support their families both in the United States and abroad. The remittances they send home are an important revenue source for their home nations.

**Exclusion from Basic Labor Protections and Barriers to Organizing.** In spite of the essential labor they provide, domestic workers have been deliberately excluded from labor regulations and laws. From the National Labor Relations Act and Fair Labor Standards Act to state regimes across the country, domestic workers, along with farmworkers, have not enjoyed basic rights—a conscious residue of slavery. In the early twentieth century, when domestic and agricultural workers were almost exclusively African American, many legislators and politicians wished to preserve the exploitation of this long-unpaid workforce. During the deliberation of New Deal labor statutes, Southern members of Congress—representing constituents who feared the emergence of an African American labor movement—blocked the inclusion of farmworkers and domestic workers under federal labor laws (NELSON LICHTENSTEIN, *STATE OF THE UNION: A CENTURY OF AMERICAN LABOR* 77 (2002); Molly Biklen, *Healthcare in the Home: Reexamining the Companionship Services Exemption to the Fair Labor Standards Act*, 35 *COLUMBIA HUMAN RIGHTS LAW REVIEW* 113 (2003)).

While domestic workers have, in the intervening decades, achieved some legal rights, the structure of the industry has made it difficult to organize workers and enforce basic labor standards. Their workplaces are private homes, and their terms of employment and working conditions are determined house by house. Domestic workers are notably still excluded from all right to organize laws, such as the National Labor Relations Act and the New York State Employment Relations Act, and are thus left to negotiate the terms of their employment individually, day by day, in situations where they lack bargaining power. Given these combined dynamics—racialized exclusion, the devaluation of women's work, the decentralized structure of the industry and global economic pressures—domestic worker organizing is both difficult and absolutely essential.

## Organizing the Unorganized

Over the past ten years domestic workers in New York City have developed an innovative organizing model to meet the challenging dynamics of the industry and build grassroots worker power. Domestic Workers United emerged, in 1999, as a joint organizing effort between two community-based organizations, CAAAV: Organizing Asian Communities (formerly Coalition Against Anti-Asian Violence) and Andolan: Organizing South Asian Workers. Soon thereafter CAAAV and Andolan decided to organize the Caribbean and Latina women, who constitute most of New York City's domestic workers, and began reaching out to them.

**Grassroots Base Building.** The women at these early meetings helped form a steering committee and, after continued organizing, formed Domestic Workers United in 2000. Domestic Workers United initially supported workers who had been mistreated or trafficked by their employers or were owed wages. We demonstrated in front of employers' homes and businesses, and we partnered with lawyers from the Urban Justice Center and the City University of New York School of Law's Immigrant and Refugee Rights Clinic to sue delinquent employers. Using a combination of legal pressure and direct action, Domestic Workers United helped recover over \$450,000 in stolen wages and other damages.

**Fighting Unjust Laws.** As the work evolved, we realized that we would have to go beyond grassroots, individualized efforts and fundamentally change the labor laws. In 2002 Domestic Workers United decided to test the legislative waters and successfully led the effort to pass a New York City law requiring employment agencies to advise domestic workers and employers about basic labor rights (N.Y. CITY ADMIN. CODE § 20-771 (2011), <http://bit.ly/gQT80c>). Carrying a sign that read, "The First Step to Victory, The Struggle Continues," domestic workers packed the New York City Council chambers on the day of the vote in 2003.

After that initial victory, we wanted to keep domestic workers' issues in the limelight and continue to build power. In the fall of 2003 Domestic Workers United's "Having Your Say" Convention, brought together hundreds of domestic workers to begin a much bolder statewide campaign for new labor laws protecting domestic workers. We developed a set of key priorities that eventually became the Domestic Workers Bill of Rights, including overtime pay, a minimum of one day of rest per week, healthcare benefits, a living wage of \$14 an hour, notice of termination, severance pay, paid holidays, paid leave, and protection from discrimination. Supported by the New York University School of Law Immigrant Rights Clinic, Domestic Workers United wrote draft legislation and began a long-term campaign.

## Bill of Rights as Campaign and Movement

Armed with our ambitious working draft of the bill, we contacted partner groups: CAAAV's Women Workers Project, Andolan: Organizing South Asian Workers, Haitian Women for Haitian Refugees, Unity Housecleaners, Damayan Migrant Workers Association, and Adhikaar for Human Rights. As the New York Domestic Worker Justice Coalition, we campaigned for the Domestic Workers Bill of Rights. Coalition members, as experts on the domestic-work industry, knew what rights they needed and had the determination to win. Nevertheless,

we had a lot to learn organizationally about how to develop strategy in a statewide legislative campaign.

**Political Logistics.** In January 2004 we took our first trip to Albany in a fifteen-passenger van full of domestic workers. As we navigated the narrow streets that cold winter morning, we had no idea what we were getting ourselves into. In meeting after meeting with legislators and their aides, domestic workers were asked questions such as "What are you talking about? Is this about domestic violence?" and "What if I can't afford to pay \$14 per hour?" We were even told, "Look, honey, the guy that pumps your gas doesn't get these things by law; why should the babysitter get them?"

Facing a new world of political relationships, we had our own questions: What power did we have? What power did we need to win? Who had that power? Where did the legislature stand on our agenda?

**Personal Stories and Public Discourse.** Domestic Workers United apparently needed to transform the public, political conversation about domestic workers' rights. At the same time, we were deeply committed to the belief that our power was rooted in our members—in their capacity to lead the organization and broader movements beyond domestic workers. We drew on workers' stories to animate this struggle, encouraging Domestic Workers United members and other domestic workers to speak out about their working conditions and use these narratives in lobbying efforts and rallies.

*Maria.* A Central American woman in her mid-60s, Maria (not her real name) works as a domestic worker in New York City. She came to the United States alone to support her family, particularly her son, who needed costly diabetes treatments in her home country. When she arrived in New York, she found a job caring for a disabled child. In addition to the full-time work required to provide the child with care, her employers required her to do the cooking, cleaning, and ironing for the entire household. Maria had to work eighteen hours a day, six days a week, for less than \$3 per hour. She lived in the basement of her employer's home, where a broken sewage system flooded the floor by her bed, forcing her to construct a cardboard stepping-stone structure to reach her bed at night. After three years of living and working in these conditions, Maria was suddenly fired without any notice or justification, let alone severance pay. "I asked [my employers] for permission to stay in the house that night so I could go out and find another place to live," Maria said. "I could not even sleep thinking about where I would go next. No one knows what I went through that night."

*Allison.* Both her mother and grandmother having worked as domestic workers, first in Barbados and later in the United States, Allison Julien comes from a long line of domestic workers. As a young woman from Barbados, she became a nanny. She joined Domestic Workers United in 2003, just as the Domestic Workers Bill of Rights campaign was starting. "I'm here because I'm proud of the work I do, and I think it should be respected," she would say. "And I'm here because I can be; my mother and my grandmother couldn't." Allison went to Albany every year of the campaign, often taking unpaid time-off to participate. During legislative visits, Allison and other Domestic Workers United members would tell their stories—of abuse and mistreatment, resilience and courage; stories of how they got involved in organizing for labor standards. Not every domestic worker who

walked in the door chose to participate the way Allison did. But every worker who stepped up for the hard work and leadership behind the campaign was motivated by more than a narrow sense of self-interest. Like Allison, they talked about their mothers and grandmothers who had done this work, and they talked about their children, for whom they had high hopes.

Our campaign also tied domestic workers' individual stories to broader axes of structural inequality, such as the devaluing of "women's work" in the home, the legacy of American slavery, and the lack of a social safety net domestically and abroad. The various slogans that we used connected domestic workers' rights to these larger questions. "Respect the work that makes all other work possible" tied us to mothers and longtime advocates for gender justice and women's equality. The message "Reverse a long history of discrimination and exclusion" linked us to farmworkers, homeless people, guest workers, and millions of others excluded from the legal system. And "Standards benefit everyone" allied us with unions, employers, faith leaders, and others who believe in the moral imperative of basic human rights.

**Base Building and Coalition Building.** Our strategy was twofold: to build our membership base of domestic workers and to form a diverse coalition of allies. We called upon partners while recruiting new ones to get involved in concrete ways, such as collecting postcard signatures and accompanying us on lobbying trips to Albany. In the first few years we focused on strengthening our membership. In our third year we formed a campaign-organizing committee and welcomed anyone with the desire and energy to attend. The tide started to turn: you could hear a buzz around town about the Domestic Workers Bill of Rights. We also received significant support from high-profile labor leaders such as John Sweeney, president of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO).

Soon we organized major mobilizations to Albany. We swapped vans for buses and took hundreds of people to meet with legislators about domestic workers' rights. Between 2004 and 2010 Domestic Workers United members and supporters traveled to Albany more than forty times, involving more than a thousand people on daylong trips comprising legislative meetings, rallies, press conferences, and exciting cultural performances such as the "Domestic Slide" (a domestic workers' version of the Electric Slide).

At home in New York City, we held hearings, marches, and days of action to mobilize our support network. More than eight thousand New Yorkers stood up for the respect and recognition of domestic workers and signed over seven thousand postcards in support of the bill. Indeed, building this coalition effort—among domestic workers, children of domestic workers, children raised by domestic workers, employers, workers in other industries, lawyers, and labor officials—was among the most salient victories of the Domestic Workers Bill of Rights campaign.

**Allies at Work.** The New York Domestic Worker Justice Coalition has collaborated with and relied on the support of a diverse set of partners over the years. Our allies have turned up in surprising places and continue to represent a wide swath of the public. Some snapshots of these relationships follow.

*Employers.* Adopting an organizing model based on antagonism and resentment between domestic workers and their employers would have been easy, given the stark racial and class inequities between these groups. But Domestic Workers United chose to build relationships with employers who wanted to be fair. One of our valued partners has been the Employers for Justice project of Jews for Racial and Economic Justice. For example, in 2009, during a pivotal moment in the legislative session, the group organized a Jewish communal meeting to kick off a week of action for the Domestic Workers Bill of Rights. The event brought together more than a dozen rabbis, four synagogues, more than two hundred people, and five legislators and led to an in-person meeting with the speaker of the New York State Assembly later that session.

*The Labor Movement.* In June 2007 Domestic Workers United held a town-hall-style meeting to bring attention to the bill. Several allies in the labor movement had the idea of inviting AFL-CIO President John Sweeney, whose immigrant mother had been a domestic worker for more than forty years, to the meeting. Sweeney stood next to Barbara Young, a domestic worker and former union leader in her home country of Barbados, and addressed a room of more than three hundred domestic workers and supporters. Sweeney recalled his mother's disappointment at the exclusion of domestic workers when the National Labor Relations Act passed in 1935 and proclaimed, "The ten million workers who are part of the AFL-CIO support the Domestic Workers Bill of Rights." The following legislative session, wearing a gold T-shirt that read "Rights, Respect and Recognition for Domestic Workers," Sweeney came to Albany with us to express his support to the legislators.

*Other Workers.* Doormen and farmworkers were also essential allies in our fight. Local 32BJ of the Service Employees International Union represents thousands of doormen in New York City's luxury apartment buildings. These men hear domestic workers' stories of abuse, help them into cabs after late nights of babysitting, and offer shoulders to cry on when they are fired without notice or severance pay. Our trips to Albany often included delegations of Service Employees International Union members and staff, including Hector Figueroa, secretary-treasurer of Local 32BJ. In response to one legislator's comment that "what you're asking for, no other workers receive by law," Hector said, "Other workers are able to collectively bargain for basic rights. That is impossible for this workforce because of the nature of the industry. Legislation is necessary." Hector stepped in with exactly the right message, pointing out domestic workers' exclusion from bargaining laws. Rather than seeing our victory as an affront to the union's base, he stood with us in solidarity.

Throughout the Domestic Workers Bill of Rights campaign, we invited farmworker leaders to all of our actions. In the cold of early March 2008, a rain-soaked sign on the Albany Green read, "End Modern Day Slavery—Reverse the Legacy of Exclusion." The New York State Labor Religion Coalition and the local Jobs with Justice chapter had chosen to highlight domestic workers' and farmworkers' rights during their annual forty-hour fast. The New York Justice for Farmworkers Campaign and the New York Domestic Worker Justice Coalition mobilized workers to participate in legislative visits, a morning interfaith service and press conference, and a march. One farmworker, who had journeyed from Immokalee, Florida, said to New York State Senate Majority Leader Malcolm Smith, "When I listen to the stories

of domestic workers, I hear the story of farmworkers and so many others. This is about basic human dignity. We must listen and take action.”

*The Legal Community.* Throughout the Domestic Workers Bill of Rights campaign, attorneys and researchers used legal and policy instruments to assist excluded workers. Lawyers and law students helped in multiple ways: New York University School of Law students drafted the legislation; Richard Winsten and other lawyers at Meyer, Suozzi, English & Klein, P.C., lobbied diligently for its passage; and staff attorneys at the Urban Justice Center, the Legal Aid Society, and the Asian American Legal Defense and Education Fund represented individual workers in illustrative litigation. On the policy side, researchers from the National Employment Law Project, DataCenter, and the Urban Justice Center assisted us in conducting surveys, gathering data, and writing reports that brought domestic work out of the shadows and to the forefront of workers’ rights. These allies not only offered expertise but also fully respected our organizing priorities.

**Legislative Victory.** In concert with these diverse partners, our Domestic Workers Bill of Rights campaign saw its first major victory in 2009, when the New York State Assembly passed a version of the bill (A.B. 1470, Reg. Sess. (N.Y. 2010)). Then, on June 1, 2010, this legislation came before the New York State Senate (S.B. S2311A, Reg. Sess. (N.Y. 2010)). The staff and membership of Domestic Workers United waited while the Senate spent two long hours in debate. On one side, legislators argued that we could not ask more of employers in a time of economic hardship. On the other side, legislator after legislator told stories about their mothers and grandmothers who had labored as domestic workers to provide for their families. When the vote was announced—33 to 28 in favor—we erupted in cheers. Not only had the bill cleared the Senate, but also it had done so in a much stronger form than in the Assembly; the Senate provided concrete benefits, such as paid leave, that had often proved impossible for an individual worker to negotiate on her own.

On July 1 the two bills were reconciled, and Gov. David A. Paterson agreed to sign it. He did so on August 31, and on November 29, 2010, the bill became law. Thousands of domestic workers in New York are now entitled to more robust overtime standards, a twenty-four-hour period of rest every week, three paid days off every year, and protection from on-the-job harassment based on race, national origin, religion, and gender.

### Lessons in Transformative Organizing and Next Steps

The Domestic Workers Bill of Rights campaign was aimed at changing state policy, but its impact on participants was equally notable. The stories that workers shared, the direct actions we organized, and the many relationships we built have shown us the possibility of deep social and individual transformation. We learned that the long-held assumption of many organizing models—that campaigns must be based on individuals’ material self-interest—is not the whole story. Domestic Workers United successfully mobilized diverse constituencies, drawing on an expanded concept of self-interest that acknowledged our interdependencies.

We also learned that just about everyone is connected, in one way or another, to a domestic worker. New York City Council

members and New York State Assembly members reflected on their mothers’ experiences as domestic workers. Other allies relayed that they had been raised by a domestic worker or had done this work, and these personal connections became a key mobilizing force of the campaign. Over time our consciousness also shifted. Although the bill is called the Domestic Workers Bill of Rights, we came to see that our collective humanity was at stake.

The new law is a huge victory for New York’s domestic workers, but, as with all campaigns, we did not get everything we need or want. For example, the law does not provide domestic workers with paid sick days, notice of termination, or severance pay—rights that other workers, who can collectively bargain pursuant to state and federal organizing statutes, often gain through negotiation with their employers.

In recognition of these shortcomings, the new law required the New York State Department of Labor to complete a study on the feasibility and practicality of collective bargaining rights for domestic workers. Before the department’s release of its completed study, Domestic Workers United, in conjunction with the Urban Justice Center, released its own survey findings and feasibility report on collective bargaining in this still largely unorganized industry (New York State Department of Labor, Feasibility of Domestic Worker Collective Bargaining (Nov. 2, 2010), <http://bit.ly/dFG6IH>; Domestic Workers United et al., Domestic Workers and Collective Bargaining: A Proposal for Immediate Inclusion of Domestic Workers in the New York State Labor Relations Act (Oct. 2010), <http://bit.ly/ij5Q3V>). Both reports found that collective bargaining could work for domestic workers and recommended next steps to end the exclusion of domestic workers from New York’s State Employment Relations Act, which guarantees the right to organize. This may be the next step for Domestic Workers United.

On the national front, the National Domestic Workers Alliance, formed in 2007, has coordinated the efforts of domestic workers’ groups throughout the country. It has also built international alliances. The California Household Worker Rights Coalition is moving toward the passage of the California Domestic Workers’ Bill of Rights, and the International Labour Organization has proposed the “Decent Work for Domestic Workers” Convention and Recommendation (National Domestic Workers Alliance, [California] Domestic Workers’ Bill of Rights (n.d.), <http://bit.ly/hRyjTh>; INTERNATIONAL LABOUR CONFERENCE, 99TH SESSION, DECENT WORK FOR DOMESTIC WORKERS (2010), <http://bit.ly/gHPXAi>).

Thus the New York campaign has led to an opening for the transformation of the domestic work industry and a vision for further progress. And, like a great love affair, it has helped us grow. As a national and international movement facing enormous challenges, we can draw on the example of this campaign to form alliances, identify our common concerns, and become who we were meant to be.

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