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Enforcement Strategies for Empowerment: Models for the California Domestic Worker Bill of Rights

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<https://escholarship.org/uc/item/1bj2p75s>

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Publication Date

2016-03-11

Research & Policy Brief

Number 30– June 2015

Enforcing Domestic Workers Bill of Rights in California

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Report on Convening: June 3, 2015 – UCLA Labor Center

“I think the reason why I’m excited is for so many years that we have organized our base of the domestic workers, now we are making a difference. The impact of overtime is really amazing in terms of rebuilding and revolutionizing the private home care industry in California. And to set precedent that we are saying to the public, the property, the American Society that we have had enough: 100 years that we’ve been excluded: now we are starting to change our lives. I am so honored to be part of this movement because we are handing a legacy to the next generation of caregivers, nannies, and other domestic workers to work with dignity and respect and to be counted as part of the working class of the society.”

--**Lolita Andrada Lledo, Filipino Workers Center**

“I hope for them is to know how to value their dignity as domestic workers, that they feel proud of everything we can do, that their work is as valuable as that of any job. And that they should feel proud that they can do it.”

--**Veronica Nieto Miranda, Mujeres Unidas y Activas**

“My case is that I also arrived to the collective feeling really sad because I felt I was already an older person and no one would want to hire me. I was disappointed and thought, well, everyone wants to hire young people to work for them, no one will give me a job. When I came to La Colectiva, I realized that I could work, that I had rights, and they empowered me and now I feel very informed. I feel really good. I can even speak in public, I feel fabulous.”

-- **Lourdes Dobarganes, La Colectiva de Mujeres de San Francisco**

¹The Convening was made possible with funding from the UCLA IRLE, the Hull Chair, UCSB, and the UCSB Academic Senate; with support from UCLA Labor Center, and UCSB ISBER and collaboration with the California Domestic Workers Coalition (CDWC), member organizations, domestic workers, and allies. We also want to thank: Merita Jokela of the University of Turku, Nancy Perez of Arizona State University, and Idalia Robles de Leon, Chicana Studies, UCSB.

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On June 3, 2015, the California Domestic Workers Coalition (CDWC), affiliates of the National Domestic Workers Alliance (NDWA), and allies met for an all-day convening at the UCLA Labor Center.² This convening was a collaboration between domestic workers and allies as co-researchers for participants to create a policy report on enforcement of The California Domestic Workers Bill of Rights (California AB 241) in relation to other Domestic Worker Bill of Rights (DWBOR) in the USA.³ The California act has a sunset provision and is set to expire January 1, 2017 without further action.⁴ Thinking about enforcement provides a space to consider improvements in this area that subsequent legislation might also address. Since the June 3, 2015 Enforcement Convening Senator Connie Levas (District 20- Chino) has introduced legislation SB 1015, the “2016 Domestic Worker Bill of Rights” to end the sunset provision from SB 241⁵ and establish the permanence of the California Domestic Worker Bill of Rights with the collaboration of The California Domestic Workers Coalition⁶. Passing California SB 1015 “2016 Domestic Worker Bill of Rights” is critical to enforcing California’s Domestic Worker Bill of Rights.

Domestic Workers Bill of Rights legislative initiatives are important to building power and enforcing rights using state governments to mitigate the exclusions from federal employment laws. DWBOR enables domestic workers to assert rights and use state agencies to enforce employer compliance and remedies for domestic workers when violations occur.

² National Domestic Workers Alliance (NDWA). California Bill of Rights. <http://www.domesticworkers.org/ca-bill-of-rights> (last accessed August 14, 2015), NDWA. Member Organizations. <http://www.domesticworkers.org/members> (last accessed August 14, 2015), Natalia Garcia and Janna Shaddock-Hernandez. UCLA-Labor Center. *Currículo para las Trabajadoras del Hogar. Nuestros Derechos como Trabajadoras del Hogar: Educación Popular para un Cambio Laboral. This is a popular education curriculum for domestic workers who are seeking to organize and know their rights.* PDF version available at: <http://www.labor.ucla.edu/resources/reports/> (last accessed August 14, 2015)

³ Stefania Azzarello, Jennifer Fish, Sylvia Günther, Lisa-Marie Heimeshoff, Claire Hobden, Maren Kirchhoff, Helen Schwenken. “We want to be the protagonists of our own stories!” Research Network for Domestic Worker Rights and International Domestic Worker Federation. ILO. Kassel University Press: 2014.

Downloaded June 30, 2015. PDF at: <http://archive.idwfed.org/resource.php?id=92>

⁴ NDWA. CA Domestic Workers Rights Fact Sheet. PDF (English and Spanish) available at <http://www.domesticworkers.org/ca-bill-of-rights> (last accessed August 14, 2015).

⁵CA Senate District 20, Senator Connie M. Leyva. “Senator Leyva Introduces 2016 Domestic Worker Bill of Rights”. Press release February 11, 2016. Accessed at <http://sd20.senate.ca.gov/news/2016-02-11-senator-leyva-introduces-2016-domestic-worker-bill-rights> (last accessed March 6, 2016)

⁶ California Domestic Workers Coalition. Campaign Updates. <http://www.cadomesticworkers.org/campaign-updates/> (Last accessed March 6, 2016).

The CDWC Convening on enforcement strategies focused on four key aspects:

- Grassroots/worker empowerment, leadership & organization to increase membership capacity and power amongst CDWC + NDWA
- Workers' rights (pay/benefits/legal recognition) + dignity
- Building power & coalitions to use governments and states/city councils for enforcement
- Identifying systemic and institutional patterns that impact domestic workers for analysis and transformation that includes domestic workers' in the process

The convening also discussed strengthening coalition relationships and sharing best practices for outreach, including patterns and ideas for a future grassroots campaign to enact AB 241 as permanent legislation by passing SB 1015 "2016 Domestic Worker Bill of Rights" as permanent legislation and addressing enforcement in future legislation and policymaking. It emphasized empowering domestic workers to advocate for their own rights, recognizing care work as significant and foundational to all other forms of work, developing equity within the occupation and between domestic work and other jobs, and affirming dignity and respect.

CDWC: Membership, Leadership + Empowerment

Member Organizations + Grassroots Strategies

Enforcement depends on empowerment of workers and building coalitions with CDWC, NDWA affiliates, allies, and domestic workers. Discussions covered the strengthening of worker center and membership organization leadership to empower domestic workers to share stories⁷, provide public testimonies, and provide expertise to legislators and policy-makers. Part of their organization strategy to empower members, develop leadership, and access power includes sharing labor rights and strategies to enforce DWBOR, negotiating working conditions, and working with California Legislators and California enforcement agencies. These member organizations consist of domestic workers, address immigrant rights and human rights, and

⁷ La Colectiva de Mujeres de San Francisco. Organized Labor for an Organized Home. "About". <http://lacolectivasf.org/> (last accessed March 6, 2016).

develop community coalitions to strengthen empowerment and the enforcement of the DWBOR.⁸

Professionalization + Training

Training, career development, and access to education and professional options enhances enforcement. Domestic Workers United (NDWA affiliate in New York) has a pilot program for training and certification of domestic workers. Professionalization is a way to also increase dignity and respect. Through licensing and recognized standards, professionalization offers a venue to enforce workers' rights. Educational opportunities to explore other career paths and general access to education, including high school completion and higher education, support the professionalization approach to enforcement.⁹

Domestic Work as Important Work: Rights + Dignity

Enforcement of AB 241 and related legislation, with inclusions and changes to national laws, affirms the dignity of domestic workers. Domestic workers cite access to workers' rights (such as wage protection, time off, and access to pension and other employment benefits that other workers have enjoyed) as indicators of respect and dignity.¹⁰ Respect includes recognizing the rights of domestic workers to have fulfilling lives to enjoy leisure, time with family and community, and the financial resources needed for a meaningful existence.¹¹

⁸ CHIRLA. Community Organizing. <http://www.chirla.org/CommunityOrganizing> (last accessed August 14, 2015), Philipino Worker Center (PWC). Membership Benefits. <http://pwcsc.org/benefits/> (last accessed August 14, 2015). MUA. Membership, <http://mujeresunidas.net/resources/category/domestic-workers/> (last accessed August 14, 2015),

⁹ Jane Henrici, *Improving Career Opportunities for Immigrant Women In-Home Care Workers*. Institute for Women's Policy Research, IWPR #1925, (February 2013). PDF: <http://www.iwpr.org/publications/pubs/improving-career-opportunities-for-immigrant-women-in-home-care-workers?searchterm=Improving> (last accessed August 18, 2015).

¹⁰ Noeleen Heyzer et al, eds., *The Trade in Domestic Workers: Causes, Mechanisms and Consequences of International Migration* (London: Zed Books, 1994); Grace Chang, *Disposable Domestic: Immigrant Women Workers in the Global Economy* (Boston: South End Press, 2000); Rhacel Parreñas, *Servants of Globalization: Women, Migration, and Domestic Work* (Stanford: Stanford University Press, 2001);

¹¹ Jody Heymann, *Forgotten Families: Ending the Growing Crisis Confronting Parents and Children in the Global Economy* (New York: Oxford University Press, 2007); Janet Gornick and Marcia Meyers, *Families That Work: Policies for Reconciling Parenthood and Employment* (New York: Russell Sage, 2005).

CDWC and NDWA have successfully begun to challenge the devaluation of care labor in the home by enacting legislation and working towards enforcement. Domestic work also includes emotional labor that needs to be recognized within the legislative frames of DWBOR.¹²

Testimony: Visibility and Shaping of Legislation

Public awareness of AB 241 as a new law is crucial for enforcement. Domestic workers' public testimony, which presents their knowledge and experiences, has been crucial in campaigns to pass legislation and will continue to shape employment policy. Massachusetts NDWA affiliate MataHari: Eye of the Day (MataHari) presented its recent Domestic Workers' Bill of Rights legislative success that came from building power through grassroots organizing and public testimonies.¹³ Continuing grassroots organizing, speaking at public hearings, and sharing testimony and narratives through television media, journalism and social media is important to challenging the stereotypes and myths about domestic workers, which is necessary for enforcement.

Public Awareness

Reaching a broad public is essential for enforcement as well as for passing legislation.¹⁴ Geographic strategies can increase public awareness for enforcement to target neighborhoods where domestic workers are isolated. Mechanisms include advertisements on public transportation and outreach at community events to domestic workers' and the general public. Presenting information in multiple languages is necessary for outreach because workers, employers, and clients speak many different languages. Working with journalists and media

¹² Poo, Ai-jen/ Domestic Workers Union (DWU). *Organizing with Love.: Lessons from the New York Domestic Workers Bill of Rights Campaign*. For Domestic Workers United, (initially downloaded April 10, 2012) PDF available at: <http://domesticworkersunited.org/media/files/287/OrganizingWithLoveFinal.pdf> (last accessed September 4, 2015).

¹³ NWDA. Initiatives: Massachusetts: <http://www.domesticworkers.org/mass-bill-of-rights> and MA Coalition for Domestic Workers: <http://www.domesticworkers.org/mass-bill-of-rights> (last accessed August 14, 2015), MataHari: Eye of the Day (MataHari). Our Work. <http://www.mataharijustice.org/domestic-workers-law/> (last accessed August 14, 2015), MataHari. Our History. <http://www.mataharijustice.org/our-history/> (last accessed August 14, 2015).

¹⁴ NWDA. *Workers Stories. Brought to the US to teach; Working as a Domestic to pay off debts: Why California Needs to Pass AB 241* 9.15.2013 | Laura Flanders | GRITtv with Lourdes Balagot-Pablo and Ai-jen Poo <http://www.domesticworkers.org/workers-stories> (last accessed August 14, 2015).

outlets, including local news sources, represents another strategic option. Enforcement also includes educating employers to observe and comply with AB 241 and other laws.

Patterns + Structures with Domestic Care + DWBOR

Enforcement via state and local government agencies

State agencies must initiate and take responsibility for enforcement. Models of enforcement that require individuals to step forward as whistleblowers often lead to higher risks for those reporting violations. Placing enforcement burdens on individuals-- especially domestic and care workers residing in a household--decreases reports of abuse and hinders enforcement. By placing the initiative for enforcement with government entities, the power dynamics change. The government can focus on patterns of abuse and violations.¹⁵

Enforcement strategies include alliance with member organizations working with state agencies, especially Departments of Labor, Human Rights divisions, and legal units: information sharing, building relationships with state agencies, guiding members through enforcement processes, civil litigation, and tools to negotiate and self-advocate. A representative with a janitorial union shared that cooperating with state agencies has helped establish worker credibility as experts and facilitated the efforts of allies to encourage state agencies to undertake investigations and issue orders for compliance. It also has empowered the union to help members assert claims, or at least document potential grievances even if individuals were unwilling to come forward. Another domestic worker shared her success with using a government administrative claim process to challenge an employer, who committed wage theft, to obtain pay owed with punitive damages.

Haeyoung Yoon of the National Employment Law Project (NELP) offered various litigation strategies and stressed the ability of legal allies to enforce rights using civil court and administrative proceedings through state labor agencies. Yet this enforcement model relies on

¹⁵ MUA, La Raza Centor Legal and DataCenter. *Behind Closed Doors: Working Conditions of California Household Workers* PDF available at: <http://www.datacenter.org/behind-closed-doors/> (Last accessed August 14, 2015).

individual workers to come forward.¹⁶ Tax law and challenges to employer miss-classification of workers as independent contractors shift responsibility for enforcement to state agencies.¹⁷ NELP affirmed the need for state agencies to enforce DWBOR and other labor laws rather than rely on whistle-blowers.

Household Workers: private residences as employment sites

Multiple strategies can reach workers in private residences, including wealthy neighborhoods near Los Angeles and San Francisco, even though barriers to enforcement and awareness building come from the workplace being simultaneously a private residence and workers' place of lodging. Legal and cultural notions of privacy, including property rights, interfere with enforcement.¹⁸ The structure of live-in work often creates isolation from family and community members, difficulty in accessing public transportation and community services, and an inability to leave, obtain information, or procure help due to exacerbated conditions of dependency that at times can arise to abuse. There is also an inherent power imbalance of living with an employer, including visa restrictions or the pretense of family relationships, an ideology that entraps domestic workers feeling beholden to their employers. Successful outreach strategies of meeting in public spaces, such as parks, schools, and public libraries in metropolitan neighborhoods such as Manhattan and Brooklyn, New York, must be adapted to the challenges of suburbs and gated communities.¹⁹

¹⁶Haeyoung Yoon and Tsedeye Gebreselassie. National Employment Law Project (NELP). Building Robust Labor Standards Enforcement Regimes in Our Cities and Counties. NELP Policy Brief: March 17, 2015. <http://www.nelp.org/publication/building-robust-labor-standards-enforcement-regimes-in-our-cities-and-counties/> (last accessed August 14, 2015)

¹⁷National Employment Labor Project. Independent Contractor Misclassification Imposes Huge Costs on Workers and Federal and State Treasuries. July 2015. Fact Sheet. Downloaded August 14, 2015 <http://www.nelp.org/publications/> (last accessed August 14, 2015)

¹⁸Eileen Boris and Jennifer Fish, "'Slaves No More': Making Global Labor Standards for Domestic Workers," *Feminist Studies*, 40, no. 2 (Fall 2014), 411-43, IBID, *Behind Closed Doors: Working Conditions of California Household Workers*.

¹⁹Domestic Workers United (DWU), NDWA, Community Development Project at Urban Justice Center. Domestic Workers and Collective Bargaining: A Proposal for Immediate Inclusion of Domestic Workers in the New York State Labor Relations Act. (October 2010). PDF available at: <http://www.domesticworkers.org/reports-analysis/>, Domestic Workers United & Data Center, Robin D.G. Kelly, introduction, Legal History by New York University Immigrant Rights Clinic. *Home is Where the Work Is, Inside New York's Domestic Work Industry*. July 2006. PDF available at <http://www.datacenter.org/home-is-where-the-work-is/>

Possible strategies include public advertising in multiple languages, using multiple media sources, contacting schools and community organizations to empower them on employers' compliance, working with state agencies, and using grassroots organizing strategies to help shift public opinion and policy-makers to recognize private homes as places of employment.

Immigration & Human Trafficking

The June 3 convening built on the ongoing work of NDWA and CDWC to address immigration and human trafficking as related to the question of domestic worker empowerment. Policy and legislative recommendations include both federal and state initiatives such as passing DWBOR.²⁰

A serious concern about enforcement includes the record keeping requirement of employers and the differing impacts of AB -241 Domestic Workers' Bill of Rights based on immigration status. The employment records AB-241 is a source of changing power relations for domestic workers with legal documents, permanent residency, or citizenship. While ensuring written contracts is part of other DWBOR and can be an enforcement strategy, the written contracts and employment records can create potential problems and harm for domestic workers with precarious immigrant situations, such as those with an employer-based visa, undocumented status, and mixed-status families. Strengthening the existing California legislation AB-241 as permanent law with modifications that come from CDWC can empower domestic workers to access and expand enforcement options in AB-241.²¹

Conclusion:

#Dignity Rising.

The dignity of our families deserves permanent protections, pass SB 1015!

*¡ La dignidad de nuestras familia merece protecciones permanentes,
apoyemos SB 1015!*

*Ang dignidad ng atig mga pamilya ay
nararapat magkaroon ng permanenteng
proteksyon, suportahan ang SB 1015!*

---California Domestic Worker Coalition²²

²⁰NWDA. Initiatives: Immigration and Trafficking.

<http://www.domesticworkers.org/initiatives/immigration-and-trafficking> (last accessed August 14, 2015)

²¹ NWDA. Initiatives: We Belong Together. <http://www.domesticworkers.org/we-belong-together> (last accessed August 14, 2015).

²² CA Domestic Workers Campaign, Facebook Image: Cover Photo. Posted March 4, 2016 at 5:03 PM. <https://www.facebook.com/cadomesticworkers/> Accessed: March 6, 2016.

Efforts to strengthen the enforcement of AB 241 must include ending the sunset provision and ensuing rigorous enforcement via government agencies that also empowers domestic workers. Passing SB 1015 “2016 Domestic Worker Bill of Rights” is crucial to affirming domestic workers’ rights and dignity. To understand what happens on the ground, academic researchers and policy makers must go to domestic workers and representative organizations as experts throughout the process. Enforcement must acknowledge the rights and dignity of domestic workers as workers.