

**Winning Fair Labour Standards
for Domestic Workers:
Lessons Learned from the
Campaign for a Domestic Worker
Bill of Rights in New York State**

Claire Hobden

Copyright © International Labour Organization 2010
First published 2010

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: pubdroit@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

ILO Cataloguing in Publication Data

Hobden, Claire E.

Winning Fair Labour Standards for Domestic Workers: Lessons Learned from the Campaign for a Domestic Worker Bill of Rights in New York State / Claire E. Hobden; International Labour Office; Global Union Research Network (GURN). - Geneva: ILO, 2010 36p. (GURN discussion paper; no.14)

978-92-2-123629-0 (print)

978-92-2-123630-6 (web pdf)

International Labour Office

domestic workers / precarious employment / working conditions / trade union role / USA

13.01.3

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

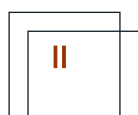
The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and electronic products can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org

Visit our web site: www.ilo.org/publns

Printed in Switzerland



ABSTRACT

As in many countries, domestic workers in the United States have been historically excluded from the protection of labour laws at both the state and federal levels. The Domestic Workers United (DWU) Domestic Worker Bill of Rights Campaign is a coalitional effort to correct this exclusion through effective policy and cultural change at the state level. Using a grassroots organizing model that emphasizes coalition and movement building and worker leadership, DWU is now on the verge of passing the first piece of labour legislation to protect domestic workers in the history of the United States.

This paper attempts to identify the core reasons for the success of this campaign while explaining how the strategies adopted overcame particular challenges. Working off of the DWU assertion that, in order for change to be effective, there must be change at both the policy and cultural level, this paper uses qualitative and anecdotal data to measure the success of the campaign according to the actual policy change achieved as well as the cultural change achieved. Using this qualitative approach, the paper identifies the following key challenges: 1) bringing domestic work out of the shadows; 2) convincing the public, employers and legislators that domestic work is real work, and that employers are real employers; 3) convincing legislators on the necessity of legislating; that this was not special protection and that collective bargaining was not an option; 4) convincing legislators that the bill is financially sound; and 5) mobilizing enough support to build the necessary political capital to pass the bill. The paper concludes that, to address these challenges, DWU's most effective strategies were to emphasize worker leadership, build cross-sectoral alliances in particular with employers and unions, and alter the discourse of domestic work by framing the debate in the media. The paper ends with a brief analysis of some potential next steps in establishing effective and enforceable labour policies in other states as well as at the national level.



TABLE OF CONTENTS

INTRODUCTION.....	1
1. DOMESTIC WORKERS UNITED.....	3
1.1 Mission and History	3
1.2 Structure and Organizing Model	4
1.3 Rights, respect, recognition: DWU’s approach to (policy) change	5
2. THE SPECIAL CIRCUMSTANCES OF DOMESTIC WORKERS	7
2.1 Defining Domestic Workers.....	7
2.2 Working Conditions in NYC	7
2.3 Policy Environment	9
2.4 Organizing landscape.....	10
3. FOR A DOMESTIC WORKER BILL OF RIGHTS IN NEW YORK STATE	12
4. STRATEGY ADOPTED.....	16
4.1 Worker leadership.....	16
4.2 Alliances	17
4.3 Movement/coalition-building: Framing the Issue	20
4.4 Media Power	21
5. CHALLENGES.....	23
5.1 Bringing domestic work out of the shadows.....	23
5.2 Convincing the public, employers and legislators that domestic work is real work and that employers are real employers.....	23
5.3 The necessity of legislating: Convincing legislators that this was not special protection and that collective bargaining is not an option.....	24
5.4 Convincing legislators that the bill is financially sound.....	25
5.5 Mobilizing enough support to build the necessary political capital to pass the bill	25
6. CAMPAIGN ACHIEVEMENTS	26
6.1 Policy Change Achieved	26
6.2 Cultural Change Achieved	27
6.3 Next Steps.....	29
CONCLUSION	31

INTRODUCTION

Although they make up one of the world's most long-standing and widespread workforce, domestic workers are frequently overworked, underpaid, and unprotected. Even when labour movements were at their height, domestic workers were left out of virtually all labour legislation and policy worldwide. Once a workforce fed entirely by the unpaid work of women in the home, domestic workers today are primarily women and children who occupy the lowest rungs of the social hierarchy in which they live and work, supporting entire families on their meagre incomes. The majority are also migrants, whether internal, regional or international, putting them in a situation of even greater vulnerability.

Overall, the International Labour Organization (ILO) estimates that there are over 100 million domestic workers worldwide. Yet domestic workers are excluded from even the most basic labour laws in about 40% of the world's countries.¹ These labour policy gaps leave tens of millions of workers without basic labour protections or the benefit of a social safety net. To respond to this crisis, trade unions and labour movements worldwide are progressively addressing these policy gaps at the local, national, and international levels.

This paper examines the case of domestic workers in New York State (NYS) and the strategies adopted by Domestic Workers United (DWU) to correct the exclusion of domestic workers from almost all federal and state labour laws through the New York State Domestic Worker Bill of Rights (DW BoR) campaign. In the case of the United States, labour exclusions have their roots in the transatlantic slave trade, as domestic workers in the US were first slaves and indentured servants who were not rights-bearers either *de facto* or *de jure*. Since the abolishing of institutionalized slavery, domestic workers have remained excluded from recognition or protection from abuse under United States labour law, including the right to organize, over-time protections, and health and safety regulations.

Domestic workers in the U.S. have mobilized against these policy gaps for decades, with the most recent wave of organizing beginning in the 1990s in immigrant communities in cities across the country. Today, DWU's DW BoR campaign is at the frontlines of the US labour movement. As this article goes to press, the DW BoR is in the final stages of approval with a promise to have won sound legislation by the end of 2010. If passed, the bill would establish labour rights for domestic workers for the first time in the history of the United States.

Through a qualitative assessment using anecdotal evidence, this paper attempts to identify the core reasons for the success of this campaign while explaining how the strategies adopted overcame particular challenges. Using the DWU belief that effective change requires both policy and cultural change, the study assesses the overall success of the campaign according to both its effects on laws and policies,

¹ International Labour Office. Report IV (1): Decent work for domestic workers. International Labour Conference, 99th Session, 2010

as well as to the relative discursive change observed in the media and to popular and political support for the DW BoR. The paper thus aims to provide some lessons learned in the framing of domestic worker rights, effective policy strategies to achieve rights, and key obstacles that are likely to emerge in such a campaign.

To distil these lessons, the first section of the paper provides a description of DWU and the key aspects of its organizing model that formed the foundation of the campaign. The second section then provides the social, policy and political context in which DWU organizes. The third section turns to the campaign narrative and timeline. Section four then selects the core strategies adopted, namely worker leadership, cross-sectoral alliance building, a movement-building approach to framing the issue, and building media power. To illustrate the usefulness of these strategies, section five identifies some of the main challenges the campaign faced, and how the core strategies were applied to address these challenges. The outcomes of the campaign and some likely next steps are outlined in section 6. In the conclusion, key lessons from the analysis are synthesized in the hopes that these will be of some use to other initiatives for domestic worker rights. Overall, the paper aims to explain why and how establishing fair labour standards for domestic workers is not only necessary, but also achievable.

1. DOMESTIC WORKERS UNITED

1.1 Mission and History

Domestic Workers United [DWU] is an organization of Caribbean, Latina and African nannies, housekeepers, and elderly caregivers in New York, organizing for power, respect, fair labour standards and to help build a movement to end exploitation and oppression for all. Founded in 2000 owing to the work of existing women worker organizations, DWU began with meetings in Brooklyn led by domestic workers from communities who were not being organized, mainly the Caribbean community. These discussions led to the formation of DWU as an organization of workers from any nationality that fell outside of the worker base that other domestic worker groups were organizing. As it grew in numbers and in power, DWU also helped to coordinate the work of the existing organizations under the banner of the NYC Domestic Worker Justice Coalition, building the overall power of domestic workers in New York City as a workforce.

DWU formed its first official Steering Committee of mostly Caribbean immigrant domestic workers in 2002 to help lead the organizing effort. Soon after, the group launched a citywide campaign to establish fair labour standards in the domestic work industry that led to the passage of historic city law in 2003 that compels employment agencies that place domestic workers to inform workers of their rights, and inform employers of their legal obligations as employers.

Soon after the passage of the city bill, DWU launched the campaign that is the subject of this policy paper, namely the New York State Domestic Worker Bill of Rights (DW BoR) campaign that, from its inception, set new precedents in labour law and built power and visibility for domestic workers not only in the halls of government, but also within the women's, labour, immigrant rights and racial justice movements. The campaign model has also already set precedents nationally, as a similar bill campaign was recently launched in California. Finally, in 2007, at the United States Social Forum, DWU helped found the National Domestic Worker Alliance through which domestic workers will soon attempt to correct federal labour legislation.

Since its founding in 2000 as an organization of just one staff and a handful of members, DWU has grown to be an organization of four full-time staff with over 2300 members. In addition to passing groundbreaking city-wide legislation for domestic workers, DWU also launched the first Nanny Training Course that has trained about 400 domestic workers in child and infant psychology and health, as well as organizing and negotiation skills. Over the years, they have built a broad coalition of over 100 organizations in support of domestic worker rights, and have won almost half a million dollars in unpaid wages for exploited domestic workers, with not a single case lost so far. Today, DWU continues to focus on developing strategies to organize to scale in the domestic work industry through deliberate, strategic base building and coordinating with other domestic worker

organizations at the local, national and international levels to build power of the entire workforce.

1.2 Structure and Organizing Model

DWU is a membership-based organization in which domestic workers are in leadership positions at all levels. The organization includes a general membership body that is led by a steering committee composed entirely of domestic workers. Steering committee members also co-chair each of DWU's five work committees, which are also composed of DWU general members. The current staff of three persons includes two former domestic workers and the Director who is the daughter of a domestic worker. DWU develops its programs by first approaching the general membership and asking the members what their essential needs are. All critical organizational decisions are made by the Steering Committee in consultation with the staff, work committees and the general membership. Engaging the membership at this level increases the level of ownership of the members, which in turn increases the quantity and quality of time they spend working with DWU.

DWU organizes along a specific strategic framework composed of six areas of work through which it implements the bulk of its activities. They are 1) base building, 2) leadership development, 3) grassroots organizing campaigns, 4) culture and communications, 5) organizational development, and 6) alliances. Though each area of work has its own activities, they relate to each other to produce a comprehensive, member-led alliance approach to its organizing.

The most important part of DWU's work is inarguably base building, or the outreach to and relationship building with domestic workers. DWU members do outreach everyday, and domestic workers are recruited to attend membership orientations, general meetings and educational programming. It's organizational and campaign strength thus comes from its membership, whose desire for change drives the work and ensures that DWU's activities and campaigns remain relevant to its members.

One of the key characteristics of DWU's organizing strategy is that domestic workers must play leading roles in defining organizational priorities and campaign objectives. However, in order to do so effectively, DWU members must have relevant training and skills to make sound and effective decisions. As such, DWU developed a leadership development strategy that hinges on political education curricula, workforce development programs, and hard-skills training in campaign strategies, communications, and leadership and facilitation.

Members who are trained in these programmes are then equipped to take leading roles in DWU's campaigns. Although the DW BoR campaign has been DWU's main campaign since 2004, DWU also runs Justice for Exploited Workers campaigns, for cases in which individual workers have been mistreated and have decided to bring a case against their employer. All of these campaigns are important vehicles for raising awareness in the community and maintaining

momentum around domestic worker issues in the media. They also provide the opportunity to strengthen ties not only among the members, but also among DWU's allies.

In fact, DWU views itself as a movement-building organization, making alliance-building a key part of all of their work. Over the years, DWU has collaborated closely with unions, employers, legal non-profit organizations, student and activist groups, housing and tenant organizations, women's associations, faith-based groups and organizations of queer youth of colour, highlighting the connections between all of these different movements to build important bridges across them.

A final part of the DWU organizing model is their culture and communications area of work. As so little information and data is available on domestic workers, DWU spends a significant amount of effort producing and supporting research and media about domestic workers. Projects like training members in radio journalism and producing a documentary film are vital tools for community education, outreach for organizing, and important tools to place in the hands of domestic workers who know more than anyone the conditions and context they are struggling with. In addition, DWU produced an original industry report in collaboration with the DataCenter, providing the first statistics on the domestic work industry in New York City. This data, combined with a media strategy that aims to bring the voices of domestic workers into the mass media, has meant that legislators as well as reporters have labour-based sources to which they can turn to educate themselves and later the constituents and the public at large.

1.3 Rights, respect, recognition: DWU's approach to (policy) change

DWU's understanding of change is communicated in their demand for "rights, respect and recognition." From the outset, DWU placed an emphasis on passing relevant and accessible legislation to correct the exclusion of domestic workers from federal and state labour law. However, with these rights must come broad societal respect and recognition for the work that is performed. DWU thus sees itself not as an advocacy organization, but rather as a social justice organization, and believes that to create change, cultural change is necessary to support policy change. This dual approach has informed DWU's strategy to include not only legislative change but also awareness-raising and relationship-building among employers, allies, academics and New York residents in general.

Taken at their root, the conditions of domestic work in the United States are shaped by how employers and people in general view domestic work. In DWU's analysis, the major challenge to achieving rights for domestic workers is the longstanding cultural perception that domestic work is not real work. Despite the fact that domestic workers provide critical care for the most important elements of their employers lives – their children, families and homes – their work is still grossly undervalued and not considered real work. Moreover, domestic work is often seen as a side job, when the reality is that domestic workers support entire

families on their incomes. As such, DWU defines cultural change as the moment when people value the work, a belief that is synthesized in the organisation's slogan: "we have a dream that one day all work will be valued equally."

The culture of disrespect for and undervaluing of domestic work is supported by the long legislative silence at the state level. In fact, DWU often speaks of the world of domestic work as the "wild west" to describe the state of total lawlessness – anything and everything goes. Part of cultural change for DWU is therefore also to bring people to the understanding that not everything is permissible; that there are repercussions for mistreating your employees. This is where policy change becomes critical for the state to set limits on how citizens can behave.

Moreover, as cultural change can take generations to achieve, as new values are shaped and then transmitted from one generation to the next, policy change can occur within a ten-year span and thus catalyze cultural change. However, as this paper will demonstrate, the *kind* of policy that is needed is of critical importance. Because of the specificities of the sector which make collective bargaining virtually impossible, a strong legislative framework that takes into account these particularities is absolutely critical.

Where policy change will establish relatively quickly the guidelines that are necessary for employers to act responsibly, cultural change becomes crucial again when it comes to enforcing policy. Given the wide distribution of the workforce, where domestic workers often work alone in one or numerous households, even the fairest of labour policies would be time-consuming and expensive to enforce at the state level. It is therefore imperative that employers see themselves as such, and hence see domestic work as a skilled service performed by an employee.

2. THE SPECIAL CIRCUMSTANCES OF DOMESTIC WORKERS

2.1 Defining Domestic Workers

What is a domestic worker? Defining the sector is of pivotal importance in policy-making, and yet there remains a lot of confusion around this term. Although domestic work is difficult to define, it is important to note that, in US labour law, domestic work does not include home-health aides, workers who are employed by a housekeeping or janitorial agency, nurses working in private homes, or home daycare centers, all of which are already covered by US labour law. Instead, in US law and practice, a domestic worker is anyone employed to work in a private home by the head(s) of household, including nannies, housekeepers, elderly companions, cleaners, babysitters, baby nurses and cooks.

2.2 Working Conditions in NYC

One significant barrier to policy change for domestic workers is an almost total lack of statistics on the number of domestic workers, their demographics, and the conditions in which they work. To bridge this gap, in 2006 DWU paired up with the DataCenter to conduct an industry report on domestic work in New York City. The report, entitled *Home is Where the Work Is*², estimates that there are about 200,000 women working as nannies, companions and housekeepers in New York City alone.³ These workers are predominantly immigrant women of colour coming from the Global South to find work to support their families. The industry report estimates that 95% of the domestic workers who responded to the survey are people of colour, and just over three quarters are not U.S. citizens.⁴

In a global city such as New York, domestic workers provide the lifeline of care that makes all other work possible. The overall lack of statistics on domestic work makes it difficult to quantify the exact contributions of this workforce to the economy. However, the industry report found that domestic workers predominantly work for business and finance professionals, followed by legal and healthcare professionals.⁵ As such, DWU has assessed that if domestic workers went on strike, a significant portion of New York City's economy would be impacted.

² Domestic Workers United and DataCenter. *Home is Where the Work Is: Inside New York's Domestic Work Industry*. July 14, 2006.

³ Ibid: p. 1. This industry report estimated this number "based on 2000 U.S. Census data of New York City households with children (under 18 years) or elderly (65 years or older) and income of \$100,000 or greater as likely employers. Due to the dispersed and informal structure of the industry and its immigrant workforce, it is impossible to precisely measure industry size. An estimate cited by the Chicago Tribune ("Maid Services Clean Up as Demand Escalates," Carol Kleiman, 1986) states that 43% of women working outside the home hire domestic workers, which would bring the number of domestic workers in New York City closer to 600,000 using 2000 Census data of employed women." (*Home is Where the Work Is*, fn 2)

⁴ Ibid: p. 2

⁵ Ibid: p. 11.

Despite their critical role as a reproductive labour force supporting the city's economy, domestic workers work in precarious environments and are highly vulnerable to exploitation. This reality was amplified when the financial crisis first struck New York City. DWU estimates that when the American International Group (AIG) went bankrupt in 2008, about 20,000 domestic workers lost their jobs from one day to the next with no social safety net. But domestic workers were already in a state of duress before the crisis. They rarely have contracts, work long hours, are paid very little, do not enjoy benefits such as healthcare, paid vacation or sick or personal days, and often are forced to live and work in detrimental physical conditions(?).

The industry survey was particularly revealing when it comes to wages, indicating that domestic workers earn from \$1.43 to \$40.00 per hour, which shows the lack of industry standards. However, the median hourly wage for domestic workers was \$10.00 per hour, which does not constitute a living wage in New York City. In addition, 8% of workers reported earnings below minimum wage, with 21% of live-in workers earning below minimum wage and an additional 35% earning below the poverty line. Eighteen per cent of all domestic workers earn below the poverty line and 41% earn low wages. Finally, only 13% earn a wage that is liveable for a family of four in New York City.⁶

Particularly vulnerable are domestic workers that live in the homes of their employers. The industry report found that 20% of live-in workers earn below the minimum wage, and 63% of these workers work overtime, often up to 100 hours a week, without usually receiving overtime pay.⁷ Live-in workers are also often brought from other countries to New York City by their employers. Upon arrival, they are kept in situations of virtual imprisonment, their passports and shoes taken, and usually with little to no English literacy. Finally, many live-in domestic workers are forced to live in unacceptable conditions, sleeping in damp basements with no ventilation, on the living room floor, or next to the children they take care of so that they are literally "available" to work 24 hours a day.⁸

A final point worth highlighting is the total lack of access to health care and social security benefits. Until April 2010, when President Obama passed a historic health care bill, the United States had no public option for health care. People received health care through their jobs, where the health care policy was negotiated in collective bargaining agreements. When they do not have jobs, they have the option of paying for their own health insurance at prohibitively expensive rates. Those who are not fortunate enough to have a job that provides health care and who cannot afford it otherwise are forced to forgo this privilege altogether. Since the vast majority of employers of domestic workers do not see themselves as employers, and since domestic workers cannot bargain collectively for such benefits either, it is estimated that 90% of domestic workers do not have health

⁶ Ibid: p.16

⁷ Ibid: p..17

⁸ Ibid: p.6

insurance benefits, nor do their employers arrange to pay social security.⁹ The absence of this social safety net leaves domestic workers particularly vulnerable.

2.3 Policy Environment

Given these general working conditions, the need for labour standards should be self-evident. However, domestic workers have been excluded from labour laws at both the federal and state levels. Often, they are excluded simply because they do not fit in to the given definition of employee, or because the workplace is too small to enjoy the protections afforded in US civil and labour law.

Federal Exclusions

At the federal level, domestic workers are excluded from the National Labour Relations Act (NLRA), which guarantees employees the right to organize, because they do not fit the given definition of “employee”.¹⁰ This exclusion effectively bars domestic workers from the right to bargain collectively for their basic labour rights and benefits. This exclusion thus shaped a large part of the content of the DW BoR, as it effectively became a legislative version of collective bargaining for excluded workers.

Domestic workers are also mostly excluded from the Fair Labour Standards Act (FLSA), the other corner stone of federal labour law that sets the federal minimum wage rate, maximum working hours, and overtime for employees of certain occupations. However, the FLSA excludes “casual” employees such as babysitters and “companions” for the sick or elderly¹¹, and live-in domestic workers cannot get overtime.¹²

Perhaps even more startling is the exclusion of domestic workers from Civil Rights Laws: in the country that coined civil rights, domestic workers, who are overwhelmingly immigrant women of colour, are *not* protected against discrimination based on race, colour, religion, sex, national origin, disability, or age. Specifically, Title VII of the Civil Rights Act, which bars employment discrimination on the basis of “race, color, religion, sex, or national origin,” applies only to employers with 15 or more employees. Thus, virtually every domestic worker in the U.S. is *de facto* excluded from Title VII’s protections.¹³ The same reasoning is applied in the Americans with Disabilities Act (ADA), which protects individuals with disabilities from employment discrimination, but applies only to employers with 15 or more employees,¹⁴ and even the Age Discrimination in Employment Act (ADEA), which protects individuals 40 years of age or older from age-based employment discrimination, but applies only to employers with 20 or

⁹ Ibid: p.6

¹⁰ 29 U.S.C. § 152(3)

¹¹ 29 U.S.C. § 213(a)(15)

¹² 29 U.S.C. § 213(b)(21)

¹³ Civil Rights act of 1964, Title VII, Section 2000e (b)

¹⁴ (Title I of the Americans with Disabilities Act (ADA) – Subchapter I, Sec 12111 (5)(a) and (5)(b))

more employees.¹⁵ Moreover, domestic workers are excluded “as a matter of policy”¹⁶ by Occupational Safety and Health Act (OSHA) regulations.

New York State Exclusions

As labour standards are mostly legislated at the federal level, there are naturally fewer laws from which domestic workers are excluded at the state level. The only noteworthy policy gap in fact is in the state overtime provisions, which do not apply equally to domestic workers. While live-out domestic workers are entitled to overtime at a rate of one and a half times their regular rate after 40 hours of work in a week, live-in domestic workers are only entitled to overtime at a rate of one and a half times the minimum wage, and then only after 44 hours of work in a week.¹⁷ However, this law is rarely enforced. As a result, about two thirds of domestic workers do not receive overtime pay.¹⁸

Immigration Policy

Organizing domestic workers is greatly affected by the anti-immigrant policies and atmosphere in the United States. Employers then use their awareness of these laws to instil fear in their employees. This atmosphere provides fertile soil for breeding deep fear among domestic workers that if they organize, not only will they lose their jobs, but they will also be deported. It is important to note though that labour law in the United States technically applies to all workers, regardless of immigration status. Thanks to this policy of non-discrimination against undocumented workers, the DW BoR campaign was able to circumvent the debate when legislators raised concerns about legislating labour rights for a largely undocumented workforce.

2.4 Organizing landscape

A commonly asked question is why domestic workers in the United States are not part of a union. Although the answer to the question largely falls outside the scope of this paper, it is important to note that, historically, domestic workers have not had a significant relationship to unions in the United States. One of the reasons for this is that domestic work is a classically difficult sector to organize, as domestic workers usually work alone and in isolated conditions. Moreover, as domestic workers were historically African-American women during a time of rampant racism in the United States, unions were perhaps less inclined to manage the added dynamics of race and gender when they negotiated the passage of the FLSA and the NLRA.¹⁹ Nowadays, many domestic worker organizations have built strong relationships with unions. Although these relationships could give way to domestic workers folding in to a union structure, this has not yet been negotiated to date.

¹⁵ ADEA of 1967, 29 U.S. Code Chapter 14, Section 630 (b) and (c)

¹⁶ 29 C.F.R. § 1975.6

¹⁷ 12 NYCRR § 142-2.2

¹⁸ Home is Where the Work Is: p. 15.

¹⁹ Although very little has been written on this topic, there was a crucial study conducted in the 1930s by Esther V. Cooper “The Negro Woman Domestic Worker in Relation to Trade Unionism”, which highlights the issues mentioned here.

DWU worked for many years to overcome these challenges to organizing. Though the organization continues to grow, domestic workers are often highly reluctant to join the organization out of fear that their employer will find out and retaliate by firing them. This fear is aggravated when it is linked to fears of being deported, as explained above.

Even once domestic workers form an organization, collective bargaining remains impossible because there is no employer counterpart with which to negotiate. This very real limitation is the primary reason why DWU had to demand policy change, rather than bargain collectively. However, the lack of an employer's association also presented an advantage for DWU. Unlike the farm workers, who in their campaigns are forced to face the Farm Bureau, one of the country's most powerful lobbies, domestic workers had almost open range as there was no organized opposition to their campaigns.

3. FOR A DOMESTIC WORKER BILL OF RIGHTS IN NEW YORK STATE

One of DWU's primary goals is to establish fair labour standards. With this goal in mind, DWU launched its first campaign in New York City to hold employment agencies accountable for their placement of domestic workers in the homes of employers. The campaign resulted in the passage of New York City Local Law 33, which requires employment agencies that place domestic workers to provide employers with a "code of conduct" that explains existing labour laws. Employers must sign the code of conduct and agencies must retain the document for three years. The law also requires agencies to inform workers of their rights and provide a description detailing their work responsibilities in prospective jobs.²⁰

Beyond passing city-wide legislation, the city campaign built a fledgling network of support for domestic workers and was designed to raise the profile of domestic work in New York City. In fact, the campaign served as an important means of raising awareness among New Yorkers about the conditions of domestic work. Moreover, it provided an opportunity for domestic worker organizations in New York to learn how to collaborate on campaigns, to build a common vision of fair labour standards for domestic workers, and to mobilize their members and expand their membership around a promising campaign. These early collaborations provided a strong foundation for DWU to launch the DW BoR campaign.

Having won the City Bill, DWU held the "Having Your Say" Convention at which over 200 domestic workers discussed the possibility of a state-wide campaign for a bill of rights that would protect domestic workers. The multilingual convention brought together domestic workers of over a dozen nationalities and created a space in which domestic workers learned about the state-wide legislative process and shared the experiences that would shape the content of the draft bill. The convention yielded a decision to campaign for a NYS Domestic Worker Bill of Rights designed to address the longstanding exclusion of domestic workers from labour protections, while taking into account the unique conditions and demands of the industry in which they work.

DWU then turned to its ally, the New York University Immigrant Rights Clinic, which drafted the legislation according to the priorities set by the workers. They also conducted all the necessary legal research to make sure that the bill's

legislative foundation was strong and based on legal precedent. This process produced the **initial** NYS Domestic Worker Bill of Rights, which included demands to:

²⁰ New York City Local Law 33 (2003)

- Protect domestic workers from economic exploitation. It would allow domestic workers to earn a living wage of \$14.00/hour (\$16.00/hour if the employer does not provide health benefits), and it would require overtime pay for work exceeding 40 hours per week.
- Require employers to provide health benefits for domestic workers or to supplement the domestic worker's hourly wage by \$2.00/hour. It also provides for family care and medical leave and for at least five paid sick days per year.
- Require at least five paid personal days each year, and also requires one full day of rest in each calendar week. It would also provide designated paid holidays and paid vacation leave.
- Require employers to provide a domestic worker with written notice of termination 21 days before her final day of employment. It also requires that employers provide severance pay to each domestic worker equal to one week of pay for each full year of the domestic worker's service.
- Require that exclusionary language be taken out of New York State Labor Law and Human Rights Law provisions. It also eliminates language that excludes domestic workers from the definition of "employee."
- Prohibit trafficking of domestic workers

BOX 1: How a Bill becomes a Law in New York State

- The New York State Legislature is composed of two houses, the Assembly and the Senate.
- A draft bill is introduced by a bill sponsor in either the Senate or Assembly. In either of these houses, the bill then follows the following trajectory:
 - Co-sponsors add their names to the bill
 - The bill is revised in the house standing committees, most notably the finance and rules committees.
 - Once approved by the standing committees, the bill is brought to the house floor for a vote.
- If the Assembly and the Senate each pass their own version of the same bill, the two must be consolidated into a single bill through a negotiation between the two houses.
- Once the Senate and the Assembly have passed a single bill, it goes to the Governor who either approves or vetoes the bill. If approved, the bill becomes a law.

BOX 2: Campaign Timeline

2000: Founding of DWU

2003/2004:

- Formation of DWU Steering Committee
- Building up the membership base
- “Having Your Say Convention”
- Constitution of the initial DW BoR demands
- Getting the first articles about cases of exploitation in the media
- Connecting with Assemblyman Keith Wright

2005:

- Assemblyman Keith Wright introduces the DW BoR into the Assembly of the NYS Legislature
- DWU learns the ropes in Albany
- Drew on city-wide campaign supporters and city council members
- Creating opportunities for involvement (postcard campaign, collecting endorsements, small group trips to Albany)
- Defining domestic work: educating legislators about what domestic work is
- Finding a bill sponsor (Assemblyman Keith Wright)
- Held Human Rights Tribunal with Global Rights

2006:

- Expanding alliance to churches and universities
- Getting co-sponsors in the Assembly
- Started to draw attention to the bill in Albany

2007:

- Bill introduced in the Senate by a republican Senate Sponsor
- Creation of campaign organizing committee, including coalition partners – everyone invited, students, activists, lawyers, unions, etc.
- Received support from John Sweeney, President Emeritus of the AFL-CIO and other high-profile labour and community leaders
- Went to Albany with over 200 members and supporters
- Held week of action to attract attention, including a Town Hall meeting featuring John Sweeney, and a 300 person march through downtown New York.

- DWU and ally Jews for Racial and Economic Justice (JFREJ) celebrate Purim, gaining support from employers.
- Large-scale mobilizations to Albany and in New York City, a combination of targeted legislative meetings, press events, marches and other types of media events. (From 2007 onwards)

2008:

- Continuous targeted legislative meetings, press events, marches and other types of media events.
- Brought 300 members and supporters to Albany twice.
- Gained a pro-bono professional lobbyist, Richard Winsten
- New York State Senate goes democrat for the first time in 30 years.

2009:

- Monthly visits to Albany with members
- Brought a total of about 500 members and supporters to Albany on two different trips.
- JFREJ hosts a community meeting of over 200 people, finally drawing the attention and support of Assemblyman Sheldon Silver, the speaker (leader) of the Assembly.
- Bill passes in the Assembly
- Senate “Coup”: Senate comes to a near standstill as republicans and democrats fight for majority. Virtually all items on the agenda, including the DW BoR, are put on hold until further notice.
- Governor Patterson declares on National Public Radio (NPR) that if the Senate resolves its issues and passes the DW BoR, he will sign it into law.²¹

2010:

- Senate has passed the DW BoR out of all standing committees and comes to the Senate floor for a vote in May 2010.
- Assembly and Senate negotiate bill together
- Governor Patterson signs the Bill into law, anticipated by end of December 2010.

²¹ The Brian Lehrer Show, WNYC: “Crunch Time in Albany: Domestic Workers’ Rights.” 11 June 2009

4. STRATEGY ADOPTED

The strategy adopted to achieve these goals was based on DWU's overall organizing model, which emphasizes worker leadership, cross-sector alliance-building, and a sustained presence in the media.

4.1 Worker leadership

In discussing the campaign with DWU staff and members, at least one essential sentiment remains clear: the campaign was fuelled by the engagement, drive, and perseverance of domestic workers themselves. Beyond producing the principal demands that were included in the original draft bill, domestic workers played key roles in all aspects of the campaign, from planning meetings, to strategizing, to building with allies and meeting with legislators.

Very early on in the campaign, DWU formed a campaign organizing committee composed of DWU members. Weekly campaign meetings would stretch on until late at night, as DWU members, staff and legal advisors devised the campaign strategy, defined whom to target, and planned events that would draw attention to the campaign.

Part of the success of this committee was its ability to integrate the campaign strategy into all aspects of the organization's annual work plan. The leadership development committee in particular integrated trainings into its annual work plan to better train members to take on leadership roles. Participants in the Nanny Training Course were encouraged to come to campaign meetings, events and trips to Albany; the leadership training courses taught campaign strategy, media spokesperson and public speaking skills to members; and media and art produced in the cultural and communications committee was used to liven up campaign rallies and press conferences and to raise awareness about domestic workers and the DW BoR. Having members in all of these committees ensured coherence and coordination across the organization, as part of a comprehensive approach to the campaign.

The leadership training showed its value when it came to making tough decisions about the campaign and content of the bill. The campaign committee was responsible for making technical and tactical decisions on the campaign, whereas more strategic decisions were brought to the general membership. For example, when in 2007 it became clear that the legislature would not pass a bill that included a living wage of \$14 per hour, the campaign committee designed a questionnaire to survey the membership at the monthly general meeting. The decision was also brought to the members of the broader NYC Domestic Worker Justice Coalition. Thanks to this approach, DWU ensured continued domestic worker support for the bill, even if when changes were made to the initial demands.

Worker leadership was also pivotal when it came time for DWU to build alliances and go to Albany to meet with legislators. It was through the stories of domestic workers, shared with any and all groups they came into contact with, that DWU developed a growing circle of support for the campaign. Members spoke in secondary school and university classrooms, at the meetings of other organizations, and at churches and synagogues. It was also the voices of domestic workers, their stories and direct experience in the workplace that first caused legislators to take pause and consider the issue. When a domestic worker imparts her personal experience of exploitation, it can be very moving. When hundreds of domestic workers echo her story, it becomes virtually impossible to deny the reality of the situation. Domestic workers going to Albany in droves had exactly this impact.

4.2 Alliances

While domestic workers remained at the centre of all of DWU's organizing, the organization knew at the outset that this would not be a battle won alone. Rather, it would take a broad front of cross-sectoral and cross-issue allies to build the power that would be necessary to convince legislators to pass the bill. Over the years, DWU reached out to faith-based groups, women's, students and activist organizations, unions, and even employers. The DW BoR Campaign therefore quickly took on a hub and spoke model that served to increase DWU's organizing capacity and build the overall power of the campaign.

With a core of DWU members at the head of the campaign committee, DWU invited a variety of social actors into the campaign planning, and eventually campaign meetings became open to any and all who wanted to help. By 2008, the campaign enjoyed the support of over 100 organizations in New York City. To build this broad base of support, DWU built connections with each group, providing both concrete opportunities to become involved and also the space to organize independently. Clergy organized 'domestic workers in the pulpits' on Sundays, inviting members of DWU to speak to their congregations about their stories and to rally support for the bill. Students organized talks in their classrooms and on their campuses. With each of these alliances, DWU's organizing capacity multiplied.

This independence in organizing was predicated on trust. This trust was built progressively, but largely rested upon a genuine show of solidarity between DWU and each of the other organizations. When the unions were mobilizing for the Employee Free Choice Act (EFCA), DWU members and allies hit the streets in the dead of winter to petition both for the bill and for EFCA. When FIERCE!, an organization of queer youth of colour, held its annual fundraisers, DWU members went to show their support for their allies in the fight for respect and recognition. And when farm workers were lobbying for a day of rest, DWU teamed up with them in Albany to show their support to legislators. There were countless examples where domestic workers connected their struggle to the campaigns of others, which quickly bred an atmosphere of trust. The independence allies had

in organizing as a result of this trust meant they could breathe new life into the campaign on a regular basis.

The campaign committee meetings then served for this coalition to coordinate strategies, for groups to connect and plan events together and also to prepare mass actions for which the entire alliance would mobilize. When DWU launched its postcard campaign, the alliance helped with the distribution of thousands of postcards for New Yorkers to sign to tell key legislators that they supported rights for domestic workers and demanding the passage of the bill. In 2007, DWU held a week of action that included a Town Hall and a march through downtown New York that each drew hundreds of people thanks to organizing efforts of the alliance. It was also thanks to these mobilizing efforts that DWU was able to make its many mass trips to Albany, where each time over 200 people woke up at 5 o'clock in the morning to make the 3 hour bus ride to the state capital to tell legislators they wanted a bill of rights for domestic workers in New York State.

Every single alliance that was formed gave the campaign much needed power; however, there were two specific alliances that were particularly strategic, and these were the alliances with employers and with unions.

Alliance with employers

Finding supportive employers and collaborating with them was a huge strength of the campaign. When DWU met with legislators, having employers present to give their perspective on the matter was absolutely key. Moreover, supportive employers played an important role in seizing media attention and bringing legitimacy to the campaign overall.

DWU was able to connect with employers thanks to a relationship it had built with Jews for Racial and Economic Justice (JFREJ) during the campaign for the city-bill. As DWU and JFREJ built the beginnings of a relationship during that campaign, they realized that they had similar politics and identified the unique connection they had as being membership organizations representing workers and employers respectively. Although JFREJ is not explicitly representative of employers, it has the unique characteristic of having members who were *progressive* employers who already supported labour and human rights. Because of this, JFREJ members who employed domestic workers started speaking at campaign events. Soon after, they began organizing other employers under the banner of the “Employers for Justice” campaign. These members then organized other employers still through “living room gatherings” where they would raise awareness about domestic worker rights and the pending legislation. Meanwhile, JFREJ integrated the DW BoR campaign into its cultural events. For example, for Purim, JFREJ brought hundreds of their members together and told the story of Purim from the point of view of domestic workers.

JFREJ’s contribution came to a head in 2009 though, when they organized a Jewish communal meeting that drew hundreds of people and about a dozen rabbis. The event attracted the attention of five legislators, including a

representative of New-York State Assembly Speaker Sheldon Silver²², who finally showed more support after this event. At a critical moment in the legislative session, JFREJ had mobilized just in time to help pass the bill in the Assembly.

Through this relationship-building with and awareness-raising among supportive employers, employers were able to self-identify as employers and recognize domestic work as real work. This process of self-reflection happened specifically through the trainings they received from domestic workers and the campaign legal team on the definition and conditions of the work. Having acquired this deeper understanding, and mostly drawing on their direct experience as employers, they were able to take a stand on behalf of domestic worker rights when legislators argued that employers would not support it.

Alliance with unions

In New York City, unions have significant institutional power that domestic workers still lack. And yet, there are over 200,000 domestic workers in New York City alone. It was clear to DWU from the start that they should have a strong alliance with unions, solidifying the labour movement as a whole. Unions therefore quickly became a crucial component of the campaign, mobilizing their members to visit with legislators, making solidarity speeches at rallies and press conferences, and overall showing their support for their working sisters.

Collaborating with unions required relationship-building at various levels. At the rank and file, DWU built a very strong link to the legal aid attorneys union at United Auto Workers (UAW). This was a natural alliance because the legal aid attorneys had represented domestic workers in numerous cases of abuse and exploitation, and therefore saw firsthand how domestic workers were suffering. DWU similarly had a strong relationship with SEIU Local 32BJ, also known as the doormen's union. Doormen and domestic workers working in the same building develop friendships and share their stories, giving doormen a real understanding of the problems that domestic workers face. When DWU first approached 32BJ, asking to use their meeting space for the "Having Your Say" Convention, 32BJ members were relieved to hear domestic workers were finally getting organized. From that point on, 32BJ members even conducted outreach for DWU, spreading the word about the "Having Your Say" Convention and the organization in their buildings.

32BJ's involvement also highlights the importance of creating opportunities for unions to do something beneficial that does not go against their interests. Union members, staff and leadership largely agreed that organizing domestic workers was a necessity; they just needed to know what they could do to help. Mobilizing to change policy is one area that unions could really help with. When union members spoke at DWU events, they brought with them the powerful history of the labour movement, throwing its weight behind the campaign and giving it additional legitimacy. This support was in fact historic and made domestic worker feel that they were the next frontier of the labour movement.

²² In the New York State legislature, the Speaker is the chosen leader of the Assembly.

As their investment in DWU's work grew, unions played an important role in mobilizing their members to DWU events in Albany. On occasion, unions would send an entire bus full of their members and staff, significantly increasing DWU's numbers. They also integrated the DW BoR into their own legislative agendas. A prime example of this was when TWU Local 100, the transit workers union, joined forces with DWU in Albany and over 1200 union members wore stickers that said "I Support the Domestic Worker Bill of Rights" during their legislative visits. With this kind of presence, it was impossible that legislators were unaware of the DW BoR.

Clinching union support was also almost entirely predicated on DWU's seriousness and ability to organize the workers. With a strong base and strong workers in the leadership, unions could see DWU as an integral part of the labour movement. But it was up to DWU to build that movement, do the organizing, and have the worker leadership for that to take place. By doing so, DWU won over the unions whole-heartedly. Even John Sweeney, President Emeritus of the AFL-CIO came to speak at DWU's Town Hall meeting in 2006, and again in Albany in 2008 to voice his support for domestic workers. Receiving support at that level meant the campaign was perhaps one of the most important US labour campaigns of the past few decades. This feeling had a profound impact on DWU members, who felt that they had at last arrived in the history of the labour movement.

4.3 Movement/coalition-building: Framing the Issue

Even though DWU's demands were very specific, applying to a single, marginalized sector, they framed their demands very broadly. This approach allowed them to make connections with a variety of sectors and interest groups, thus building a broad base of support and increasing their overall power and organizing capacity.

While the NYU immigrant rights clinic was preparing the draft legislation, DWU went to work at framing the campaign and developing key messaging to start educating potential allies, legislators, and the media and public at large of the importance of protecting the rights of domestic workers. Over the course of the six-year campaign, this message would shift according to the political landscape and the need to bring in new allies. However, as a rule, DWU kept its framework broad enough to leave room for unexpected allies to join the campaign. Rather than emphasize the demand for paid leave or health care, DWU made a call for dignity and respect. Using this approach, DWU explains that they used a few key messages that could capture the imaginations of a broad range of groups. "Respect the work that makes all other work possible," "Reverse the history of discrimination and exclusion," and more recently "dignity overdue" became the slogans that brought in allies from every intersection.

Of course, sometimes specific messaging was also necessary. This became evident as the campaign made its way into Albany and DWU came face to face with legislators. At the outset, legislators hardly knew how to define domestic work, and they frequently confused the issue with the much more commonly

known issue of domestic violence. DWU used this confusion as an opportunity to make connections between what legislators already knew about domestic violence to the situation of domestic workers. They pointed out that the workplace of domestic workers is a private home, a space in which women have been historically abused and silenced as in the case of domestic violence, and that this exploitation must be addressed.

Once legislators had a better grip on the issues faced by domestic workers, it came time to convince them that the issue must be legislated. It took careful listening on the part of DWU to gain an understanding of what type of messaging they would respond to. After many meetings with legislators, DWU decided to frame the DW BoR as a civil rights issue that is rooted in the history of slavery. With this framework, DWU was able to argue that these exclusions from the labour law were tantamount to the segregationist Jim Crow laws.²³ This framing struck a sensitive chord by conjuring up the history of domestic work in the US and the ubiquitous Civil Rights Movement that so deeply marked US history. These were the vestiges of slavery; it was shameful that these exclusionary policies still existed; and this bill was the opportunity for legislators to make history by changing these policies. The only way to eradicate such an archaic and racist policy, DWU argued, was to integrate labour rights for domestic workers into the law.

4.4 Media Power

A final critical strategic area was DWU's use of the media. From the passage of the city-wide bill in 2003 to the passage of the NYS bill in 2010, DWU built up its presence in the media through strategic media events, highlighting the voices of domestic workers, exposing abusive employers, and seizing every possible opportunity to inject an article or a sound bite about domestic workers into the media.

Perhaps one of the greatest handicaps at first was that there was a total lack of material on domestic workers for DWU to work with. There was very little public awareness of what domestic work was. So first and foremost, DWU had to raise interest in the media. But to do so, it needed empirical evidence and testimonies. Identifying these needs, DWU designed a media strategy that started with the publication of *Home is Where the Work is*, and then focused on bringing the voices of domestic workers directly into the news. To do this, DWU trained interested members in becoming media spokespersons. When members brought cases against their employers, they too were trained in speaking to the media. Other members still were trained by the Community News Production Institute to produce their own radio shows, a number of which were broadcast on public radio. This way, domestic workers remained the face and the voice of the

²³ The Jim Crow laws were state and local laws in the United States enacted between 1876 and 1965 that established a "separate but equal" status for black Americans and imposing racial segregation *de jure* in all public facilities.

movement. Moreover, their stories provided the ‘human interest’ piece that journalists so often seek out.

To capitalize on its resources, DWU integrated its campaign messaging into all of its media work, most notably in their Justice for Exploited Worker Campaigns. With each case that came to DWU, an opportunity arose to expose the injustices in the industry and to connect it to the DW BoR. In fact, it was through just such an article that DWU found a sponsor for the Bill in the Assembly. Bill Sponsor Assemblyman Keith Wright had read an article in the New York Times about one of the cases that DWU was working on. In the article, he read that the group was calling for a Domestic Worker Bill of Rights in New York State. Inspired by this story, Assemblyman Wright introduced his own bill protecting domestic worker rights. When DWU heard about this, a team of domestic workers, staff and legal advisors met with him in his Harlem offices and asked him to introduce the DWU Bill instead. With the promise that domestic workers were already behind the DWU Bill, Assemblyman Wright agreed to be its Assembly Sponsor.

The media also acted as a tactical tool for framing the issue. At times when legislators voiced concerns about specific issues they had with the Bill, DWU would respond both directly and also through enhanced strategic media campaigns. A prime example of this strategy can be seen in 2006 when Speaker Silver and other politicians argued that the DW BoR would provide “special treatment” for domestic workers and that instead they should just bargain collectively. As word of this concern got out, the media started citing the issue as well. DWU wasted little time in responding and found itself in a sustained discursive battle of sorts. Countering the “special treatment” argument, DWU members stated firmly that this bill would do just the opposite: rather than provide special treatment, this bill would reverse the ‘special treatment’ that domestic workers had been subjected to in the United States for centuries. When speaking with the media, DWU members would also reemphasize the reasons why they could not bargain collectively, pointing to the recently released industry report, the exclusion from labour laws, and the root causes for the specificities of the sector to substantiate their claims.

Although the Assembly continued to have concerns about providing special protections for domestic workers, a combination of this media campaign and continued cross-sectoral and cross-issue organizing worked well enough for the bill to gain overwhelming support in the Assembly.

5. CHALLENGES

Out of this detailed account of the Domestic Worker Bill of Rights Campaign, we can identify a handful of challenges that deeply marked the campaign. In essence, these challenges were: 1) bringing domestic work out of the shadows; 2) convincing the public, employers and legislators that domestic work is real work, and that employers are real employers; 3) convincing legislators on the necessity of legislating; that this was not special protections and that collective bargaining was not an option; 4) convincing legislators that the bill is financially sound; and 5) mobilizing enough support to build the necessary political capital to pass the bill. To address these challenges, DWU emphasized worker leadership, alliance-building, and media messaging.

5.1 Bringing domestic work out of the shadows

In the early days of the campaign, much time and energy was spent on explaining to the general public what domestic work was, who performed it, in what conditions, what the root causes of these conditions were, and why these conditions persisted. In confronting this challenge, DWU relied on its use of the media to bring the voices and faces of domestic workers into the public eye, effectively shining a spot light in the shadows of their workplace. Since there was virtually no awareness of domestic work beforehand, the path was clear at first for DWU to define domestic work and to draw an accurate picture of the lives and working conditions of domestic workers. But to convince the sceptics, the narrative accounts of domestic workers also needed the support of hard statistics. *Home is Where the Work is* provided just such empirical research, quantifying domestic work officially for the first time. DWU also produced a documentary film called *Labor of Love*, which gave life to these statistics and served as a crucial awareness-raising tool in DWU's alliance-building activities.

5.2 Convincing the public, employers and legislators that domestic work is real work and that employers are real employers

Once people had a sense of what domestic work was, the challenge became defining what peoples' relationship to it was. Did they employ domestic workers? If so, did they treat them fairly? What exactly did "fair" treatment look like? The first part of this battle was discursive in nature, and the approaches described in point one, namely using the media to fill the knowledge gap, applied here as well. Domestic workers aren't just "part of the family." Nor does housing alone qualify as payment for live-in domestic workers. And domestic work is not just a "side job", but can be a life-long occupation with an income on which domestic workers rely to support entire families. One at a time, DWU took on the preconceived notions that maintained that domestic work was not real work.

To sway legislators, DWU also had to rely on its support from employers. Thanks to the awareness-raising, DWU had done with employer members of JFREJ, employers had a fine understanding of the need to legislate this issue. This knowledge and sensitivity came of use in the early days of the campaign when certain legislators attempted to argue that employers, who they see as their constituents, would not support such a bill. However, DWU's employer allies from JFREJ were there to correct legislators: many employers wanted to provide fair working conditions for the domestic workers they hired, but needed guidelines in order to do so. And yet there were none. Having employers there to face off with initially unsupportive legislators won DWU additional co-sponsorships, without which this bill might not have passed.

5.3 The necessity of legislating: Convincing legislators that this was not special protection and that collective bargaining is not an option

While framing the need to legislate in terms of “banishing Jim Crow from labour law” succeeded in convincing legislators that an inclusion bill should be passed, legislators maintained reservations about bill provisions that they saw as providing “special protection” for domestic workers. Many legislators stalled in particular when it came to the right to paid leave and health care. They argued that if domestic workers wanted these rights, they should form a union and bargain collectively like everyone else. DWU met this challenge by clarifying that collective bargaining was not an option for domestic workers. Other than being barred from the right to organize, domestic workers are a classically difficult sector to organize, and even if they formed a union, there is no one to collectively bargain with.

Resting on the voices of domestic workers to provide the human story, and the industry report for empirical evidence, DWU was largely able to convince legislators that collective bargaining was not an option. But to fully convince them, DWU had to bring in a broad cross-section of allies. Trade union leaders were particularly important in driving the point home. When DWU faced off with legislators in Albany, it was trade union leaders who stepped in at key moments in the debate to confirm that collective bargaining was not an option for domestic workers. The voice of one union leader resonated in a meeting with Speaker Silver when he said that it was impossible for domestic workers to bargain collectively for basic rights because of the nature of the industry – legislation, he said, was necessary. Again, the right message coming from the source won the battle.

5.4 Convincing legislators that the bill is financially sound

Although the bill would not really cost the state anything, numerous legislators expressed concern around the ability of employers, namely their middle income constituents, to afford the rights provided in the new bill. To argue against this concern, DWU attempted to reframe the issue in terms of human rights, and pointed out the broader economic interest in bringing domestic workers into the formal economy. As long as wealth inequality exists, domestic work will exist, and as inequality grows, the workforce grows. In addition to being a sizeable workforce, domestic work cannot be outsourced. Further still, domestic work enables many other critical sectors like finance, law, health and education to go to work. Formalizing the labour should also theoretically mean that, over time, more domestic workers are working over the table, increasing the proportion of taxable income in the sector. Given how significant a piece of the economy domestic work is, it truly is in everyone's best interest to regulate and protect this workforce.

Ultimately, however, DWU had to concede on the living wage provision of \$14 per hour, one of the few campaign losses. Instead, DWU will have to place much focus on enforcing the minimum wage law through its organizing and know your rights trainings, as well as through a new and innovative partnership with the Department of Labour, described in more detail below in the section on Next Steps, that will leverage the continued support of alliance members to watch for and report on cases of exploitation.

5.5 Mobilizing enough support to build the necessary political capital to pass the bill

The fifth and final challenge was convincing legislators that passing the bill would also meet their own interests. Even when legislators supported the bill in theory, many of them remained concerned that voting for it would cost them a large expenditure of political capital without a good return. This was primarily because they did not view domestic workers as voters.

The most effective strategy against this was DWU's alliance-building. For example, since Speaker Silver was Jewish and represented the Lower East Side of New York City where many Jewish families lived, DWU and JFREJ organized many outreach days during which domestic workers and allies teamed up to go door to door asking Silver's constituents to sign postcards in support of the bill. In other cases where legislators enjoyed strong union support, union leaders could lobby them directly. And legislators who sat on the Women's Committee responded to the vast support DWU received among the women's movement. As such, the broad alliance meant that DWU had a tailor-made answer to almost every legislator who may have stood in its way.

6. CAMPAIGN ACHIEVEMENTS

6.1 Policy Change Achieved

At the time of this writing, a bill of rights for domestic workers has passed in the New York State Assembly. Although it is missing some key demands included in the initial bill, namely paid leave, notice and severance pay, it is nonetheless the first legislation in the United States to fully address the exclusion of domestic workers in labour law. For this reason, DWU refers to the assembly bill as an “inclusion” bill, as it effectively grants to domestic workers all the rights they were excluded from at the federal and state levels (see table 1).

Meanwhile, a more comprehensive version of the Domestic Worker Bill of Rights has advanced to the Senate Floor (table 1).

TABLE 1

Assembly “Inclusion” Bill	Senate Bill
<ul style="list-style-type: none"> ▪ Overtime pay after 40hrs/week ▪ A minimum of 1 day of rest/week ▪ Inclusion in New York State Human Rights Laws, including protection from discrimination ▪ Inclusion in New York Labour Relations Act, providing the right to collective bargaining ▪ Inclusion of part-time domestic workers in Disability laws, which would include any future family leave legislation ▪ Department of Labour study, to be released by December 2010, on the ability of domestic workers to gain basic benefits like sick days and vacation pay in the absence of laws mandating such rights and benefits 	<p>Everything in the Assembly Bill, plus:</p> <ul style="list-style-type: none"> ▪ 7 Paid sick days (4 for part-time workers) ▪ 6 Paid holidays ▪ 5 Paid vacation (3 for part-time workers) ▪ Notice of termination (14 days)

Currently, the Senate bill is on the Senate Floor and has 26 co-sponsors. An additional 6 would guarantee its passage. Once the bill is passed in the Senate, which is anticipated to happen by the end of May 2010, the Senate and the Assembly will negotiate their two bills to produce one final bill. New York State Governor Patterson will then have to sign the final bill into law. DWU does not anticipate any insurmountable challenges in these final stages due to the broad political support the bill currently benefits from.

In the last steps of the passage of the Senate bill, a number of oversights were identified and minor adjustments made. Most notably, the original bill did not define to whom the legislation applies. An adjustment was therefore made to say that it applied to all workers who work 20 hours a week or more. It also specifies that a full-time worker (40+ hours) would get seven sick days and five vacation days, while a worker employed between 20 and 39 hours for a given employer would receive four sick days and three vacation days. A fixed number of days was deemed more feasible than a complicated accrual system that might create greater friction between workers and employers. The bill also specifies that all workers employed 20+ hours would be entitled to these six paid holidays.

Moreover, DWU had to concede that it was demanding double overtime pay, rather than time and a half, which is the federal statute. In addition, it was clarified that workers would be entitled to overtime pay if required to work on a holiday or day off, regardless of how many hours they worked that week.

Finally, some changes were necessary regarding notice of termination, which is set at 14 days rather than 21 to match the existing labour code. In addition, DWU set a high bar for determining “just cause” of termination, so that a worker would have to be convicted of committing a crime (theft, property destruction, assault, abuse or neglect) in order to not be entitled to pay for lack of notice of termination. A final concession was to specify that workers would not be entitled to payment for unused sick leave or vacation upon termination of employment. Instead, DWU will encourage workers to take the unused leave during the two weeks notice that they are entitled to receive.

6.2 Cultural Change Achieved

Through the campaign strategy, DWU raised public awareness through media and alliance building, making important moves towards the cultural change that must accompany policy change. The ripple effects of their media and cross-sectional alliance-building strategies can be seen in the constantly increasing attendance of non domestic workers at their events, through the quantity of print, radio and TV media coverage that progressively increased over the years, through the outspoken support of legislators and employers, and finally through the recognition of domestic workers by cultural and political institutions.

Over the years, thousands of people have come into contact with DWU and gained consciousness of domestic worker issues through the campaign. From the “Having Your Say” convention in 2003 to the group trips to Albany in 2007, DWU built an alliance of over 150 supporting groups, organizations, associations and institutions of faith, students, unions, women, homeless, working poor, tenants, and even employers. By the time of the trips to Albany in 2009, DWU was able to bring over 300 workers and supporters in a single delegation to Albany.

As DWU and the campaign gained recognition through mobilization and media efforts, they began to attract the attention of labour and political ‘celebrities’ who, by throwing their weight behind the campaign, increased its social legitimacy

and drew the attention of their followers. Over the years, DWU benefited from the public support of labour leaders such as AFL-CIO president John Sweeney, and renowned feminists such as Barbara Ehrenreich, and Gloria Steinem, among others.

The cultural shift created by the campaign can also be measured by the steady increase of support from employers. After the first employers began sharing their experiences with domestic workers and voicing the need for sound legislation, more started to attend DWU marches and town halls. With them came their children, who often took the microphone to express their appreciation for the women who helped raise them. By 2008, there was enough support from employers and their children that DWU held a Children's Vigil that was organized in part by "Employers for Justice" members. This media event was a major milestone as it placed the voices of employers and their children demanding rights for domestic workers in newspapers and on radio shows.

Through successive meetings with legislators, DWU rapidly gained vast majority support among legislators in both the Assembly and the Senate, many of which are likely to remain political allies. As certain legislators deepened their commitment to passing the bill, an increasing pool of them spoke at press conferences, and in doing so adopted the language of rights and respect for domestic workers. The best example of this is when Governor Patterson himself went on National Public Radio and used the "reverse the legacy of slavery" framework that DWU had been pushing in the media for years.²⁴ The introduction of this discourse into the media coming specifically from political representatives gave legitimacy to the demands of domestic workers, and normalized the discourse so that your average New York Times reader began to see these demands as what they actually were from the beginning: reasonable.

Sustained media events and messaging also increased DWU's coverage in the media progressively over the years, including regular coverage by the New York Times and the National Public Radio, two of the nation's most accessed sources of news. Around 2000, domestic workers were rarely covered in the media. By 2009, DWU counted at the very least 12 newspaper articles published on domestic worker rights. Coverage also changed qualitatively; whereas in the early days the media wrote about domestic workers when they were accused of a crime, later media coverage wrote about domestic workers as a workforce who were denied their rights.

Perhaps most telling is the institutional recognition that DWU started receiving in the past few years. In 2008, the prestigious Barnard College's Center for Research on Women offered to host and help coordinate the first National Domestic Worker Congress, a conference that brought over 50 domestic workers together from across the country to devise a national strategy for the NDWA. Countless other universities have invited DWU members to speak to their classes about domestic work and labour rights. In January 2008, the Brooklyn Museum, one of

²⁴ The Brian Lehrer Show, WNYC: "Crunch Time in Albany: Domestic Workers' Rights." 11 June 2009

New York City's most prominent and popular museums, offered to screen a sneak preview of DWU's documentary film on the struggles and triumphs of domestic workers. Finally, in January 2010 the US Secretary of Labor Hilda Solis presented DWU with the Letelier-Moffitt Human Rights Award.

6.3 Next Steps

Enforcement

As the bill moved through the Senate and Assembly, questions were frequently raised about how such a policy would be enforced. As it stands, the bill proposes that workers whose rights have been violated can sue their employers in court for money owed and, in some cases, for punitive damages. The Commissioner of Labor and the Attorney General could also bring lawsuits on behalf of domestic workers. The Department of Labor (DoL) would also have wage and hour enforcement powers to protect the wages of domestic workers, and an interagency task force within the DoL would help domestic workers and employers perform the legally obligated actions when hiring a domestic worker. In addition, domestic workers would finally be included under the anti-discrimination law, which has its own enforcement mechanism.

Of some controversy however is the bill's provision that grants collective bargaining rights to domestic workers and directs the DoL to study the impact of collective bargaining on domestic work. As clearly illustrated in this paper, collective bargaining has never been a viable option for domestic workers in the United States because there is no employer's association with which to bargain. As such, the purpose of the study is to prove, once and for all, that collective bargaining would not be useful to domestic workers, highlighting the need to further legislate labour standards that would, in most other sectors, be awarded in collective bargaining agreements.

The proposed labour enforcement mechanisms are most likely the best that could be achieved given the current institutional framework. However, it is clear to DWU that the enforcement institutions will not suffice to protect the labour rights of domestic workers. The DoL would still have to take cases one at a time. To make their job more efficient, the DoL therefore takes cases that would send a message throughout the industry. However, domestic worker cases are rarely worth the resources it takes to see a case through.

To complement these shortcomings, DWU sees the bill's enforcement more broadly, and very much as an extension of the current campaign strategy. To DWU, the bill will be enforced through collaboration between the DoL and organizations and faith-based institutions that raise awareness about domestic worker rights. For the enforcement to be effective, domestic workers must be aware of these mechanisms, gain better access to them, and benefit from the social and emotional support they need to bring cases against their employers.

To meet these needs, DWU has planned a Know Your Rights peer education campaign that will bring campaign partners together with domestic workers to reach as many domestic workers as possible. DWU is also formalizing its work connecting domestic worker cases to pro-bono legal counsel from allied legal organizations by starting its own pro-bono law clinic where lawyers can provide DWU members with legal advice. To support workers through this lengthy and often stressful process, DWU has also established an unemployed workers support group and provides lunches and covers transportation costs for its active unemployed members.

Looking forward, DWU is aware that it will have to be creative about how to enforce the new labour standards because of how decentralized the industry will always be. Until there is an employer's association, collective bargaining will not be possible. However, there are neighbourhood parent's associations in New York City that, if better organized, could potentially act as a body for DWU to negotiate with.

Working at the National Level

When the DW BoR campaign was at its apex in 2007 and 2008, DWU started to think about how to export the campaign model to other states. It is also around this time that the National Domestic Worker Alliance (NDWA) took shape, an alliance that now counts 33 organizations from across the country. Almost at the outset, the NDWA agreed to support the DW BoR with the intention of drawing lessons from the campaign that could then be applied in other states. Already in 2009, domestic worker organizations in California launched a campaign for their own state-wide domestic worker bill of rights, drawing upon the DWU model.

At the same time, the NDWA has launched a campaign for regulatory reforms at the US DoL, demanding basic protections for domestic workers under US federal labour law. Specifically, the campaign is asking for reformed regulations in the DoL to: 1) Require employers to keep records of hours worked by live-in workers, 2) Ensure adequate room and board for live-in workers and set a maximum amount that can be deducted from pay, 3) Compensate live-in workers when they are asked to be responsible for their charge(s) during their sleep hours, and 4) Create a Domestic Work Bureau within the DoL.²⁵

²⁵ See www.nationaldomesticworkeralliance.org/campaigns/us-dept-of-labor-reforms Accessed on April 7, 2010.

CONCLUSION

Undoubtedly, campaigns for fair labour standards for domestic workers must be developed from the specific social, political and economic conditions of each country. There are however certain characteristics of the domestic work industry that are common across the world: they are predominantly women, are not seen as real workers, are difficult to organize, work in isolated conditions, and can rarely bargain collectively. For all the above reasons, the ILO Law and Practice report concludes that:

domestic workers' conditions do not improve unless there is concerted action to improve the legislative framework – and that is a sobering insight [...] Studies confirm that well-crafted regulatory mechanisms with a suitable enforcement machinery make an important difference in the everyday lives of domestic workers – and they convey the message that domestic workers are indeed workers who deserve both rights and respect.²⁶

DWU's BoR campaign was an initiative to establish just such political and cultural change, and has proved that fair labour policies for domestic workers is possible. As such the bill should provide a clear example to the International Labour Conference that it is possible to legislate domestic worker rights.

The passage of this bill provides lessons that other domestic worker organizations can draw on. These lessons are, in sum, to make industry-specific demands, but to embed them in broad messaging that has the ability to hook the support of a broad section of allies. If given the space and the trust, these allies will exponentially build the power of the campaign and breathe life into it by providing a multitude of unique takes on the issue.

Relationships should particularly be built with unions and employers. When it comes to employers, even in contexts where there is virtually no support, a handful of supportive voices from the perceived opposition can influence doubtful legislators of the need for such legislation. Meanwhile, unions seem to be natural allies, and bring with them their large numbers and long history of organizing. In contexts where relationship building with a union is difficult at best, building interpersonal solidarity at the rank and file can provide a quiet entry point to work up the ladder to win the support of the leadership.

In any and all cases, domestic workers themselves who receive training in campaign organizing must lead in all aspects of the campaign, with the guidance of all necessary political and legal advisors. Without the workers, their leadership and drive, there is of course simply no campaign. As the invisibility of the workforce is the first challenge, raising the voices of domestic workers, placing their stories and faces in the media, is the quickest and most effective way to make a point to the rest of society that these women not only exist, but they are there by the hundreds of thousands.

²⁶International Labour Office. Report IV (1): Decent work for domestic workers. International Labour Conference, 99th Session, 2010.: pt 325.

Information:

Bureau for Workers' Activities
International Labour Office
4, route des Morillons
CH-1211 Geneva 22
Switzerland

Tel.: +41 22 799-7448

Fax: +41 22 799-6570

researchnet@ilo.org

www.gurn.info