



# DOMESTIC WORKERS BILL OF RIGHTS: PROVIDING A SET OF NECESSARY PROTECTIONS

## DOMESTIC WORKERS ARE VULNERABLE.

- Most workers are protected by federal law when they organize for better working conditions, but because domestic workers are specifically excluded from the National Labor Relations Act, we can be fired just for *asking* for a raise or time off.
- The lack of legal protection creates steep barriers to negotiation for a domestic worker, who may be afraid to negotiate the terms of her employment, for fear she will be fired without warning.
- Domestic workers are extremely vulnerable to abuse, mistreatment, and labor violations because we usually work alone, behind closed doors and out of the public eye.

## THE BILL OF RIGHTS PROVIDES PROTECTIONS.

The Bill of Rights would provide domestic workers with:

✓ **overtime pay**

✓ **one day off a week**

- Unlike other New York workers, domestic workers have no right to a day off, and live-in domestic workers do not have full overtime protections.

"I lived with the family and worked Monday to Sunday, seven days a week. . . . I worked more than a hundred hours a week, with no days off. Sometimes my employer allowed me some time off to see friends in the city, but that was only a few times each year."

– Wilma

✓ **advance notice of termination**

✓ **severance pay**

- Notice and severance pay will allow a domestic worker to speak to her employer about things like raises, days off, and other concerns, because she will have the reassurance that the law will protect her from being fired on the spot. These provisions give domestic workers the security they need to seek the enforcement of their rights.
- A live-in worker who is fired faces the sudden and simultaneous loss of her job and her home.

"Two and a half years later, my employer . . . [told] me that I no longer had work. . . . I asked her for permission to stay in the house that night so I could go out and find another place to live – I could not even sleep thinking about where I would go next. No one knows what I went through that night."

– Maria

✓ **annual cost of living increase**

- The power dynamic between a domestic worker and her employer often prevent workers from requesting even minimal cost of living increases.

"When the amount of money that my employer owed me accumulated, she started to humiliate me."

–Lou.

## **BILL OF RIGHTS PROTECTIONS** (CONTINUED.)

### ✓ **health care**

### ✓ **paid sick days**

- Access to healthcare gives workers in abusive situations an opportunity to get the help they need.
- If a domestic worker falls ill, she often must work through her illness, or be denied pay during her recovery. She is often unable to make a doctor appointment during work hours.
- Despite caring for children when they are sick, many domestic workers lack even minimum health coverage for themselves.

“[My employer] called me two days after my surgery and demanded . . . that I come back to work right away. I went back to work 4 days after my surgery with stitches in my right breast and a bandage over my chest. . . . I had appointments every six months to see the endocrinologist . . . [They] would always make it hard for me to keep these appointments.”

– Carolyn

### ✓ **paid holidays, personal days, and vacation days**

- Domestic work can be particularly physically and emotionally draining.
- Long hours mean some domestic workers rarely see their own children and families.
- Personal days, holidays and vacation days provide much needed time for self-care and family care, allowing domestic workers to return to work recharged and better able to take care of others.

“I worked all day and into the night. Most nights I would get three to four hours of sleep. I was never given holidays because Mr. and Mrs. “Connor” said I was not an American so the holidays were not for me.”

– Carolyn



# DOMESTIC WORKERS BILL OF RIGHTS: OVERVIEW OF PROVISIONS

## **Pay**

### *Overtime pay*

- Overtime pay of time-and-a-half of the worker's regular rate of pay for every hour over 40 hours worked in a week.

### *Annual cost of living adjustment*

- Domestic worker's salary must be annually adjusted by the amount of the increase in the Consumer Price Index, which measures inflation (averages about 3 to 4% a year).

## **Time Off**

### *One day of rest per week*

### *Paid time off for sick days, vacation, and holidays*

- 5 sick days per year, 5 personal days per year.
- Vacation ranges from 2 to 5 weeks, depending on the number of years working for the family.
- Holidays, including New Year's Day, MLK Jr. Day, President's Day, Memorial Day, Independence Day, Thanksgiving, Labor Day, Christmas Day, and one additional holiday of the worker's choosing.
- If the worker chooses to work on a holiday, she earns time-and-a-half (or double if it puts her over 40 hours worked in the week).

## **Termination Standards**

### *Advance notice of termination*

- 21 days' notice requirement.

### *Severance pay*

- One week's pay for each year she has worked for the employer.

## **Protection from Discrimination**

Domestic workers will be included in New York's employment discrimination law.

## **Health Care**

Employers must provide domestic worker employees with either: (1) health benefits substantially equivalent to those provided by the Healthy New York plan, OR (2) an amount no less than the lowest cost of a Healthy New York plan.

## **Enforcement**

Workers whose rights have been violated may sue their employers in court in order to collect the money they are owed, and in some cases, extra money as punishment against the employer (punitive damages). The Commissioner of Labor and the Attorney General may also bring lawsuits on behalf of domestic workers.

## **Application**

The domestic workers bill of rights only applies to the MTA region, which includes New York City and Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester counties.



# DOMESTIC WORKERS UNDER LABOR LAW

It's time to end the legacy of exclusion.

## **Today's labor laws give domestic workers less protection than other workers, or no protection at all.**

Historically, domestic workers were completely excluded from the protection of federal and state labor laws. Today, many of these exclusions continue. The Domestic Workers Bill of Rights would grant domestic workers equal protections under New York law and reverse a legacy of exclusion from the legal rights other workers rely on.

### **The following federal laws exclude domestic workers from their protections:**

- ⇒ National Labor Relations Act (NLRA): Guarantees employees the right to organize. Domestic workers are excluded from the definition of “employee” and therefore unable to organize for better working conditions or form labor unions.
- ⇒ Fair Labor Standards Act (FLSA): Sets a federal minimum wage rate, maximum hours, and overtime for employees of certain occupations. “Casual” employees such as babysitters and “companions” for the sick or elderly are excluded. Live-in domestic workers cannot get overtime.
- ⇒ Occupational Safety and Health Act (OSHA): Aims to assure “every working man and woman in the Nation safe and healthful working conditions.” Yet, domestic workers are excluded “[a]s a matter of policy” by OSHA regulations.
- ⇒ Civil Rights Laws: Domestic workers are *not* protected against discrimination based on race, color, religion, sex, national origin, disability, or age.
  - Title VII: Bars employment discrimination on the basis of “race, color, religion, sex, or national origin,” but 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.
  - Americans with Disabilities Act (ADA): Protects individuals with disabilities from employment discrimination, but applies only to employers with 15 or more employees.
  - Age Discrimination in Employment Act (ADEA): Protects individuals 40 years of age or older from age-based employment discrimination, but applies only to employers with 20 or more employees.

### **New York State Labor Law excludes domestic workers in the following way:**

- ⇒ The overtime provisions of the New York State Labor Law do not apply equally to domestic workers. While domestic workers who do not live in their employer’s home 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.



# **DOMESTIC WORKERS BILL OF RIGHTS: PROTECTING A WORKFORCE IN CRISIS**

**Domestic workers are the bedrock of a functioning society, yet they are a workforce in crisis.**

The Domestic Workers Bill of Rights takes on a new urgency in the wake of the current financial crisis. Among New York's least protected workers, domestic workers are among the first and hardest hit by any economic downturn. In these times, domestic workers are even more vulnerable to abuse and exploitation. Now more than ever, New York must act to protect the basic rights and human dignity of domestic workers!

**Domestic workers call on the New York legislature to pass the Bill of Rights and . . .**

## **1. End the Epidemic of Workplace Abuse**

Working behind closed doors, in their employers' homes, domestic workers are uniquely vulnerable to abuse. Without the legal protections guaranteed to other workers, domestic workers routinely endure verbal abuse, dehumanizing treatment, and exploitation. In the worst cases, this lawless industry results in situations where domestic workers are physically abused or sexually assaulted, forced to sleep in quarters unfit for human habitation, and stripped of their privacy and dignity. The extreme vulnerability of domestic workers has led to a physical and mental health crisis. New York must take action to end this crisis now!

## **2. Give Caregivers the Ability to Care for Themselves**

Nannies and caregivers work long hours to ensure the health and safety of the children, disabled relatives, and elderly parents of New Yorkers. Yet these workers can't afford to look after their own health and the health of their families. The vast majority receive no health benefits from their employers, and with no legal entitlement to paid sick days, many workers cannot take time off to deal with illness or medical emergencies. Some are denied sick leave entirely – paid or unpaid. For others, losing even a day or two of pay to see a doctor may mean not being able to afford both food and rent for that month.

## **3. Standardize an Industry that Leaves Too Much to Chance**

Without established and enforceable standards, both workers and employers are left to make them up. In the worst cases, this means employers can do what they please – withholding pay, renegeing on promises, restricting a worker's basic freedom of movement. In the best cases, well-meaning employers simply don't have the information to guide them in setting terms of employment, and they may never draw up a formal contract or clearly establish the rights and obligations each party owes to the other. As a result, domestic workers never know what to expect from their employers, and the treatment they receive is largely a matter of luck. This lawless existence leaves too much to chance. Domestic workers must be able to rely on basic standards that they can expect from each and every employer.



# DOMESTIC WORKERS JUSTICE COALITION

Organizing for power, respect, and fair labor standards

## WHO IS THE DOMESTIC WORKERS JUSTICE COALITION?

The Domestic Workers Justice Coalition is comprised of groups that organize with domestic workers across New York including Andolan Organizing South Asian Workers, Damayan Migrant Workers Association, Domestic Workers United, Haitian Women for Haitian Refugees and Unity housecleaners. Together, we represent over 10,000 domestic workers from around the world who are currently residents of the State of New York. The coalition evolved from collaborations between CAAAV Organizing Asian Communities and Andolan that led to the formation of Domestic Workers United and resulted in the passage of New York City legislation protecting domestic workers placed by employment agencies.

## WHY WE ORGANIZE: DOMESTIC WORK IN NEW YORK STATE

- ⇒ Over **200,000 women** work as nannies, companions and housekeepers in New York State.
- ⇒ Domestic workers care for the most important elements of New Yorkers' lives: their **families and homes**. Yet, their work is devalued and they are often treated as less than human. Without the labor of domestic workers, many employers could not participate in the workforce, from Wall Street to hospitals.
- ⇒ Domestic workers work long hours, often upwards of 10 hours per day and sometimes as much as **16 hours per day**. The vast majority receive no overtime pay, health insurance, or regular vacations. Many are fired without notice or severance after years of service, without recourse.
- ⇒ Currently, there is **no safety net** for domestic workers. If a domestic worker should suddenly fall ill or suffer injury, the vast majority will not qualify for existing social safety nets such as unemployment or disability benefits.
- ⇒ Domestic workers are **excluded from labor laws** that protect other workers, including protection from discrimination and the right to bargain collectively.
- ⇒ The protections that do exist for domestic workers in state laws **are often not enforced**. Employers violate the law knowing that there is little risk of being caught.
- ⇒ Domestic workers are **isolated** working inside individual homes, so it is difficult for them to organize collectively to improve working conditions, as is possible in most other industries. In addition, the law does not protect their right to organize.



# DOMESTIC WORKERS UNITED

We have a dream that one day,  
all work will be valued equally

## OUR ACHIEVEMENTS

- ⇒ **AWARDS in 2008:** North Star Fund Frederick Douglass Award, Black and Hispanic Legislators Association Black History Month Labor Award, New York Jobs with Justice Workers Rights Board Award.
- ⇒ In April and May of 2008 we organized two **Albany Days of Action**, bringing over 500 domestic workers and supporters including AFL-CIO president John Sweeney to meet with legislators, march and rally for respect, recognition and fair labor standards. The events yielded more than 60 Assembly co-sponsors for A628B, The Domestic Workers Bill of Rights (now A01470)
- ⇒ In June 2008 we hosted the first **National Domestic Workers Congress** including domestic workers representing 18 organizations in 10 cities across the country. The Congress participants and over 500 supporters marched to demand the passage of the NY Domestic Workers Bill of Rights, which would set a national precedent for labor standards for domestic workers at the state level.
- ⇒ **AWARDS in 2007:** Ms. Foundation Woman of Vision Award, Ernest de Maio Award from the Labor Research Association, Data Center 30<sup>th</sup> Anniversary Award, Mayor's Office of Immigrant Affairs Immigrant Achievement Award, Southwest Workers Union Movement Building Award.
- ⇒ In June of 2007, we organized a **week of action including a Town Hall meeting** attended by John Sweeney and the Commissioner of Labor Patricia Smith and over 300 supporters on the Bill of Rights. Later that week, a march down Broadway to City Hall brought out over 500 workers and supporters.
- ⇒ Also in June 2007, we helped form the **National Domestic Workers Alliance** at the historic US Social Forum in Atlanta, GA with 13 domestic workers organizations in 5 cities across the country.
- ⇒ In 2003, we led the way to **passage of Local Law 33 and Resolution 135** in the New York City Council. The law requires employment agencies to inform domestic workers of their legal rights and families that hire domestic workers through agencies to sign a statement acknowledging the employee's rights.
- ⇒ DWU runs the "**Nanny Training Course**," where domestic workers can build their child care skills. Over 400 nannies have graduated from this course.