

**Commission on Social Action of Reform Judaism
Religious Action Center of Reform Judaism**

Ethical Practices in Employing Domestic Workers

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I. Domestic Work in America

A. Introduction to the Domestic Work Industry

Domestic workers are indispensable to the American economy. America’s families – including members of Reform congregations – depend on services provided by cleaning personnel, nannies, yard workers, and elder care workers. Domestic workers are common in American society. Yet, there are few laws governing their treatment and limited resources to assist families wrestling with the ethical issues that frequently arise around the employment of these workers. Jewish tradition and values can provide that ethical foundation and guidance for our congregants.

The population of domestic workers employed throughout the country is unknown because it is difficult to survey workers in the informal labor sector. It is also hard to categorize domestic workers because the term “domestic worker” does not have a static definition. A domestic worker may or may not live in your home, may or may not be employed seasonally, and may perform any number of tasks not limited to helping with childcare, cooking, cleaning, and landscaping. Fluidity of roles and responsibilities is one reason that there is little written precedent regarding how to treat someone you hire in

your home. Additionally, the domestic worker population of America has increased as a direct result of two career families and the need to hire help to fill the domestic roles that were previously filled by family members. The modern domestic worker industry has grown in the late 20th century because of transnational migration of labor and capital and developments in international immigration policy and globalization.

Jews for Racial and Economic Justice (JFREJ), an organization studying domestic workers in New York, estimates that there are 200,000 undocumented domestic workers in New York City alone.¹ The majority of domestic workers in New York State are immigrant women of color who have come to the United States looking for better economic opportunities or seeking political asylum.² Domestic workers may come from an array of countries including Mexico, Thailand, the Caribbean, Philippines, Bangladesh, and Haiti. Additionally, JFREJ approximates that 77% of people who employ domestic workers are Caucasian and 78% are American born, which is to say that domestic work remains an industry visibly marked by race and class. Historically, women of color have done domestic work. Until the Civil Rights movement, domestic workers were predominately African-American women because other occupational channels were closed, whereas household work was considered unskilled and was therefore available.

Domestic workers are part of a dangerous and unregulated industry that is rapidly growing; while some agencies provide health benefits and contracts, other agencies arrange placement for women without regard for their needs or requests. Immigrant workers are particularly at risk, without ample education for them to establish themselves once they arrive in America. Some agencies have withheld wages from workers, banned writing letters home, and confiscated worker's passports. Domestic workers receive no formal education as to where to go if abused or what is considered to be a reasonable work day, and are thus at the mercy of the information and freedom provided by their employer.

The challenges facing domestic workers have implications that affect more people than the individual worker. Domestic workers are often the primary wage earners for their family. Many domestic workers earn less than minimum wage and health expenses often go unpaid since employers rarely provide medical benefits. This places a burden on the entire community, requiring the healthcare infrastructure to absorb the cost of emergency care and putting others at risk when communicable illnesses go untreated.

Another challenge facing domestic workers is that the nature of the industry makes it difficult for them to earn a steady salary. Domestic workers may lose income when the employer takes a vacation or during school holidays when childcare may not be needed. For domestic workers, who may earn as little as \$2.00 an hour or \$250.00 a month, this is a drastic loss.³ Such workers are not required to receive prior notice of termination,

¹ Domestic Workers United and Domestic Workers United Data Center. "Home Is Where the Work Is: Inside New York's Domestic Work Industry." 2006. www.domesticworkersunited.org.

² Ibid. page 1.

³ Alexious, Alice Sparberg. "Who Cleans Your House?" *Lilith Magazine*. Summer 2006, page 12.

leaving the individual and their family without income for what could be an extended period.

The informal structure of the domestic workplace lends itself to more flexible hiring practices. The home often conceals the idea of the domestic worker as an employee, and instead, casts the domestic worker as an extended family member. As a result, domestic workers are usually hired with a verbal contract and without the typical employee protections or guidelines for conduct on the job. In extreme cases, domestic workers have been fired for eating on the job or eating the employer's food, talking on the phone, and using the restroom. Without specification in a contract, domestic workers may have money taken out of their already low paycheck if something breaks or malfunctions while on the job (i.e. a vacuum stops working or a picture frame is broken). Various occupational hazards go unnoted in verbal contracts, including exposure to toxic cleaning materials and common repetitive stress injuries due to such tasks as cleaning, ironing, and picking up objects.⁴ Furthermore, it is difficult for domestic workers to organize and collectively bargain because most domestic workers operate in relative isolation and no public workspace (such as a break room or common area) exists for interaction, shared dialogue, or communication about standards of pay or abusive conditions in the workplace.

Egregious working conditions, violations of human rights and vulnerability of domestic workers have led some countries to implement policies to educate domestic workers about the precarious conditions of working abroad. For example, the Philippines now has a mandatory orientation program for domestic workers before they leave the country that explains the rights of domestic workers and possible health risks. Countries in South Asia have given their consulates the power to supervise private employers in other countries and to be more active in the protection of domestic workers.⁵ In the past thirty years, United Domestic Workers (UDW) of America, one of the only unions dedicated to organizing domestic workers in California, has made progress in collectively bargaining for domestic workers rights. The union is now part of the American Federation of Service, County, and Municipal Employees (AFSCME). While the work of UDW has initiated a powerful dialogue about the rights of domestic workers, communities of faith and individual employers can do more to make sure that the home is a place of fairness and dignity.

B. Current Federal and State Policy

Domestic workers that live in the home of their employers are not covered by the National Labor Relations Act (NLRA) or Occupational Safety and Health Administration (OSHA) regulations and often are exempt from overtime pay. The Fair Labor Standards Act applies to domestic workers, but not temporary employees such as day laborers,

⁴ Domestic Workers United and Domestic Workers United Data Center. "Home Is Where the Work Is: Inside New York's Domestic Work Industry." 2006. www.domesticworkersunited.org, page 2.

⁵ UNFPA (United Nations Population Fund) State of World Population 2006. "Moving Young: Domestic Workers, Far From Home." http://www.unfpa.org/swp/2006/moving_young/eng/stories/stories. December 20, 2006.

baby-sitters, and gardeners. While federal legislation regulating the domestic work industry is scant, some progress has been made on the municipal and state level in varying forms. The Domestic Workers Bill of Rights campaign (see below) stipulates that agencies should be required to give domestic workers information on minimum wage and overtime pay as well as social security, disability and unemployment insurance. The worker should obtain information about working conditions and sign a mutual contract between the employer and domestic worker before work begins, agreeing on the terms of work including living arrangements and work hours.

C. Policy Issues

The Domestic Workers Bill of Rights campaign, led by Domestic Workers United, mandates that employers of full-time, live-in domestic workers should ensure the worker an adequate living wage with health insurance, sick and personal days, family leave for emergencies, paid holidays, and overtime compensation. A domestic worker living in the home should be afforded safe and healthy living quarters. Domestic workers should also receive notification of termination including severance pay. Various campaigns to promulgate Domestic Workers Bill of Rights have been successful, with passage in Nassau County, New York and New York City. Currently, there is an active campaign for a Domestic Workers Bill of Rights (as of February 2007) in Montgomery County, Maryland.

United Domestic Workers of America (UDW), American Federation of Service, County, and Municipal Employees (AFSCME) and Service Employees International Union (SEIU) are organizing for the rights of domestic workers in the states. In California, UDW successfully won health insurance for 3,000 home care workers in San Diego County while also stopping a proposal that would have reduced government subsidies to individuals that used family child-care. In Iowa, 6,000 child-care workers won the right to bargain collectively when Governor Tom Vilsack signed an executive order. In Michigan, child-care providers finally were able to establish a union after a two year organizing campaign that culminated with 40,000 workers forming Child Care Providers Together Michigan. Oregon, Wisconsin, New Mexico, New York, Ohio, Pennsylvania and Minnesota are some of the states where grassroots groups are serving as catalyst to formalize domestic work by securing bargaining rights and fighting for benefits.

Domestic Worker advocates, particularly AFSCME, Domestic Workers United, and SEIU have made the following federal policy recommendations to improve the status of full-time domestic workers to regulate the industry: provide legal protections for domestic workers, set an hourly living wage rate for domestic workers, employer-provided health benefits and health protections on the job, extend the National Labor Relations Act to domestic workers, and increase penalties for those found guilty of human trafficking (see below).

D. Advocacy Recommendations

The following recommendations have been put forth, and supported by, UDW:

Provide Legal Protections for Domestic Workers: Currently, Title VII, which prohibits discrimination based on race, color, religion, sex, or national origin, does not apply to employers with 15 or less employees. Therefore, Title VII does not apply to domestic workers, leaving the workers particularly vulnerable to severance without explanation. This is a gap that should be addressed legislatively.

Pay Domestic Workers a Living Wage: In 1974, the Fair Labor Standards Act was expanded to include most domestic workers. The Act, however, still excludes a class of workers known as “casual” workers. That category applies to babysitters and companion workers, such as those who live in an elderly person’s home. Domestic workers who live in their employer’s home are also not guaranteed overtime pay under the FLSA. It is left to the employer to set the wage and determine what is considered overtime, leaving the employee at the mercy of employers who may take advantage of their labor throughout the weekdays, evenings and weekends. An ethical employer should recognize the cost of living in their locality and set a wage that allows their in-home help to live a self-sufficient lifestyle.

Health Benefits: Domestic workers, who care for the families of others, should be able to provide for the health of their own families as well. Employers should be encouraged to provide health insurance and paid sick days. Alternatively, employers might consider an increased salary to help domestic workers pay for their health care. The Family and Medical Leave Act should be expanded to include domestic workers.

Health Protection on the Job: The Occupational Safety and Health Act (OSHA) of 1970 does not cover domestic workers as a class. However, janitors and hotel workers, who perform similar work outside the home, are covered by OSHA. OSHA should be expanded to include domestic workers. Until then, employers should make sure their own practices comply with the standards set by OSHA, outlined here at: <http://ehso.com/oshaoverview.php#who>.

Employment Benefits Covered by the National Labor Relations Act: Domestic workers deserve to receive the same benefits that are common in other industries, such as paid vacation and holidays, sick and personal days, and severance pay. A domestic worker should receive two weeks vacation as well as predetermined time off throughout the week. More information about the NLRA is available on the National Labor Relations Board website: http://www.nlr.gov/nlr/shared_files/brochures/basicguide.pdf.

Human Trafficking: Many women are trafficked against their will to serve as domestic workers in American homes. The conditions of those who face being trafficked can be improved by increasing international trafficking laws and enforcing stronger criminal penalties for those who violate the Trafficking Victims Protection Act of 2000. The Trafficking Victims Protection Act of 2000 is the first U.S. law that broadens the

definition of servitude to include verbal and psychological coercion. Though the Trafficking Act fails to enhance the legal protection for domestic workers, it does classify the trafficking of people and forcing people to work as criminal acts.

II. Jewish Ethics and Domestic Work

A. Jewish Text and Values

Jewish texts reveal a religious commitment to workers' rights. The Torah, Talmud and various other commentaries discuss ethical labor practices including minimum wage, just working conditions, and a safe workplace. Moreover, this commitment to justice is resonates for our community, given our history of forced servitude and affliction. As Deuteronomy states: "You shall not abuse a needy and destitute laborer," which is a dictum we should take literally and to heart.

"One who withholds an employee's wages is as though he deprived him of his life." Bava M'tzia 112a

"You shall not abuse a needy and destitute laborer, whether a fellow Israelite or a stranger in one of the communities of your land. You must pay out the wages due on the same day, before the sun sets, for the worker is needy and urgently depends on it; else a cry to the Eternal will be issued against you and you will incur guilt." Deuteronomy 24:14–15

"You shall not rule over him [your worker] ruthlessly." Leviticus 25:53

"I raised your wages in order that you would begin early and stay late." They [the workers] may reply, "You raised our wages in order that we would do better work" Bava M'tzia 83a

B. Reform Movement Policy

The Union for Reform Judaism and its affiliates have adopted resolutions that demand ethical treatment of workers and encourage individual responsibility in matters of business ethics. Some of those resolutions are referenced below and all Union resolutions are available at www.urj.org/docs/reso.

RESOLUTION ON WORKERS' RIGHTS IN THE UNITED STATES

Adopted – Houston, November 2005

http://urj.org/Articles/index.cfm?id=8996&pge_prg_id=34230&pge_id=1625

The Union for Reform Judaism's Worker's Rights resolution resolves to support the right of workers to organize and calls upon employers to treat their workers with dignity, pay them a living wage and provide a healthy, safe, and secure workplace. The resolution dictates the Union for Reform Judaism's support of the right to organize and collective

bargaining for employees, the state's need to address specific labor issues, as well as the US government's need to enforce OSHA and increase penalties for its violations.

LIVING WAGE CAMPAIGNS RESOLUTION

Adopted- Orlando, Florida December 1999

http://urj.org/Articles/index.cfm?id=7201&pge_prg_id=29601&pge_id=4590

The Union for Reform Judaism resolved to support living wage ordinances and support bills to increase wages as well as call upon congregations to examine their employment and contract practices. The resolution also calls upon communities to support a living wage and to advocate for non-profits to support a living wage without curtailing their services. Furthermore, the resolution encourages congregations across North America to become involved in living wage campaigns in their local communities.

WOMEN OF REFORM JUDAISM RESOLUTION ON WORKER JUSTICE

<http://www.womenofreformjudaism.org/programming/resolutions-statements/worker-justice/>

The Women of Reform Judaism resolved that Judaism requires that workers be fairly compensated with “adequate wages, benefits, and protections,” and that this applies to our neighbors and strangers amongst us. Therefore, the WRJ called upon its affiliates to seek a living wage, health care, and other benefits for workers, to educate members about treatment of those who work in homes and to further educate about how service providers, production workers and migrant farm workers are treated, and to prevent the retraction of ethical labor practices and standards.

III. Programming Ideas

A. Holiday Resources

Labor Day:

Labor Day is an ideal time for a congregations, affiliates or individuals to consider the rights of workers, and particularly think about the unique challenges facing domestic workers. Consider the following possibilities:

- Have a special Shabbat sermon or guest speaker to educate the community issues facing domestic workers.
- Honor domestic workers during Shabbat services, or the support staff of the congregation, whose work is too often unacknowledged.
- For families at the beginning of the school year, Labor Day is an opportune time to consider the relationship of the family to child care workers and other domestic help in the home. Make a family project out of creating a fair contract and then celebrate the moment of joint signing.

For additional ideas, see the Labor on the Bima resource guide at:

<http://rac.org/pubs/guidemanuals/laboronthebimah/>.

Passover:

The issue of domestic worker abuse has a direct connection to many Jewish holidays. As Jews, we can empathize with those that are being poorly treated by harsh taskmasters. It is vital that we continue to remember when we were slaves in Egypt and also work for the day when all people are working in safe and healthy environments, making a living wage, and receiving adequate benefits. The following special Passover resources may be helpful:

- Jews for Racial and Economic Justice provides a supplement for the Passover Haggadah including extra readings and prayers discussing slavery and labor, available on line at: <http://www.jfrej.org/documents/Haggadah.pdf>
- The Commission on Social Action's Passover Guide provides additions to your Haggadah and other resources: <http://rac.org/pubs/holidayguides/passover2/sedertable/>
- Jewish Social Justice Network's Passover Social Justice Resources: http://www.jujstl.org/1157_PassoverGuide_c.pdf.

B. Labor Practices and Ethical Decision Educational programs

Sisterhood Speaker panel:

The Sisterhood at Washington Hebrew Congregation, Washington D.C, held a program about ethical treatment of domestic workers. Due to its great success they have held three additional educational forums on various topics. The pilot program was at the home of a Sisterhood member, where Rabbi Susan Shankman led a discussion about our Jewish obligation to make sure we treat workers in our home ethically and to raise awareness about the plight of domestic workers throughout the country. All of the women in attendance had read an article about domestic workers in Lilith Magazine entitled "Who Cleans Your House" and had extra copies on hand for reference and discussion. There were approximately 25 women in attendance and the program was very well received. Similar programs could be done during a Sisterhood or Brotherhood brunch, or other educational opportunities of the congregation.

Educational Forum for Families:

There are many effective ways to create dialogue and educate temple members about these issues. Consider holding a forum for parents during a Sunday morning when children are in class. Many young families engage domestic help in their homes and may be first-time employers with little experience in the issues that can arise. They may have *au pairs* or nannies living with them for the first time, or need to hire elder care services for aging parents. A forum to share information and discuss ethical practices as well as practical issues would provide an important service to this cohort within our congregations. Ideas for panelists or speakers could include domestic workers, labor rights activists, and labor lawyers who can answer questions about specific labor and employment laws. The Ethical Treatment of Workers Pledge (see below) might be distributed for families and individuals to consider signing.

Labor Shabbat:

Whether on Labor Day or other occasions, consider holding a social action Shabbat service that focuses on labor-related readings and prayers. For additional ideas, see the Labor on the Bima resource guide at: <http://rac.org/pubs/guidemanuals/laboronthebimah/>.

C. Living Talmud for Domestic Workers

Another way to further understand the link between Jewish values and ethical treatment of workers is to explore modern and biblical texts through the medium of a “Living Talmud.” (See attached or click here to download PDF version.) This can be used for adult education classes, Torah study groups, Confirmation or youth group educational programs. Below are discussion questions that can be used with this document.

- How do you, individually, and how does society, define work? How do you, individually, and how does society define workers’ rights? What words used in these definitions are also found in the various readings in the Living Talmud?
- Which values mentioned in the text do you uphold as an employer? Which do you not?
- What values not included in the text do you think are important for an employer to uphold?
- In what ways could you organize your synagogue and local community to be more aware of the responsibility to workers as discussed in these texts? What resources do you have and what resources do you need?
- How do the Jewish values involved in being an ethical employer translate to modern times?

D. Ethical Treatment of Workers Pledge

The Ethical Treatment of Workers Pledge acts as a public announcement that one will be an ethical employer who recognizes the value of work in the home. We encourage congregations and individuals to use this tool to shape their actions towards employees:

Ethical Treatment of Workers Pledge

In the coming year, I pledge to be an ethical employer who recognizes the value of work in the home and the importance of in-home help to the function and well-being of my family. Furthermore, I promise to educate myself about the conditions of domestic workers, and the industry of domestic work in America, through the following actions:

I pledge to think about how I currently do, or would, treat employees in my home.

I pledge to relate the plight of domestic workers to Jewish holidays in order to elucidate the link between my Jewish identity and the harsh conditions of domestic workers in America.

I pledge to be an ethical employer by making sure those I employ in my home are given the opportunity to review a written description of their responsibilities and are paid a fair wage.

I pledge to contact my elected officials and tell them to support legislation that will expand the Fair Labor Standards Act and the Occupational Safety and Health Act to include all categories of domestic workers.

IV. Additional Resources

Books and Articles Concerning Domestic Work in America

Levine, Aaron. Economics and Jewish Law: Halakhic Perspectives. Compa, Lance and Fay Lyle. 2003.

Justice For All: A Guide to Worker Rights in the Global Economy. Washington, D.C., American Center for International Labor Solidarity/AFLCIO.

Middlekauff, Tracey. "Nannies." Gotham Gazette. October 27, 2003.
<http://www.gothamgazette.com/article/issueoftheweek/20031027/200/582>

Wasserman, Aliza. "New York Jews Fight for Domestic Workers' Rights." New Voices. <http://www.newvoices.org/cgi-bin/articlepage.cgi?id=608>.

Alexious, Alice, "Who Cleans Your House? A Feminist Perspective on Social Justice." Lilith Magazine, Summer 2006.
<http://www.jfrej.org/documents/whocleanshouse2006.pdf>

Websites about Worker Rights

American Rights at Work
<http://www.americanrightsatwork.org>

"Can the NLRB help you?"
<http://www.nlr.gov/nlr/employee>

Know Your Rights
<http://www.ilwu19.com/edu/kyr.htm>

What Faith Groups Say About the Right to Organize

http://www.iwj.org/aboutus/org_phil.html

The Rights of Employees and Union Members

<http://www.amazon.com/gp/product/0809319144>

Worker Rights in America: What Workers Think About Their Jobs And Employers

<http://www.aflcio.org/mediacenter/resources/upload/2001LaborDayWorkersRightsinAmerica.pdf>

Unfair Advantage: Workers' Freedom of Association in the United States under International Human Rights Standards by Human Rights Watch, 2000.

<http://www.hrw.org/reports/2000/uslabor/>

Undermining the Right to Organize: Employer Behavior During Union Representation Campaigns

<http://araw.org/docUploads/UROCUEDcompressedfullreport%2Epdf>

Workplace Fairness Rights Database

<http://www.workplacefairness.org/your-rights>

National Employment Law Project

<http://www.nelp.org/>

Unionizing Home-Based Childcare Providers National Women's Law Center

<http://www.nwlc.org/pdf/GettingOrganized2007.pdf>

Please contact the Religious Action Center at 202.287.2800 or www.rac.org for more information about these and other critical issues..

If the employer says, "I raised your wages in order that you would begin early and stay late," the workers may reply, "You raised our wages in order that we would do better work." ~Bava M'tzia 83a

We are taught to leave the corners of our fields and the gleanings of our harvest for the poor. -based on Leviticus 19:9

Speak up, judge righteously, champion the poor and the needy. ~Proverbs 31:9

You are commanded to provide the needy with whatever they lack. If they lack clothing, you must clothe them. If they lack household goods, you must provide them. You are commanded to fulfill all of their needs, though not required to make them wealthy. ~Mishneh Torah, 7:3

This idea of workers fighting for their rights, for the most basic things, the right to exist, is something we have to support. ~ Danny Glover, Actor

"Workers' rights to join a union and bargain collectively are basic human rights. Yet employers routinely retaliate against workers by firing them, threatening to close their worksites and by otherwise intimidating them. These ongoing workplace human rights violations are the major reasons why so many workers are denied good jobs, good wages and good healthcare benefits."- **Julian Bond**, Chairman of the Board of Directors, NAACP

The strongest bond of human sympathy outside the family relation should be one uniting working people of all nations and tongues and kindreds. -Abraham Lincoln

Happy are they who maintain justice, and do righteousness at all times. ~Psalms 106:3

You shall not abuse a needy and destitute laborer, whether a fellow Israelite or a stranger in one of the communities of your land. You must pay out the wages due on the same day, before the sun sets, for the worker is needy and urgently depends on it; else a cry to the Eternal will be issued against you and you will incur guilt. ~Deuteronomy 24:14–15

Wash you, make you clean; Put away the evil of your doings from before my eyes, cease to do evil...learn to do well... seek judgment... relieve the oppressed... judge the fatherless... plead for the widow.
Isaiah 1:16-17

Worker Rights Living Talmud

One who withholds an employee's wages is as though he deprived him of his life. ~Bava M'tzia 112a

We have a dream that one day, all work will be valued equally. -Domestic Workers United

To vex people who are coping with difficulties is an iniquity and a cause for punishment. Those people (workers) are sufficiently burdened already, as a matter of course, without that added affliction. ~Rabbi Judah ben Samuel of Ratisbon

Open your hands and lend to people whatever it is they need. ~based on Deuteronomy 7-11

Workers rights are so vital to what the promise of what this country is...If you work, you should be able to take care of your family, feed your family, you should be able to get healthcare. ~Brad Whitford, Actor