



NEIGHBORHOOD FUNDERS GROUP

Working Group on Labor and Community

Special Report



Realigning Labor

*Toward a Framework for Collaboration between
Labor Unions and Day Labor Worker Centers*

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NFG Mission

Neighborhood Funders Group (NFG) is a membership association of grantmaking institutions. Our mission is to strengthen the capacity of organized philanthropy to understand and support community-based efforts to organize and improve the economic and social fabric of low- and moderate-income urban neighborhoods and rural communities.

Working Group on Labor & Community Partnerships

NFG's Working Group on Labor & Community Partnerships (WGLCP) is a national network of funders committed to educating funders about the labor movement and encouraging philanthropy to support labor-community partnerships that address issues facing the working poor. Nearly a quarter of the American work force – 33 million workers – earn poverty wages of less than \$10 an hour. Working families are increasingly likely to lack health care coverage, an affordable place to live, an opportunity for career advancement, and a decent education for their children. The current economic crisis is hitting working families the hardest. We are deeply concerned about America's widening gap in wealth, income and political influence, as well as the deteriorating conditions for immigrant workers vulnerable to the most extreme forms of exploitation. WGLCP raises awareness in philanthropy about the most advanced and effective efforts by community groups and labor unions to bring low-wage workers out of poverty. For more information about the WGLCP, email wglcp@nfg.org.

Special Report

NFG periodically publishes in-depth examinations of emerging issues and strategies of concern to funders. NFG Special Reports are written specifically for funders working to support efforts that strengthen rural and urban communities. This Special Report was produced and published by NFG's Working Group on Labor & Community Partnerships.

Written By Nik Theodore

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By Nik Theodore

A Working Group on Labor
& Community Partnerships
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Photos by David Bacon

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A Message from the Working Group on Labor & Community Partnerships

Over the last ten years, worker centers and worker center networks have emerged as central labor market institutions, identifying the needs of low-wage workers, connecting workers to a range of social services and programs, increasing their opportunities to receive education and training, advocating for improvements in working conditions, and supporting the development of more inclusive and effective labor market policies and institutions. As worker centers and worker center networks around the country improve the quality of their programs, services, and advocacy, these institutions need a range of organizational supports and mechanisms to identify and disseminate effective practices, programs, and strategies. Philanthropy, including members of the Working Group on Labor and Community Partnerships, has played an important role in helping worker centers develop initiatives focusing on leadership development, campaign development, policy analysis, worker rights, and workforce development and some funders have supported collaborative efforts that allow worker centers to acquire and diversify the mix of resources needed to develop innovative programs, systematize best practices, and provide support for organizational and network development.

Of particular importance, Worker Centers and organized labor have been important partners in efforts to improve the lives of low-wage workers, improve working conditions, and increase the quality of low-wage jobs. The relationship between worker centers and organized labor is diverse and has evolved gradually depending on the sector, geographic location, and the priorities of members and leadership. Over time, the need and opportunities for collaboration have increased and the story told in this paper is a good example of how a set of unions affiliated with the AFL-CIO and one of the key worker center networks, the National Day Labor Organizing Network (NDLON), developed a set of relations that led to concrete projects and initiatives that have benefited low-wage workers, unionized workers, and their communities.

While much has been achieved by worker centers and their networks, more consistent support is needed to enable worker centers to become stronger intermediaries in low-wage labor markets and more effective advocates for worker rights, successful workforce development, adult education, and training programs.

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Héctor Cordero-Guzmán, Ford Foundation

Henry Allen, Discount Foundation,
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Molly Schultz Hafid, Unitarian Universalist
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Executive Summary

Worker centers are an increasingly important set of institutions that have emerged out of the need to help workers navigate complex and changing labor markets, while at the same time organizing to improve conditions in low-wage industries. Grant-makers have provided some of the resources that have helped worker centers expand their capacity to operate programs, deliver services, and organize their members, while also helping these organizations develop national worker center networks. One important national network is the National Day Labor Organizing Network (NDLON), which in August 2006 signed an agreement with the AFL-CIO, creating the National Worker Center–AFL-CIO Partnership. The pact signaled the formal recognition of a shared agenda to defend workers' rights, particularly the rights of workers in low-wage, contingent jobs. This report, written by labor expert Nik Theodore, analyzes the context that led to the development of this partnership, and examines some of the early successes of, and ongoing challenges facing, partnerships between unions and worker centers.

The paper is organized in three sections. The first section examines the rise of day labor within a restructuring construction industry and summarizes the substandard conditions encountered by day laborers and other workers in this changing industry. Theodore explores how the confluence of competitive pressures and business self-interest led to an increasingly bifurcated workforce in the industry. One workforce segment is comprised of contingently employed laborers who are poorly paid, lack job continuity and security, and often are subject to violations of core employment laws. The other segment is comprised of workers, many of them unionized, who hold stable jobs that pay living wages and provide fringe benefits and other supports. These good jobs, however, are on the wane as union density in the residential construction industry has fallen precipitously over the past 30 years in conjunction with the reorganization of construction industry labor markets.

The second section of the paper considers day laborer organizing, the establishment and development of worker centers, and the immediate context within which the Partnership agreement was signed. Theodore then highlights several notable collaborative efforts between unions and worker centers that have been undertaken since the Partnership was ratified and that help illustrate the prospects and possibilities of vital partnerships between worker centers and organized labor.

The third section presents a framework for anchoring and extending emerging collaborative efforts between labor unions and day labor worker centers. In this section, Theodore discusses how unions and workers center can overcome various organizational, economic, and institutional factors so that their members can unite to act on their powerful common interests.

Theodore's "Framework for Collaboration" offers five main points of connection between worker centers and organized labor. Those are:

- Strategies for worker organizing;
- Identifying low-road employers and holding them accountable by making industry-wide improvements in wages, worker mobility, working conditions, grievance resolution, and collective bargaining;
- Improving enforcement of employment and labor laws;
- Advocating for more effective and worker-friendly labor laws;
- Creating routes for worker training, mobility and advancement.

Theodore identifies the significant improvements that have occurred in the relationship between unions and day labor worker centers since the signing of the Partnership agreement and discusses opportunities for ongoing collaboration to improve the jobs and livelihoods of workers in the construction industry. Despite the pressures created by the most severe recession in decades, relationships between worker centers and organized labor continue to improve, and their shared interests in supporting high-road practices, defending workers' rights, and improving industry standards appear to have superseded the tensions that characterized some early interactions between unions and worker centers. While much has been accomplished, Theodore warns against complacency and argues that: "In order for the potential of these joint efforts to realized, additional unions and worker centers will need to begin working together."

Philanthropy has an important role to play in fostering and supporting successful collaborations between worker centers and organized labor. The shared interests Theodore outlines in this report provide a very useful departure point for continued discussion among grantmakers about the best ways to support multi-partner strategies to improve the rights of and access to economic opportunity for low-wage workers and their communities. In these challenging economic times, worker organizations continue to be central to the articulation of worker needs, the provision of social services and programs, the development of strategies for economic advancement, and in providing avenues for civic participation and community action. By supporting low-wage workers and community-based collective action, philanthropy lives up to its mission of fighting poverty, reducing inequality, and improving conditions for all workers and their families.

Realigning Labor:

Toward a Framework for Collaboration between Labor Unions and Day Labor Worker Centers

Introduction



In August 2006, the AFL-CIO and the National Day Laborer Organizing Network (NDLON) signed an agreement creating the National Worker Center–AFL-CIO Partnership. Symbolically, this Partnership between the largest federation of labor unions and the largest alliance of worker centers signals the formal recognition of a shared agenda to defend workers’ rights, particularly the rights of workers holding low-wage, contingent jobs. In this regard, it is difficult to overestimate

The Partnership was designed to strengthen collaboration between labor unions and worker centers to advance pro-worker public policies, maintain labor standards, expand access to training programs, and press government agencies to improve the enforcement of workplace laws and regulations.

the significance of the agreement – despite a shared concern for improving labor standards and organizing workers to defend their rights, the union movement and the worker center movement have evolved independently of one another, with few sustained interactions and little in the way of successful joint efforts. On the ground, the Partnership was designed to strengthen collaboration between labor unions and worker centers to advance pro-worker public policies, maintain labor standards, expand access to training programs, and press government agencies to improve the enforcement of workplace laws and regulations. Here again, there was a recognition that the defense of workers’ rights depends on proactive strategies to improve the wages and working conditions of workers in low-wage jobs and in unorganized segments of the economy where employers often avoid or evade U.S. labor and employment laws.

Upon entering into this landmark agreement, AFL-CIO President John Sweeney acknowledged the substandard employment conditions faced by day laborers in the United States (see Bernhardt et al., 2009; Valenzuela et al., 2006), as well as the shared interests between the union and worker center movements (AFL-CIO, 2006):

“Day laborers in the United States often face the harshest forms of workplace problems and this exploitation hurts us all because when standards are dragged down for some workers, they are dragged down for all workers.”

“The work being done by worker centers and NDLOM in particular is some of the most important work in the labor movement today, and it’s time to bring our organizations closer together. Through this watershed partnership, we will strengthen our ability to promote and enforce the workplace rights for all workers – union and non-union, immigrant and non-immigrant alike.”

Pablo Alvarado, executive director of the National Day Laborer Organizing Network, echoed the shared interests and joint commitments to improve the conditions faced by workers across the U.S. labor market: “... the end goal remains the same: to ensure that the rights and freedoms of workers aren’t reserved just for a few, but extended to the many – regardless of where you were born, the color of your skin, your gender or migratory status. This new partnership will advance that goal” (AFL-CIO, 2006). To this end, the Partnership agreement called for joint efforts to work for comprehensive immigration reform that supports workplace rights and includes a path to citizenship and political equality for immigrant workers – and against anti-immigrant, anti-worker legislation at the federal, state, and local levels.

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It has been four years since the AFL-CIO and NDLOM entered into their historic partnership. This report reflects on the successes and challenges of recent collaborations between organized labor and worker centers, and offers a framework for continuing collaborative efforts based on shared interests and concrete examples of alliance-building. The next section considers the context within which the AFL-CIO–NDLOM Partnership emerged. It situates the rise of day labor within the restructuring of the construction industry, including the loss of union density in the residential segment of the industry. This is followed by a brief discussion of day labor worker centers and the roles they play in improving conditions in casualized construction industry labor markets, including the presentation of examples of union-worker center collaboration. The section that follows presents a framework for extending collaborative efforts between labor unions and day labor worker centers. First, several challenges to closer working relationships are considered. Then, areas of potential collaboration, based on emerging joint activities and partnership efforts involving unions and worker centers, are identified. These areas of collaboration reflect some of the important work to date that has occurred following the formal partnership between the AFL-CIO and NDLOM. •

Background: Day Labor and Construction Industry Labor Markets



The growth of day labor in the United States is in part a consequence of shifting employment patterns and changing competitive conditions in the construction industry. To understand why day labor markets have become an important source of workers for small, non-union construction contractors, it is necessary to examine long-run changes in the construction industry as well as the dynamics of labor market adjustment that have occurred over the past 30 years. Rather than being marginal to the inner workings of the residential construction industry, day labor workforces have become integral to its flexible structure, operations and growth. This section examines the emergence of day labor in recent historical context in order to highlight the interconnections between two seemingly distinct labor forces within the construction sector – the “permanent” (with better pay, working conditions and job security) and the “contingent” (often working under precarious conditions with little job security).

Over the past three decades, the construction industry has become increasingly bifurcated, with one segment offering high-wage, relatively stable, unionized work (primarily on industrial, government, and infrastructure projects), and another segment offering poorly paying, contingent, non-union work (mainly on residential and to a lesser extent on small commercial projects). The factors that have led to the divergence of employment practices in the industry are many, and include (Erllich and Grabelsky 2005; Weil 2005):

1. legal and regulatory changes that have restricted the ability of building trades unions to organize workers in the industry;
2. the exclusion of large segments of the labor force from unionized training and employment opportunities;
3. the increasing capacity of non-union contractors to carry out high-quality work; and
4. concerted efforts on the part of end users to reduce the influence of unions at construction worksites.

As a result, over the course of the last 30 years, not only has union density in the construction industry fallen from approximately 40 percent to less than 15 percent, but “large and growing segments of the industry are outside the union sphere of influence even in the large urban markets where overall union presence remains relatively strong” (Erllich and Grabelsky 2005: 424-425; Rabourn 2008). Echoing this point, David Weil (2005: 448) notes that “This decline in union density masks the virtual elimination of unionized building trades in some metropolitan areas.”

Declining union presence has had serious consequences for both the non-unionized and unionized segments of the industry. The influence of unions on wages and working conditions in the construction industry extends well beyond those workers covered by collective bargaining agreements and the contractors that employ them. When union density is high, non-union contractors are compelled to raise wages and improve working conditions in an effort to remain competitive with their unionized counterparts. Therefore, even those workers who are not employed under a union contract enjoy some of the benefits of a strong union presence in the industry. However, when density falls to very low levels, the “union effect” on wages across the local labor market all but disappears. This, in turn, sets in motion processes of labor market adjustment. Unionized workers leave the jurisdiction for areas where prevailing wage rates are higher, resulting in labor shortages in low-union labor markets. “With wages too low to attract the industry’s traditional demographic base of recruits, contractors [turn] to immigrants to fill the vacuum ... [Today,] undocumented immigrants are clearly the industry’s backbone in many areas and even in subsectors like residential and light commercial in still strong union markets” (Erlich and Grabelsky 2005: 426).

Changes in the organization of construction industry labor markets have had far-reaching effects on employment arrangements in the industry, and particularly for practices in the sector’s residential segment (which accounts for more than half of the entire industry and nearly three-quarters of the private sector market [Weil 2005]). In an effort to bolster profit margins, as well as contend with fluctuating demand for their services, many residential construction contractors have been devising

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tactics to contain labor costs by radically remaking employment arrangements. They are cutting the wages of some workers and deepening their dependence on contingently employed labor through the adoption of various flexible work arrangements, including misclassifying independent contractors, employing workers through temporary staffing agencies, increasing their reliance on subcontractors, and hiring casual laborers who are hired “off the books.” The destabilization of standard employment contracts (which were based on the expectation of continuing employment) is typically justified in terms of achieving long-run competitiveness – holding the line on prices by making previously fixed labor costs variable. However, in the construction industry, these restructuring tactics have produced a vicious cycle of cost cutting and labor exploitation as firms in segments of the industry have attempted to achieve short-run profitability by paying below-market wages, cutting back on workplace safety provisions, and pursuing other low-road forms of competition. As cost-cutting measures based on the externalization of work and the segmentation of the labor force take hold in an industry, the balance of competition shifts in the direction of low-road firms, thereby leading to the further downgrading of employment conditions across the industry. When such practices go unchecked and employers are allowed to reap the benefits of low-cost, flexible labor, the competitive dynamics of entire industry segments can be transformed (see Rubery and Wilkinson 1981; Theodore 2003).

Within residential construction labor markets, “The growing use of immigrant workers meshes with the structural trend toward subcontracting. As general contractors/construction managers shift on-site labor responsibilities to an array of mobile subcontractors, intermediaries such as temporary employment agencies or individual labor brokers emerge that seek to provide non-union firms some of the referral services offered to unionized contractors by a union hiring hall” (Erlich and Grabelsky 2005: 428). In other words, the use of intermediaries has increased as non-union contractors have sought to find ways of securing stable labor supplies for unstable, insecure work. There has been a proliferation of labor market intermediaries in the construction industry, the presence of which has been associated with low wages and workers’ heightened exposure to substandard working conditions (see Bernhardt, DeFilippis, and McGrath 2007; Bernhardt, DeFilippis, Martin, and McGrath 2005; Gordon 2005; Mehta and Theodore 2006; Peck and Theodore 2007; Theodore, Valenzuela, and Meléndez 2006). One aspect of the bifurcation of the construction sector, therefore, is the emergence of new forms of labor market segmentation brought on by a diminished role of general contractors in directly structuring employment arrangements. As employment arrangements are increasingly left to the market (e.g., to suppliers of contingent workers such as temp agencies and informal day labor hiring sites), the relative importance of firms’ internal labor markets has been reduced, reservation wages have fallen, and the reliance on subcontracting has grown (see Peck 1996; Sassen 2002). As Erlich and Grabelsky (2005: 428, 429) explain,

“The increased use of undocumented workers also complements the growing presence of the underground economy in construction. It is a small step for an unscrupulous employer to move from hiring undocumented workers to operating entirely off the books – or vice versa ... Legitimate employers – union or non-union – that provide a living wage and benefits for their employees are constantly looking over their shoulders at the legions of subcontractors that play by a different set of rules.”

The highly casualized segments of the residential construction industry do not exist as an independent labor market that is entirely separate and distinct from the more regulated, “mainstream” construction labor market. Rather, the dynamics of the more casualized segments are shaped by the restructuring strategies of the enterprises that employ these workers, and by the three-decades-long shrinking union presence in the industry. The principal function of the day labor market – and of other highly precarious, casualized employment arrangements – is to absorb the most intense cost pressures of industries undergoing restructuring and to provide access to the flexible workforces upon which employers increasingly rely. The residential construction industry is the primary employer of day laborers in the United States. As has been the case in many other industries, residential construction contractors have adapted to more lean and cost-conscious strategies. Cost pressures have led construction contractors to adopt alternative hiring practices, and many have turned to contingent workers from day labor hiring sites as a way to hold down wages and circumvent U.S. labor and employment laws. It is these contractors who frequent the open-air labor markets that dot the urban and suburban landscape to secure their eager, hard working, and flexible work crews. Unfortunately for day laborers, however, while these employment relationships provide modest earnings, they also are associated with truncated career paths, exposure to hazardous work environments, and chronic employment instability. •

Worker Centers, Labor Organizing, and Workers’ Rights



Day labor work is characterized by insecure hiring arrangements, dangerous working conditions, and extraordinarily high levels of wage theft and other abuses (see Gordon, 2005; Mehta and Theodore, 2002/3; Theodore, Valenzuela, and Meléndez, 2006; Theodore, Valenzuela, Meléndez, and Gonzalez, 2008; Valenzuela, 2002; Valenzuela, Theodore, Meléndez, and Gonzalez, 2006). In response to these conditions, day laborers and workers’ rights advocates have dedicated themselves to long-term, continuous worker organizing to defend labor standards, raise and maintain wage rates, recover lost wages, and reduce workplace abuses. In cities across the country, these efforts have included the formation of day labor worker centers that operate hiring halls, conduct workers’ education and other trainings, educate policymakers and the general public on conditions in the labor market, and engage local stakeholders in addressing community concerns. There are now more than 60 day labor worker centers in the United States, and the NDLO membership includes 41 such organizations representing every region of the country.

The creation of worker centers is widely seen by laborers, workers’ rights advocates, and municipalities as the most direct and immediate way to improve the working conditions and safeguard the rights of day laborers. As independent organizations created to benefit both workers and employers, worker centers occupy a unique position in local labor markets. On the demand side of the labor market they provide mechanisms to monitor the practices of employers by increasing the transparency of the hiring process and providing a means by which to hold employers accountable for maintaining labor standards. On the supply side, they organize and regularize the hiring of day laborers, monitor worker quality, and provide opportunities for worker incorporation into the mainstream economy through job-search assistance and training. Finally, in

the wider community in which day laborers work and live, these centers participate as key stakeholders in the resolution of neighborhood conflicts over the presence of informal day labor markets. Because well-functioning day labor worker centers are able to address a range of concerns, they are gaining widespread acceptance as effective labor market intermediaries and important community institutions.

As a national network of workers, labor organizers, and worker centers, NDLO facilitates the transfer of best practices among day labor worker centers and organizers, engages in capacity-building efforts to help worker centers extend their influence over conditions in local labor markets, and advocates on behalf of day laborers and their organizations. NDLO's programmatic and policy priorities include defending day laborers' rights in the workplace through legislation, litigation, and organizing; pressing for more effective enforcement of labor and employment laws; raising the wages and living standards of the day labor workforce; and leveling the playing field in day labor markets by taking action against unscrupulous employers who attempt to compete by driving down labor costs (Fine 2006, 2007; Fine, Grabelsky, and Narro 2008; Narro 2005/6; Theodore, Valenzuela, and Meléndez 2009). The influence of NDLO and its

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member organizations in federal and state policymaking circles has grown considerably in conjunction with their local victories in defense of workers' rights. It is this track record of achievement, as well as day labor worker centers' distinctive approach to worker organizing, that drew the interest of the AFL-CIO, and suggested to both parties that the time was right to develop closer ties and formalize their joint work. AFL-CIO President John Sweeney clearly articulated the promise of the alliance (AFL-CIO, 2006):

"By combining our resources in communities and states, we hope to translate the substantial gains achieved by worker centers into the lasting improvement of working conditions."

"Worker centers will benefit from the labor movement's extensive involvement and experience in policy and legislative initiatives on the local, state and national levels. This partnership will also benefit AFL-CIO unions and local labor bodies by establishing channels to formally connect with local worker centers in order to expose abuses and improve workplace standards in various industries to the benefit of all workers."

Over the past several years, labor unions and day labor worker centers have embarked on a number of joint initiatives to improve standards in local labor markets. One of the more prominent examples has been the chartering of Local 10 and Local 55 of the Laborers International Union of North America (LIUNA). Local 10 in New York and Local 55 in New Jersey and Delaware represent a concerted attempt on the part of the union and its workers' rights allies and community partners to organize the "green jobs" labor market, melding union and worker center organizing approaches for reaching underemployed workers living in low- and moderate-income neighborhoods. The dual aims of these two new locals are to organize workers in the residential construction industry, while also raising workplace standards in the weatherization sector; with the goal of "making green jobs, good jobs."

The executive board of Local 10 is comprised of representatives from LIUNA and the Workplace Project, El Centro del Inmigrantes of Staten Island, the Latin American Workers Project, and NDLO, while Local 55's executive board includes representatives from LIUNA, New Labor, and Casa Freehold. Both union locals have launched their own weatherization training programs to prepare underemployed workers for careers in the construction industry. These six-week training programs provide an opportunity for trainees to learn a range of "green" construction techniques. For example, in New Jersey, Local 55 allied with the Garden State Alliance for a New Economy to recruit and train 22 workers in weatherization techniques. The curriculum includes general construction and safety training, home energy efficiency training, and basic residential green construction. These workers then began work performing energy audits, sealing air leaks, applying weather stripping, wrapping pipes and hot water heaters, and installing fiberglass insulation in the homes of senior citizens in Newark. The plan is to train an additional 350 workers over the course of the coming year. Also, the weatherization training curriculum has been translated into Spanish, paving the way for what might be the first intensive weatherization training conducted entirely in Spanish.

In addition to weatherization training, Local 10 and Local 55 have administered OSHA training to approximately 80 new workers recruited through worker centers, thereby creating opportunities for these workers to become union members. As LIUNA members, these workers are able to participate in other union-sponsored skills development and safety trainings.

As has been the case in other cities and states, LIUNA and other unions have been instrumental in providing resources and support for immigrants' rights events, as well as for important workers' rights activities.

Finally, as has been the case in other cities and states, LIUNA and other unions have been instrumental in providing resources and support for immigrants' rights events, as well as for important workers' rights activities. LIUNA Local 11 in Alexandria, Virginia, for example, partnered with Casa de Maryland and Tenants & Workers United (both NDLOA affiliates), DC Jobs with Justice, the Legal Aid Justice Center, and NDLOA to host a public forum and a meeting with the United States Department of Labor regarding the problem of wage theft in low-wage industries (such as restaurants, residential construction, and domestic work). These joint activities

demonstrate both to policymakers and employers that unions and worker centers are prepared to unite around the defense of labor standards, even in industries with historically low levels of unionization.

Meanwhile, in Seattle, Washington, CASA Latina has been working with the Washington State Labor Council and several union locals to address the problem of eroding labor standards for migrant workers. As members of the State of Washington's Joint Legislative Task Force on the Underground Economy, representatives from CASA Latina have joined representatives from unions and the private sector to work with policymakers to ensure that employment standards are protected in the state's low-wage industries. In addition, as part of a statewide campaign to stop wage theft, CASA Latina has allied with the Washington State Labor Council and union locals to press for stepped-up government enforcement of wage and hour laws. Governor Christine Gregoire recently signed into law a bill that provides the State's Department of Labor and Industries with new tools to combat wage theft, including imposing penalties on businesses that repeatedly violate wage laws and authorizing the Department to require wage bonds of businesses that regularly fail to pay wages owed to their workers. Joint work to address the problem of wage theft continues. Currently, partners are engaged in a multi-industry strategic planning process to identify additional remedies and legislative priorities.

In addition to policy formulation and education, organized labor and CASA Latina are collaborating on job-creation initiatives. As members of the Sound Alliance, CASA Latina, the Plumbers and Pipefitters, the Sheet Metal Workers, LIUNA, and other allies have been pressing for state funding for "green jobs" initiatives. The Sound Alliance successfully advocated for funding for a training and employment program to prepare jobseekers to complete energy audits and weatherization retrofits of residential properties. The resulting living-wage union jobs provide career advancement opportunities, pensions, and other employment benefits. CASA Latina has also collaborated with LIUNA and the Carpenters union to create apprenticeship opportunities for day laborers that have allowed formerly casualized construction workers to join building trades unions.

In January 2010, CASA Latina joined the Washington State Labor Council, becoming the eleventh worker center in the country to affiliate with a state or local labor council since the NDLOA-AFL-CIO partnership was formalized. Washington State Labor Council President Rick Bender explained the importance of formally uniting worker centers and organized labor:

"Low-wage and immigrant workers in the United States face enormous challenges in enforcing their labor and employment rights, rendering them ripe for exploitation at the hands of unscrupulous employers. This exploitation hurts us all because when standards are dragged down for some workers, they are dragged down for everyone. Our first joint project will be to create a pilot project identifying, documenting and remedying wage theft in King County."

CASA Latina's formal affiliation with the State Labor Council underscores the emerging collaborations between the worker center and labor unions. In addition to the high-profile joint initiatives highlighted above, local partners have continued their work in support of immigration reform (United Food and Commercial Workers, Service Employees International Union, Teamsters, UNITE-HERE!, and the AFL-CIO), and recovering unpaid wages (SEIU Local 6).

In Austin, Texas, the Workers Defense Project has been at the forefront of worker organizing and contesting substandard conditions in the city's low-wage labor market. The Workers Defense Project has assisted workers in the construction industry and

other low-wage sectors in recovering unpaid wages, it has educated thousands of workers about their rights under U.S. employment and labor law, and along with community and labor allies it has advanced public policies to raise workplace standards.

The Workers Defense Project has collaborated with local building trades unions and the AFL-CIO to document substandard working conditions in the Austin residential construction industry, as well as to improve health and safety conditions in the industry. The organization's groundbreaking study of workplace conditions in the residential construction industry, *Building Austin, Building Injustice: Working Conditions in Austin's Construction Industry* (Workers Defense Project 2009) exposed a series of employment and labor law violations that are routinely experienced by construction workers. The study was conducted with the help of several union locals, most notably International Brotherhood of Electrical Workers (IBEW) Local 520. *Building Austin, Building Injustice* is an example of how worker centers are able to document substandard conditions in growing segments of local industries that exist outside union influence – or of government enforcement efforts. Because day laborers themselves are employed by a wide range of construction contractors with varying workplace practices, day labor worker centers are ideally positioned to identify contractors that are evading employment laws and remaking the terms of competition in local economies.

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In the area of public policy education, the Workers Defense Project partnered with the ACLU of Texas, the Mexican American Legal Defense and Education Fund (MALDEF), and the Texas AFL-CIO to defeat HB 904, which sought to prohibit government agencies from constructing or operating day labor worker centers that provide services for unauthorized immigrants.

Finally, the Workers Defense Project has also recently affiliated with the Austin Central Labor Council, allowing for closer coordination on organizing and policy advocacy activities. •

Toward a Framework for Further Collaboration



Considerable common ground is shared by labor unions and day labor worker centers. These shared objectives include the desire to raise employment and living standards; the pursuit of high-road strategies that reward business competitiveness based on providing fair wages, maintaining decent working conditions, and fostering voice in the workplace, while at the same time making it more difficult for unscrupulous employers to drive down wages and erode labor standards; and the promotion of worker organizing to achieve these objectives. At the same time, misunderstandings, differences, and even animosities between some parties remain. This section of the report first considers several of the key challenges facing the emerging partnerships between labor unions and worker centers. The challenges identified below are not insurmountable. There are concrete steps that both parties can take to transcend these obstacles to closer working relationships while at the

same time staying true to their respective core missions and increasing their overall effectiveness in improving wages and working conditions in the U.S. labor market. A framework, based on existing practices adopted by unions and worker centers across the country, is then proposed for developing mutually beneficial working relationships at the local level.

Differences in Orientation and Challenges to Collaboration between Labor Unions and Day Labor Worker Centers

1. *Labor market competition.* Day laborers primarily are employed by contractors in the residential segment of the construction sector. In most regions of the country, this segment has seen little direct organizing by labor unions in recent years and, as a result, union density in residential construction has plummeted. In the absence of a significant union presence in this market segment, wages have fallen and working conditions have deteriorated. In some parts of the country, worker shortages were reported prior to the housing slump and ensuing recession. In response to heightened levels of workers' rights violations, day labor worker centers have entered this arena with the twin objectives of (a) organizing the workforce as a collective force for improving employment conditions; and (b) restoring the floor under wages and working conditions by enforcing minimum wage rates, improving fairness in the allocation of jobs, recovering unpaid wages, and working with government enforcement agencies to eliminate the influence of unscrupulous employers on the workings of the residential construction industry.

Worker centers do not “create” day labor or other casualized employment relations; rather, they help articulate and manage the interests of workers and reduce the most exploitative conditions that exist in local labor markets.

Ironically, worker centers have been challenged by some in the union movement and elsewhere who allege that their presence and activities actually undermine industry wage rates and erode labor standards in general. Critics argue that worker centers should not be supported since many day laborers are immigrants who lack authorization to work, and that therefore the day labor workforce “takes” jobs away from union members. However, the notion that the closing of worker centers will lead to the elimination of day labor within the residential construction industry is contradicted both by historical and contemporary evidence. Day labor as an employment arrangement existed as (a highly exploitative) form of employment for decades prior to the advent of worker centers. Worker centers do not “create” day labor or

other casualized employment relations; rather, they help articulate and manage the interests of workers and reduce the most exploitative conditions that exist in local labor markets. Likewise, the closing of worker centers in some cities has not reduced the number of day laborers seeking work; on the contrary, these workers instead have been forced back onto the street and into informal day labor markets where they face falling wages and worsening working conditions. In terms of the distribution of jobs within the residential construction industry, day laborers largely work in the very occupations that have been vacated by labor unions (see Erlich and Grabelsky 2005; Rabourn 2008) – examples of head-to-head competition among day laborers and the union workforce are few and far between.

2. *Controlling the supply of labor.* Day labor worker centers tend to be guided by a philosophy that emphasizes the open and ongoing recruitment and organizing of workers. In other words, in terms of service provision and participation in center activities, most worker centers make little distinction between workers who have recently arrived at the center and those longstanding members who have participated in the center for years (there are, however, exceptions as some worker centers have moved to institute a membership model). At most worker centers, job allocation mechanisms, for example, tend to rely on lottery systems that do not favor any individual, rather than seniority systems that are common in labor unions. In addition, defending standards in the day labor market often means that worker centers provide services (such as wage claim assistance) to workers who seek work outside of worker centers at informal hiring sites.

The adoption of “open” organizing models that treat newcomers and long-term day laborers equivalently, and that even reach out to workers who elect to search for work at informal hiring sites, reflects the unique conditions in day labor markets. Day labor hiring sites perform varied functions present in the labor market (see Theodore, Valenzuela, and Meléndez 2009). For some workers, they are a way to secure employment and earnings following job losses in other sectors of the economy. For new labor market entrants, they are a first job and an opportunity to develop skills and job-search contacts. For still others they are a route into the construction industry – these day laborers

are construction workers, and day labor hiring sites provide them with access to employers and job opportunities. Because these workers are in competition with each other for job opportunities, and because portions of the day labor workforce frequently enter and exit the market, worker collective action depends on broadening the organized base, introducing as few obstacles to participation as possible, and attempting to raise the floor on wages and working conditions across the day labor market as a whole.

When it comes to controlling the supply of labor, the approach to organizing workers into the building trades unions differs markedly from the collective-action strategies of day labor worker centers. Rather than embracing organizing models in which workers participate in collective action based simply on their presence in an industry and their willingness to take action (the worker center model), building trades unions attempt to control the supply of labor in sectors/local markets, using their advantageous market position to bolster bargaining strength through which improvements in wages and working conditions can be leveraged and enforced. This strategy has been effective in industry segments where union density remains high. When density falls, however, growing numbers of workplaces fall outside unions' sphere of influence, opening up opportunities for non-union contractors to capture market share and remake the terms of competition – and employment – in the industry.

Labor unions offer opportunities for workers to improve their wages, working conditions, career advancement possibilities, and job security in the context of collective bargaining and leverage in labor markets.

3. *Jurisdictional issues.* Day labor work is not clearly divided into discrete, specialized trades in the same way that unionized segments of the construction industry categorize the work. For this reason, the day labor workforce does not divide neatly into one skilled trade or another. Many day laborers work across the divisions between trades, often gaining skills and experience in multiple construction trades. From a union-organizing perspective, this blurring of jurisdictional boundaries complicates traditional approaches to organizing and determining which of the trades a worker ought to be a member.
4. *Immigration status and work authorization.* Some labor unions have maintained an antagonistic stance toward the liberalization of immigration laws, arguing that the presence of foreign-born workers undermines wages and working conditions, and calling for stiff penalties against unauthorized immigrants. In doing so they implicitly prioritize immigration policy ahead of workers' rights, arguing that workers who are in the United States but who lack work authorization should be removed from the labor force and denied safeguards under U.S. labor and employment law. However, when workers are unable to press for their rights in the workplace, the incidence of workplace violations increases, standards deteriorate, and competitive conditions become dictated by low-road employers. Unauthorized immigrants have been incorporated into the U.S. economy in large numbers, and in some industries, they represent a significant share of the labor force. Residential construction is one such industry (Passel 2006). Should unions remain skeptical of policy changes that would regularize the status of unauthorized immigrants (rather than seeing an opportunity to increase union density by organizing these workers), this position could inadvertently strengthen the influence of non-union contractors that are able to find an abundant supply of workers whose ability to contest substandard conditions is sharply circumscribed by fears of employer retaliation based on their immigration status.

Increasingly, however, there are clear signs that unions from across the labor movement are uniting around the concept of reformed immigration laws that do not relegate migrant workers to second-class status. Labor unions, including those in the building trades, have rallied around the pragmatic immigration-reform framework set forth by former U.S. Secretary of Labor Ray Marshall and the Economic Policy Institute (Marshall 2009). Among the recommendations is the implementation of a process for adjusting the status of unauthorized immigrants and enacting significant reforms to problematic guestworker programs.

A Framework for Collaboration

1. *Worker organizing.* In industries, such as residential construction, union density has been declining for decades. In recent years, several building trades unions, including the Bricklayers, Carpenters, Ironworkers, Laborers, Painters, and Roofers, have renewed their commitment to organizing the unorganized, meaning that they have sought to organize (largely im-

migrant) workers employed in the residential segment of the construction sector. There have been successes. However, large-scale efforts to organize this industry confront numerous challenges, not least of which is the social distance that divides unorganized workers and building trades unions, and the mutual suspicions of each other held by both parties.

Developing strategic alliances with worker centers and providing resources to support organizing efforts could be a way for union locals to overcome barriers to organizing this workforce.

Strong local alliances between labor unions and worker centers offer the possibility of overcoming these obstacles. Both entities possess distinct advantages which, if harmonized, can enable each to better pursue its mission-driven priorities. On the one hand, labor unions offer opportunities for workers to improve their wages, working conditions, career advancement possibilities, and job security in the context of collective bargaining and leverage in labor markets. Worker centers are seeking to assist their members in identifying better paying jobs with routes to advancement, and unions are an important means for achieving these ends. On the other

hand, worker centers have been able to access and organize workers who are employed by non-union companies. Far from being “unorganizable,” worker centers have demonstrated that immigrants and others in non-union segments of the economy have the need and the will to embrace the defense of workers’ rights through collective action. Unions seeking to launch aggressive organizing campaigns would benefit by tapping the organizing expertise that has been developed by worker centers. Developing strategic alliances with worker centers and providing resources to support organizing efforts could be a way for union locals to overcome barriers to organizing this workforce.

2. *Identifying low-road employers.* Businesses that seek to establish a competitive advantage in their industry by maintaining substandard employment conditions pose serious challenges to high-road enterprises that “play by the rules.” When businesses are able to secure cost advantages by flouting wage and hour laws, or by failing to maintain safe working conditions, the short-run benefits that they capture can lead to long-run competitive advantage as they garner greater market share and place downward pressures on prices in the industry. Seen in this light, the persistence of substandard employment practices pose two related challenges: first, they drive down wages and working conditions in an industry; and second, they undermine the competitive position of high-road employers, many of which must compete head-to-head on price. When competition in an industry becomes centered on cost (as opposed to quality or innovation), and employers are allowed to remain competitive by maintaining below-market labor costs, low-road employers that may begin as marginal players in an industry are able to steadily win contracts, growing in size and influence. Firms that may begin by eking out a few contracts initially can become a force for industry restructuring over the long run.

The solution to the competitiveness problems posed by substandard employment practices is to block the low road by (a) raising wage rates at the bottom of the industry, thereby narrowing the gap in labor costs between high- and low-road firms; (b) enhancing worker mobility so that qualified workers are able to secure employment at high-road firms; (c) increasing workers’ voice in the workplace so that they can contest abusive conditions; and (d) redressing worker grievances against their employers, especially the nonpayment of wages, so that wage theft cannot be used to bolster company profit margins. Labor unions and worker centers have a shared interest in the broad goal of supporting high-road practices and in pursuing each of the above strategies. However, each party approaches these objectives from a somewhat different vantage point. Working together they can be more effective in reforming employment and competitive conditions in the construction industry:

- » *Raising wages.* Whereas labor unions work to defend prevailing wage rules and other mechanisms to lift wage rates and preserve hard-won wage increases, worker centers attempt to lift minimum wage rates, in effect raising the floor on wages in industry segments where unions have little traction and where employers face little competition from unionized firms regarding wage levels.
- » *Enhancing mobility.* Contingent workers, even highly qualified contingent workers, face barriers to mobility between employers, especially during tough economic times. By being able to maintain a stable labor supply to fill insecure jobs, low-road employers are able to achieve levels of stability within their own operations at the expense of their workforce. This enhances their ability to claim market share and it is a source of competitive advantage in their industry. Day labor worker centers attempt to counteract the immobility of workers by developing the skills and confidence of workers, by helping workers understand their rights and identify workplace abuses, and by creating opportunities for workers to identify high-road employers that abide by labor and employment laws. These

activities undermine the tactics used by low-road employers by nurturing opposition to substandard conditions within the workplace and by slowing the flow of workers into unregulated jobs.

- » *Voice at work.* Too often, low-road firms are able to threaten retaliation against workers who contest substandard working conditions and other abuses. Within unionized workplaces, processes of collective bargaining curb such practices, democratizing the workplace in the process. The same holds for day labor worker centers. Collective action in the defense of working conditions, as facilitated by worker centers, limits the leeway unscrupulous employers may have in pitting one group of workers against another. Like labor unions, worker centers build solidarity within the labor force, rebalancing power relations in workplaces and in the wider labor market.
- » *Grievance resolution.* When low-road employers are able to maintain gross margins and underbid law-abiding companies through practices such as the nonpayment of wages, high-road employers lose market share. Unions and worker centers have a shared interest in seeing that wage claims are filed and other grievances are resolved, both because workers who have been wronged receive some measure of justice, and because employers that break the law are penalized. Day labor worker centers are able to educate workers on labor and employment laws, convene groups of workers to jointly pursue wage claims, and at times work with government enforcement agencies to investigate wrongdoing by employers. Because worker centers have become trusted institutions in low-wage labor markets, they are able to forge strong relationships with workers who are employed outside the union sphere of influence and with employers who often skirt the law.
- » *Collective bargaining.* In several cities, day laborers at worker centers have adopted policies that state that they will not cross a picket line at a construction worksite. In other words, in cases where building trades unions have targeted an employer or have an action at a worksite, day laborers will not aid the employer by accepting work there. This sign of solidarity both respects the collective-bargaining process and supports the wider objective of trying to raise employment standards in the construction industry.

Finally, day laborers themselves can be an excellent source of information about the low-road contractors that employ them. Opportunities exist for day laborers to “salt” these contractors, and to provide information about the existence, practices, and markets of contractors that attempt to “fly under the radar” so that they might more easily violate basic labor standards in an effort to increase profitability. Building trade unions could benefit from this information, both in guiding government enforcement agencies and in identifying workplaces that might be suitable for launching organizing campaigns.

One example of a joint union-worker center initiative in Los Angeles to target “bad apple” employers is a project of the International Union of Painters and Allied Trades and the Institute of Popular Education of Southern California (an NDLOM affiliate). Here, the union sought to work with a worker center to identify employers that are undermining project labor agreements by paying workers below prevailing wage rates. As a result of this effort, the Los Angeles city attorney has filed a criminal case against an employer, sending a clear message to the industry about honoring labor agreements.

3. Improving the enforcement of labor laws. Following years of stiff austerity measures and a disturbing lack of political will to prioritize the defense of workplace standards in local labor markets, government enforcement of labor and employment laws has been on the wane. The withdrawal of strong enforcement procedures has created a “climate of non-accountability” (Ruckelshaus 2008) that allows employers to pursue a route to competitiveness based on sweating labor and driving down employment standards. When employers are able to out-compete other, high-road companies on the basis of radical cost-cutting and labor exploitation, these practices can place a drag on conditions across entire industry segments, forcing employers to resort to such tactics in greater numbers, and in the process tilting the balance of competition in the direction of low-road companies.

When employers are able to out-compete other, high-road companies on the basis of radical cost-cutting and labor exploitation, these practices can place a drag on conditions across entire industry segments.

Low-road companies tend to take whatever steps are necessary to block union organizing campaigns, including engaging in forms of employer interference that violate not just the spirit but also the letter of the law. In the

absence of well-funded government enforcement agencies that possess the resources to proactively launch investigations against employers suspected of wrongdoing, and without union members employed on-site at these companies, worker centers provide perhaps the only effective mechanism remaining for systematically documenting the workplace practices of low-road companies. This is especially the case when rogue employers are small and/or unlicensed businesses. Because these employers may be “hidden” or may escape detection because of their small size, many such firms are able to operate with impunity. In an industry such as residential construction where employers tend to be small and thus are able to evade detection, this poses a serious problem for how business is conducted in the industry, and it poses serious competitive challenges for high-road companies. An enforcement vacuum has been created in many industries, including residential construction, and worker centers have stepped in to remedy a breakdown in government efforts to maintain labor standards.

Working together to educate policymakers on the problems facing workers and various legislative remedies, unions and worker centers could help to improve labor and employment laws.

Worker centers possess several attributes that enable them to address these problems and aid in improving government enforcement efforts of workplace laws. First, worker centers have developed expertise in identifying violations of labor and employment laws, and they have established relationships with workers employed by low-road companies, many of which staff their workplaces with vulnerable workers. Second, because their community connections run deep, worker centers are able to reach out to segments of the labor market that traditionally have been bypassed by

government enforcement efforts. Building on this expertise, as well as on their relationships with workers and their community connections, worker centers are able to gather worker testimonies and document patterns of abuse that may exist in local labor markets, and in the process overcome the problems posed when numerous small employers break the law. By collecting information from multiple workers employed by the same company, worker centers are able to bring strong, well-documented cases to enforcement agencies, as well as assist these agencies in collecting the additional evidence that might be needed to better enforce workplace laws.

4. *Advocating for more effective labor laws.* The AFL-CIO, the Change to Win federation, and their affiliated building trades unions are important political actors that have helped move significant pro-worker legislation at the federal, state and local levels. NDLO and its affiliated worker centers also are developing the skills needed to guide policymakers in their attempts to craft effective legislation to ensure that workers do not suffer exploitation in casualized industries and in segments of the labor market where enforcement of labor laws has been weak. Building trades unions and day labor worker centers have a number of shared policy interests in support of high-road practices and limiting the opportunities for unscrupulous employers to undermine wages and working conditions. Several areas of joint concern include: strengthening government enforcement of wage and hour laws; more active enforcement of occupational health and safety regulations; stronger penalties on employers that engage in unfair labor practices; and creating penalties against employers that engage in wage theft. Working together to educate policymakers on the problems facing workers in the construction industry and the potential effectiveness of various legislative remedies, unions and worker centers could help to significantly improve labor and employment laws at the federal and state levels.
5. *Creating routes for worker advancement.* Most day laborers encounter only limited routes to advancement within casualized construction labor markets. The most successful are able to secure regular, permanent jobs with high-road construction contractors, or they develop the contacts, networks, and credibility to start their own small businesses in the industry. However, the vast majority of day laborers are able to find few opportunities for skills development, securing stable employment, or dramatically increasing their earnings. Union apprenticeship programs are the single most important routes for achieving significant improvements in the employment prospects of workers in the construction industry. When combined with active union organizing campaigns, opening apprenticeship programs to the day labor workforce could simultaneously satisfy multiple objectives: improving workers’ employment opportunities and earnings; recruiting new workers into unions; and organizing new workplaces. Likewise, workforce development programs administered through worker centers and other community organizations could provide needed opportunities for day laborers and other low-wage workers to improve their skills. Apprenticeship, skills certification, and other workforce development programs could be important activities for assisting workers to advance in the job market and for day laborers to move into less exploitative segments of local economies. •

Conclusion



Although by no means did union-worker center collaboration begin with the creation of the National Worker Center–AFL-CIO Partnership, over the course of the last three years the scale and scope of joint initiatives among labor unions and day labor worker centers has increased significantly. In several parts of the country, unions and worker centers are working together on organizing campaigns, they are formulating policy proposals, and they are jointly engaging in initiatives to improve conditions for workers in the construction industry and in the low-wage labor market more generally. In terms of worker organizing, however, the economic downturn, which began in the residential construction industry before spreading to other sectors, dealt a heavy blow to union-worker center collaboration. Jobs that once were plentiful have been eliminated, and localities that once reported labor shortages have instead seen unemployment rates soar. The recession, which has been the longest and deepest economic downturn in decades, poses new challenges for labor unions, worker centers, and their members. With job opportunities in extremely short supply, there is a danger that a zero-sum mentality can take hold, leading workers and their organizations to do whatever they can to hold onto a piece of a shrinking economic pie. Yet despite these pressures, relationships between unions and worker centers continue to improve, and their shared interests in supporting high-road practices, promoting job-creation strategies, defending workers' rights, and lifting the floor under wages and working conditions appear to have superseded the tensions that historically characterized dealings between unions and worker centers. But in order for the potential of these joint efforts to be realized, additional unions and worker centers will need to begin working together, guided by their commitments to worker organizing, collective action, and the defense of labor standards. The need is certainly there. It must be matched by the will to overcome any lingering suspicions and misperceptions, as well as by a willingness to transcend the divisive debate on immigration policy that previously had driven a wedge between some labor unions and worker centers, this despite their shared commitment to defend the rights of all workers. •

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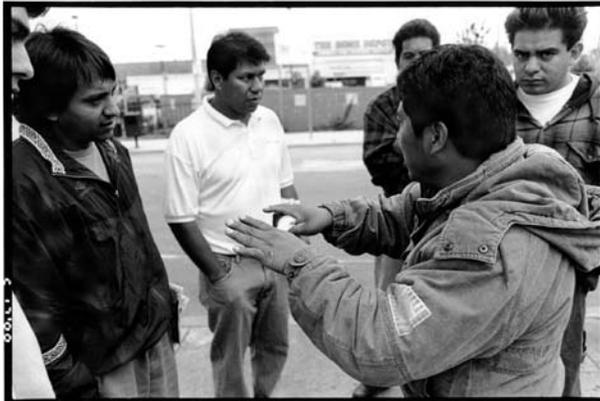
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