

Labor Issues Impacting Women in the 21st Century

Background:

Our Jewish tradition is replete with texts affirming the dignity of work and teachings on the connection between workers' wages and workers' dignity. Deuteronomy 24:14-15 instructs, "You shall not abuse a needy and destitute laborer, whether a fellow countryman or a stranger in one of the communities of your land. You must pay out the wages on the same day, for the worker is needy and urgently depends on it." In Leviticus 19:13, we are taught that to withhold a worker's wages is to defraud them, an act akin to robbery. Inspired by these texts and Jewish values, Women of Reform Judaism has a proud history of advocating for issues related to economic justice and labor rights, including child labor ([Child Labor, 1936](#)), fair workplace conditions ([Worker Justice, 2004](#)), minimum wage ([Minimum Wage, 2007](#)), and unions ([Employee Rights, 2011](#)). Furthermore, WRJ has consistently advocated for solutions to combat violence against women ([Crimes Against Women, 1991](#)), including sexual harassment in the workplace and for the rights of women in the workplace more broadly ([Equality for Women, 1993](#)). This resolution seeks to address the intersection of workers' rights, pay equity, and gender-based violence and some of the critical labor issues disproportionately impacting women in the 21st century.

Domestic Workers

In our 2004 resolution on fair workplace conditions, WRJ spoke about the need to provide adequate wages and benefits for workers in the service industry, noting that the lack of benefits afforded to these workers, including personal care assistants, nursing assistants, home health aides, cleaning personnel, and other workers who provide services within homes and institutions, often leads to "high turnover rates, jeopardizing both the quality and continuity of care." The resolution resolved to "support the monitoring of working conditions of women in the special visa for domestic employment category to prevent abuse."

24 Today, there are over 2.5 million domestic workers in the United States.¹ The term “domestic
25 worker” refers to a category of workers employed by private households who perform tasks such as
26 housekeeping, childcare, and home health aide. Domestic workers are overwhelmingly women (91.5%),
27 and according to the Economic Policy Institute (EPI), just over half (52.4%) are Black, Latina, or Asian
28 American/Pacific Islander women.² Domestic workers are three times as likely to live in poverty as other
29 workers, largely due to the fact that they have historically been excluded from bedrock labor
30 protections, including labor protections afforded under the National Labor Relations Act (NLRA) and Fair
31 Labor Standards Act (FLSA). NLRA guarantees employees in the private sector the right to join unions
32 and engage in collective bargaining and curtails certain private sector labor and management practices
33 that harm the general welfare of workers, however these protections are not afforded to domestic
34 workers. Domestic workers are also excluded from the Fair Labor Standards Act (FLSA), which
35 established a minimum wage and the concept of overtime pay. Due to these coverage gaps, many
36 domestic workers do not earn a living wage, work excessively long hours, often with little privacy, and
37 work without access to health care, paid sick days, or paid time off. Without the protections afforded to
38 other employees through the NLRA and FLSA, domestic workers are also vulnerable to physical, mental,
39 and sexual abuse and are often afraid to speak up about abuse, discrimination, wage theft, and unsafe
40 working conditions for fear of losing their jobs. Even if they do speak up, there are few remedies
41 available to them.

42 The COVID-19 pandemic has only heightened the need to establish more equitable employment
43 practices for domestic workers. According to a survey conducted by National Domestic Workers Alliance
44 (NDWA), in late March 2020, more than 90% of domestic workers had lost their job as a result of COVID-
45 19, and nearly three-quarters of those workers did not receive any compensation when their jobs were

¹ <https://domesticworkers.org/about-us>

² <https://www.epi.org/publication/domestic-workers-chartbook-a-comprehensive-look-at-the-demographics-wages-benefits-and-poverty-rates-of-the-professionals-who-care-for-our-family-members-and-clean-our-homes/>

46 eliminated.³ NDWA also found that 86% of those who lost their jobs did not apply for Unemployment
47 Insurance during the height of the pandemic, largely because they did not believe they qualified. These
48 challenges reflect the lack of clear and accurate information and transparent protocols about domestic
49 workers' labor rights. In contrast to the U.S., in Canada, domestic workers have the same labor rights,
50 human rights, and social protections as any other worker, whether they work part-time or full-time, and
51 whether or not they live in their employer's home.⁴

52 Nine states (California, Connecticut, Hawaii, Illinois, Massachusetts, Nevada, New Mexico, New
53 York, and Oregon) and the city of Seattle have already passed Domestic Workers Bills of Rights.⁵ Many
54 U.S. workers' rights advocates have called for the passage of a National Domestic Workers Bill of Rights
55 or related legislation that would extend basic wage and hour protections to domestic workers, establish
56 fair scheduling (i.e, no unexpected shift cancelations or changes without warning or compensation),
57 require transparent employment contracts, and provide access to health care and retirement benefits.

58 ***Tipped Wage***

59 WRJ has clear policy in support of a living minimum wage ([Minimum Wage, 2007](#)), noting that as
60 women make up nearly two-thirds of minimum wage earners, a low minimum wage is a large driver of
61 the gender-wage gap.⁶ However, we have not yet addressed the reality that tipped workers, including
62 workers in the restaurant, hospitality, and salon industries, are not subject to the same federal wage
63 standards as other workers. In the U.S., the federal tipped minimum wage is currently set at \$2.13,
64 assuming that qualifying workers will take home at least \$7.25 per hour (the current federal minimum

³https://domesticworkers.org/sites/default/files/6_Months_Crisis_Impact_COVID_19_Domestic_Workers_NDWA_Labs_1030.pdf

⁴ https://www.international.gc.ca/protocol-protocole/policies-politiques/DW_DP.aspx?lang=eng#:~:text=As%20accredited%20domestic%20workers%20have,in%20the%20employment%20contract%20and

⁵ <https://www.epi.org/publication/domestic-workers-chartbook-a-comprehensive-look-at-the-demographics-wages-benefits-and-poverty-rates-of-the-professionals-who-care-for-our-family-members-and-clean-our-homes/>

⁶ <https://nwlc.org/wp-content/uploads/2019/10/Raise-the-Wage-Act-Boosting-Womens-Pay-Checks-10.22.19-v2.pdf>

65 wage) when tips and wages are combined.⁷ If wages and tips together do not reach \$7.25 per hour,
66 employers are supposed to pay the difference, so that every worker takes home at least the federal
67 minimum wage. In reality, there is weak enforcement of this practice, and workers often do not receive
68 the wages to which they are entitled.⁸ Even when tipped wages reach this threshold, the tipped
69 minimum wage itself has not increased since 1991, losing over 40 percent of its value in that time.⁹
70 Many workers assert that the tipped minimum wage forces them to tolerate harassment, gender-based
71 discrimination, and racial discrimination, as they are dependent on tips from customers.¹⁰ Phasing out
72 the sub-minimum tipped wage is a necessity in order to combat these intersecting issues of pay equity,
73 gender discrimination, and economic justice.

74 ***Mandatory Arbitration and Non-Disclosure Agreements***

75 Workers facing discrimination and harassment in the workplace are finding fewer avenues to air
76 their grievances due to the increased use of forced arbitration clauses and non-disclosure agreements
77 (NDAs) in employment contracts and settlements. While arbitration may be used as a cost-effective
78 alternative to resolving workplace disputes outside of a court setting, mandatory arbitration is a growing
79 problem by which employees are prohibited from taking any conflicts with their company to court.
80 According to the Economic Policy Institute, the share of workers subject to mandatory or forced
81 arbitration had risen from just over 2 percent in 1992 to over 55 percent today.¹¹ EPI also found that
82 over 30 percent of employers who require arbitration also include class action waivers. As a result,
83 workers not only lose the right to file a lawsuit on their own behalf, but they also are barred from
84 engaging in collective legal action to address widespread violations of workers' rights in a workplace. In
85 addition to the rise in mandatory arbitration clauses, a 2018 Harvard Business Review Report found that

⁷ <https://www.dol.gov/whd/state/tipped.htm>

⁸ <https://www.nelp.org/wp-content/uploads/2015/03/BrokenLawsReport2009.pdf>

⁹ <https://www.wsj.com/articles/what-should-wait-staff-earn-the-debate-over-the-tipped-wage-1528988400>

¹⁰ https://rocunited.org/wp-content/uploads/2018/02/OneFairWage_W.pdf

¹¹ <https://www.epi.org/publication/the-growing-use-of-mandatory-arbitration-access-to-the-courts-is-now-barred-for-more-than-60-million-american-workers/>

86 over one-third of the U.S. workforce is bound by some form of non-disclosure agreement.¹² While NDAs
87 were historically used by companies to protect trade secrets, many companies have broadened the use
88 of non-disclosure agreements in recent decades to prohibit workers from speaking up about a range of
89 workplace conditions, including harassment, discrimination, and other violations of worker rights. The
90 use of non-disclosure agreements has come under fire in recent years, as the #MeToo Movement has
91 revealed the pervasive nature of NDAs and the ways that NDAs are used to silence victims of sexual
92 harassment and assault across industries.

93 **Therefore, Women of Reform Judaism calls upon its sisterhoods, women’s groups, and individual**
94 **members to advocate for:**

- 95 1. Local, state, provincial, and/or federal legislation that would:
- 96 a. Extend bedrock labor protections to domestic workers;
 - 97 b. Provide domestic workers with guaranteed paid time off, privacy protection, and a
98 written employment contract; and
 - 99 c. Limit employers’ abilities to require arbitration clauses, class action waivers, or non-
100 disclosure agreements related to harassment, discrimination, and other workers’ rights
101 violations as a condition of employment; and
- 102 2. Phasing out of the tipped minimum wage.

¹² <https://hbr.org/2018/01/ndas-are-out-of-control-heres-what-needs-to-change>