

Reprinted from Social Policy Magazine Issue Spring 2012

## **The Maharashtra Model: Organizing Informal Workers by Combining Power, Protection, and Politics**

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### **The Explosive Growth of Informal Work**

The number of contingent, casual, irregular workers is rising both in the developed and developing world. In the United States the estimates sometimes place the number between twenty and thirty million workers. The U.S. Department of Labor Bureau of Labor Statistics in its most recent survey of the workforce before the recession found the numbers were holding steady at over four percent of the total workforce, with other alternative working relationships adding another one to two percent of the workforce. Add involuntary part-time workers, and the numbers soar. That is the global good news at least for some, that casualization is not increasing even more rapidly as some had predicted earlier.

In the developing world the estimates flip the numbers around. In many countries, like India, conservative estimates put the number of informal workers at eighty percent of the total workforce, with formal workers only twenty percent of the total. Formal workers are employed by the state or various corporations and importantly are covered by labor standards setting wages, holidays, and social security. Informal workers in scores of job classifications from rag pickers to domestic workers to home based garment workers to bicycle rickshaw pullers, and many more work hard for low wages in a gray economy without guidelines or guarantees.

The continuing headlong push of globalization and the race to the bottom for workers with low wages in country after country has pushed too much of the world's workforce into precarious employment. The

global weakening of unions has also diminished the collective, mutual protection of workers in areas where employers are ruthless and unrestrained and government is inept and ineffective in the area of worker protections. This atrophying of organized labor also dilutes the resources that might be used to build new power and organization among the unorganized and informal workforce.

### **The Maharashtra Model**

Recently, President Barack Obama made his first visit to India, landing with a small army of U.S. businessmen in Mumbai who said that they wanted to learn about what former U.S. Treasury Secretary and recent economic czar, Larry Summers, referred to as the Indian economic “miracle,” but who were really mainly there to ply wares and sell like crazy. There are lots of things he – and others – could learn in Mumbai, and it might surprise everyone that in perhaps the largest city in the world – over 13,000,000 in 2010 in the city proper – with one of the poorest populations including mega-slums like Dharavi with a million people imperiled in 750 acres of prime, developable real estate in the center of the city – there are also some lessons for labor as well. It is too bad that labor was largely unrepresented on this visit. They might have been struck by lessons that are strikingly similar to what we learned in the United States as well decades ago. These lessons are not available at the Taj Mahal or near the India Gate, but are everywhere else along the chowls and packed streets of the city, especially if one of the caravans of cars had passed anywhere near some of the APM (Agricultural Production Merchandise) Markets. The dock workers scurrying with huge head loads from the warehouses in Navi Mumbai and piling up the brightly colored trucks are called mathadi workers.

Only a few blocks from the APM market in Navi Mumbai is a building with a good view of the huge market with its hundreds of broker offices and distribution rooms and a constant stream of trucks swarming in and out, hour after hour. A gold statue greets you at the top of one building watching the same site. Further up the stairway is a floor of offices of the union of mathadi workers, which represents these tens of thousands of informal workers. The statue is of the founding organizer and leader of the union who triggered the strikes that pushed the politics to create the pressure that led to the creation of The Maharashtra Mathadi, Hamal and Other Manual Workers Act, 1969, which regulates employment and welfare for these informal workers.

Whether reading one thick International Labor Organization (ILO) report or another, year after year, about the status of informal labor or talking to home health care or home day care workers in neighborhoods and housing projects around the United States, one cannot avoid the inescapable condition and obstacle to collective organization, that these workers do not have employers. There is no one willing to negotiate.

Part of what labor organizing has to achieve in order to advance the conditions of informal workers is to create an employer. In other terms, that is, to construct at least the architecture that provides the undergirding for bargaining and least minimum standards and conditions for work along with effective remedies for enforcement. There are no rules, regulations, or laws establishing standards for the work or the workers. This is certainly not a problem restricted to developing countries.

Domestic workers, for example, came under coverage of the U.S. Fair Labor Standards Act (FLSA) in 1978 for the first time, in order to be guaranteed a minimum wage per hour. Farm workers have had similar problems with FLSA protection and where there is a burden of proving that their labor is involved in interstate commerce (trade between states in the United States) are still only protected by state laws and regulations that do and do not exist, depending on the state.

Maharashtra and Mumbai may provide the model for creating a floor of benefits and standards that provides the architecture for protection, employment, and unionization of informal workers. The legislation in 1969, more than forty years ago, was followed later in 1981 by the Maharashtra Private Security Guards Act. Building and Other Construction workers came under protection in 1996. Now almost another twenty years later there is discussion of a pending act that would cover domestic workers in the same manner.

Maharashtra is no provincial backwater. With over 100,000,000 people it is the second largest sub-governmental unit (state or province) in the world and only second to another Indian state. With its largest city, Mumbai (formerly known as Bombay and still known by that name in some legal and other contexts), serving as the financial and commercial nexus of India, the politics are serious and sophisticated, so standards here set precedents and matter not only on the subcontinent, but also, if more widely known, could resonate globally.

Nor was Maharashtra's action in 1969 the first of the protective legislation to be passed for informal workers in India. In 1961 roughly fifty years ago, the Motor Transport workers also won their own Act not simply in Maharashtra, but through parliamentary action making the legislation India-wide. The Act provided the basic templates providing for overtime (double time for holidays and over eight hours), breaks (thirty minutes after five hours), meals, health, and restroom facilities, as well as regulating how much and what hours adolescents could work. The legislation was deliberately designed for employers with fewer than five motor transport drivers, like auto rickshaw drivers. Various states amended the national legislation to expand the provisions in the states like Karnataka (Chennai), West Bengal (Kolkata), Kerala, and Gujarat.

The basic provisions of the Maharashtra acts are designed clearly to provide "regulation of employment and welfare" in these areas between employers and workers. With these basic guarantees in place serving to create "minimum standards" for protection, wages are what globally would be known as "human rights" and are taken out of competition. Having established the floor, then adding additional rooms and levels to provide for union representation, workers' voice, or specialized benefits and entitlements is largely a matter of the power built by the workers rather than a cause for employers to head for the barricades as if facing wholesale regulation.

Despite these breakthroughs the general density and strength of the Indian labor movement is relatively weak as an independent force and voice for working families. Most of the national federations are aligned with political parties, so their strength tends to wax and wane with the fortunes of their party both nationally and at the state level. CITU (Congress of Indian Trade Unions) tends to be strong in West Bengal and Kerala where the Communist Party has held sway as an electoral party for the last thirty odd years, but is not as dominant elsewhere. INTUC (Indian National Trade Union Congress) is similarly aligned to the Congress Party, which has held power off and on since independence from Britain, and is the largest of national federations accordingly. The alignment with parties has also meant that the national federations and their affiliates tend to concentrate their organizing and representation on state or public enterprises, most of which are referred to as "formal" employment in India, rather than "informal" employment in the private sector or the very informal work of everyone from waste pickers to hawkers to rickshaw drivers and domestic labor.

The legislative gains achieved in the confluence of dominant political parties and institutional trade unions were extensive and established minimum standards in the informal sector governing professions and therefore employers, depending on the crafting of the legislation, affecting tens of millions of workers in India. The very low dues rate for Indian union members (the national federations as a rule only receive, if they are able to collect it, one rupee per month in dues) has rendered them unable to mount extensive organizing campaigns among informal workers to capitalize on this legislative leverage except in Maharashtra and other states in specific professions like the mathadi workers or taxi drivers. A huge opportunity awaits future union organizers in India if the plan can be welded to the opportunity.

### **The Success of Informal Worker Organization and Protection in the United States**

The similarity of the Maharashtra Model to the development of representative systems and success in the United States is striking when one looks at the similarly huge organizational achievement over the last thirty years in winning protections, benefits, and bargaining rights for informal workers employed as home health care and home day care workers, often subsidized by state and federal reimbursements. I have argued elsewhere (Citizen Wealth, 2009) that the 600,000 plus members enrolled from this sector in the

American labor movement is probably the single bright light for unions in the last thirty years since American labor began winning substantial collective bargaining and representation rights for publicly employed workers.

It is hard to dispute defining home health and home day care workers as “informal” in the terms we have used here. In the case of home health, workers known as chore workers, home makers, and any number of other appellations, had no fixed workplace other than the homes of their clients, and the clients were pieced together and often far flung requiring extensive travel, cobbled together between personal recommendations and agency referrals. Training was minimal to non-existent as reflected by the job “titles” of the workers. Home health care workers at the industry’s beginning had no specific technical skills in health care delivery, but rather were bridges allowing patients to stay out of nursing homes or shorten hospital stays that were more expensive. Such workers checked prescriptions to make sure they were being filled and taken, often doing the errand to pick the prescription up and making sure they were taken in the two or three visits per week, but otherwise their tasks were more generally “chores” or housekeeping. Groceries were picked up, houses cleaned, meals cooked, tasks ticked off, and errands run allowing the patients to sustain themselves, alone or with family, on the road to recovery or for a longer period of self-sustainability.

The very relationship to an employer for such workers was fuzzy, complicated, and ultimately very complicated under U.S. labor law, but definitely “informal” in its confusion and basic contradictions. Were the workers employed by the client, since the client directed the work in their home, if anyone did, and as often the agency and the state alleged in legal and labor board procedures? Was the worker employed by the agency whose name was on their checks, which hired them as much as anyone, and gave them client referrals? Or, since most of the money consisted of federal and state dollars channeled through the state government reimbursement programs for Medicare, were they some kind of hybrid public employee?

To navigate this maze in the private sector was largely the patient accomplishment of United Labor Unions Local 880, later SEIU 880, and now United Healthcare of Illinois and Indiana, with dogged persistence and the eventually the high powered help of Craig Becker (currently on the NLRB), which in one appeal after another on certification petitions managed to prove that there were significant issues to bargain that disallowed the employer being seen as the state or the client. The moving case began as Mc- Maids, far off the health care track, migrated to the ownership by an advertising agency, became known as National Home Health Care, and currently as Addus, Inc., and one of the few national agreements within SEIU for thousands of home health care workers in Illinois, Washington, and elsewhere. The basic legal strategy under the National Labor Relations Act by private and non-profit employers opposing unionization of home health care aides had been to assert that at best they were co-employers with the state and the clients, and as such should be excluded from representational jurisdiction and collective bargaining authority. After three years of litigation in the 1980s, Local 880 was able to secure a ruling that the private sector employers had sufficient autonomy to allow bargaining, and Local 880 proceeded to win a number of these elections.

As the state-funded sector in home health care became the larger employer of such workers, organizing focus moved steadily in this direction in the United States with the same problem of “defining the employer” for these informal workers. Large program states like Illinois and California were particularly adamant in opposing seeing them as state workers, which would have triggered placements within mandated wage and benefit programs, including full health care and pension benefits. Essentially, the state was a paymaster more than an employer in classic terms of assigning and managing work, and states were extremely hesitant of slipping down a slope where they would be seen as de facto legal employers. Unions like Local 880 in Chicago solved this by stubbornly digging in with basic community organizing techniques and tactics, while “hand collecting” dues, steadfastly organizing monthly meetings with dozens of donuts and hundreds of regular participants, and mounting larger and larger lobby days year after year where they pursued their interests and demands for higher wages and benefits directly with legislators at the state capitol in Springfield. A similar organization-building strategy was pursued by SEIU in Los Angeles County, eventually signing up 7000 members into the union, out of the more than 100,000 workers that came to be employed there.

The organizing formula was straightforward. First, build a deep and active base prepared to wage the long war, not a short battle, and then, secondly, marry the base to political leverage and opportunity when it arose in states with labor continued to possess the resources and clout that could be extended to informal workers, past their own usual and competing concerns, until finally a bargain could be struck with powers that be. These were successes triggered by members at the base, but powered by political contributions and favor won at the top.

In Illinois the combination first won an agreement that home health care workers would be allowed dues deductions to the union by their paymaster/employer, the Department of Rehabilitative Services (DORS) and the right to “meet and confer” over issues that affected their wages, hours, and working conditions, which in the public sector has often been a preliminary stage prior to formal collective bargaining on the same issues leading usually to memoranda of understanding (MOUs) rather than collective bargaining agreements (CBAs). Importantly, though, it allowed the union both legitimacy where it could claim to be the “recognized” union and even more significantly a growing access to dues revenue and an expanding membership base which could burrow ever more deeply within DORS to push for an expansion of bargaining rights and prerequisites. After a twenty-year campaign the final victories were hammered out in agreements to support Congressman Rod Blagojevich in his run for Governor along with around \$1 million in contributions from SEIU towards his candidacy, leading to an executive order allowing an election (Local 880 at that point had fifty percent of the unit enrolled) to recognize the union formally and give it full bargaining rights. Importantly, the agreement danced around the issue of whether or not these workers were independent contractors or state employees, by simply announcing that they were not employees of the state and that the union agreed to not make any claims that they were nor would there be any claims to coverage in the state’s health and pension programs. At the last minute AFSCME vied to represent the same workers, once Blagojevich was in office, arguing that SEIU had “sold out” the workers by agreeing that they were not state workers and thus entitled to the same benefits as other state workers presented under contract by AFSCME. Regardless, AFSCME was late to the party, and its interest seemed less in bringing increases to informal workers as SEIU had done, than in protecting against deterioration in its own bargaining units and potentially harvesting tens of thousands of new member dues payers if the ball happened to bounce its way for some reason. Wisely, once it had obtained the victory, SEIU leveraged its support in the legislature to convert the Governor’s executive order into statutory protection and to gain the full weight of the law.

In California the same problem of defining an employer for these informal workers evolved to create an “authority” model rather than an “executive order” model for recognition. Action by the state legislature created the authority instrument that would allow an authority to be created under the statute to serve as the “employer” for reimbursed home health care workers. The authority had to be triggered by action within each California county which also contributed part of the matching on the reimbursement programs for the benefit. Such a governance option worked to rationalize the quilted system that had already evolved in administering the benefit. In some counties like San Francisco and San Diego at different times the counties had contracted with private companies (like National for example) to administer the programs while in other counties they administered the program directly. The authority system allowed counties to migrate in this direction to create an employer for a burgeoning program while at the same time going at different speeds depending on the state of organization in each location. Because statewide legislative action was necessary, initially SEIU and AFSCME split up jurisdiction for these workers throughout the state, with SEIU perhaps getting the lion’s share, but AFSCME, which is far smaller in California than in other states (like Illinois), still claiming a large swath of the state, though in later years AFSCME conceded even more of the jurisdiction to SEIU in large population areas.

Similar organizing problems were faced in establishing employers and then bargaining relationships for home day care workers in various states, though the same basic choices between governor-and-legislative recognition and authority creation were the usual paths. Home day care workers were a semi-entitlement for lower income working families to have a daycare alternative reimbursable by the state and federal governments with the program accordingly larger or smaller based on the level of state participation and funding. The collapse of the welfare system under President Clinton in 1996 meant there was a need to push more direct aid recipients into some form of reimbursable work, and despite all of the discussion of

the absorption of such recipients in an expanding economy many transferred over to becoming day care providers in their own homes for a limited number of children. Many of the workers saw themselves as mini-entrepreneurs, which is also common among many self-employed and semi-employed informal workers with no clear employer.

ACORN, the national membership community organization of low-and-moderate income families was a pioneer in organizing in this informal sector just as it had been among home health care workers in its sponsorship and partnership with the United Labor Unions in 1980 prior to merging that organization with SEIU in 1984 and re-chartering its locals in Boston, Chicago, and New Orleans as SEIU locals 1475, 880, and 100. In a number of states, particularly in California, ACORN organizers formed large membership chapters of home day care workers following earlier initiatives organizing other reimbursed workers on public assistance and relief programs. Unlike the home health model, California subcontracted in each county with agencies that provided the payroll, time keeping, training, and assignment of clients to home day care workers. Initially ACORN pursued a strategy of creating agreements or arrangements with some of the non-profits and contractors and deeper representational and advocacy relationships. As SEIU became clearer that it was shifting an organizational footprint among these workers, ACORN brokered a national agreement covering all of the states, like California where it had established beachheads, and a “first look” prerogative for SEIU on new projects initiated in this area by ACORN. In California in subsequent years SEIU and AFSCME split the jurisdiction to create the deal with the state.

ACORN through an affiliate, the ACORN Community Labor Organizing Center (ACLOC) ended up assisting SEIU in expanding this jurisdiction organizationally by setting up, leading, and/or staffing such organizing drives in Iowa, Washington, Oregon, Illinois, and a number of other states and California counties. ACORN made agreements through ACLOC and led drives in New York State and New Jersey for home day care workers. In New York the partner was the American Federation of Teachers (AFT) and its New York City affiliate the United Federation of Teachers (UFT), led by Randy Weingarten who later became president of the national union. The key was finding a union partner who was willing to put the “ask” to the Governor at the top of its priorities, and that was the case with AFT, leading to an extensive organizing drive run by ACORN and its New York affiliate which became the largest election of any kind in New York State in a generation when more than 25,000 workers were certified and came into UFT. Similarly, in New Jersey, where the Communications Workers of America (CWA) was the dominant union of state employees with a relationship with the governor, ACORN joined with CWA organizers in moving 8,000 of these informal workers via an executive order.

Despite the national agreement between ACORN and SEIU, the agreement worked out with UFT/AFT was probably superior for the simple reasons that AFT, understanding that the care and servicing of such informal workers were radically different from the professional interests and standards of most of its 110,000 members in New York City, always agreed to an on-going servicing responsibility for New York ACORN as well as a regular monthly per capita payment out of the membership dues of these workers to be paid to New York ACORN (and now its successor organization New York Communities Organized for Change). On the other hand, perhaps the worst outcome for the workers has inadvertently developed in New Jersey where without an on-going arrangement and commitment of this sort, these more informal, less skilled, and lower waged and benefited workers have been grist for the mill and trapped at the bottom of the barrel as CWA desperately fights battles to maintain the wages and benefits for its dominant units of state employees in a deteriorating bargaining climate driven by budget cutbacks and ideological attacks from a new and very popular Republican governor.

Many leaders and observers of institutional labor in the U.S. might be surprised to think that the largest victories of this generation of organizing and leadership have been among informal workers, who invariably begin with the lowest pay and usually non-existent benefits, and are correspondingly also likely to pay the least dues to a union so would normally have not seemed to be the most appealing targets for organization. The silver lining, particularly among home health care workers, has been the extremely low cost of servicing these huge units. Unexpectedly, in states where “union shop” dues payments of either memberships or servicing fees, these units of informal workers have become cash cows financing other organizing drives and initiatives within their unions. Many locals covering 50,000 or more members have

literally never had an arbitration case. Lacking fixed workplaces, much of the servicing of these workers in Illinois and California has been through phone bank and calling programs to build communications and information links with the workers. The most frequent grievances have to do with lost, misplaced, or late paychecks, most of which are resolved telephonically as well with the state or county employers. No small amount of the servicing, like a good part of the organizing, is political and focused on primary elected officials and legislators and the appropriate committees. The original formula set in Maharashtra on the booming docks of Bombay or the teeming streets where all manner of informal laborers plied their trades which coupled a mass base with political leverage and power has also been the path to representation, bargaining, and a formalization of wages, benefits, and protections for home based workers in the United States.

### **The Opportunities Provided by the Charter of Rights and Freedoms in Canada**

Canada offers both a different opportunity and challenge, but also points to an important direction for organizing informal workers as well as other non-traditional organizing methodologies using the entitlements provided by the Canadian Charter of Rights and Freedoms and specifically the guarantees embedded within the Charter of the “right to associate” in Section 2(d) in 1982. There have been two critical Canadian Supreme Court decisions which have clarified and expanded the simply stated protections of association in the face of state power, curtailments, or entitlements. The first occurred in mid-1990s in reaction to an attempt by the Ontario provincial government to exclude agricultural workers from the Labour Relations Act, 1995, which countermanded protections these workers had enjoyed under a previous statute between 1992 and 1995 which was repealed. In *Dunmore v. Ontario (Attorney General)* the Court held that the curtailment of agricultural workers’ rights to access unionization and collective bargaining were in the words of one commentator:

*“...an unjustifiable violation of freedom of association. In doing so, the Court recognized that the Charter freedom of association may place a positive obligation on a government to provide statutory protection for the freedom of association of agricultural workers or other vulnerable categories of workers who are likely to have the exercise of their freedom interfered with by employers in the absence of such protection. Thus where the legislature extends general protection for associational activities, legislative choices to exclude some workers may be subject to judicial intervention, particularly where the excluded workers can demonstrate they are vulnerable to management interference with their freedom of association in the absence of statutory protection.”<sup>1</sup>*

The Canadian Court in this decision was not being cavalier regarding agricultural workers, who in the main lack union protection in most of the world. Etherington goes on to note further:

*“...extent of associational activities that may be protected after Dunmore was very unclear. The Court simply stated that “certain union activities—making collective representations to an employer, adopting a majority political platform, federating with other unions” may be central to the exercise of the freedom of association....”<sup>2</sup>*

In the United States or Indian context that we have been examining, the “default” right to collective bargaining, representation, political activity, and solidarity manifestations would be hugely significant entitlements.

The decision of the Supreme Court of Canada in *Health Services and Support—Facilities Subsector Bargaining Association v. British Columbia* on issues brought forward by the great British Columbia Government Employees Union (BCGEU) pushing back on provincial attacks to bargaining rights (similar to what is happening currently in the Midwestern areas of the United States) challenged the issue as a direct erosion of the Charter rights guaranteeing freedom of association. After losing in the lower courts in British Columbia the Supreme Court reversed in 2007 and provided new protections for collective bargaining as part of the defining and historical underpinning of the freedom of association as defined for workers. There are many organizers in Canada debating this decision who believe it extends the prospects for unionization

and collective bargaining for unorganized workers, including in my view informal workers, who otherwise are either excluded from the provisions of state statutes, as the agricultural workers were in Dunmore or who are blocked under the definitions of B.C. Health Services and Support from accessing guaranteed human and associational rights to organize and bargain. Though B.C. Health Services and Support deals expressly with determinations of illegal curtailments of public sector workers' rights, the application of the decision to include private sector workers like the tens of thousands of temporary and contingent clerical workers in Ontario or even the more than two-hundred thousand Wal-Mart workers in Canada also seem possible, if not likely. Similar to the experiences of Illinois home care workers or Bombay mathadi workers, first an organization would need to be built<sup>3</sup> with a sufficient base to exert pressure by exercising its voice and then couple such a formation, whether union or association, with political and legal leverage to secure and practice rights that are ignored by usual corporate practice.

### **New York State Breakthrough on Maharashtra Model for Domestic Workers**

The opened door in Canada seems a mind boggling opportunity, but the Maharashtra Model might have seen a closer cousin come to reality in New York State in the fall of 2010 (November 29, 2010) with passage of the Domestic Workers' Bill of Rights after many years of struggle led by the Domestic Workers United. The scope of the new protections for these highly informal workers is extensive. A commentary by Stephen A. Fuchs<sup>4</sup> in a blog for the management- side Littler law firms gives a good view of the importance of this new coverage and the rights won by the workers

#### **Definition of Domestic Worker**

The Bill of Rights applies to any "person employed in a home or residence for the purpose of caring for a child, serving as a companion for a sick, convalescing or elderly person, housekeeping, or for any other domestic service purpose,"

#### **Protection against Harassment**

The Bill of Rights amends New York's fair employment statute, the NYSHRL, to specifically extend some of its provisions to domestic workers, even if they are the employer's only employee. When the Bill of Rights takes effect, employers of domestic workers will be prohibited from: (a) engaging in unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature to a domestic worker when their submission to such conduct is either: (i) a term or condition of employment; (ii) used as the basis for purpose or effect of unreasonably interfering with the individual's work performance by creating an intimidating, hostile or offensive working environment; or

(b) subjecting a domestic worker to unwelcome harassment based on gender, race, religion or national origin, where such harassment has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, or offensive working environment.<sup>1</sup>

This means that a family that employs only one nanny or housekeeper, for example, will be subject to being sued if they unlawfully harass that employee based on sex, race, religion or national origin. The Bill of Rights thus opens the door for harassment suits by nannies, caregivers and other domestic workers based not only on the conduct of the employer (e.g., a specific family member) but also on alleged conduct by the children, elderly or infirm persons for whom they provide care, without regard to their maturity or mental stability.

#### **Overtime Pay**

The Bill of Rights also extends New York's overtime pay requirements to domestic workers. It amends New York Labor Law to require payment of overtime pay at the rate of one and one-half times the worker's

regular hourly wage for all hours worked over forty in a week (or over forty-four hours for domestic workers who reside in their employer's home).<sup>2</sup>

Although federal law already guarantees overtime pay to certain domestic workers for all hours worked over forty each week, it exempts a broader array of workers than New York's Bill of Rights.

Moreover, federal law exempts from its overtime pay requirements those domestic workers who reside at their place of employment, whereas the Bill of Rights does not. As New York law permits claims for unpaid overtime and other wages to be brought up to six years after they were earned, employers who fail to provide their domestic workers with the requisite overtime pay may be sued several years after the end of the employment relationship. In addition to the unpaid overtime or other wages, such employers could be held liable for the domestic worker's attorneys' fees, costs, interest, and a penalty equal to twenty-five percent of the unpaid wages, not to mention potential civil fines and criminal penalties.

### **Paid and Other Time Off**

The Bill of Rights also entitles domestic workers to one full day (twenty-four consecutive hours) of rest each calendar week. Domestic workers who choose to work on their day of rest must be paid overtime for all hours worked that day, whether or not they work the requisite, aggregate hours that week. The Bill of Rights further provides that the day of rest "should, whenever possible, coincide with the traditional day reserved by the domestic worker for religious worship."<sup>3</sup>

Additionally, the Bill of Rights entitles domestic workers to three paid days off after one full year of service.<sup>4</sup> This marks the first time that New York has required any private sector employer to provide any employee with paid time off.

### **Disability Benefits**

The Bill of Rights further amends New York's Workers' Compensation Law to extend its provisions on disability benefits to domestic workers who work less than forty hours each week.<sup>5</sup> If the employer does not provide disability benefits insurance, such benefits are generally provided by the state. This means that employers of domestic workers will soon have to examine their homeowner's and other potentially applicable insurance policies to determine whether or not their domestic workers will receive the requisite coverage and provide the workers with the forms needed to apply for such benefits, from the insurer or the state."

Domestic Workers United has been equally clear that its legislative victory is part of an overall strategy to bring bargaining rights to domestic workers, despite the fact that this pioneering legislation in New York State specifically excluded such rights.<sup>5</sup> In the whole scale of things, winning federal minimum wage protection under FLSA in 1978 for domestic workers on a national basis was the first rung, then the New York legislation thirty years later is the second rung, and it is hard not to believe that in another decade unionization and bargaining will be won for domestic workers. The Maharashtra Model is clear. Win what you can, take what you need, and keep pushing with your base and political pressure until you win all that you want.

### **The Global Opportunity: Unionization for Informal Workers Using the Maharashtra Model**

Arguably unions are in a virtual death spiral pinned between hardened employer opposition, public antipathy, and internal weakness and strategic confusion that pushed union membership down to almost historic lows without any promise of recovery on the horizon. It is almost trivial to note that something has to change before it is too late, if in fact it is not already past the tipping point for unions.

Whatever the formation, it is inarguable that informal workers desperately need and decidedly want organization both in their individual countries and wherever they find themselves around the world. Indisputably, the obstacles and challenges to organizing these tens of millions of workers are huge and formidable, but as we can see in India, the United States, and Canada, these are organizing problems more than they are unsolvable conundrums. Furthermore, despite all of the nay-saying one might hear in the various houses of institutional labor, this is where the growth has been; these workers have paid their way; and these large units have proven in wildly different environments that they can fight and win. All of which answers the threshold organizing question in the affirmative: yes, mass numbers of these workers can be organized!

Importantly, as we have seen in the struggles of informal workers to win protections and set standards, the direct, often oppressive personal “employers” may not be the preferred target, but in fact the state itself may be the target that creates the leverage, just as we have seen in Maharashtra, to cement the floors on minimum standards and create the leverage to create an “employer” with sufficient resources and authority to bargain and trigger unionization as well. Focusing on the state the numerical strength of the informal workforce can combine with the cohesiveness of the concerted activity to persist over the decades by creating sufficient political power so that with opportunity they may secure victory just as we have seen in Illinois and California for home health care and home day care workers and more recently in New York State for domestic workers.

Large scale mass organizing drives around the world among the millions of informal workers subsisting through hard, thankless labor at only a few dollars a day would also re-establish the moral authority of unions for their historic role as critical to the equations that build citizen wealth and reduce poverty. ACORN International’s experience in recent years in organizing unions and associations of waste pickers in mega-slums like Dharavi in Mumbai or bicycle rickshaw pullers in eastern Delhi or domestic workers in the colonias in Lima or Mexico City or the cartoneros working the downtown district of Buenos Aires at night from their homes in the La Matanza have taught us that though the work is hugely difficult and the targets often unyielding the support inside and outside of the community where people often both live and work is dramatic and profound. It is also contradictory. While recyclers in Dharavi convert trash to rupees through middlemen, the American and French International schools and scores of others, that serve as expensive hothouses of the Bombay elite, line up to hold their recycling items for ACORN’s workers. There is no argument about the value of unions and collective action for workers mired in dismal poverty sweating endless hours on a daily basis simply to assure survival for themselves and their families.

Examples abound proving there is a will among such workers to organize and that there are ways to win. Organizing the worlds’ informal workforce using the Maharashtra Model and all of the ways and means still at our disposal could rightly be the transcending movement of the first half of the Twenty-First Century and re-establish the value and mission of organizing, unions, democracy, and a lot of other things that are worth the work, the wait, and the war to win.

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**Special thanks to Vinod Shetty, Director of ACORN India and the Dharvi Project in Mumbai, whose training as a labor advocate before the bar of Bombay was invaluable in steering me in the right direction in Maharashtra and putting the proper statutes in my hands to read thoroughly on my last visit to India in the fall of 2010.**

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**community and livelihood issues of its lower income members largely in mega-slums around the world.**