

A VISION FOR BLACK LIVES

POLICY DEMANDS FOR BLACK POWER, FREEDOM, & JUSTICE

PROTECTIONS
FOR **WORKERS**



M4BL

THE MOVEMENT
FOR BLACK LIVES

PROTECTIONS FOR WORKERS



PROTECTIONS FOR WORKERS IN UNDERPROTECTED INDUSTRIES, SUCH AS: DOMESTIC WORKERS, FARM WORKERS, TIPPED, PART-TIME WORKERS, AND WORKERS IN GIG, CONTINGENT AND INFORMAL ECONOMIES, INCLUDING THE IMMEDIATE PASSAGE AT THE FEDERAL AND STATE LEVEL OF THE DOMESTIC WORKERS' BILL OF RIGHTS AND EXTENSION OF WORKER PROTECTIONS TO DISABLED, TRANS, QUEER, MIGRANT AND AGRICULTURAL WORKERS, AND PEOPLE WITH CRIMINAL CONVICTIONS.

THE ISSUE:

Workers in industries and economies where there is disproportionate representation of Black workers due to structural racism and exclusion are explicitly denied basic labor protections. The law also permits exploitation of disabled people, people with criminal convictions and incarcerated workers.

THE DEMAND:

Extend and expand labor protections to all workers, including agricultural, domestic, service, tipped, franchised, gig, informal and criminalized economies, disabled, migrant, pregnant, parenting, and LGBTQ workers, and workers with criminal convictions.

KEY FEDERAL LEGISLATION:

- ◆ Domestic Workers Bill of Rights Act
- ◆ Protecting the Right to Organize (PRO) Act
- ◆ Pass the *Schedules that Work Act*.
- ◆ Pass the *Raise the Wage Act*.
- ◆ *Pass the Healthy Families Act*



WHAT IS THE PROBLEM ?

Agricultural, domestic and tipped work - sectors historically and disproportionately made up of Black workers, including Black women and Black migrant workers - were deliberately excluded from federal labor protections such as the Fair Labor Standards Act. Additionally, agricultural workers have no access to agricultural subsidies, and Black farmers experience discrimination in access to capital and supports for sustainable farming. Meanwhile, domestic workers are disproportionately excluded from federal protections offered by the Americans with Disabilities Act, the Age Discrimination in Employment Act and Title VII, which are not afforded to employees working for employers who employ fewer than 15 people. Black workers are also disproportionately employed in the low wage service economy: for instance, 28% of Black women are employed in the service economy, the sector with the lowest paid jobs and fewest benefits.

“Sheltered workshops” employing disabled workers are exempt from many labor protections and isolate disabled workers. Additionally, disabled people are twice as likely to live in poverty because poverty operates as a cause and consequence of disability. Despite the existence of legal instruments designed to protect against discrimination, Black disabled workers currently have an unemployment rate much higher than all major race and ethnicity groups.



Additionally, by 2030 50% of all workers will be contingent, freelance, or informal workers, many of whom are not covered by existing labor laws or health and safety protections. The “gig economy” has grown substantially over the past decade, bringing more workers into “on demand” positions such as Lyft/Uber drivers, Instacart shoppers, and freelance consultants. For many workers in informal sectors - street vending, hair braiding, trading sex, the drug trade - work is criminalized. Yet the formal economy relies on the informal economy, migrants without legal authorization to work in the United States, the care economy, and reproductive labor that particularly exploits Black women, disabled, trans and gender nonconforming people, and migrants.

People who have been convicted of a crime, including, but not limited to, incarcerated workers, are exempt from the federal Constitution's prohibition against slavery and indentured servitude, as well as protections against discrimination and health and safety protections under federal, state and local labor laws. Additionally, according to the Council of State Governments (CSG) Justice Center's National Inventory of the Collateral Consequences of Conviction, there are over 47,000 collateral consequences to criminal convictions imposed by state and federal law - including bars to permits and occupational licenses that formerly incarcerated people can not attain. Criminal background checks disproportionately impact Black workers who experience discriminatory targeting

by law enforcement, and who struggle to survive in informal and often criminalized economies, leading to higher rates of criminal convictions among the Black population.



In many parts of the United States, there are no laws prohibiting discrimination against lesbian, gay, bisexual, trans and gender nonconforming workers. Where protections exist, they often apply only to public sector employers or employers of a certain size. While some states offer protections against discrimination based on sexual orientation, very few offer protections against discrimination based on gender identity or expression. Court decisions and religious exemptions are increasingly eroding what protections are available for queer and trans workers under federal employment law.

And in all parts of the U.S. employers are permitted - even required - to discriminate against workers based on immigration status, creating conditions rife for abuse of undocumented and migrant workers. Few labor protections exist for migrant workers without legal authorization to work in the U.S. and many guest workers or workers on employer-based visas.

Despite existing legal protections, pregnancy discrimination remains widespread: according to recent data, nearly 31,000 charges of pregnancy discrimination are filed annually with the U.S. Equal Employment Opportunity Commission (EEOC)

Even where formal protections exist, legal standards often offer no remedy for many forms discrimination and structural exclusion. For instance, discriminatory licensing practices in the legalized drug trade often preclude criminalized Black workers from benefiting from drug

legalization. For example, there were 145 applicants for licenses to grow medical marijuana in Maryland, but despite a state law requiring racial diversity in licensing, none of the 15 firms selected to start growing marijuana were owned by Black workers.

High unemployment rates among Black workers, and particularly Black trans, queer, migrant, disabled, and youth workers, create conditions under which violations of workers' rights are more likely, and undermine workers' ability to enforce existing laws and to fight for expanded worker protections.

Additionally, the nature of formal economy itself is anti-Black: workplace customs and expectations are based on white-centered professional standards of dress, hairstyles, and speech, leading to systemic discrimination and exclusion of Black workers.





THE DEMAND

The Movement for Black Lives calls for expanded, comprehensive and enforced protections for all Black workers, prohibiting discrimination on the basis of race, national origin, age, disability, gender, gender identity or expression, sexual orientation, marriage or civil partnership, pregnancy or parenthood, religion, faith or creed, industry, arrest or criminal conviction. Our goal is to remedy discrimination, indirect discrimination, harassment, and victimization acutely experienced by Black workers, eliminate exclusions of workers in industries and contexts where Black workers are disproportionately represented, and to expand protections for all workers beyond what is currently available under existing laws and structures. Viewing protections for Black workers through an intersectional lens ensures that the complex realities of all Black workers, in both formal and informal economies, are recognized and their safety is actualized.

WE DEMAND:

- ❖ Extended and expanded existing worker protections under federal, state and local laws to all workers, including agricultural, domestic, tipped, informal, and gig workers, as well as disabled workers, workers with criminal convictions, LGBTQ workers, migrant and undocumented workers;
- ❖ Decriminalization of informal criminalized economies and extension and expansion of protections to workers in those sectors;
- ❖ Stabilization of wage and schedule instability and volatility;
- ❖ Investment in skills training, entrepreneurship assistance, free vocational programs, certifications, and language training;
- ❖ Creation of preferred local procurement policies for fair labor, employee-owned, and Black owned businesses;
- ❖ Free public secondary education and vocational training for youth, migrants, and formerly incarcerated people reentering the workforce;



THE DEMAND

- ❖ Passage of legislation that moves formerly incarcerated people into a protected class and makes it illegal for public or private employers to discriminate against workers with a criminal conviction.
- ❖ Removal of barriers to employment through passage of “Ban the Box” legislation extending to both public and private employers.

HOW DOES THIS SOLUTION ADDRESS THE SPECIFIC NEEDS OF SOME OF THE MOST MARGINALIZED BLACK PEOPLE?

- ❖ Expanding, extending and enforcing protections to workers in domestic, agricultural, service, tipped, franchised, informal, gig and criminalized economies would improve working conditions for Black workers who are disproportionately represented in these sectors.
- ❖ Decriminalization and increased protections for people in criminalized economies would improve conditions for Black street vendors, unlicensed workers, Black people involved in the drug trade, and Black women and trans people disproportionately affected by criminalization of prostitution.
- ❖ Eliminating exclusions for migrant workers and workers with criminal convictions will reduce opportunities for exploitation of these workers.



FEDERAL ACTION:

- ❖ Pass a federal Domestic Workers' Bill of Rights, which would:
 - include domestic workers in Civil Rights and Occupational Health and Safety Act protections;
 - require fair scheduling, meal and rest breaks, written contracts and protection from retaliation;
 - increase access to retirement benefits, paid sick leave, healthcare and training programs;
 - facilitate collective bargaining by domestic workers and establish a federal task force on domestic workers' rights;
 - guarantee live-in workers' right to privacy and adequate notice in case of termination—a protection that is especially important when losing a workplace also means losing a home;
 - Offer special protections to live-in domestic workers, who were previously ineligible for overtime pay.
- ❖ Pass legislation extending protections under the Fair Labor Standards Act, the Family Medical Leave Act, and the Occupational Health and Safety Act to all workers, including domestic workers, agricultural workers, tipped workers, workers in the informal and gig economies, disabled workers, migrant workers, regardless of status, LGBTQ workers, and workers with criminal convictions.
- ❖ Pass the Schedules that Work Act.
- ❖ Pass the Raise the Wage Act.
- ❖ Pass the Healthy Families Act.
- ❖ Repeal Section 40c of the Fair Labor Standards Act exempting “sheltered workshops” for people with disabilities from minimum wage laws.



FEDERAL ACTION:

- ❖ **Pass the Protecting the Right to Organize (PRO) Act.**
- ❖ **Pass comprehensive nondiscrimination legislation that explicitly prohibits discrimination based on sexual orientation and gender identity and expression, pregnancy, immigration status, low socio economic status, and people with criminal convictions.**
- ❖ **Enact comprehensive immigration reform to ensure that immigrant workers receive equal protection and status in the workplace and create pathways to citizenship for migrant workers.**
- ❖ **Repeal legislation that limits or criminalizes use of internet platforms for informal and criminalized economies such as The Allow States to Fight Online Sex Trafficking Act (FOSTA) and Stop Enabling Sex Traffickers Act (SESTA).**
- ❖ **Strengthen Title IX to ensure and enforce prohibitions against discrimination against queer, trans and gender nonconforming workers in hiring or firing practices.**
- ❖ **Enact parental leave for workers who become new parents via birth, adoption, fostering, or guardianship due to death of a previous parent or guardian.**
- ❖ **Enact paid caregiver leave for workers who are primary caretakers of elderly family members.**
- ❖ **Create a federal loans program for independent workers in start up business development.**
- ❖ **Enact a right of first refusal for workers to purchase small or independent businesses which the owner seeks to sell, and offer government support for conversion to worker cooperative or employee ownership structure.**
- ❖ **Protect Social Security and ensure that all workers have retirement income to meet their basic needs.**



STATE ACTION

- ◆ **Pass state Domestic Workers' Bill of Rights. At a minimum, states should provide domestic workers with:**
 - **The right to associate freely, join organizations that advocate for workers' rights, choose representatives, and create frameworks to bargain collectively;**
 - **Inclusion in the minimum wage standards in all states where domestic workers are currently excluded;**
 - **Equal rights to state and federal overtime pay that other workers enjoy;**
 - **Equal rights to the meal breaks, rest breaks, and rest days to which other workers in their states are entitled;**
 - **The right to adequate hours of uninterrupted sleep for live-in domestic workers;**
 - **Inclusion in all state-level workers' compensation and unemployment insurance programs;**
 - **Protection from discrimination, abuse, and harassment under all state and federal anti-discrimination laws; Inclusion in state and federal health and safety protections.**

In addition to these minimum workforce protections, policies are required to assure benefits, such as paid vacation and holidays, and notice of termination.





STATE ACTION:



PASS LEGISLATION THAT:

- Requires employers to provide a reason in writing for firing an employee immediately. Employers who do not provide a reason or keep the reason on record for two years will be penalized.
- Blocks employers from preventing fired employees from getting another job;
- Outlaws constructive discharge, which includes forcing a reduction in hours for an employee, demotion, or action on behalf of the employer that creates a hostile, uncomfortable or unfair work environment;
- Provides severance pay where an employee shall accrue an entitlement to one hour of severance pay for every 12.5 hours worked during his or her first year of employment, and for every 50 hours worked thereafter;
- Bans the use of electronic monitoring in employment decisions such as discipline or discharge;
- Creates a process for employees to bring civil action against an employer for wrongful discharge, and charges the Unemployment Insurance Office with overseeing the process, conducting investigations of employee complaints, and identifying violations. Upon a determination of guilt of the employer, provide employees with options of reinstatement and/or financial compensation. Allow for public and private enforcement.
- Requires employers to keep information posted on the legislation, including rights and privileges, and stating that retaliation against employees for exercising such rights is prohibited.





STATE ACTION:

- ❖ **Pass legislation extending protections under state labor and occupational health and safety laws to all workers, including domestic workers, agricultural workers, tipped workers, workers in the franchised, informal and “gig” economies, disabled workers, migrant workers, regardless of status, LGBTQ workers, and workers with criminal convictions.**
- ❖ **Pass comprehensive nondiscrimination legislation that explicitly prohibits discrimination based on sexual orientation and gender identity and expression, pregnancy or parenthood, immigration status, and people with criminal convictions.**
- ❖ **Establish state-level portable benefits programs for workers to access health, retirement, workers compensation, and family/ medical leave benefits consistently, even when switching employers.**
- ❖ **Establish paid parental leave for workers who become new parents via birth, adoption, fostering, or guardianship due to death of a previous parent or guardian.**
- ❖ **Establish paid caregiver leave for workers who are primary caretakers of elderly family members.**
- ❖ **Establish paid sick leave.**
- ❖ **Support the Home and Community-Based Services Setting Rule (HCBS) which prevents isolation for Black disabled people in the workplace and promotes more choice, autonomy, and integration into the broader community.**



LOCAL ACTION:

- ❖ Enact workers rights legislation at the city and county level that guarantees paid sick leave, paid overtime, a minimum wage of at least \$15/hour, and fair work weeks.
- ❖ Pass comprehensive nondiscrimination legislation that explicitly prohibits discrimination based on sexual orientation and gender identity and expression, pregnancy or parenthood, immigration status, and people with criminal convictions.
- ❖ Enact city-backed collections and fines for nonpayment of freelancers and contract workers.
- ❖ End the practice of suspending drivers' licenses due to unpaid tickets, fines or fees.
- ❖ Adopt local procurement policies to hire and contract with Black-owned businesses.

RESOURCES

- ❖ *Stop FOSTA/SESTA*
- ❖ National Domestic Workers Alliance, *Home Economics: The Invisible and Unregulated World of Domestic Work* (2017)
- ❖ Economic Policy Institute: *Fair Work Week Laws*
- ❖ Gig Economy: www.gigeconomydata.org

ORGANIZATIONS CURRENTLY WORKING ON POLICY

**ALIANZA
CAMPESINA**

**COALITION OF
IMMOKALEE
WORKERS**

DESIREE ALLIANCE

**ELECTRONIC
FRONTIER
FOUNDATION**

**EQUITY AND
TRANSFORMATION
(EAT)**

**FREELANCERS
UNION**

**NATIONAL GUEST
WORKERS ALLIANCE**

NDWA

REFRAME HEALTH

ROC UNITED

**SEX WORKERS
OUTREACH
PROJECT**

**WORKERS CENTER
FOR RACIAL
JUSTICE**

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