



LOW-WAGE WORK HEARINGS - FINAL REPORT

Last November 6 and 8, the Rochester Labor Council, AFL-CIO's Education Committee held two days of hearings about low wage work in Rochester, its impact on our community, and strategies to fight back.

These hearings developed in response to initiatives of the AFL-CIO, especially convention Resolution 16 calling for "building enduring labor-community partnerships." With the Council's endorsement of the State Federation's "Making New York Work" campaign, we focused on the priority to "lift low wage workers out of poverty" -- through public hearings intended to increase local concern with the issues.

Rochester has become the third poorest city in the United States, with one of the worst child poverty rates. A city once filled with better paying manufacturing jobs has become a haven for low wage work. The Rochester Labor Council set out to document this disaster, to hear directly from low wage workers, and to talk with organizers of the fight back to a more prosperous and decent local economy.

The Education Committee is pleased to submit to the Executive Board our final report on these low-wage hearings, including recommendations to the Board and to the State Federation of Labor. These recommendations are based on the hearing presentations and discussions, which were videotaped and are now available on YouTube: <http://www.rochesterlabor.org/specialevents.html>. Texts of the written testimonies, downloadable in pdf format, are also at this site. They are briefly summarized in our report.

The Committee is grateful to the Executive Board, the Pettengill Labor Education Fund, Metro Justice, SEIU locals 1199 and 200, and the presenters and panelists for their support and participation.

Respectfully submitted,

Jon Garlock, Education Committee Chair

(1) Recommendations to the Executive Board and Labor Council affiliates:

- Support the local Fight for Fifteen campaign to increase New York's minimum wage to \$15/hour.
- Support efforts to organize low-wage workers into unions, including associate membership status
- Support development of a Worker Center in Rochester, including initiatives to recruit and recognize fair employers
- Support ongoing Worker Justice Center efforts on behalf of farm workers
- Support such direct actions as boycotts, sit-ins, etc. to pressure employers to increase wages
- Expand coverage of Rochester's living wage ordinance to more workers
- Demand that Governor Cuomo veto the bill passed by the legislature in June to weaken the Wage Theft Prevention Act
- Present this report at the RGVALF annual meeting and request the New York State Federation of Labor to share these recommendations with its labor councils and their affiliates as well as with area labor federations throughout the state, urging them to adopt and implement these strategies to lift low-wage workers out of poverty.

(2) Overview of the hearings with summaries of the presentations

Session 1: *The Nature and Extent of Low-Wage Work in Rochester - November 6, 2014*

(A) **Jim Bearden**, Emeritus Professor of Sociology at SUNY Geneseo, reviewed the history and definitions of low-wage work.

For millions of workers there is a gap between wages received and the costs of being a full participant in our social life. Safeguards such as Social Security, created to cover part of the gap, are inadequate to meet the need because the wage system and the wage levels are fundamentally unfair.

Many workers are caught in a dependent relationship beyond their control as *individuals*. Free wage workers have only their labor power to sell. They are free to choose to work or not work at a particular job, but not free to choose not to work at all. Workers are forced to work somewhere. Therefore they are **dependent** on what kinds of jobs are available and how much competition there is for such jobs. Workers are increasingly forced out of regular payroll employment and

turned into freelancers, contract workers, and employees of outsourcing firms that tightly control what the workers do, eliminate benefits, and cut wages.

The hard fought wage victories won by organized workers are under continuous attack. The US minimum wage, set at 25¢ per hour by the Fair Labor Standards Act of 1938, is kept low precisely to make sure workers have to work in order to live. New York's \$8.00 an hour minimum wage puts most workers at or below the poverty line. (The 1968 minimum wage of \$1.60 per hour would be almost \$11 per hour in today's dollars.)

Only through organizing and engaging in political struggle have workers been able to change some of the conditions of their labor and their life chances. Over the past century capitalist societies were forced to shorten the workday, introduce some safety standards, limit child labor, and set a minimum wage, and provide health and unemployment insurance and food stamps to some. Yet this minimal *social safety net*, almost always less than working for a living wage, is stigmatized in order to make sure that such benefits do not keep workers from taking jobs.

It is not easy to identify a specific hourly, weekly or annual wage as the threshold for low-wage work. In fact there is wide range of wage levels within the general category of low-wage work. Clearly we are talking about a range of wages from \$8 to \$20 per hour and annual incomes from \$10,000 to \$40,000 per year, depending upon circumstances.

Although it is often claimed that low-wage jobs are temporary positions that people move through as they progress up the career ladder, but there are in fact low-wage careers in a wide range of occupations that are low-wage. (See Vincent Serravallo's list of such jobs in Rochester.) Most of these occupations are subject to wage pressure from automation and management practices that speed up or intensify work, but they generally cannot be outsourced overseas.

(B) **Vincent Serravallo**, Associate Professor of Sociology at RIT, reviewed the impact of the shift from manufacturing to service work on Rochester's economy and wages, noting that while such work is not new to Rochester what is new is the growth of low-wage service-sector occupations and the decline of manufacturing jobs that provide high pay and good benefits but require little or no postsecondary education.

The University of Rochester is a model of an “eds and meds” strategy to escape economic decline: becoming the region’s largest employer in 2005, municipal officials hope it will act as the new economic growth engine, partnering with business to create incubators, technology start-ups, patents and medical breakthroughs in its labs. As America transitions to a knowledge-based economy, institutions of higher education and healthcare have grown: of Rochester’s top ten establishments ranked by size of workforce, five are universities, hospitals and health insurance providers.

He argues that Rochester has experienced “employment polarization,” whereby secure, good-

paying jobs are replaced by service work of “low-quality” jobs at one end, and service work of “high-quality” jobs at the other. Most of the start-up companies nurtured by our universities that demand highly-educated professional and technical skill employ five or fewer employees. On the other hand, contingent work in the fields of educational services health care support, personal care and hospitality is expanding. Low-wage work, paying \$7.69 to \$13.83 an hour, constituted about 59% of Rochester’s job growth between 2010 and 2012. Three out of ten Rochester workers are now in low-wage occupations, earning less than \$29,000 annually.

Occupations with the highest expected local job growth will pay below the national median annual salary of \$34,750: Personal care aides (17,000 jobs at \$10.53/hour); Retail salespersons (47,000 @ \$11.40); Home health aides (4,000 @ \$12.59); Combined food preparation & serving, including fast food (42,000 @ \$9.01); Nursing assistants (6,100 @ \$12.60); maids and housekeeping/ cleaners (15,000 @ \$11.08).

The polarized labor market results from business deregulation policies, offshoring, and global economic trade and competition -- determined by the private decision-making of business owners and boards of directors, often done for short-term gain. This is far beyond the direct control of individual workers, and certainly cannot be attributed to a poor work ethic or lack of drive on the part of Rochester’s workers.

These structural changes may be better addressed by universal changes such as a mandated living wage for all workers. Addressing the full impact of low-wage work and life would require that we decouple wages from standards of living: beyond a basic living wage, this would include in free or subsidized form such necessities as mass transportation, healthcare, childcare and college or vocational education for workers regardless of their wages.

(C) **Jeff Nieznanski**, an attorney at Legal Assistance of Western New York, described forms of low-wage worker exploitation, emphasizing wage theft.

Despite the forty hour work week established by the Fair Labor Standards Act of 1938, and despite the Wage Theft Protection Act, signed into law in 2010, wage theft remains the most pervasive form of low-wage worker exploitation. Common forms of wage theft include unpaid overtime, paying less than the minimum wage, not giving workers their last paycheck after they leave a job, not paying for all the hours worked, not paying agreed vacation and holiday pay, and not paying wages at all.

Wage theft includes misclassification of employees as independent contractors, thus denying them benefits and protections provided to “employees,” including eligibility for unemployment insurance if they are laid off, eligibility for workers compensation if they are injured on the job and the right to be paid the minimum wage and overtime pay.

Still another form of wage theft involves paying employees “off-the-books,” robbing them of

many protections, including workers compensation, disability, Social Security, and unemployment compensation. Taxes not paid by such workers and employers add to the general tax burden.

Another form of worker exploitation is the subminimum wage paid to restaurant servers, delivery workers, and nearly a quarter-million other workers in the food service industry who receive tips. Employers do not always "top off" tipped workers' pay that doesn't meet the regular minimum wage, though legally required to do so.

Scheduling is another way to exploit low wage, part-time workers by preventing them from working sufficient hours to earn a living wage. Many employers do not provide these workers consistent, regular schedules, demanding they remain "flexible" to work at times convenient to the employer.

Preventing low-wage workers from taking better paying jobs is still another way to control and take advantage of low-wage workers, requiring they sign agreements not to work for a company's rivals.

And there are other ways around the laws. For instance, although federal law requires employers to provide workers with uniforms, Walmart is requiring workers to supply their own clothes to meet its "dress code," which is not technically a "uniform."

And the law protecting workers from wage theft is itself under attack. In June 2014 both the New York State Assembly and Senate passed a bill to amend the New York State Wage Theft Prevention Act, eliminating the need for employers to provide annual wage notices to their existing employees. The bill awaits Governor Cuomo's signature.

Session 2: Low-Wage Worker Narratives - November 8, 2014

(A) **Kim Ramos** and **Becca Peterson** described working conditions at Wendy's including unpaid overtime, irregular shifts, sped-up customer service, micromanagement by supervisors, scheduling to keep work weeks under forty hours, etc. Among specific working conditions they cited were these:

- Work schedules are not always posted on Friday at 2pm, as they are supposed to be.
- Managers have 10 to 11 hour shifts, leaving no time for life.
- Managers are paid \$8 an hour; some weeks Kim works 48 hours.
- Employees must ask permission to use the bathroom.

- Turnover is high, about 6 new people a week. It is hard to keep a crew, making work harder.
- Wendy's does not do anything to recognize good employees.
- Managers have to check employee hours: if they work more than they are allowed, managers have to "fix" the schedule -- adjust their time by clocking them out for a lunch they didn't take.
- Employees sometimes have to work 9 hours with only one break. If they work more hours than scheduled, they do not get paid for that time.
- Employees have 1 minute 20 seconds to finish an order and they get yelled at if customers take too long to pay.

(B) **Michelle Payne**, a certified nursing assistant, reported on working conditions at Brighton Manor Nursing Home, emphasizing the protections of a union (1199 SEIU) contract.

She has worked at the same place for over 16 years and earns only \$12.69 an hour. Without the union, Michelle says, "only God knows how much I would be making."

Because of the low wages, staff is always short. Overtime is paid only after forty hours of work, and the employer would rather work staff short than give out overtime.

Breaks are scheduled but staff do not have time for breaks when they are constantly working short and trying to take care of the residents.

Thanks to the union, the employer pays 80% of healthcare coverage: copayment is \$40 for primary care physicians, and \$60 for specialists.

Making ends meet is a struggle. Michelle has to split her bills in half, and sometimes three ways. She is always robbing Peter to pay Paul and has creditors calling for overdue bills. Many of her coworkers are working two jobs to maintain RG&E and put food on the table. Michelle eats at her parents' house because she can barely afford to buy groceries in large amounts and has to do it in increments.

Michelle feels that Rochester's low wages are bringing us to an economic standstill, resulting in more crimes to get money. The hourly wage should be raised to \$15 she says, not just for fast-food restaurants, but all across the board.

(C) **Rachel O'Donnell** described the situation of adjunct faculty at RIT (where SEIU 200 is organizing).

Rachel has been teaching since 2006, as a graduate student in a doctoral program which requires her labor to offset her tuition.

Paying \$3000 each, the two courses she was offered this year provide an annual salary of \$6,000 for a total of 32 weeks' teaching time. But her job entails much unpaid work outside the classroom:

- designing courses (one month each)
- preparing a syllabus of course readings, a lecture schedule and course assignments
- class preparation and grading students (26+ hours/week)
- office hours to meet with students
- responding to frequent email from students

Rachel has no benefits and no job security. She earns about \$6 per hour for three days a week in the classroom. Her family lives paycheck to paycheck and relies on debt. This at a university which charges students \$32,000 a year for tuition and pays full-time faculty salaries averaging \$80,000.

Rachel thinks that tuition dollars should go toward funding actual education from dedicated teachers.

"Adjunct faculty should not be a job at any university. Students should be taught by full-time professional teachers and scholars who are able to support themselves and dedicate themselves to student learning. Universities should be held accountable for this kind of exploitation with low wages, no benefits and such job insecurity."

Jack Bradigan Spula, who has been an adjunct at several area colleges — including MCC, where adjuncts are covered to some extent by the NYSUT faculty contract — elaborated on adjunct exploitation.

Jack got into adjunct teaching to make a living. At first grateful and relieved to have work, he didn't take long to realize he was being exploited. While nominally professors are all peers/colleagues, economically and contractually adjuncts form an underclass. For one thing, the gulf between the pay/benefits of "regular faculty" and adjuncts is wide and rarely bridged.

From 2004-2011 he taught at RIT, MCC and Nazareth College. Some semesters he was assigned courses at two or three locations at once. During one academic year he taught a total of 13 sections at three campuses, for which he earned around \$29,000 — easily his best year in terms

of earnings but his worst year in terms of exhaustion and discouragement resulting from low pay, high levels of disrespect, and complex scheduling and commutes.

But the worst thing he endured was professional disempowerment: given no authority over course content and little say in choosing texts, he was expected to teach business-friendly writing skills. This form of disrespect, as real as the economic discrimination, became harder and harder to bear and led him to abandon adjunct teaching.

Session 3: *Ways to Lift Low-Wage Workers Out of Poverty - November 8, 2014*

(A) **Jake Allen (SEIU 200)** described the Fight for 15 program to increase the minimum wage to \$15 an hour and urged support for and participation in this campaign. Specifically, he placed the program in the context of the history of the fast food industry.

This industry, developed in the 1950s, operates on a franchise system which allows companies to maintain control over the product while giving them a guaranteed rate of return. Fast food today is \$683 billion dollar industry.

Costs are reduced to the lowest possible level by making customers do much of the work — ordering food at a counter, taking it back to their seat themselves, carrying their own garbage to the trash bin — eliminating the need for waiters and bus boys.

The guiding principles of the factory assembly line are applied to the commercial kitchen. The new division of labor means that a fast food worker only has to be taught how to perform one task.

In a survey done by New York City's Fast Food Forward, 84% of respondents reported being victims of wage theft over the last year. Wage theft can take the form of workers being required to work off the clock, cashiers being required to pay their employer if their register is short, or workers not receiving overtime pay for working over 40 hours/week.

The only answer to these abuses is worker self-organization – a union – and direct action such as strikes and pickets. At a recent convention of over 1,300 fast food workers, those in attendance committed unanimously to expanding their range of tactics to include civil disobedience.

A workers strike at Rochester's East Ridge Wendy's forced them to close their doors during their morning shift, and bring the concerns of the workers there to the immediate attention of the bosses.

(B) **Bruce Popper (1199 SEIU and RGVLF)** reviewed the history of organizing under the NLRB and proposed an alternative community-based paradigm.

In the 1930s, low-wage workers fought against income inequality, poor working conditions, and a government that crashed the entire economy. They protested, demonstrated, and struck. In response, President Roosevelt set out to grant limited power to low wage workers through a National Labor Relations Act. Needing the support of Southern Democrats, he agreed the NLRA would not cover the low-wage jobs held primarily by people of color. So the Act, approved in 1935, excluded agricultural workers, domestics, health care workers, employees of non-profits, etc.

Unions formed by low wage workers covered by the NLRA had to bargain within a system of recognition that often pitted small groups of workers against large employers. Nevertheless, this reform transformed low wage factory and transportation jobs into high wage jobs with benefits, pensions, and security, creating the American middle class after World War II.

The NLRA was amended in 1947 by the Taft-Hartley Act outlawing many forms of worker protest, prohibiting supervisors from joining unions, banning communists and those refusing to take a loyalty oath from union office, and allowing states to ban union shop clauses in collective bargaining agreements.

The 1959 Labor Management Reporting and Disclosure Act and hostile Federal court rulings undermined unions at the same time the labor movement purged leftist organizers. Growth of union membership slowed, then stopped. The AFL-CIO's membership of 13 million at the time of the 1954 merger did not change for two and one-half decades, while the U.S. workforce tripled in size.

By the late 1970s private sector union membership had significantly declined. Some bright spots included a limited number of states allowing teachers and other government employees to bargain collectively, Dr. King's focus on struggles for economic justice, farm worker organizing in California, and health care worker strikes which forced Congress to amend the NLRA to include them.

Newly elected President Ronald Reagan put union busting, already a multi-million dollar industry by 1980, on steroids, crushing the Air Traffic Controllers, appointing a professional union buster to chair the National Labor Relations Board (NLRB), promoting globalization that drove manufacturing jobs overseas, and deregulating transportation. The cumulative result of these assaults on good union jobs was the near disappearance of industrial unions in the United States.

By the 21st century, we have a workforce dominated by services and government employment, with many jobs excluded from even the weak protections of labor laws. With healthy unions gone, working families' incomes have stagnated, excessive wealth is again being accumulated by the top one percent, and there is record income inequality.

Popper argues that the poverty of Rochester's low-wage workers is the consequence not of a lack

of jobs or job skills, but of pay: wages kept low by preventing workers from organizing unions. Four thousand local workers, mostly low wage and mostly people of color, have tried to form unions and been defeated over the last ten years, mainly because of a handful of 'union avoidance' law firms hired by employers. Poll after poll shows that low wage workers want to join and form unions to better their working conditions and lift themselves out of poverty, if only they had a free choice.

He then suggests that the union movement must reinvent itself: "If we can't win at the workplace because of the boss's superior power and access to the workers, we need to turn to a community based approach. This strategy implies a very different use of organizer and union officials' time. It means aligning the interests of low wage workers with churches and community based organizations. It suggests a major publicity and educational campaign. It also suggests a different model of union membership."

(C) **Jeff Nieznanski**, an attorney with Legal Assistance of Western New York in Rochester, described the potential of Worker Centers to empower and support workers struggling for rights in the workplace.

Attributing Rochester's poverty to low wages and the loss of manufacturing jobs rather than to high unemployment, and noting that tax breaks have not worked, he argued that aside from existing unions there are no local organizations dedicated to supporting workers with workplace problems and with training about asserting workplace rights.

He advocated Worker Centers, "community-based and community-led organizations" located throughout the US "that engage in a combination of service, advocacy, and organizing to provide support to low-wage workers." They are not unions and do not seek legal recognition to engage in collective bargaining. Their primary tasks are training workers in exercising their legal right to concerted action, developing leaders among these workers, and in providing strong community support for these efforts.

Among successful models he listed three:

- the Tompkins County Worker Center in Ithaca, NY has 88 certified living wage employers. Employers voluntarily seek to be certified as a living wage employer, and receive favorable publicity and the increased business that results from being a high road employer. (<http://www.tcworkerscenter.org/community/certified-employers/>, Oct. 30, 2014.)

- the Los Angeles Black Worker Center increases access to quality jobs; reduces employment discrimination, promotes economic and racial justice, and reduces inferior jobs in the black community. (http://lablackworkercenter.org/?page_id=13, Oct. 26, 2014; http://lablackworkercenter.org/?page_id=77, Nov. 1, 2014.)

- Vermont's Worker Center's Put People First Campaign organizes for the right to dignified work, affordable childcare, education, housing, healthcare, healthy food, and a healthy environment. (<http://www.workerscenter.org/parents>)

He suggested that expansion of Rochester's Living Wage ordinance, adopted in 2001, to include more workers could be another viable strategy.

(D) **Luis Torres**, People Organizing for Worker Empowerment and Respect (POWER), summarized the condition of Rochester's low-wage workers and described how POWER can address their needs.

Raising workplace standards for the most vulnerable workers is increasingly important as more and more working families rely on poverty wages to get by. Millions of low-wage and immigrant workers fall victim to wage theft, are routinely paid less than the minimum wage, denied overtime pay, forced to work off the clock, subject to illegal deductions, misclassified as independent contractors, or not paid at all. A survey of low-wage workers in New York, Chicago, and Los Angeles revealed that wage theft is epidemic: workers were robbed of 15% of their earnings, amounting to \$56.4 million every week in these three cities alone.

The people of Rochester are working, they have jobs. They have low-paying jobs. We are a city of the poor precisely because we are a city of poverty wages. Thirty-four percent of Rochesterians — 29,283 people — live on \$20,000 or less annually as of 2009. There is nowhere these workers can turn for advocacy and support with workplace problems or for training about their rights and how to assert them.

Workplace grievances have historically been handled through collective bargaining and union representation. With only 5.8% of Rochester's private sector labor force unionized, however, the remaining 94.2% of private sector workers are unrepresented, have limited knowledge of their workplace rights, and lack means to enforce their workplace rights. The primary task of the Worker Center in Rochester will be to train workers in the exercise of their legal right to concerted action on the job and to provide strong community support for their efforts.

POWER will engage in strategically determined campaigns in sectors identified as most in need. One example is that of home health aides who, at a median income of \$22,650, are the lowest paid healthcare support workers and face often frightening and unpredictable workplace health and safety conditions.

In a city of poverty wages, economic stagnation, and geographic racial segregation, the needs of Rochester's poor can be addressed using innovative models of community organization.

**** Downloadable copies of prepared statements by hearing presenters, as well as links to videos of each hearing session are available at:**

<http://rochesterlabor.org/specialevents.html>